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7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 5869

12 **PACIFIC PHARMACY GROUP, INC.**  
13 **DBA VALENCIA PHARMACY**  
14 **23550 Lyons Ave, Ste. 111**  
**Newhall, CA 91321**  
15 **Permit No. PHY 48891**

**SECOND AMENDED ACCUSATION**

15 **JAN BRUCE BALTHASAR**  
16 **239 Via Lido Soud**  
**Newport Beach, CA 92663**  
17 **Original Pharmacist License No. RPH 28351**

18 **CHRIS CHOI**  
19 **28868 Silversmith Drive**  
**Valencia, CA 91354**  
20 **Original Pharmacist License No. RPH 57620**

21 Respondent.

22  
23 Complainant alleges:

24 **PARTIES**

25 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
26 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

27 ///



1           8.     Section 4301 of the Code states:

2           “The board shall take action against any holder of a license who is guilty of unprofessional  
3     conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

4     Unprofessional conduct shall include, but is not limited to, any of the following:

5           ...

6           (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
7     violation of or conspiring to violate any provision or term of this chapter or of the applicable  
8     federal and state laws and regulations governing pharmacy, including regulations established by  
9     the board or by any other state or federal regulatory agency.

10          ...”

11          9.     Section 4307 of the Code states:

12          (a) Any person who has been denied a license or whose license has been revoked or is  
13     under suspension, or who has failed to renew his or her license while it was under suspension, or  
14     who has been a manager, administrator, owner, member, officer, director, associate, partner, or  
15     any other person with management or control of any partnership, corporation, trust, firm, or  
16     association whose application for a license has been denied or revoked, is under suspension or  
17     has been placed on probation, and while acting as the manager, administrator, owner, member,  
18     officer, director, associate, partner, or any other person with management or control had  
19     knowledge of or knowingly participated in any conduct for which the license was denied,  
20     revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,  
21     administrator, owner, member, officer, director, associate, partner, or in any other position with  
22     management or control of a licensee as follows:

23           (1) Where a probationary license is issued or where an existing license is placed on  
24     probation, this prohibition shall remain in effect for a period not to exceed five years.

25           (2) Where the license is denied or revoked, the prohibition shall continue until the license is  
26     issued or reinstated.

27     ///

28     ///

1 (b) "Manager, administrator, owner, member, officer, director, associate, partner, or any  
2 other person with management or control of a license" as used in this section and Section 4308,  
3 may refer to a pharmacist or to any other person who serves in such capacity in or for a licensee.

4 (c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to  
5 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.  
6 However, no order may be issued in that case except as to a person who is named in the caption,  
7 as to whom the pleading alleges the applicability of this section, and where the person has been  
8 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of  
9 Part 1 of Division 3 of the Government Code. The authority to proceed as provided by this  
10 subdivision shall be in addition to the board's authority to proceed under Section 4339 or any  
11 other provision of law."

12 10. Section 4081 of the Code states:

13 "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs  
14 or dangerous devices shall be at all times during business hours open to inspection by authorized  
15 officers of the law, and shall be preserved for at least three years from the date of making. A  
16 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary  
17 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,  
18 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,  
19 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and  
20 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and  
21 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

22 ..."

### 23 REGULATORY PROVISIONS

24 11. California Code of Regulations, title 16, section 1714, states:

25 "...

26 (b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and  
27 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.  
28

1 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice  
2 of pharmacy.

3 ...

4 (d) Each pharmacist while on duty shall be responsible for the security of the prescription  
5 department, including provisions for effective control against theft or diversion of dangerous  
6 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy  
7 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.”

8 12. California Code of Regulations, title 16, section 1718, states:

9 “ ‘Current Inventory’ as used in Sections 4081 and 4332 of the Business and Professions  
10 Code shall be considered to include complete accountability for all dangerous drugs handled by  
11 every licensee enumerated in Sections 4081 and 4332.

12 The controlled substances inventories required by Title 21, CFR, Section 1304 shall be  
13 available for inspection upon request for at least 3 years after the date of the inventory.”

14 **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

15 13. Alprazolam (generic for Xanax) is a Schedule IV controlled substance as designated  
16 by Health and Safety Code section 11057, subdivisions (a) and (d)(1), and is a dangerous drug as  
17 defined in section 4022.

18 14. Carisoprodol is a Schedule IV controlled substance pursuant to 21 Code of Federal  
19 Regulation section 1308.14, subdivision (c)(6) and is a dangerous drug according to Business and  
20 Professions Code section 4022. Its indicated use is as an adjunct to rest, physical therapy and  
21 other measures for acute painful musculoskeletal conditions.

22 15. Norco is the brand name for the combination narcotic, Hydrocodone and  
23 Acetaminophen, and is a Schedule II<sup>1</sup> controlled substance pursuant to Health and Safety Code  
24 section 11055, subdivision (b)(1) (I), and is categorized as a dangerous drug pursuant to Business  
25 and Professions Code section 4022.

26 \_\_\_\_\_  
27 <sup>1</sup> Effective October 6, 2014, the Drug Enforcement Administration rescheduled  
28 Hydrocodone combination products from schedule III to schedule II of the Controlled Substances  
Act. (See 21 CFR Part 1308 § 1308.12; 21 U.S.C. 812 (c))

1 16. Oxycodone, trade name Percolone, is a synthetic opioid analgesic and a Schedule II  
2 controlled substance pursuant to Health and Safety Code section 11055(b)(1)(M) and a dangerous  
3 drug pursuant to Business and Professions Code section 4022(c).

4 17. Promethazine with Codeine syrup is a Schedule V controlled substance as designated  
5 by Health and Safety Code section 11058, subdivision (c)(1), and is categorized as a dangerous  
6 drug pursuant to section 4022 of the Code.

7 18. Section 4022 states, in pertinent part:

8 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in  
9 humans or animals, and includes the following:

10 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without a  
11 prescription,’ ‘Rx only,’ or words of similar import.

12 . . . .

13 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
14 prescription or furnished pursuant to Section 4006.”

15 **COST RECOVERY PROVISION**

16 19. Section 125.3 provides, in pertinent part, that the Board may request the  
17 administrative law judge to direct a licensee found to have committed a violation or violations of  
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
19 enforcement of the case.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Failure to Maintain A Current Inventory)**

22 **(Against Respondent Valencia Pharmacy, Respondent Balthasar, Respondent Choi)**

23 20. Respondents are subject to disciplinary action under section 4301, subdivision (o), for  
24 violation of section 4081, subdivision (a), as related to California Code of Regulations, title 16,  
25 section 1718, for failure to maintain a current inventory of controlled substances in that they  
26 could not account for inventory shortages of certain drugs. The circumstances are that an audit of  
27 controlled substances at Valencia Pharmacy from June 11, 2013 to August 31, 2015 determined  
28

1 that Valencia Pharmacy failed to maintain a current inventory of controlled substances in that it  
2 could not account for inventory shortages of the following drugs:

- 3 (a) Oxycodone 30 mg tablets- 681 tablets;
- 4 (b) Alprazolam 2 mg tablets- 10,863 tablets;
- 5 (c) Carisoprodol 350 mg tablets – 8,720 tablets;
- 6 (d) Hydrocodone/Acetaminophen 10/325 mg tablets – 32,668 tablets;
- 7 (e) Promethazine/Codeine Syrup – 1,489 ml.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Operational Standards and Security)**

10 **(Against Respondent Valencia Pharmacy, Respondent Balthasar, Respondent Choi)**

11 21. Respondents are subject to disciplinary action under section 4301, subdivision (o), for  
12 violation of California Code of Regulations, title 16, section 1714, subdivisions (b) and (d) for  
13 failure to secure inventory of controlled substances in that they could not account for inventory  
14 shortages of the following controlled substances:

- 15 (a) Oxycodone 30 mg tablets- 681 tablets;
- 16 (b) Alprazolam 2 mg tablets- 10,863 tablets;
- 17 (c) Carisoprodol 350 mg tablets – 8,720 tablets;
- 18 (d) Hydrocodone/Acetaminophen 10/325 mg tablets – 32,668 tablets;
- 19 (e) Promethazine/Codeine Syrup – 1,489 ml.

20 **DISCIPLINARY CONSIDERATIONS**

21 22. In order to determine the degree of discipline, if any, to be imposed on Respondent  
22 Valencia Pharmacy, Complainant alleges that on or about March 27, 2013, the Board issued  
23 Citation No. CI 2010 48098, against Respondent Valencia Pharmacy for violating section 4126.5,  
24 subdivision (a)(4) (furnishing dangerous drugs) and section 4059, subdivision (a) (furnishing  
25 dangerous drug without a prescription). That Citation is now final and is incorporated by  
26 reference as if fully set forth. A copy is attached as Exhibit A.

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28

1 23. In order to determine the degree of discipline, if any, to be imposed on Respondent  
2 Balthasar, Complainant alleges that on or about January 19, 2016, the Board issued Citation No.  
3 CI 2015 68738, against Respondent Balthasar for violating section 4115, subdivision (f)(1)  
4 (having more than one pharmacy technician performing the duties of a pharmacy technician when  
5 only one pharmacist is present) and Code of Federal Regulations, title 21, section 1301.75,  
6 subdivision (b)( failing to store controlled substances in a securely locked cabinet). That Citation  
7 is now final and is incorporated by reference as if fully set forth. A copy is attached as Exhibit B.

8 **OWNERSHIP PROHIBITION**

9 24. As set forth above, Business and Professions Code section 4307, subdivision (a),  
10 provides, in pertinent part, that any person whose license has been revoked or is under suspension  
11 shall be prohibited from serving as a manager, administrator, owner, member, officer, director,  
12 associate or partner of a licensee.

13 25. Pursuant to Code section 4307, if Jan Bruce Balthasar, while acting as manager,  
14 administrator, owner, member, officer, director, associate, partner, or any other person with  
15 management or control of, Pacific Pharmacy Group, Inc. dba Valencia Pharmacy, had knowledge  
16 of, or knowingly participated in, any conduct for which Pharmacy Permit PHY 48891 was  
17 revoked, suspended or placed on probation, Jan Bruce Balthasar shall be prohibited from serving  
18 as manager, administrator, owner, member, officer, director, associate, or partner of a licensee for  
19 five years if Pharmacy Permit Number PHY 48891 is placed on probation, or until Pharmacy  
20 Permit Number PHY 48891 is reinstated if Pharmacy Permit Number PHY 48891 is revoked.

21 26. Pursuant to Code section 4307, if Chris Choi, while acting as manager, administrator,  
22 owner, member, officer, director, associate, partner, or any other person with management or  
23 control of, Pacific Pharmacy Group, Inc. dba Valencia Pharmacy, had knowledge of, or  
24 knowingly participated in, any conduct for which Pharmacy Permit PHY 48891 was revoked,  
25 suspended or placed on probation, Chris Choi shall be prohibited from serving as manager,  
26 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if  
27 Pharmacy Permit Number PHY 48891 is placed on probation, or until Pharmacy Permit Number  
28 PHY 48891 is reinstated if Pharmacy Permit Number PHY 48891 is revoked.



PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Permit Number PHY 48891, issued to Pacific Pharmacy Group, Inc. dba Valencia Pharmacy, Original Pharmacist License Number RPH 28351, issued to Jan Bruce Balthasar, and Original Pharmacist License Number RPH57620, issued to Chris Choi;

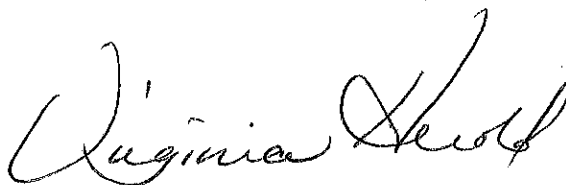
2. Prohibiting Jan Bruce Balthasar from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control of a licensee, for five years if Pharmacy Permit Number PHY 48891 is placed on probation, or until Pharmacy Permit Number PHY 48891 is reinstated if Pharmacy Permit Number PHY 48891 is revoked;

3. Prohibiting Chris Choi from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control of a licensee, for five years if Pharmacy Permit Number PHY 48891 is placed on probation, or until Pharmacy Permit Number PHY 48891 is reinstated if Pharmacy Permit Number PHY 48891 is revoked;

4. Ordering Valencia Pharmacy, Jan Bruce Balthasar, and Chris Choi to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

5. Taking such other and further action as deemed necessary and proper.

DATED: 8/11/17



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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12 In the Matter of the Accusation Against:

Case No. 5869

13 **PACIFIC PHARMACY GROUP, INC.**  
14 **DBA VALENCIA PHARMACY**  
23550 Lyons Ave, Ste. 111  
Newhall, CA 91321  
Permit No. PHY 48891

**FIRST AMENDED ACCUSATION**

15 **JAN BRUCE BALTHASAR**  
16 239 Via Lido Soud  
Newport Beach, CA 92663  
Original Pharmacist License No. RPH 28351

17 **CHRIS CHOI**  
18 28868 Silversmith Drive  
Valencia, CA 91354  
Original Pharmacist License No. RPH 57620

19 Respondent.

20  
21  
22  
23 Complainant alleges:

24 **PARTIES**

25 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her  
26 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
27 Affairs.

28 ///

1           2.     On or about May 22, 2008, the Board of Pharmacy issued Permit Number PHY  
2   48891 to Pacific Pharmacy Group, Inc. dba Valencia Pharmacy (Respondent Valencia  
3   Pharmacy). The Permit was in full force and effect at all times relevant to the charges brought  
4   herein and will expire on May 1, 2018, unless renewed.

5           3.     On or about July 31, 1973, the Board of Pharmacy issued Original Pharmacist  
6   License Number RPH 28351 to Jan Bruce Balthasar (Respondent Balthasar). The Permit was in  
7   full force and effect at all times relevant to the charges brought herein and will expire on February  
8   28, 2018, unless renewed. Respondent Balthasar has been the Pharmacist-in-Charge of  
9   Respondent Valencia Pharmacy since September 25, 2014. Respondent Balthasar is, and has  
10  been, the Chief Executive Officer, a shareholder, and Director since December 22, 2011.

11          4.     On or about December 13, 2005, the Board of Pharmacy issued Original Pharmacist  
12  License Number RPH 57620 to Chris Choi (Respondent Choi). The Permit was in full force and  
13  effect at all times relevant to the charges brought herein and will expire on February 28, 2019,  
14  unless renewed. Respondent Choi was the Pharmacist-in-Charge of Respondent Valencia  
15  Pharmacy from June 1, 2013 to September 24, 2014.

16                                 **JURISDICTION**

17          5.     This First Amended Accusation is brought before the Board of Pharmacy (Board),  
18  Department of Consumer Affairs, under the authority of the following laws. All section  
19  references are to the Business and Professions Code unless otherwise indicated.

20          6.     Section 4300.1 of the Code states:

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

26                                 **STATUTORY PROVISIONS**

27          7.     Section 4300, subdivision (a), states: "Every license issued may be suspended or  
28  revoked."

1           8.     Section 4301 of the Code states:

2           “The board shall take action against any holder of a license who is guilty of unprofessional  
3 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

4 Unprofessional conduct shall include, but is not limited to, any of the following:

5           ...

6           (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
7 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
8 federal and state laws and regulations governing pharmacy, including regulations established by  
9 the board or by any other state or federal regulatory agency.

10          ...”

11          9.     Section 4307 of the Code states:

12          (a) Any person who has been denied a license or whose license has been revoked or is  
13 under suspension, or who has failed to renew his or her license while it was under suspension, or  
14 who has been a manager, administrator, owner, member, officer, director, associate, partner, or  
15 any other person with management or control of any partnership, corporation, trust, firm, or  
16 association whose application for a license has been denied or revoked, is under suspension or has  
17 been placed on probation, and while acting as the manager, administrator, owner, member,  
18 officer, director, associate, partner, or any other person with management or control had  
19 knowledge of or knowingly participated in any conduct for which the license was denied,  
20 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,  
21 administrator, owner, member, officer, director, associate, partner, or in any other position with  
22 management or control of a licensee as follows:

23           (1) Where a probationary license is issued or where an existing license is placed on  
24 probation, this prohibition shall remain in effect for a period not to exceed five years.

25           (2) Where the license is denied or revoked, the prohibition shall continue until the license is  
26 issued or reinstated.

27          ///

28          ///

1 (b) "Manager, administrator, owner, member, officer, director, associate, partner, or any  
2 other person with management or control of a license" as used in this section and Section 4308,  
3 may refer to a pharmacist or to any other person who serves in such capacity in or for a licensee.

4 (c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to  
5 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.  
6 However, no order may be issued in that case except as to a person who is named in the caption,  
7 as to whom the pleading alleges the applicability of this section, and where the person has been  
8 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part  
9 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision  
10 shall be in addition to the board's authority to proceed under Section 4339 or any other provision  
11 of law."

12 10. Section 4081 of the Code states:

13 "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs  
14 or dangerous devices shall be at all times during business hours open to inspection by authorized  
15 officers of the law, and shall be preserved for at least three years from the date of making. A  
16 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary  
17 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,  
18 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,  
19 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and  
20 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and  
21 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

22 ..."

23 **REGULATORY PROVISIONS**

24 11. California Code of Regulations, title 16, section 1714, states:

25 "...

26 (b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and  
27 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.

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1 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice  
2 of pharmacy.

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4 (d) Each pharmacist while on duty shall be responsible for the security of the prescription  
5 department, including provisions for effective control against theft or diversion of dangerous  
6 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy  
7 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.”

8 12. California Code of Regulations, title 16, section 1718, states:

9 “ ‘Current Inventory’ as used in Sections 4081 and 4332 of the Business and Professions  
10 Code shall be considered to include complete accountability for all dangerous drugs handled by  
11 every licensee enumerated in Sections 4081 and 4332.

12 The controlled substances inventories required by Title 21, CFR, Section 1304 shall be  
13 available for inspection upon request for at least 3 years after the date of the inventory.”

14 **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

15 13. Alprazolam (generic for Xanax) is a Schedule IV controlled substance as designated  
16 by Health and Safety Code section 11057, subdivisions (a) and (d)(1), and is a dangerous drug as  
17 defined in section 4022.

18 14. Carisoprodol is a Schedule IV controlled substance pursuant to 21 Code of Federal  
19 Regulation section 1308.14, subdivision (c)(6) and is a dangerous drug according to Business and  
20 Professions Code section 4022. Its indicated use is as an adjunct to rest, physical therapy and  
21 other measures for acute painful musculoskeletal conditions.

22 15. Norco is the brand name for the combination narcotic, Hydrocodone and  
23 Acetaminophen, and is a Schedule II<sup>1</sup> controlled substance pursuant to Health and Safety Code  
24 section 11055, subdivision (b)(1) (I), and is categorized as a dangerous drug pursuant to Business  
25 and Professions Code section 4022.

26  
27 <sup>1</sup> Effective October 6, 2014, the Drug Enforcement Administration rescheduled  
28 Hydrocodone combination products from schedule III to schedule II of the Controlled Substances  
Act. (See 21 CFR Part 1308 § 1308.12; 21 U.S.C. 812 (c))

1 16. Oxycodone, trade name Percolone, is a synthetic opioid analgesic and a Schedule II  
2 controlled substance pursuant to Health and Safety Code section 11055(b)(1)(M) and a dangerous  
3 drug pursuant to Business and Professions Code section 4022(c).

4 17. Promethazine with Codeine syrup is a Schedule V controlled substance as designated  
5 by Health and Safety Code section 11058, subdivision (c)(1), and is categorized as a dangerous  
6 drug pursuant to section 4022 of the Code.

7 18. Section 4022 states, in pertinent part:

8 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in  
9 humans or animals, and includes the following:

10 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without a  
11 prescription,’ ‘Rx only,’ or words of similar import.

12 . . . .

13 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
14 prescription or furnished pursuant to Section 4006.”

15 **COST RECOVERY PROVISION**

16 19. Section 125.3 provides, in pertinent part, that the Board may request the  
17 administrative law judge to direct a licentiate found to have committed a violation or violations of  
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
19 enforcement of the case.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Failure to Maintain A Current Inventory)**

22 **(Against Respondent Valencia Pharmacy, Respondent Balthasar, Respondent Choi)**

23 20. Respondents are subject to disciplinary action under section 4301, subdivision (o), for  
24 violation of section 4081, subdivision (a), as related to California Code of Regulations, title 16,  
25 section 1718, for failure to maintain a current inventory of controlled substances in that they  
26 could not account for inventory shortages of certain drugs. The circumstances are that an audit of  
27 controlled substances at Valencia Pharmacy from June 11, 2013 to August 31, 2015 determined  
28

1 that Valencia Pharmacy failed to maintain a current inventory of controlled substances in that it  
2 could not account for inventory shortages of the following drugs:

- 3 (a) Oxycodone 30 mg tablets- 681 tablets;
- 4 (b) Alprazolam 2 mg tablets- 10,863 tablets;
- 5 (c) Carisoprodol 350 mg tablets – 8,720 tablets;
- 6 (d) Hydrocodone/Acetaminophen 10/325 mg tablets – 32,668 tablets;
- 7 (e) Promethazine/Codeine Syrup – 1,489 ml.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Operational Standards and Security)**

10 **(Against Respondent Valencia Pharmacy, Respondent Balthasar, Respondent Choi)**

11 21. Respondents are subject to disciplinary action under section 4301, subdivision (o), for  
12 violation of California Code of Regulations, title 16, section 1714, subdivisions (b) and (d) for  
13 failure to secure inventory of controlled substances in that they could not account for inventory  
14 shortages of the following controlled substances:

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- 19 (e) Promethazine/Codeine Syrup – 1,489 ml.

20 **DISCIPLINARY CONSIDERATIONS**

21 19. In order to determine the degree of discipline, if any, to be imposed on Respondent  
22 Valencia Pharmacy, Complainant alleges that on or about March 27, 2013, the Board issued  
23 Citation No. CI 2010 48098, against Respondent Valencia Pharmacy for violating section 4126.5,  
24 subdivision (a)(4) (furnishing dangerous drugs) and section 4059, subdivision (a) (furnishing  
25 dangerous drug without a prescription). That Citation is now final and is incorporated by  
26 reference as if fully set forth. A copy is attached as Exhibit A.

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1           19. In order to determine the degree of discipline, if any, to be imposed on Respondent  
2 Balthasar, Complainant alleges that on or about January 19, 2016, the Board issued Citation No.  
3 CI 2015 68738, against Respondent Balthasar for violating section 4115, subdivision (f)(1)  
4 (having more than one pharmacy technician performing the duties of a pharmacy technician when  
5 only one pharmacist is present) and Code of Federal Regulations, title 21, section 1301.75,  
6 subdivision (b)( failing to store controlled substances in a securely locked cabinet). That Citation  
7 is now final and is incorporated by reference as if fully set forth. A copy is attached as Exhibit B.

### 8                               OWNERSHIP PROHIBITION

9           As set forth above, Business and Professions Code section 4307, subdivision (a), provides,  
10 in pertinent part, that any person whose license has been revoked or is under suspension shall be  
11 prohibited from serving as a manager, administrator, owner, member, officer, director, associate  
12 or partner of a licensee.

13           Pursuant to Code section 4307, if Jan Bruce Balthasar, while acting as the manager,  
14 administrator, owner, member, officer, director, associate, or partner of Pacific Pharmacy Group,  
15 Inc. dba Valencia Pharmacy, had knowledge of, or knowingly participated in, any conduct for  
16 which Pharmacy Permit PHY 48891 was revoked, suspended or placed on probation, Jan Bruce  
17 Balthasar shall be prohibited from serving as manager, administrator, owner, member, officer,  
18 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 48891  
19 is placed on probation, or until Pharmacy Permit Number PHY 48891 is reinstated if Pharmacy  
20 Permit Number PHY 48891 is revoked.

### 21                               PRAYER

22           WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
23 and that following the hearing, the Board of Pharmacy issue a decision:

24           1. Revoking or suspending Permit Number PHY 48891, issued to Pacific Pharmacy  
25 Group, Inc. dba Valencia Pharmacy, Original Pharmacist License Number RPH 28351, issued to  
26 Jan Bruce Balthasar, and Original Pharmacist License Number RPH57620, issued to Chris Choi;

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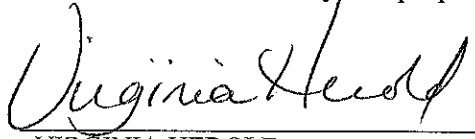
2. Prohibiting Jan Bruce Balthasar from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee if her license is revoked or is under suspension;

3. Prohibiting Jan Bruce Balthasar from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 48891 is placed on probation or until Pharmacy Permit Number PHY 48891 is reinstated if Pharmacy Permit Number PHY 48891 is revoked;

4. Ordering Valencia Pharmacy, Jan Bruce Balthasar, and Chris Choi to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

5. Taking such other and further action as deemed necessary and proper.

DATED: 7/7/17



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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7 *Attorneys for Complainant*

8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 5869

12 **PACIFIC PHARMACY GROUP, INC.**  
13 **DBA VALENCIA PHARMACY**  
23550 Lyons Ave, Ste. 111  
14 Newhall, CA 91321  
Permit No. PHY 48891

**ACCUSATION**

15 **JAN BRUCE BALTHASAR**  
239 Via Lido Soud  
16 Newport Beach, CA 92663  
Original Pharmacist License No. RPH 28351

17 **CHRIS CHOI**  
18 28868 Silversmith Drive  
Valencia, CA 91354  
19 Original Pharmacist License No. RPH 57620

20 Respondent.

21  
22 Complainant alleges:

23 **PARTIES**

24 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
25 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

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1 2. On or about May 22, 2008, the Board of Pharmacy issued Permit Number PHY  
2 48891 to Pacific Pharmacy Group, Inc. dba Valencia Pharmacy (Respondent Valencia  
3 Pharmacy). The Permit was in full force and effect at all times relevant to the charges brought  
4 herein and will expire on May 1, 2017, unless renewed.

5 3. On or about July 31, 1973, the Board of Pharmacy issued Original Pharmacist  
6 License Number RPH 28351 to Jan Bruce Balthasar (Respondent Balthasar). The Permit was in  
7 full force and effect at all times relevant to the charges brought herein and will expire on  
8 ~~February 28, 2018, unless renewed. Respondent Balthasar has been the Pharmacist-in-Charge of~~  
9 Respondent Valencia Pharmacy since September 25, 2014.

10 4. On or about December 13, 2005, the Board of Pharmacy issued Original Pharmacist  
11 License Number RPH 57620 to Chris Choi (Respondent Choi). The Permit was in full force and  
12 effect at all times relevant to the charges brought herein and will expire on February 28, 2017,  
13 unless renewed. Respondent Choi was the Pharmacist-in-Charge of Respondent Valencia  
14 Pharmacy from June 1, 2013 to September 24, 2014.

15 **JURISDICTION**

16 5. This Accusation is brought before the Board of Pharmacy (Board), Department of  
17 Consumer Affairs, under the authority of the following laws. All section references are to the  
18 Business and Professions Code unless otherwise indicated.

19 6. Section 4300.1 of the Code states:

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

25 **STATUTORY PROVISIONS**

26 7. Section 4300, subdivision (a), states: "Every license issued may be suspended or  
27 revoked."

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1 8. Section 4301 of the Code states:

2 “The board shall take action against any holder of a license who is guilty of unprofessional  
3 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.  
4 Unprofessional conduct shall include, but is not limited to, any of the following:  
5 ...

6 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
7 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
8 ~~federal and state laws and regulations governing pharmacy, including regulations established by~~  
9 the board or by any other state or federal regulatory agency.

10 ...”

11 9. Section 4081 of the Code states:

12 "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs  
13 or dangerous devices shall be at all times during business hours open to inspection by authorized  
14 officers of the law, and shall be preserved for at least three years from the date of making. A  
15 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary  
16 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,  
17 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,  
18 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and  
19 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and  
20 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

21 ...”

22 **REGULATORY PROVISIONS**

23 10. California Code of Regulations, title 16, section 1714, states:

24 “...

25 (b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and  
26 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.  
27 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice  
28 of pharmacy.



1 15. Oxycodone, trade name Percolone, is a synthetic opioid analgesic and a Schedule II  
2 controlled substance pursuant to Health and Safety Code section 11055(b)(1)(M) and a dangerous  
3 drug pursuant to Business and Professions Code section 4022(c).

4 16. Promethazine with Codeine syrup is a Schedule V controlled substance as designated  
5 by Health and Safety Code section 11058, subdivision (c)(1), and is categorized as a dangerous  
6 drug pursuant to section 4022 of the Code.

7 17. Section 4022 states, in pertinent part:

8 ~~“‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in~~  
9 humans or animals, and includes the following:

10 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without a  
11 prescription,’ ‘Rx only,’ or words of similar import.

12 . . . .

13 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
14 prescription or furnished pursuant to Section 4006.”

15 **COST RECOVERY PROVISION**

16 18. Section 125.3 provides, in pertinent part, that the Board may request the  
17 administrative law judge to direct a licentiate found to have committed a violation or violations of  
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
19 enforcement of the case.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Failure to Maintain A Current Inventory)**

22 **(Against Respondent Valencia Pharmacy, Respondent Balthasar, Respondent Choi)**

23 19. Respondents are subject to disciplinary action under section 4301, subdivision (o), for  
24 violation of section 4081, subdivision (a), as related to California Code of Regulations, title 16,  
25 section 1718, for failure to maintain a current inventory of controlled substances in that they  
26 could not account for inventory shortages of certain drugs. The circumstances are that an audit of  
27 controlled substances at Valencia Pharmacy from June 11, 2013 to August 31, 2015 determined  
28

1 that Valencia Pharmacy failed to maintain a current inventory of controlled substances in that it  
2 could not account for inventory shortages of the following drugs:

- 3 (a) Oxycodone 30 mg tablets- 681 tablets;
- 4 (b) Alprazolam 2 mg tablets- 10,863 tablets;
- 5 (c) Carisoprodol 350 mg tablets – 8,720 tablets;
- 6 (d) Hydrocodone/Acetaminophen 10/325 mg tablets – 32,668 tablets;
- 7 (e) Promethazine/Codeine Syrup – 1,489 ml.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Operational Standards and Security)**

10 **(Against Respondent Valencia Pharmacy, Respondent Balthasar, Respondent Choi)**

11 20. Respondents are subject to disciplinary action under section 4301, subdivision (o), for  
12 violation of California Code of Regulations, title 16, section 1714, subdivisions (b) and (d) for  
13 failure to secure inventory of controlled substances in that they could not account for inventory  
14 shortages of the following controlled substances:

- 15 (a) Oxycodone 30 mg tablets- 681 tablets;
- 16 (b) Alprazolam 2 mg tablets- 10,863 tablets;
- 17 (c) Carisoprodol 350 mg tablets – 8,720 tablets;
- 18 (d) Hydrocodone/Acetaminophen 10/325 mg tablets – 32,668 tablets;
- 19 (e) Promethazine/Codeine Syrup – 1,489 ml.

20 **DISCIPLINARY CONSIDERATIONS**

21 19. In order to determine the degree of discipline, if any, to be imposed on Respondent  
22 Valencia Pharmacy, Complainant alleges that on or about March 27, 2013, the Board issued  
23 Citation No. CI 2010 48098, against Respondent Valencia Pharmacy for violating section 4126.5,  
24 subdivision (a)(4) (furnishing dangerous drugs) and section 4059, subdivision (a) (furnishing  
25 dangerous drug without a prescription). That Citation is now final and is incorporated by  
26 reference as if fully set forth. A copy is attached as Exhibit A.

27 ///



