

1 BILL LOCKYER, Attorney General
of the State of California
2 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

11 KAREN MALDONADO
12 126 Fisk Terrace
Fremont, CA 94538
13 Pharmacy Technician License No. TCH 24314
14 Respondent.

Case No. 2964

OAH No.

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

15 In the interest of a prompt and speedy resolution of this matter, consistent with the
16 public interest and responsibility of the Board of Pharmacy, Department of Consumer Affairs,
17 the parties hereby agree to the following Stipulated Surrender of License and Order which will be
18 submitted to the Board for its approval and adoption as the final disposition of the Accusation.

19 PARTIES

- 20 1. Patricia F. Harris (Complainant), Executive Officer, Board of Pharmacy,
21 brought this action solely in her official capacity and is represented herein by Bill Lockyer,
22 Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.
- 23 2. Karen Maldonado (Respondent) is representing herself in this proceeding
24 and has chosen not to exercise her right to be represented by counsel.
- 25 3. On or about November 10, 1997, the Board of Pharmacy issued Pharmacy
26 Technician License No. TCH 24314 to Karen Maldonado (Respondent). The License was in full
27 force and effect at all times relevant to the charges brought in Accusation No. 2964 and will
28 expire on July 31, 2007, unless renewed.


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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: 9/15/06

BILL LOCKYER, Attorney General
of the State of California



JOSHUA A. ROOM
Deputy Attorney General
Attorneys for Complainant

DOJ Matter ID: SF2006400102
40093387.wpd

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

In the Matter of the Accusation Against:

KAREN MALDONADO
126 Fisk Terrace
Fremont, CA 94538

Pharmacy Technician License No. TCH 24314

Respondent.

Case No. 2964

OAH No.

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 November 15, 2006.

It is so ORDERED October 16, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS
Board President

Exhibit A
Accusation No. 2964

1 BILL LOCKYER, Attorney General
of the State of California
2 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
3 California Department of Justice
455 Golden Gate Avenue, Suite 11000
4 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
5 Facsimile: (415) 703-5480

6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 2964

11 KAREN MALDONADO
12 126 Fisk Terrace
Fremont, CA 94538

OAH No.

A C C U S A T I O N

13 Pharmacy Technician License No. TCH 24314

14 Respondent.

15
16 Complainant alleges:

17 PARTIES

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

20 2. On or about November 10, 1997, the Board of Pharmacy issued Pharmacy
21 Technician License Number TCH 24314 to Karen Maldonado (Respondent). The Pharmacy
22 Technician License was in full force and effect at all times relevant to the charges brought herein
23 and will expire on July 31, 2007, unless renewed.

24
25 JURISDICTION

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

1 4. Section 4011 of the Code provides that the Board shall administer and
2 enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled
3 Substances Act [Health & Safety Code, § 11000 et seq.].

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

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

12

13

STATUTORY PROVISIONS

14

15 7. Section 4301 of the Code provides, in pertinent part, that the Board shall
16 take action against any holder of a license who is guilty of “unprofessional conduct,” defined to
17 include, but not be limited to, any of the following:

17

...

18

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

21

...

22

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

24

...

25

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

1 8. California Code of Regulations, title 16, section 1770 provides in pertinent
2 part that a crime or act shall be considered substantially related to the qualifications, functions or
3 duties of a licensee or registrant “if to a substantial degree it evidences present or potential
4 unfitness of a licensee or registrant to perform the functions authorized by his license or
5 registration in a manner consistent with the public health, safety, or welfare.”

6 9. Section 4059 of the Code prohibits furnishing of any dangerous drug or
7 dangerous device except upon the prescription of an authorized prescriber.

8 10. Section 4060 of the Code provides, in pertinent part, that no person shall
9 possess any controlled substance, except that furnished to a person upon the prescription of a
10 physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a
11 certified nurse-midwife, a nurse practitioner, or a physician assistant.

12 11. Section 4063 of the Code provides, in pertinent part, that a person may not
13 refill a prescription for a dangerous drug or dangerous device without prescriber authorization.

14 12. Health and Safety Code section 11170 provides that no person shall
15 prescribe, administer, or furnish a controlled substance for himself or herself.

16 13. Health and Safety Code section 11173, subdivision (a), provides that no
17 person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
18 the administration of or prescription for controlled substances, (1) by fraud, deceit,
19 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

20 14. Health and Safety Code section 11350, in pertinent part, makes it unlawful
21 for any person to possess any controlled substance classified in Schedule III, IV, or V which is a
22 narcotic drug, unless upon the written prescription of an authorized prescriber.

23 15. Health and Safety Code section 11377, in pertinent part, makes it unlawful
24 for any person to possess any controlled substance classified in Schedule III, IV, or V which is
25 not a narcotic drug, unless upon the written prescription of an authorized prescriber.

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

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

17. 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.”

18. 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.”

19. **Lorcet[®]** is a brand name for a compound of 650 mg acetaminophen (also known as APAP) and 10 mg **hydrocodone**, 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, a narcotic intended for pain relief. This compound is also known by the common designations **Hydrocodone with APAP 10/650**, and **HC/AP 10/650**.

20. **Lortab[®]** is a brand name for a compound of 500 mg acetaminophen (also known as APAP) and 7.5 or 10 mg **hydrocodone**, 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, a narcotic intended for pain relief. This compound is also known as **Hydrocodone with APAP 7.5/500 or 10/500**, or **HC/AP 7.5/500 or 10/500**.

21. **Norco[®]** is a brand name for a compound of 325 mg acetaminophen (also known as APAP) and 7.5 or 10 mg **hydrocodone**, 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, a narcotic intended for pain relief. This compound is also known as **Hydrocodone with APAP 7.5/325 or 10/325**, or **HC/AP 7.5/325 or 10/325**.

///

1 22. **Xanax®** is a brand name for **alprazolam**, a Schedule IV controlled
2 substance as designated by Health and Safety Code section 11057(d)(1) and a dangerous drug as
3 designated by Business and Professions Code section 4022. It is a depressant drug.

4
5 FACTUAL BACKGROUND

6 23. Between on or about December 1, 1996 and on or about January 14, 2005,
7 Respondent was employed by Safeway Inc. For some or all of that time she was employed as a
8 pharmacy technician at Safeway Pharmacy # 1211 (PHY 36502), in Danville, California.

9 24. Between on or about July 11, 2003 and on or about November 17, 2004,
10 Safeway Pharmacy # 1211 refilled nine (9) prescriptions for a total of 1,080 doses of **HC/AP**
11 **10/325** in the name of patient IG¹ without refill authorization by the prescribing physician (Dr.
12 Allan Kipperman). Between on or about June 10, 2003 and on or about June 29, 2004, Safeway
13 Pharmacy # 1211 refilled ten (10) prescriptions for a total of 1,000 doses of **alprazolam** in the
14 name of patient IG without refill authorization by Dr. Kipperman. During an interview with
15 Safeway Security on or about December 6, 2004, Respondent admitted to refilling prescriptions
16 in the name of patient IG without authorization from the prescribing physician.

17 25. On or about November 16, 2004, Respondent filled a refill prescription for
18 **60 HC/AP 10/325** tablets with a bottle containing **73 HC/AP 10/325** tablets.

19 26. On or about November 17, 2004, a cash prescription in the name of patient
20 IG for **120 HC/AP 10/500** tablets was generated and filled in Safeway Pharmacy # 1211. There
21 was no record of a receipt and the signature log (for acceptance of the prescription by a patient)
22 had not been signed. Patient IG was contacted, and he said he had not requested the prescription.
23 Respondent worked from 9:15 a.m. to 1:15 p.m. on that day. Videocamera surveillance showed
24 that at or about 12:05 p.m. on November 17, 2004, Respondent placed a finished prescription in
25 a white prescription bag, then placed it in her own grocery bag underneath the register, and then
26 at or about 1:00 p.m. Respondent left the pharmacy with the grocery bag.

27
28

1. The patient's full name will be released to Respondent during discovery.

1 27. On or about November 17, 2004, a prescription was refilled in Safeway
2 Pharmacy # 1211 for patient BK² for 30 **HC/AP 10/325** tablets. On or about November 18,
3 2004, at or about 1:30 p.m., videocamera surveillance showed Respondent opening the drawer of
4 finished prescriptions, removing the filled prescription bottle, carrying it to the opposite end of
5 the pharmacy, discarding the prescription receipt, and placing the bottle in her smock pocket. On
6 that date, Respondent worked from 9:15 a.m. to 5:15 p.m. She did not return to work thereafter.

7 28. During an interview with Safeway Security on or about December 6, 2004,
8 Respondent admitted to stealing **hydrocodone** drugs from Safeway Pharmacy # 1211 on four (4)
9 occasions beginning September 1, 2004, approximately \$200.00 in value. She agreed to repay all
10 losses via payroll deductions. Instead, she resigned from Safeway effective January 14, 2005.

11
12 FIRST CAUSE FOR DISCIPLINE

13 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

14 29. Respondent is subject to discipline under section 4301(f) of the Code in
15 that Respondent, as described in paragraphs 23-28 above, committed acts involving moral
16 turpitude, dishonesty, fraud, deceit, or corruption.

17
18 SECOND CAUSE FOR DISCIPLINE

19 (Unlawful Furnishing of Dangerous Drug / Controlled Substance)

20 30. Respondent is subject to discipline under section 4301(h), (j), and/or (o) of
21 the Code, section 4059 of the Code, and/or Health and Safety Code section 11170, in that
22 Respondent, as described in paragraphs 23-28 above, furnished to herself or to others without
23 valid prescriptions therefor, **hydrocodone**, a dangerous drug and a controlled substance.

24 ///

25 ///

26 ///

27 _____
28 2. The patient's full name will be released to Respondent during discovery.

1 THIRD CAUSE FOR DISCIPLINE

2 (Unlawful Furnishing of Dangerous Drug / Controlled Substance)

3 31. Respondent is subject to discipline under section 4301(h), (j), and/or (o) of
4 the Code, section 4059 of the Code, and/or Health and Safety Code section 11170, in that
5 Respondent, as described in paragraphs 23-28 above, furnished to herself or to others without
6 valid prescriptions therefor, **alprazolam**, a dangerous drug and a controlled substance.

7
8 FOURTH CAUSE FOR DISCIPLINE

9 (Unlawful Refill of Dangerous Drug / Controlled Substance)

10 32. Respondent is subject to discipline under section(s) 4301 (j), (o) and/or
11 4063 of the Code, in that Respondent, as described in paragraph 24 above, furnished refills of
12 **hydrocodone**, a dangerous drug and controlled substance, without prescriber authorization.

13
14 FIFTH CAUSE FOR DISCIPLINE

15 (Unlawful Refill of Dangerous Drug / Controlled Substance)

16 33. Respondent is subject to discipline under section(s) 4301 (j), (o) and/or
17 4063 of the Code, in that Respondent, as described in paragraph 24 above, furnished refills of
18 **alprazolam**, a dangerous drug and controlled substance, without prescriber authorization.

19
20 SIXTH CAUSE FOR DISCIPLINE

21 (Unlawful Possession of Controlled Substance)

22 34. Respondent is subject to discipline under section(s) 4301 (j), (o) and/or
23 4060 of the Code, in that Respondent, as described in paragraphs 23-28 above, possessed,
24 conspired to possess, and/or assisted in or abetted the possession of **hydrocodone**, a controlled
25 substance, without a valid prescription.

26 ///

27 ///

28 ///

1 ELEVENTH CAUSE FOR DISCIPLINE

2 (Unlawful Possession of Narcotic Controlled Substance)

3 39. Respondent is subject to discipline under section 4301(j) and/or (o) of the
4 Code, and/or Health and Safety Code section 11377, in that, as described in paragraphs 23-28
5 above, Respondent possessed, conspired to possess, and/or assisted in or abetted possession of
6 **alprazolam**, a non-narcotic controlled substance, without a prescription.

7
8 TWELFTH CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct)


10 40. Respondent is subject to discipline under section 4301 of the Code in that
11 Respondent, as described in paragraphs 23-28 above, engaged in unprofessional conduct.

12
13 PRAYER

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

- 16 A. Revoking or suspending Pharmacy Technician License Number TCH
17 24314, issued to Karen Maldonado (Respondent);
- 18 B. Ordering Respondent to pay the Board reasonable costs of investigation
19 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
- 20 C. Taking such other and further action as is deemed necessary and proper.

21 DATED: 4/3/06

22
23 
24 _____
25 PATRICIA F. HARRIS
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant