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BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**KAWEAH DELTA DISTRICT  
HOSPITAL PHARMACY**  
400 W. Mineral King,  
Visalia, CA 93291

License No. HPE 34209

Respondent.

**WILLIAM ARCH ROBERTSON**  
P.O. Box 349  
Visalia, CA 93279

License No. RPH 26158

Respondent.

**ROBERT EARL HOAG**  
5865 Arboles Street  
San Diego, CA 92120

License No. RPH 28260

Respondent.

**BRIAN EDWARD BACA**  
6499 E Saginaw  
Selma, CA 93662

License No. TCH 24028

Respondent.

Agency Case No. 2365

**WITHDRAWAL OF ACCUSATION  
NO. 2365 AGAINST RESPONDENTS  
KAWEAH DELTA DISTRICT  
HOSPITAL PHARMACY, WILLIAM  
ARCH ROBERTSON, AND ROBERT  
HOAG**

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1. GOOD CAUSE APPEARING, Accusation No. 2365, filed by the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, State of California (hereinafter, "the Board"), is dismissed without prejudice as to the following Respondents: (1) Kaweah Delta District Hospital Pharmacy; (2) William A. Robertson; and (3) Robert Earl Hoag.

2. Effective immediately upon the signature by the Executive Officer of the Board, Accusation No. 2365, is dismissed without prejudice as to Kaweah Delta District Hospital Pharmacy, William A. Robertson, and Robert Earl Hoag.

Dated: 5/3/02

*P. F. Harris*  
\_\_\_\_\_  
PATRICIA F. HARRIS, Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant

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BEFORE THE  
BOARD OF PHARMACY  
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STATE OF CALIFORNIA

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In the Matter of the Accusation Against:

Agency Case No. 2365

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**KAWEAH DELTA DISTRICT  
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400 W. Mineral King,  
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License No. HPE 34209

**ACCUSATION**

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Respondent.

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License No. TCH 24028

Respondent.

1 Patricia F. Harris, for causes for discipline, alleges:

2 1. Complainant Patricia F. Harris makes and files this Accusation in her  
3 official capacity as Executive Officer of the Board of Pharmacy, Department of Consumer  
4 Affairs, State of California (hereinafter, "the Board").

5 I.

6 LICENSE INFORMATION

7 2. On or about September 1, 1987, the Board issued Original Permit  
8 Number HPE 34209 to Kaweah Delta District Hospital, to do business as Kaweah Delta  
9 District Hospital Pharmacy (hereinafter referred to as "Kaweah Delta"). Kaweah Delta is  
10 located at 400 W. Mineral King, Visalia, CA 93291. Kaweah Delta's permit is in full force  
11 and effective until November 1, 2002.

12 3. On or about July 15, 1969, the Board issued Original Pharmacist License  
13 Number RPH 26158 to William A. Robertson (hereinafter referred to as "Respondent  
14 Robertson"), to practice pharmacy in California. Respondent Robertson's license will expire  
15 on October 31, 2002, unless renewed. From September 1, 1987 through December 14, 1994,  
16 Respondent Robertson was listed as the Pharmacist-in-Charge of Kaweah Delta. Currently,  
17 Respondent Robertson is listed as the Pharmacist-in-Charge of Kaweah Delta, and has been  
18 since September 3, 1999.

19 4. From December 14, 1994 through December 31, 1998, Richard I. Sakai,  
20 RPH 29720 was listed as the Pharmacist-in-Charge of Kaweah Delta. From January 1, 1999  
21 through March 8, 1999, Edward Y Ho, RPH 44123 was listed as the Pharmacist-in-Charge of  
22 Kaweah Delta.

23 5. On March 2, 1972, the Board issued Original Pharmacist License  
24 Number RPH 28260 to Robert Earl Hoag (hereinafter referred to as "Respondent Hoag"), to  
25 practice pharmacy in California. Respondent Hoag's license will expire on May 31, 2003,  
26 unless renewed. From March 8, 1999 through September 3, 1999, Respondent Hoag was listed  
27 as the Pharmacist-in-Charge of Kaweah Delta.

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1 Prior disciplinary action was taken against Respondent Hoag's license,  
2 Administrative Case No. 94 1819.

3 6. On October 22, 1997, the Board issued Original Pharmacy Technician  
4 Registration Number TCH 24028 to Brian Edward Baca (hereinafter referred to as "Respondent  
5 TCH Baca"), to act as a pharmacy technician in California. Respondent TCH Baca's  
6 registration will expire on November 30, 2002, unless renewed.

7 II.

8 STATUTES

9 7. The California Business and Professions Code section 4301 states as  
10 follows:

11 **§4301. Unprofessional conduct; licenses procured through  
12 misrepresentation, fraud or mistake**

13 The board shall take action against any holder of a license who is  
14 guilty of unprofessional conduct . . . Unprofessional conduct shall  
include, but is not limited to, any of the following:

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

18 (h) The administering to oneself, of any controlled substance,  
19 or the use of any dangerous drug or of alcoholic beverages  
20 to the extent or in a manner as to be dangerous or  
21 injurious to oneself, to a person holding a license under  
22 this chapter, or to any other person or to the public, or to  
the extent that the use impairs the ability of the person to  
conduct with safety to the public the practice authorized  
by the license.

23 (j) The violation of any of the statutes of this state or  
24 of the United States regulating controlled  
25 substances and dangerous drugs.

26 8. The California Business and Professions Code Section §4059(a) states as  
27 follows:

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**§4059. Prescriptions; requirement; exceptions; penalties**

(a) No person shall furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian. No person shall furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

9. The California Business and Professions Code section 4060 states as follows:

**§4060. Controlled Substances; possession**

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a physician assistant pursuant to Section 3502.1 or a nurse practitioner pursuant to Section 2836.1. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, podiatrist, or veterinarian, when in stock containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a nurse practitioner or a physician assistant to order his or her own stock of dangerous drugs and devices.

10. The California Business and Professions Code section 4081 states as follows:

**§4081. Records; hours; preservation; violations**

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

(b) The owner, officer, and partner of any pharmacy, wholesaler, veterinary food-animal drug retailer, or medical device retailer shall be jointly responsible, with the pharmacist-in-charge or

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1           exemptee, for maintaining the records and inventory described in this  
2 section.

3           (c) The pharmacist-in-charge or exemptee shall not be criminally  
4 responsible for acts of the owner, officer, partner, or employee  
5 that violate this section and of which the pharmacist-in-charge or  
6 exemptee had no knowledge, or in which he or she did not  
7 knowingly anticipate.

8           11.     The California Health and Safety Code section 11170 states as follows:

9           **§11170. Controlled substances for self use**

10          No person shall prescribe, administer, or furnish a controlled  
11 substance for himself.

12          12.     The California Health and Safety Code section 11171 states as follows:

13          **§11171. Prescription, administration or furnishing controlled  
14 substance**

15          No person shall prescribe, administer, or furnish a controlled  
16 substance except under the conditions and in the manner provided  
17 by this division.

18          13.     The California Health and Safety Code section 11173(a) states as

19 follows:

20          **§11173. Fraud, deceit, misrepresentations**

21          (a) No person shall obtain or attempt to obtain controlled  
22 substances, or procure or attempt to procure the administration of  
23 or prescription for controlled substances, (1) by fraud, deceit,  
24 misrepresentation, or subterfuge; or (2) by the concealment of a  
25 material fact.

26          14.     The California Health and Safety Code section 11350 (a) states as

27 follows:

28          **§11350. Possession of designated controlled substances;  
punishment and fine**

          (a) Except as otherwise provided in this division, every person  
who possesses (1) any controlled substance specified in  
subdivision (b) or (c), . . . , or (2) any controlled substance  
classified in Schedule III, IV, or V which is a narcotic drug,  
unless upon the written prescription of a physician, dentist,  
podiatrist, or veterinarian licensed to practice in this state, shall  
be punished by imprisonment in the state prison.

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15. The Code of Federal Regulations, 21 CFR section 1301.71(a) states as follows:

**§1301.71 Security requirements generally.**

(a) All applicants and registrants shall provide effective controls and procedures to guard against theft and diversion of controlled substances. In order to determine whether a registrant has provided effective controls against diversion, the Administrator shall use the security requirements set forth in §§1301.72-1301.76 as standards for the physical security controls and operating procedures necessary to prevent diversion. Materials and construction which will provide a structural equivalent to the physical security controls set forth in §§1301.72, 1301.73 and 1301.75 may be used in lieu of the materials and construction described in those sections.

16. The California Code of Regulations, Title 16, section 1714(d), states as follows:

**§1714. Operational Standards and Security.**

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

17. The California Code of Regulations, Title 16 section 1718 states as follows:

**§1718. Current Inventory Defined.**

“Current Inventory” as used in Section 4232 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Section 4232.

18. Section 125.3 of the California Business and Professions Code provides, in part, 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.

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