1 2 3 4 5 6 7 8 9	KAMALA D. HARRIS Attorney General of California LINDA K. SCHNEIDER Senior Assistant Attorney General ARMANDO ZAMBRANO Supervising Deputy Attorney General State Bar No. 225325 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 897-2542 Facsimile: (213) 897-2542 Facsimile: (213) 897-2804 Attorneys for Complainant BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
11	In the Matter of the Accusation Against: Case No. 5400
12	RUDELL WALKERA C C U S A T I O N9720 Flower Street, #102
13	Bellflower, CA 90706
14	Pharmacy Technician Registration No. TCH 34486
15	Respondent.
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18	Complainant alleges:
19	PARTIES
20	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as
21	the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.
22	2. On or about September 8, 2000, the Board issued Pharmacy Technician Registration
23	No. TCH 34486 to Rudell Walker (Respondent). The Pharmacy Technician Registration was in
24	full force and effect at all times relevant to the charges brought herein and will expire on December
25	31, 2015, unless renewed.
26	JURISDICTION
27	3. This Accusation is brought before the Board under the authority of the following laws.
28	All section references are to the Business and Professions Code unless otherwise indicated.
	1
	Accusation

- 4. Section 4300 provides in pertinent part, that every license issued by the Boards is subject to discipline, including suspension or revocation.

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6.

Section 4300.1 states:

4 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation
5 of law or by order or decision of the board or a court of law, the placement of a license on a
6 retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of
7 jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding
8 against, the licensee or to render a decision suspending or revoking the license."

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# STATUTORY AND REGULATORY PROVISIONS

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Section 4301 states, in pertinent part:

"The board shall take action against any holder of a license who is guilty of unprofessional
conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
Unprofessional conduct shall include, but is not limited to, any of the following:

14 .

15 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
16 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
17 whether the act is a felony or misdemeanor or not.

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"(l) The conviction of a crime substantially related to the qualifications, functions, and 19 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 20 (commencing with Section 801) of Title 21 of the United States Code regulating controlled 21 substances or of a violation of the statutes of this state regulating controlled substances or 22 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the 23 record of conviction shall be conclusive evidence only of the fact that the conviction occurred. 24 The board may inquire into the circumstances surrounding the commission of the crime, in order to 25 fix the degree of discipline or, in the case of a conviction not involving controlled substances or 26 dangerous drugs, to determine if the conviction is of an offense substantially related to the 27 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or 28

a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
of this provision. The board may take action when the time for appeal has elapsed, or the
judgment of conviction has been affirmed on appeal or when an order granting probation is made
suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
indictment."

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7. California Code of Regulations, title 16, section 1770, states:

9 "For the purpose of denial, suspension, or revocation of a personal or facility license
10 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
11 crime or act shall be considered substantially related to the qualifications, functions or duties of a
12 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
13 licensee or registrant to perform the functions authorized by his license or registration in a manner
14 consistent with the public health, safety, or welfare."

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## COST RECOVERY

8. Section 125.3 provides, in pertinent part, that the Board may request the
administrative law judge to direct a licentiate found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
included in a stipulated settlement.

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## 9. CONTROLLED SUBSTANCES / DANGEROUS DRUGS

a. "Motrin 800 mg," is the brand name for the generic drug ibuprofen and is classified as
a nonsteroidal anti-inflammatory drug (NSAID). This formulation is a prescription drug and is
considered a dangerous drug within the meaning of section 4022.

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b. "Tramadol<sup>1</sup>," is used for treating moderate to moderately severe pain, restless leg
 syndrome, acid reflux, and fibermyosis. It is categorized as a dangerous drug within the meaning
 of section 4022.

c. "Triamterene," is used to treat fluid retention (edema). It is categorized as a
dangerous drug within the meaning of section 4022.

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# FIRST CAUSE FOR DISCIPLINE

# (Conviction of a Substantially Related Crime)

8 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l), in
9 conjunction with California Code of Regulations, title 16, section 1770, on the grounds of
10 unprofessional conduct, in that, Respondent was convicted of a crime substantially related to the
11 qualifications, functions or duties of a pharmacy technician as follows:

a. On or about November 19, 2014, after pleading nolo contendere, Respondent was
convicted of one misdemeanor count of Penal Code section 496, subdivision (a) [receiving stolen
property] in the criminal proceeding entitled *The People of the State of California v. Rudell Walker* (Super. Ct. L.A. County, 2014, No. NA099132). The Court sentenced Respondent to
serve two days in Los Angeles County jail and placed him on 3 years probation, with terms and
conditions.

b. The circumstances surrounding the conviction are that in or between at least 2013 and
2014, while working as a pharmacy technician at the Veterans Affairs Hospital in Long Beach,
Respondent diverted various medications, including tramadol, motrin 800mg, and triamterene for
his personal use. Respondent obtained the medications by taking them from the mail returns,
asking his co-worker to get them for him, or making manual fill entries into ScriptPro.

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# SECOND CAUSE FOR DISCIPLINE

## (Acts Involving Dishonesty, Fraud, Deceit, or Corruption

11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that
in or between at least 2013 and 2014, Respondent committed acts involving dishonesty, fraud,

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<sup>1</sup>Effective August 18, 2014 Tramadol became a Schedule IV controlled substances pursuant to United States Code tile 21, section 812.

1	deceit, or corruption with the intent to substantially benefit himself, or substantially injure another.
2	Complainant refers to, and by reference incorporates, the allegations set forth above in paragraph
3	10, as though set forth fully.
4	PRAYER
5	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6	and that following the hearing, the Board issue a decision:
7	1. Revoking or suspending Pharmacy Technician Registration No. TCH 34486, issued to
8	Rudell Walker;
9	2. Ordering Rudell Walker to pay the Board the reasonable costs of the investigation and
10	enforcement of this case, pursuant to section 125.3; and
11	3. Taking such other and further action as deemed necessary and proper.
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14	DATED: 9/4/15 Jusine Villo
15	Executive Officer Board of Pharmacy
16	Department of Consumer Affairs State of California
17	· Complainant
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	5 Accusation