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Attorneys for Complainant

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

In the Matter of the Accusation Against: GARY MAC MULLEN 3305 Cadencia Street Rancho La Costa, CA 92009 Pharmacist License No. RPH 30639 Respondent.	Case No. 2608 OAH No. L-2003090503 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

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

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2. Respondent GARY MAC MULLEN (Respondent) is represented in this proceeding by attorney Gregory P. Matzen of Lewis Brisbois Bisgaard & Smith, LLP, whose address is 2500 Venture Oaks Way, Suite 200, Sacramento, CA 95833.

3. On or about September 20, 1976, the Board of Pharmacy issued Pharmacist License No. RPH 30639 to GARY MAC MULLEN (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2608 and will expire on May 31, 2004, unless renewed.

JURISDICTION

4. Accusation No. 2608 was filed before the Board of Pharmacy (the Board), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 25, 2003. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2608 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2608. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

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CULPABILITY

8. Respondent understands and agrees that some of the charges and allegations in Accusation No. 2608, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist License.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for some of the charges in the Accusation, and that Respondent hereby gives up his right to contest those charges.

10. Respondent agrees that his Pharmacist License is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

RESERVATION

11. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

12. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 30639 issued to Respondent GARY MAC MULLEN (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Actual Suspension - Pharmacist.** License number RPH 30639, issued to Respondent GARY MAC MULLEN is suspended for a period of (30) thirty days. Respondent is

suspended from the practice of pharmacy beginning the effective date of this decision.

During suspension, Respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall Respondent manage, administer, **or** be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the Board. Subject to the above restrictions, Respondent may continue to own or hold an interest in any pharmacy in which he holds an interest at the time this decision becomes effective unless otherwise specified in this order.

2. **Obey All Laws.** Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state and federal agency which involves Respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or controlled substance.

3. **Reporting to the Board.** Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and

conditions of probation. If the final probation report **is not** made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the Board.

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

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

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

7. **Notice to Employers.** Respondent shall notify all present and prospective employers of the decision in case number 2608 and the terms, conditions and restrictions imposed on Respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in writing acknowledging the employer has read the decision in case number 2608.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy of the and terms conditions of the decision in case number 2608 in advance of the Respondent commencing work at each pharmacy.

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

8. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern

pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this order.

9. **Reimbursement of Board Costs.** Respondent shall pay to the Board its costs of investigation and prosecution in the amount of $5,500. Respondent shall make said payments on a quarterly basis with payment made in full prior to completion of probation.

The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board its costs of investigation and prosecution.

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

11. **Status of License**. Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

If Respondent's license expires or is canceled by operation of law or otherwise, upon renewal or reapplication, Respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

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

Upon acceptance of the surrender, Respondent shall relinquish his pocket license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three years from the effective

date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

13. **Notification of Employment/Mailing Address Change.** Respondent shall notify the Board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner and work schedule if known. Respondent shall notify the Board in writing within 10 days of a change in name, mailing address or phone number.

14. **Tolling of Probation.** Should Respondent, regardless of residency, for any reason cease practicing pharmacy for a minimum of 80 hours per calendar month in California, Respondent must notify the Board in writing within 10 days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for Respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three years.

"Cessation of practice" means any period of time exceeding 30 days in which Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of the Business and Professions Code.

15. **Violation of Probation.** If Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided. If Respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over Respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

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

17. **No Supervision.** Respondent shall not supervise any ancillary personnel, including, but not limited to, registered pharmacy technicians or exemptees, of any entity licensed by the Board.

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

19. **Tolling of Suspension.** If Respondent leaves California to reside or practice outside this state, for any period exceeding 10 days (including vacation), Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state - or any absence exceeding a period of 10 days shall not apply to the reduction of the suspension period.

Respondent shall not practice pharmacy upon returning to this state until notified by the Board that the period of suspension has been completed.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gregory Matzen. I understand the stipulation and the effect it will have on my Pharmacist License. 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.

DATED: July 8, 2004.

GARY MAC MATZEN (Respondent)
Respondent

I concur with this stipulated settlement.

DATED: July 9, 2004.

GREG MATZEN
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board.

DATED: July 2, 2004.

BILL LOCKYER, Attorney General
of the State of California

JAMES M. LEDAKIS
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2004AD0002
80028248.wpd

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

In the Matter of the Accusation Against: GARY MAC MULLEN 3305 Cadencia Street Rancho La Costa, CA 92009 Pharmacist License No. RPH 30639 Respondent.	Case No. 2608 OAH No. L-2003090503

DECISION AND ORDER

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

This Decision shall become effective on September 24, 2004.

It is so ORDERED August 25, 2004.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
STANLEY W. GOLDENBERG
Board President

Exhibit A

Accusation No. 2608

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of the State of California
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Attorneys for Complainant

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

In the Matter of the Accusation Against: GARY J. MAC MULLEN 3305 Cadencia Street Rancho La Costa, CA 92009 License No. RPH 30639 Respondent.	OAH No. Administrative Case 2608 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about September 20, 1976, the Board of Pharmacy issued Pharmacist License No. RPH 30639 to GARY J. MAC MULLEN (Respondent). At all times material herein, Respondent MacMullen was and currently is licensed by the Board as a registered pharmacist. The license expires on May 31, 2004, unless renewed.

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JURISDICTION

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

4. Business & Professions Code Section 4022(a) states in pertinent part:

> "Dangerous drug" or "Dangerous Device" means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:
>
> a) Any drug that bears the legend: "Caution: Federal law prohibits dispensing without prescription," "RX only," or "words of similar import".
>
> b) Any device that bears the statement: "Caution: federal law restricts this device to sale by or on the order of a doctor, Rx only, or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order the use of the device.
>
> c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

5. Hydrocodone is a Schedule III drug as classified by Health & Safety Code 11056 section.

6. Vicodin is a controlled substance under Health & Safety Code section 11056(e)(4).

7. Serzone, Fioricet, Lugols Solution and Imitrex are prescription drugs as defined in section 4022 above.

8. Lorazepam is a Schedule IV drug as classified by Health & Safety Code section 11057.

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

10. Section 4040, Prescription; Electronic transmission prescription states, in pertinent part:

> a) Prescription means an oral, written, or electronic transmission order that is both of the following:
>
> 1) Given individually for the person or persons for whom ordered that includes all of the following:
>
> A) The name or names and addresses of the patient or patients.
>
> . . .
>
> C) The date of issuance.

11. Section 4063 of the Code states, in pertinent part:

> No prescriptions for any dangerous drug or dangerous device may be refilled except upon authorization of the prescriber. The authorization may be given orally at any time of giving the original prescription. No prescription for any dangerous drug that is a controlled substance may be designated refillable as needed.

12. Section 4081 of the Code states:

> (a) All records of manufacture 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, 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, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or exemptee, for maintaining the records and inventory described in this section.
>
> (c) The pharmacist-in-charge or exemptee shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge or exemptee had no knowledge, or in which he or she did not knowingly participate.

13. Section 4301 of the Code states:

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

. . .

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

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

14. Section 4306.5, Acts or omissions constituting unprofessional conduct states in pertinent part:

Unprofessional conduct for a pharmacist may include acts or omissions that involve, in whole or in part, the exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.

15. Section 4332, Dangerous drugs or devices, records; failure to maintain; failure to produce, falsification states in pertinent part:

Any person who fails, neglects, or refuses to maintain the records required by Section 4081 or who, when called upon by an authorized officer or a member of the board, fails neglects, or refuses to produce or provide the records within a reasonable time, or who willfully produces or furnishes records that are false, is guilty of a misdemeanor.

16. California Code of Regulations section 1718, states in pertinent part:

Current inventory as used in section 4081 of the Business & Professions code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in section 4081. The controlled substances inventories required by Title 21, CFR, section 1304 shall be available for inspection upon request for at least three years after the date of the inventory.

17. California Code of Regulations section 1761, states in pertinent part:

a) No pharmacist shall compound or disperse any prescriptions which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription . . .

18. Health & Safety code section 11200, Restrictions on Disposing or Refilling; Refill of Schedule II Prescription Barred, states in pertinent part:

a) No person shall dispense or refill a controlled substance prescription more than six months after the date thereof . . .

19. Health & Safety code section 11208, Prima Facie Evidence of Violation of Controlled Substance Act, states in pertinent part as follows:

> In a prosecution under this division, proof that a defendant received or has had in his possession at any time a greater amount of controlled substances than is accounted for by any record required by law or that the amount of controlled substances possessed by the defendant is a lessor amount than is accounted for by any record required by law is prima facie evidence of guilt.

20. Section 125.3 of the Code provides, in pertinent part, that the Director 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.

FIRST CAUSE FOR DISCIPLINE

(Furnishing a Prescription Without Physician Authorization)

21. Respondent is subject to disciplinary action under section 4063 and 4059 in that Respondent did write and furnish prescriptions for Patient JC for Serzone without authorization from a physician. The circumstances are as follows:

22. On or about September 21, 2001, prescription Rx # 10039 for Patient JC was filled by Respondent for #40 Lorazepam 1 mg. The documentation for this prescription stated that it was a transfer from Kaiser Hospital. Thereafter, pharmacist KS telephoned the prescribing doctor, Dr G, and learned that the original prescription for Patient JC was for #30 Ativan 1 mg.

23. Seven weeks later on November 8, 2001, Respondent filled prescription Rx #100161 for #60 Serzone 200 mg. Thereafter, pharmacist KS telephoned the prescribing doctor, Dr. G, and learned that no prescription for Serzone was authorized for patient JC.

SECOND CAUSE FOR DISCIPLINE

(Furnishing an Uncertain Prescription)

24. Respondent is subject to disciplinary action under section 4306.5 and California Code of Regulations section 1761 in that Respondent did fill an uncertain prescription for Fioricet for patient OH. The circumstances are as follows:

25. On or about May 1, 2001, Respondent filled prescription Rx #100153 Fioricet #150 for Patient OH which was written by two different persons and was not filled until November 30, 2001. There was no documentation to indicate whether the doctor actually wrote the prescription or whether he still wanted it filled.

THIRD CAUSE FOR DISCIPLINE

(Furnishing Dangerous Drugs Without a Prescription)

26. Respondent is subject to disciplinary action under section 4040(c) in that RPH Mac Mullen filled a prescription for a controlled substance that was not faxed directly from a physician's office. The circumstances are as follows:

27. On or about May 1, 2001, Respondent filled Rx #100154 for Hydrocodone 10/325 (Norco) #360 for Patient OH originating from a fax from Ralph's Thrifty in the state of Washington.

FOURTH CAUSE FOR DISCIPLINE

(Filling a Prescription in Excess of Six Months Old)

28. Respondent is subject to disciplinary action under section 4301(j) for unprofessional conduct in that Respondent violated Health & Safety section 11200 when he filled patient OH's prescription for Fioricet that was in excess of six months old.
The circumstances are as follows:

29. On or about May 1, 2001, prescription Rx #100153 was issued. On November 30, 2001, Respondent filled the prescription for patient OH without any documentation that Dr. G wanted the prescription filled.

FIFTH CAUSE FOR DISCIPLINE

(Issuing a False Prescription)

30. Respondent is subject to disciplinary action under section 4301(f) for unprofessional conduct for attempting to forge and fill a prescription for Lugols Solution for patient RM without authorization from a physician. The circumstances are as follows:

31. On or about December 20, 2001, Respondent spoke to patient RM on the telephone and questioned her about her symptoms and thereafter Respondent consulted a

reference book and wrote a prescription for Lugo's Solution. When Respondent was questioned about his actions, he explained that Dr. S requested the Lugo's Solution for employee/ patient RM. Thereafter, Pharmacist KS telephoned Dr. S's office and learned that there was no employee/patient RM at their office. This prescription was not filled.

SIXTH CAUSE FOR DISCIPLINE

(Issuing a Prescription in Violation of Regulations)

32. Respondent is subject to disciplinary action under section 4040 in that Respondent filled prescriptions for patient GM from a medication profile which was faxed from a different pharmacy. The circumstances are as follows:

33. On or about December 3, 2001, Respondent filled a prescription for 50 Vicodin, a controlled substance, which was faxed to Respondent and did not meet the requirements for a prescription and he filled a prescription for a controlled substance from a preprinted multiple check off prescription blank.

SEVENTH CAUSE FOR DISCIPLINE

(Issuing a Prescription in Violation of Regulations)

34. Respondent is subject to disciplinary action under section Health & Safety code section 11164, related to the form and content required for dispensing controlled substances in that Respondent filled a controlled substance prescription for patient GM that did not meet the requirements of a prescription. The circumstances are as follows:

35. Respondent incorporates by reference paragraph 33, above.

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Keep Current Inventory)

36. Respondent is subject to disciplinary action under section 4081and California Code of Regulations section 1718 in that Respondent as the pharmacist in charge did not maintain a current inventory for all dangerous drugs.

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NINTH CAUSE FOR DISCIPLINE

(Failure to Maintain Disposition Records)

37. Respondent is subject to disciplinary action under section 4332 in that Respondent did not maintain disposition records as required under section 4081.

TENTH CAUSE FOR DISCIPLINE

(Inadequate Record Keeping)

38. Respondent is subject to disciplinary action under Health & Safety code section 11208 in that Respondent had in his possession a lesser amount of controlled substances than is accounted for by his record keeping that is required by law.

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:

A. Revoking or suspending Pharmacist License No. RPH 30639 issued to GARY J. MAC MULLEN;

B. Ordering GARY J. MAC MULLEN 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;

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

DATED: 8/20/03

P. F. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant