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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: KAREN MALDONADO 126 Fisk Terrace Fremont, CA 94538 Pharmacy Technician License No. TCH 24314 Respondent.	Case No. 2964 OAH No. **STIPULATED SURRENDER OF LICENSE AND ORDER**

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

PARTIES

1. Patricia F. Harris (Complainant), Executive Officer, Board of Pharmacy, brought this action solely in her official capacity and is represented herein by Bill Lockyer, Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

2. Karen Maldonado (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about November 10, 1997, the Board of Pharmacy issued Pharmacy Technician License No. TCH 24314 to Karen Maldonado (Respondent). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2964 and will expire on July 31, 2007, unless renewed.

JURISDICTION

4. Accusation No. 2964 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 April 5, 2006. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2964 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and understands the charges and allegations in Accusation No. 2964. Respondent also has carefully read and understands the effects of this Stipulated Surrender of License and Order.

6. Respondent is fully aware of her 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 her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her 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.

CULPABILITY

8. Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges and allegations in Accusation No. 2964. Respondent agrees that sufficient cause exists for license discipline and hereby surrenders her Pharmacy Technician License No. TCH 24314 for the Board's formal acceptance.

9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacy Technician License without further process, notice, or opportunity to be heard.

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CONTINGENCY

10. 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 may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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 and Disciplinary Order 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.

11. 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.

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

ORDER

IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 24314, issued to Respondent Karen Maldonado is surrendered and accepted by the Board of Pharmacy.

13. The surrender of Respondent's Pharmacy Technician 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.

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

15. Respondent shall cause to be delivered to the Board both her wall License and pocket renewal certificate on or before the effective date of this Decision and Order.

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16. Respondent may not apply or reapply for, or petition for reinstatement of, any license, permit, or registration from the Board for three (3) years from the effective date of this Decision and Order.

17. Respondent understands and agrees that if she 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 Accusation No. 2964 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition. Respondent is obligated to report this surrender as disciplinary action.

18. Respondent shall pay the Board its costs of investigation and enforcement in the amount of $5,365.00 prior to issuance of a new or reinstated license.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician 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: 8-7-06.

Karen Maldonado

KAREN MALDONADO
Respondent

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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
WILLIAM POWERS
Board President

Exhibit A

Accusation No. 2964

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 Against: KAREN MALDONADO 126 Fisk Terrace Fremont, CA 94538 Pharmacy Technician License No. TCH 24314 Respondent.	Case No. 2964 OAH No. **ACCUSATION**

Complainant alleges:

PARTIES

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

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

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

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

6. 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

7. 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.

. . .

"(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.

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

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

10. Section 4060 of the Code provides, in pertinent part, that 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, a nurse practitioner, or a physician assistant.

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

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

13. Health and Safety Code section 11173, subdivision (a), provides that 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.

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

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

16. 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 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 know 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 know 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 know as **Hydrocodone with APAP 7.5/325 or 10/325**, or **HC/AP 7.5/325** or **10/325**.

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

FACTUAL BACKGROUND

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

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

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

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

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

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

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

FIRST CAUSE FOR DISCIPLINE

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

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

SECOND CAUSE FOR DISCIPLINE

(Unlawful Furnishing of Dangerous Drug / Controlled Substance)

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

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

THIRD CAUSE FOR DISCIPLINE

(Unlawful Furnishing of Dangerous Drug / Controlled Substance)

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

FOURTH CAUSE FOR DISCIPLINE

(Unlawful Refill of Dangerous Drug / Controlled Substance)

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

FIFTH CAUSE FOR DISCIPLINE

(Unlawful Refill of Dangerous Drug / Controlled Substance)

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

SIXTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substance)

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

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SEVENTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substance)

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

EIGHTH CAUSE FOR DISCIPLINE

(Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

36. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs 23-28 above, obtained **hydrocodone**, a controlled substance, by fraud, deceit, or subterfuge.

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NINTH CAUSE FOR DISCIPLINE

(Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

37. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs 23-28 above, obtained **alprazolam**, a controlled substance, by fraud, deceit, or subterfuge.

TENTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Narcotic Controlled Substance)

38. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11350, in that, as described in paragraphs 23-28 above, Respondent possessed, conspired to possess, and/or assisted in or abetted possession of **hydrocodone**, a narcotic controlled substance, without a prescription.

ELEVENTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Narcotic Controlled Substance)

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

TWELFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

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

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 Pharmacy Technician License Number TCH 24314, issued to Karen Maldonado (Respondent);

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

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

DATED: 4/3/06

P. F. Harris

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

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