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6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 2401

11 LOMA LINDA PHARMACY  
Douglas Olson, Owner  
25455 Barton Road #102A  
12 Loma Linda, California 92354  
Pharmacy Permit No. PHY 34564

**WITHDRAWAL OF ACCUSATION  
AGAINST RESPONDENT LOMA  
LINDA PHARMACY**

13 and

14 CHARLES J. SIMON,  
15 P.O. Box 2471  
Cathedral City, California 92234  
16 Pharmacist License No. RHP 30799

17 Respondents.

18  
19 On or about November 14, 2001, Complainant Patricia F. Harris ("Complainant"), in her  
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
21 Affairs, filed Accusation No. 2401 against Respondent Loma Linda Pharmacy (Pharmacy Permit  
22 No. PHY 34564) and Respondent Charles J. Simon (Pharmacist License No. RPH 30799).

23 Complainant, exercising her discretionary authority pursuant to Title 16, California Code  
24 of Regulations, Section 1703, and acting on information submitted to her, and in the interest of  
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1 justice, has determined that good cause exists to withdraw Accusation No. 2401 against  
2 Respondent Loma Linda Pharmacy (Pharmacy Permit No. PHY 34564) only.

3 WHEREFORE, Complainant hereby withdraws Accusation No. 2401, filed on or about  
4 November 14, 2001, against Respondent Loma Linda Pharmacy (Pharmacy Permit No. PHY  
5 34564) only.

6  
7 DATED: 2/15/02

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9 PATRICIA F. HARRIS  
10 Executive Officer  
11 Board of Pharmacy  
12 Department of Consumer Affairs  
13 State of California

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25  
Complainant

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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
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11 In the Matter of the Accusation Against:

Case No. 2401

12 LOMA LINDA PHARMACY  
25455 Barton Road #102A  
13 Loma Linda, California 92354  
Pharmacy Permit No. PHY 34564

OAH No.

**A C C U S A T I O N**

14 and

15 CHARLES JOSEPH SIMON  
16 P.O. Box 2471  
Cathedral City, California 92234  
17 Pharmacist License No. RHP 30799

18 Respondents.

19  
20 Complainant alleges:

21 PARTIES

22 1. Patricia F. Harris (Complainant) brings this Accusation solely in her  
23 official capacity as the Executive Officer of the Board of Pharmacy, Department of  
24 Consumer Affairs.

25 2. On or about December 23, 1987, the Board of Pharmacy issued  
26 Pharmacy Permit Number PHY 34564 to Loma Linda Pharmacy ("Respondent  
27 Pharmacy"). The Pharmacy Permit expired on September 17, 1999, and has not been  
28 renewed.



1 pharmacist shall not dispense any prescription except in a container that meets the  
2 requirement of state and federal law and is correctly labeled.

3 9. Section 4077 of the Code states, in pertinent part, that except as  
4 provided in subdivisions (b) and (c) of this section, no person shall dispense any  
5 dangerous drug upon prescription except in a container correctly labeled with the  
6 information required by Section 4076.

7 10. Section 4078 (a)(1) of the Code states that no person shall place a  
8 false or misleading label on a prescription.

9 11. Section 4078(a)(2) of the Code states that no prescriber shall direct  
10 that a prescription be labeled with any information that is false or misleading.

11 12. Title 16, California Code of Regulations, section 1716 states, in  
12 pertinent part, that Pharmacists shall not deviate from the requirements of a prescription  
13 except upon the prior consent of the prescriber or to select the drug product in  
14 accordance with Section 4047.6 of the Code (now Section 4073).

15 13. Title 16, California Code of Regulations, section 1717(a) states, in  
16 pertinent part, that no medication shall be dispensed on prescription except in a new  
17 container which conforms with standards established in the official compendia.

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

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Failure to Dispense Appropriate Prescription)**

24 15. Respondents Pharmacy and Simon have subjected their licenses  
25 to discipline for violation of Section 4300 of the Code for unprofessional conduct, as  
26 defined in Section 4301(j), and in violation of Sections 4076 and 4077 of the Code, in

27 //  
28 //

1 that Respondents Pharmacy and Simon failed to dispense appropriate medication as  
2 follows:

3 a. On or about June 11, 1998, R.C. brought a prescription for  
4 Prevacid 30 mg into Respondent Pharmacy to be filled. Respondent Simon filled the  
5 prescription.

6 b. On or about July 14, 1998, R.C. returned to Respondent Pharmacy  
7 for a refill on the Prevacid. The refill pills appeared different than the medication  
8 originally dispensed. The pharmacist examined the remaining pills from the original  
9 prescription and determined that R.C.'s prescription for Prevacid had initially been filled  
10 with Pravachol 20mg.

11 c. R.C. alleged that because of the mistakenly filled prescription for a  
12 period of almost 30 days, the Pravachol caused harm to his blood chemistry and  
13 enzyme levels. At one point, R.C. was forced to go to the emergency room where he  
14 was thought to be having a heart attack.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Failure to Correctly Label Prescription)**

17 16. Respondents Pharmacy and Simon have subjected their licenses  
18 to discipline for violation of Section 4300 of the Code for unprofessional conduct, as  
19 defined in Section 4301(o) of the Code, and in violation of Sections 4078(a)(1) and (2)  
20 of the Code, and in conjunction with Title 16, California Code of Regulations, sections  
21 1716 and 1717(a), in that Respondents Pharmacy and Simon failed to correctly label  
22 and dispense the drug that was prescribed by R.C.'s physician, as described in  
23 paragraph 15, above.

24 **PRAYER**

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

28 1. Revoking or suspending Pharmacy Permit Number PHY 34564,

