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8 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 DOUGLAS WONG
13 73-373 Country Club Drive
14 Palm Springs, CA 92670

15 RPH License No. 50646

Respondent.

Case No. 2563

OAH No. L-2002120349

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 In the interest of a prompt and speedy settlement of this matter, consistent with the
18 public interest and the responsibility of the Board of Pharmacy of the Department of Consumer
19 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
20 which will be submitted to the Board for approval and adoption as the final disposition of the
21 Accusation.

22 PARTIES

23 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
24 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
25 by Bill Lockyer, Attorney General of the State of California, by James M. Ledakis, Deputy
26 Attorney General.

27 2. Respondent DOUGLAS WONG (Respondent) is represented in this
28 proceeding by attorney Michael T. Doudna, whose address is 200 West Santa Ana Boulevard,

1 Suite 615, Santa Ana, California 92701.

2 3. On or about November 23, 1998, the Board of Pharmacy issued RPH
3 License No. 50646 to DOUGLAS WONG (Respondent). The license was in full force and effect
4 at all times relevant to the charges brought in Accusation No. 2563 and will expire on July 31,
5 2003, unless renewed.

6 JURISDICTION

7 4. Accusation No. 2563 was filed before the Board of Pharmacy (Board),
8 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
9 and all other statutorily required documents were properly served on Respondent on October 29,
10 2002. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of
11 Accusation No. 2563 is attached as exhibit A and incorporated herein by reference.

12 ADVISEMENT AND WAIVERS

13 5. Respondent has carefully read, fully discussed with counsel, and
14 understands the charges and allegations in Accusation No. 2563. Respondent has also carefully
15 read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and
16 Disciplinary Order.

17 6. Respondent is fully aware of his legal rights in this matter, including the
18 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
19 counsel at his own expense; the right to confront and cross-examine the witnesses against him;
20 the right to present evidence and to testify on his own behalf; the right to the issuance of
21 subpoenas to compel the attendance of witnesses and the production of documents; the right to
22 reconsideration and court review of an adverse decision; and all other rights accorded by the
23 California Administrative Procedure Act and other applicable laws.

24 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
25 each and every right set forth above.

26 CULPABILITY

27 8. Respondent understands and agrees that the charges and allegations in
28 Accusation No. 2563, if proven at a hearing, constitute cause for imposing discipline upon his

1 4. **Interview with the Board.** Upon receipt of reasonable notice,
2 Respondent shall appear in person for interviews with the Board upon request at various
3 intervals at a location to be determined by the Board. Failure to appear for a scheduled
4 interview without prior notification to Board staff shall be considered a violation of probation.

5 5. **Cooperation with Board Staff.** Respondent shall cooperate with the
6 Board's inspectional program and in the Board's monitoring and investigation of Respondent's
7 compliance with the terms and conditions of Male probation. Failure to comply shall be
8 considered a violation of probation.

9 6. **Continuing Education.** Respondent shall provide evidence of efforts
10 to maintain skill and knowledge as a pharmacist as directed by the Board.

11 7. **Notice to Employers.** Respondent shall notify all present and
12 prospective employers of the decision in case number 2563 and the terms, conditions and
13 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
14 this decision, and within 15 days of Respondent undertaking new employment, Respondent
15 shall cause Male direct supervisor, pharmacist-in-charge and/or owner to report to the Board
16 in writing acknowledging the employer has read the decision in case number 2563.

17 If Respondent works for or is employed by or through a pharmacy employment
18 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
19 every pharmacy of the and terms conditions of the decision in case number 2563 in advance of
20 the Respondent commencing work at each pharmacy.

21 "Employment" within the meaning of this provision shall include any full-time, part-
22 time, temporary, relief or pharmacy management service as a pharmacist, whether the
23 Respondent is considered an employee or independent contractor.

24 8. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-
25 Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern
26 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the
27 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
28 order.

1 9. **Reimbursement of Board Costs.** Respondent shall pay to the Board
2 its costs of investigation and prosecution in the amount of \$3,187. The filing of bankruptcy by
3 Respondent shall not relieve Respondent of Male responsibility to reimburse the Board its
4 costs of investigation and prosecution.

5 10. **Probation Monitoring Costs.** Respondent shall pay the costs
6 associated with probation monitoring as determined by the Board each and every year of
7 probation. Such costs shall be payable to the Board at the end of each year of probation.
8 Failure to pay such costs shall be considered a violation of probation.

9 11. **Status of License.** Respondent shall, at all times while on probation,
10 maintain an active current license with the Board, including any period during which
11 suspension or probation is tolled. If Respondent's license expires or is canceled by operation
12 of law or otherwise, upon renewal or re-application, Respondent's license shall be subject to
13 all terms and conditions of this probation not previously satisfied.

14 12. **License Surrender while on Probation/Suspension.** Following the
15 effective date of this decision, should Respondent cease practice due to retirement or health,
16 or be otherwise unable to satisfy the terms and conditions of probation, Respondent may
17 tender Male license to the Board for surrender. The Board shall have the discretion whether to
18 grant the request for surrender or take any other action it deems appropriate and reasonable.
19 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject
20 to the terms and conditions of probation.

21 Upon acceptance of the surrender, Respondent shall relinquish Male pocket
22 license to the Board within 10 days of notification by the Board that the surrender is accepted.
23 Respondent may not reapply for any license from the Board for three years from the effective
24 date of the surrender. Respondent shall meet all requirements applicable to the license sought
25 as of the date the application for that license is submitted to the Board.

26 13. **Notification of Employment/Mailing Address Change.** Respondent
27 shall notify the Board in writing within 10 days of any change of employment. Said
28 notification shall include the reasons for leaving and/or the address of the new employer,

1 supervisor or owner and work schedule if known. Respondent shall notify the Board in
2 writing within 10 days of a change in name, mailing address or phone number.

3 14. **Violation of Probation.** If Respondent violates probation in any
4 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
5 probation and carry out the disciplinary order which was stayed. If a petition to revoke
6 probation or an accusation is filed against Respondent during probation, the Board shall have
7 continuing jurisdiction and the period of probation shall be extended, until the petition to
8 revoke probation or accusation is heard and decided.

9 If Respondent has not complied with any term or condition of probation, the
10 Board shall have continuing jurisdiction over Respondent, and probation shall automatically
11 be extended until all terms and conditions have been satisfied or the Board has taken other
12 action as deemed appropriate to treat the failure to comply as a violation of probation, to
13 terminate probation, and to impose the penalty which was stayed.

14 15. **Completion of Probation.** Upon successful completion of probation,
15 Respondent's license will be fully restored.

16 16. **Rehabilitation Program - Pharmacists Recovery Program (PRP).**
17 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists
18 Recovery Program for evaluation and shall successfully participate in and complete the
19 treatment contract and any subsequent addendums as recommended and provided by the PRP
20 and as approved by the Board. The costs for PRP participation shall be borne by the
21 Respondent.

22 If Respondent is currently enrolled in the PRP, said participation is now
23 mandatory and is no longer considered a self-referral under Business and Professions Code
24 section 4363, as of the effective date of this decision. Respondent shall successfully
25 participate in and complete Male current contract and any subsequent addendums with the
26 PRP. Probation shall be automatically extended until Respondent successfully completes
27 Male treatment contract. Any person terminated from the program shall be automatically
28 suspended upon notice by the Board. Respondent may not resume the practice of pharmacy

1 until notified by the Board in writing. The Board shall retain jurisdiction to institute action to
2 terminate probation for any violation of this term.

3 **17. Random Drug Screening.** Respondent, at Male own expense, shall
4 participate in random testing, including but not limited to biological fluid testing (urine,
5 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.
6 The length of time shall be for the entire probation period and the frequency of testing will be
7 determined by the Board. At all times Respondent shall fully cooperate with the Board, and
8 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,
9 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as
10 directed shall constitute a violation of probation. Any confirmed positive drug test shall result
11 in the immediate suspension of practice by Respondent. Respondent may not resume the
12 practice of pharmacy until notified by the Board in writing.

13 **18. Abstain from Drugs and Alcohol Use.** Respondent shall completely
14 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their
15 associated paraphernalia except when the drugs are lawfully prescribed by a licensed
16 practitioner as part of a documented medical treatment. Upon request of the Board,
17 Respondent shall provide documentation from the licensed practitioner that the prescription
18 was legitimately issued and is a necessary part of the treatment of the Respondent.

19 **19. Supervised Practice.** Respondent shall practice only under the
20 supervision of a pharmacist not on probation with the Board. Respondent shall not practice
21 until the supervisor is approved by the Board. The supervision shall be, as required by the
22 Board, either:

23 Continuous - 75% to 100% of a work week

24 Substantial - At least 50% of a work week

25 Partial - At least 25% of a work week

26 Daily Review - Supervisor's review of probationer's daily activities within
27 24hours Within 30 days of the effective date of this decision, Respondent shall have Male
28 supervisor submit notification to the Board in writing stating the supervisor has read the

1 decision in case number AC2563 and is familiar with the level of supervision as determined
2 by the Board.

3 If Respondent changes employment, Respondent shall have Male new
4 supervisor, within 15 days after employment commences, submit notification to the Board in
5 writing stating the direct supervisor and pharmacist-in-charge have read the decision in case
6 number AC2563 and is familiar with the level of supervision as determined by the Board.
7 Within 10, days of leaving employment, Respondent shall notify the Board in writing.

8 20. **No Ownership of Premises.** Respondent shall not own, have any legal
9 or beneficial interest in, or serve as a manager, administrator, member, officer, director,
10 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
11 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any
12 entity licensed by the Board within 90 days following the effective date of this decision and
13 shall immediately thereafter provide written proof thereof to the Board.

14 21. **Tolling of Suspension.** If Respondent leaves California to reside or
15 practice outside this state, for any period exceeding 10 days (including vacation), Respondent
16 must notify the Board in writing of the dates of departure and return. Periods of residency or
17 practice outside the state - or any absence exceeding a period of 10 days shall not apply to the
18 reduction of the suspension period. Respondent shall not practice pharmacy upon returning to
19 this state until notified by the Board that the period of suspension has been completed.

20 22. **Tolling of Probation.** Should Respondent, regardless of residency, for
21 any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in
22 California, Respondent must notify the Board in writing within 10 days of cessation of the
23 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time
24 shall not apply to the reduction of the probation period. It is a violation of probation for
25 Respondent's probation to remain tolled pursuant to the provisions of this condition for a
26 period exceeding three years. "Cessation of practice" means any period of time exceeding 30
27 days in which Respondent is not engaged in the practice of pharmacy as defined in Section
28 4052 of the Business and Professions Code.

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ACCEITANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael T. Doudna. I understand the stipulation and the effect it will have on my RPH License No. 50646. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 4-29-03

Michael T. Doudna
Attorney for Douglas Wong
DOUGLAS WONG
Respondent

I have read and fully discussed with Respondent DOUGLAS WONG the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 4-29-03

Michael T. Doudna
MICHAEL T. DOUDNA
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: April 29, 2003

BILL LOCKYER, Attorney General
of the State of California

James M. Ledakis
JAMES M. LEDAKIS
Deputy Attorney General
Attorneys for Complainant

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

In the Matter of the Accusation Against:

DOUGLAS WONG
73-373 Country Club Drive
Palm Springs, CA 92670

RPH License No. 50646

Respondent.

Case No. 2563

OAH No. L-2002120349

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 5, 2003.

It is so ORDERED June 5, 2003.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Exhibit A
Accusation No. 2563

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMES M. LEDAKIS, State Bar No. 132645
Deputy Attorney General
3 California Department of Justice
110 West "A" Street, Suite 1100
4 San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2105
Facsimile: (619) 645-2061
7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 2563

13 DOUGLAS WONG
73-373 Country Club Drive #317
14 Palm Springs, CA 92670

A C C U S A T I O N

15 RPH License No. 50646

16 Respondent.

17
18 Complainant alleges:

19 PARTIES

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

23 2. On or about November 23, 1998, the Board of Pharmacy issued Original
24 Pharmacist License Number RPH 50646 to DOUGLAS WONG (Respondent). Said license will
25 expire on July 31, 2002, unless renewed.

26 /
27 /
28 /

JURISDICTION

1
2 3. This Accusation is brought before the Board of Pharmacy (Board), under
3 the authority of the following sections of the Business and Professions Code (Code).

4 4. Section 4022 of the Code states:

5 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
6 self-use, except veterinary drugs that are labeled as such, and includes the following:

7 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
8 without prescription," "Rx only," or words of similar import.

9 "(b) Any device that bears the statement: "Caution: federal law restricts this
10 device to sale by or on the order of a _____," "Rx only," or words of similar import, the
11 blank to be filled in with the designation of the practitioner licensed to use or order use of the
12 device.

13 ". . . ,

14 5. Section 4300 of the Code states:

15 "(a) Every license issued may be suspended or revoked.

16 "(b) The board shall discipline the holder of any license issued by the board,
17 whose default has been entered or whose case has been heard by the board and found guilty, by
18 any of the following methods:

19 ". . . ,

20 6. Section 4301 of the Code states:

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

25 ". . . ,

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

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

6

...

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

9

...

10 (l) The conviction of a crime substantially related to the qualifications, functions,
11 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
12 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
13 substances or of a violation of the statutes of this state regulating controlled substances or
14 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
15 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
16 The board may inquire into the circumstances surrounding the commission of the crime, in order
17 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
18 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
19 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty
20 or a conviction following a plea of nolo contendere is deemed to be a conviction within the
21 meaning of this provision. The board may take action when the time for appeal has elapsed, or
22 the judgment of conviction has been affirmed on appeal or when an order granting probation is
23 made suspending the imposition of sentence, irrespective of a subsequent order under Section
24 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a
25 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,
26 or indictment.

27

(p) Actions or conduct that would have warranted denial of a license.

28

...,"

1 7. Section 4059 of the Code states, in pertinent part, that a person may not
2 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,
3 optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the
4 prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

5 8. Section 4060 of the Code states:

6 "No person shall possess any controlled substance, except that furnished to a
7 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished
8 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse
9 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This
10 section shall not apply to the possession of any controlled substance by a manufacturer,
11 wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse
12 practitioner, or physician assistant, when in stock in containers correctly labeled with the name
13 and address of the supplier or producer.

14 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner,
15 or a physician assistant to order his or her own stock of dangerous drugs and devices."

16 9. Section 4081 of the Code states:

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

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

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

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

6 10. Section 118, subdivision (b), of the Code provides that the
7 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of
8 jurisdiction to proceed with a disciplinary action during the period within which the license may
9 be renewed, restored, reissued or reinstated.

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

14 FIRST CAUSE FOR DISCIPLINE

15 (Unprofessional Conduct for Acts Involving Moral Turpitude)

16 12. Respondent is subject to disciplinary action under section 4301(f) in that
17 on or about July 2001, Respondent, Douglas Wong, Pharmacist in Charge, while working for his
18 employer was observed taking prescriptions drugs. While on duty at work, Respondent was
19 described as hyperactive or flying, scratching his arms and legs, and later being tired and sleepy.
20 Subsequently, an investigation was conducted by Respondent's employer, and the Riverside
21 County Sheriff's Office. During the course of the investigation, Respondent admitted to taking
22 prescription drugs from his employer and pled guilty to same. The circumstances are as follows:

23 13. On or about November 1, 2001, Respondent signed a plea agreement in
24 the Superior Court for the County of Riverside, Indio Judicial District, State of California,
25 wherein, he pled guilty to count one of a three count complaint, admitting "that on or about July
26 16, 2001, while employed at Wal-Mart, he did willfully and unlawfully appropriate for his own
27 use money and personal property of a value not exceeding \$400, to wit, prescription drugs."

28 /

