BILL LOCKYER, Attorney General
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/Citation Against: HARRY EDWARD MULLINS 5333 Park Highlands Blvd. #51 Concord, CA 94521 Pharmacist License No. RPH 40633 Respondent.	Accusation No. 2779 and Citation No. CI 2001 23538-b OAH Nos. N2004100282 / N2004100283 **STIPULATED SURRENDER OF LICENSE AND ORDER**

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and responsibility of the Board of Pharmacy (Board), Department of Consumer Affairs, the parties hereby agree to the following Stipulated Surrender of License and Order to be submitted to the Board for approval and adoption as its final disposition of Board of Pharmacy Accusation No. 2779 and Board of Pharmacy Citation No. CI 2001 23538-b.

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 Joshua A. Room, Deputy Attorney General.

2. Respondent Harry Edward Mullins (Respondent) is represented in this proceeding by attorney Robert W. Stewart, whose address is 21 Tamal Vista Boulevard, Suite 295, Corte Madera, California 94925.

3. On or about December 4, 1986, the Board of Pharmacy issued Pharmacist License No. RPH 40633 to Harry Edward Mullins (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2779 and Citation No. CI 2001 23538-b. It expired on January 31, 2006, and has not been renewed.

JURISDICTION

4. Accusation No. 2779 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 12, 2004. Respondent timely filed a Notice of Defense. A First Amended Accusation was served on February 25, 2005, and a Second Amended Accusation was served on December 6, 2005. A copy of Second Amended Accusation No. 2779 is attached as Exhibit A and incorporated by reference.

5. Citation No. CI 2001 23538-b was filed before the Board and is currently pending against Respondent. The Citation and all other statutorily required documents were properly served on Respondent on February 10, 2003. Respondent timely filed his Notice of Defense contesting the Citation. A copy of Citation No. CI 2001 23538-b attached as Exhibit B and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Second Amended Accusation No. 2779 as well as Citation No. CI 2001 23538-b. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

7. 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 and/or the Citation; 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.

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

CULPABILITY

9. Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges and allegations in Second Amended Accusation No. 2779 and Citation No. CI 2001 23538-b. Respondent agrees that sufficient cause exists for license discipline and hereby surrenders his Pharmacist License No. RPH 40633 for the Board's formal acceptance.

10. Respondent agrees to withdraw his appeal of Citation No. CI 2001 23538-b. That Citation is now final. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Pharmacist License without further process, notice, or opportunity to be heard. This stipulation constitutes a record of discipline and becomes part of Respondent's public license history with the Board.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and 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 Order:

ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 40633, issued to Respondent Harry Edward Mullins, is surrendered and accepted by the Board of Pharmacy.

14. The surrender of Respondent's Pharmacist License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

15. Respondent shall lose all rights and privileges as a Pharmacist in California as of the effective date of the Board's Decision and Order.

16. Respondent shall cause to be delivered to the Board his License, wall and pocket license certificate(s), on or before the effective date of the Decision and Order.

17. Respondent may not apply, reapply, or petition for any licensure or registration of the Board for three (3) years from the effective date of the Decision and Order.

18. Respondent understands and agrees that if he ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Second Amended Accusation No. 2779 and Citation No. CI 2001 23538-b shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

19. Should Respondent ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all charges and allegations contained in Second Amended Accusation No. 2779 and Citation No. CI 2001 23538-b shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or other proceeding to deny or restrict licensure.

20. Respondent shall pay the Board $12,000.00 for its costs of investigation and enforcement, plus the $250.00 fine remaining due for Citation No. CI 2001 23538-b, prior to issuance of any new or reinstated license from the Board.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert W. Stewart. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 4-3-2006.

HARRY EDWARD MULLINS
Respondent

I have read and fully discussed with Respondent Harry Edward Mullins the terms and conditions and other matters contained in the above Stipulated Surrender of License and Order. I approve its form and content.

DATED: 5/9/06.

ROBERT W. STEWART
Attorney for Respondent

ENDORSEMENT

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

DATED: 5/10/06.

BILL LOCKYER, Attorney General
of the State of California

JOSHUA A. ROOM
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SF2004400746; 40079028.wpd

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

In the Matter of the Accusation/Citation Against: HARRY EDWARD MULLINS 5333 Park Highlands Blvd. #51 Concord, CA 94521 Pharmacist License No. RPH 40633 Respondent.	Accusation No. 2779 and Citation No. CI 2001 23538-b OAH Nos. N2004100282 / N2004100283

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 August 24, 2006.

It is so ORDERED July 25, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
WILLIAM POWERS
Board President

Exhibit A

Second Amended Accusation No. 2779

BILL LOCKYER, Attorney General
of the State of California
JOSHUA A. ROOM, State Bar No. 214663
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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: HARRY EDWARD MULLINS 5333 Highlands Blvd. #51 Concord, CA 94521 Pharmacist License No. RPH 40633 Respondent.	Case No. 2779 OAH No. N2004100282 **SECOND AMENDED ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about December 4, 1986, the Board of Pharmacy issued Pharmacist License Number RPH 40633 to Harry Edward Mullins (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2006, unless renewed.

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 (Code) unless otherwise indicated.

4. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.

5. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period.

STATUTORY PROVISIONS

6. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be 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.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under 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.

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

(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.

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7. Section 4081 of the Code states, in pertinent part:

"(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 . . . pharmacy . . . 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."

. . .

8. Section 4332 of the Code states:

"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."

9. Section 4113, subdivision (b) of the Code states:

"The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy."

10. California Code of Regulations, title 16, section 1714, subdivision (b), states:

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

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

"'Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

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

12. Section 4060 of the Code states, in pertinent part:

"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 certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer. . . ."

13. Health and Safety Code section 11170 states:

"No person shall prescribe, administer, or furnish a controlled substance for [himself or herself]."

14. Health and Safety Code section 11173(a) states:

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

15. Health and Safety Code section 11208 provides that proof of the receipt or possession of greater or lesser amounts of controlled substances than can be accounted for by any record required by law is prima facie evidence of guilt.

16. Health and Safety Code section 11350(a) provides, in pertinent part, that it is unlawful for any person to possess a controlled substance specified in subdivision (b) or (c) of Section 11055, which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state.

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

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

18. Section 4021 of the Code states:

"'Controlled substance' means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

19. Section 4022 of the Code 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.

. . .

"(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."

20. **Vicodin®**, **Lortab®**, **Lorcet®**, and **Norco®** are brand names for compounds of varying dosages of acetaminophen and **hydrocodone bitartrate**, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and a dangerous drug as designated by Business and Professions Code section 4022, used for pain relief.

21. **Vicoprofen®** is a brand name for a compound of 200 mg ibuprofen with 7.5 mg **hydrocodone bitartrate**, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and a dangerous drug as designated by Business and Professions Code section 4022, used for pain relief.

22. **OxyContin®** (controlled release) and **Roxicodone®** (immediate release) are brand names for **oxycodone hydrochloride**, a Schedule II controlled substance as designated by Health and Safety Code section 11055(b) and a dangerous drug as designated by Business and Professions Code section 4022, used for pain relief.

23. **Dilaudid®** is a brand of **hydromorphone hydrochloride**, a Schedule II controlled substance as designated by Health and Safety Code section 11055(b) and a dangerous drug as designated by Business and Professions Code section 4022, used for pain relief.

24. **Cocaine** is a Schedule I (in base form) or Schedule II controlled substance

as designated by Health and Safety Code sections 11054(f)(1) and 11055(b)(6) and a dangerous drug as designated by Business and Professions Code section 4022. It is a narcotic drug.

25. **Methamphetamine** is a Schedule II controlled substance as designated by Health and Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions Code section 4022. It is a stimulant drug.

FACTUAL BACKGROUND

26. Respondent was the Pharmacist-in-Charge (PIC) at Longs Pharmacy #378, at 4100 Redwood Road in Oakland, California, from March 14, 2002 until November 24, 2002.

27. An audit conducted at Longs Pharmacy #378 for the period November 10, 2001 to December 12, 2002 detected a shortage (acquisitions greater than dispositions) of 114 tablets of Dilaudid (with hydromorphone) and 175 tablets of Oxycontin (with oxycodone), a total of 289 doses of Schedule II controlled substances missing and/or inadequately accounted for.

28. Further internal controlled substance audits conducted at Longs Pharmacy #378 for the periods March 20, 2002 to May 9, 2002 and May 10, 2002 to November 20, 2002 substantiated a total shortage (acquisitions greater than dispositions) of 333 tablets of Vicodin or generic equivalent (5 mg hydrocodone/500 mg acetaminophen), 73 tablets of a generic 7.5 mg hydrocodone/500 mg acetaminophen compound, 730 tablets of Lortab and/or generic equivalent (10 mg hydrocodone/500 mg acetaminophen), 10 tablets of Lorcet or generic equivalent (10 mg hydrocodone/650 mg acetaminophen), 1 tablet of Norco or generic 5 mg hydrocodone/325 mg acetaminophen, and 2,297 tablets of Norco/generic 10 mg hydrocodone/325 mg acetaminophen, a total of 3,444 doses of Schedule III controlled substances missing/inadequately accounted for.

29. In addition, these internal controlled substance audits conducted at Longs Pharmacy #378 for the periods March 20, 2002 to May 9, 2002 and May 10, 2002 to November 20, 2002 substantiated a total overage (dispositions greater than acquisitions) of 400 tablets of Vicoprofen or generic equivalent (7.5 mg hydrocodone/200 mg ibuprofen), 160 tablets of generic 10 mg hydrocodone/660 mg acetaminophen, and 162 tablets of Vicodin ES and generic (7.5 mg hydrocodone/750 mg acetaminophen), a total of 722 doses of Schedule III controlled substances additional to the listed inventory and/or inadequately accounted for.

30. Respondent, while employed at Longs Pharmacy #378 and/or thereafter, diverted controlled substances including Oxycontin from the controlled substances inventory.

31. Respondent, while employed at Longs Pharmacy #378 and/or thereafter, administered to himself controlled substances including Oxycontin and/or Cocaine.

32. On or about January 29, 2005, at approximately 6:00 p.m., Respondent was contacted by officers of the Wyoming Highway Patrol (WHP). Respondent was discovered at that time having driven his automobile off of the side or shoulder of highway WY-412 at its milepost 12. Respondent was incoherent, drifting in and out of consciousness, and incapable of standing on his own. Respondent admitted to having taken medications for depression earlier in the day, including 300mg of Wellbutrin in the morning and two 600mg doses of Neurontin, at approximately 5:30 a.m. and approximately 11:45 a.m. Respondent was transported to a hospital for evaluation, and his vehicle and accompanying trailer were impounded by the WHP.

33. An inventory search of Respondent's vehicle revealed various controlled substances, including a film canister containing crystallized methamphetamine.

34. On or about February 1, 2005, in a criminal proceeding titled *The State of Wyoming v. Harry E. Mullins*, Case No. CR-2005-0042 in the Circuit Court of the 3rd Judicial District, Uinta County, Wyoming, Respondent was charged by misdemeanor Information with a violation of W.S. § 31-5-233(b)(ii)(B) & (e) [Driving While Under the Influence] for having physical control of a vehicle while under the influence of controlled substances (amphetamines, opiates and/or barbiturates), a misdemeanor.

35. On or about February 25, 2005, in a criminal proceeding titled *The State of Wyoming v. Harry E. Mullins*, Case No. CR-05-10 in the Circuit Court of the 3rd Judicial District, Uinta County, Wyoming, Respondent was charged by felony Information with violating W.S. § 35-7-1031(c)(ii) and (c)(i)(C) [Possession of a Controlled Substance] for knowingly possessing methamphetamine, in an amount greater than three (3) grams in crystalline form, a felony.

36. On or about June 13, 2005, pursuant to a plea agreement in Case No. CR-05-10, Respondent entered a plea of *nolo contendere* to the charge under W.S. § 35-7-1031(c)(ii) and (c)(i)(C) of knowing possession of methamphetamine, a felony.

37. On or about June 13, 2005, in Case No. CR-05-10, the Honorable Dennis L. Sanderson, District Court Judge for the Circuit Court of the 3rd Judicial District, Uinta County, Wyoming, accepted the plea of *nolo contendere* from Respondent, suspended further proceedings in the case, and ordered that Respondent be placed on supervised probation for a period of two (2) years as long as Respondent resides in the State of Wyoming (unsupervised if Respondent is resident outside the State of Wyoming). Among the terms and conditions of the two (2) years of probation are that Respondent not consume or possess any controlled substances except pursuant to valid prescription, and that Respondent pursue substance abuse counseling and treatment for depression. No conviction shall be entered unless Respondent violates this probation.

FIRST CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate Controlled Substances Inventory)

38. Respondent is subject to disciplinary action under sections 4301(j) and (o), 4081, 4332, 4113 of the Code, section 11208 of the Health and Safety Code, and/or California Code of Regulations, title 16, section 1718 in that, as described in paragraphs 26-29 above, while serving as PIC at Longs Pharmacy #378, Respondent failed to maintain an accurate and complete inventory of controlled substances received, dispensed and/or otherwise handled therein.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Security of Controlled Substances)

39. Respondent is subject to disciplinary action under sections 4301(j) and (o), 4081, 4332, 4113 of the Code, section 11208 of the Health and Safety Code, and/or California Code of Regulations, title 16, section 1714, subdivision (b), in that, as described in paragraphs 26-29 above, while serving as PIC at Longs Pharmacy #378, Respondent failed to maintain the security of the controlled substances received, dispensed and/or otherwise handled therein.

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THIRD CAUSE FOR DISCIPLINE

(Obtaining Controlled Substances by Fraud or Deceit)

40. Respondent is subject to disciplinary action under section 4301(j) of the Code in that Respondent, on one or more unknown dates during or after his employment at Longs Pharmacy #378, obtained by fraud, deceit, or subterfuge unknown quantities of controlled substances, including Oxycontin, in violation of Health and Safety Code section 11173(a).

FOURTH CAUSE FOR DISCIPLINE

(Dishonest/Fraudulent Acts)

41. Respondent is subject to disciplinary action under section 4301(f) of the Code in that Respondent, on one or more dates presently unknown, diverted unknown quantities of controlled substances, including Oxycontin, from Longs #378.

FIFTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substances)

42. Respondent is subject to disciplinary action under section 4301(j) of the Code in that Respondent, on one or more unknown dates, possessed unknown quantities of controlled substances, including Oxycontin and/or Cocaine, without a valid prescription/drug order from an authorized prescriber, in violation of section 4060 of the Code.

SIXTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substances)

43. Respondent is subject to disciplinary action under section 4301(j) of the Code in that Respondent, on one or more unknown dates, possessed unknown quantities of controlled substances, including Cocaine, a narcotic drug, without a valid prescription/drug order from an authorized prescriber, in violation of Health and Safety Code section 11350(a).

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SEVENTH CAUSE FOR DISCIPLINE

(Self-Administration of Controlled Substances)

44. Respondent is subject to disciplinary action under section 4301(h) of the Code in that Respondent, on one or more unknown dates, administered to himself unknown quantities of controlled substances, including Oxycontin and/or Cocaine.

EIGHTH CAUSE FOR DISCIPLINE

(Self-Administration of Controlled Substances)

45. Respondent is subject to disciplinary action under section 4301(j) of the Code in that Respondent, on one or more unknown dates, administered to himself unknown quantities of controlled substances, including Oxycontin and/or Cocaine, in violation of Health and Safety Code section 11170.

NINTH CAUSE FOR DISCIPLINE

(Dangerous Use of Drugs or Alcohol)

46. Respondent is subject to disciplinary action under section 4301(h) of the Code in that Respondent, in January 2005 as described in paragraphs 32-37 above, administered to himself or used controlled substances, dangerous drugs, or alcohol to the extent or in a manner dangerous or injurious to himself, another person, and/or the public, when he was in physical control of and operated a motor vehicle while under the influence of controlled substances.

TENTH CAUSE FOR DISCIPLINE

(Violation of Laws Regulating Controlled Substances/Dangerous Drugs)

47. Respondent is subject to disciplinary action under section 4301(j) of the Code in that Respondent, in January 2005 as described in paragraphs 32-37 above, possessed controlled substances and/or dangerous drugs, including methamphetamine, in violation of the laws of the State of Wyoming (W.S. § 35-7-1031(c)(ii) and (c)(i)(C)).

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ELEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

48. Respondent is subject to disciplinary action under section 4301 of the Code in that Respondent, as described in paragraphs 26-31 above, engaged in unprofessional conduct during and/or after his employment at Longs # 378.

TWELFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

49. Respondent is subject to disciplinary action under section 4301 of the Code in that Respondent, as described in paragraphs 32-37 above, engaged in unprofessional conduct in or about January 2005 in the State of Wyoming.

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 Pharmacist License Number RPH 40633, issued to Harry Edward Mullins (Respondent);

2. Ordering Respondent to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3 of the Code;

3. Taking such other and further action as is deemed necessary and proper.

DATED: 12/5/05

P. F. Harris

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

SF2004400746
40068837.wpd

Exhibit B

Citation No. CI 2001 23538-b

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

CITATION AND FINE
ORDER OF ABATEMENT

Citation Number	Name, License No.
CI 2001 23538-b	Harry Edward Mullins, RPH 40633

JURISDICTION: Bus. & Prof. Code § 4005; CCR, title 16, § 1775;		
VIOLATION CODE SECTION	OFFENSE	AMT OF FINE
CCR, title 16, § 1716	Variation from prescription	$250.00

CONDUCT:

On or about April 9, 2002, Harry Edward Mullins, RPH 40633, pharmacist in charge of Longs Pharmacy #378, PHY 40531, on prescription number 517864, dispensed Armour Thyroid 90mg instead of the prescribed Armour Thyroid 15mg.

ORDER OF ABATEMENT

By the correction date submit to the board the following:

- Proof of abatement

CITATION ISSUED ON: February 10, 2003	TOTAL AMOUNT OF FINE(S): $250.00

PROOF OF ABATMENT AND PAYMENT OF FINE(S) DUE BY: March 12, 2003