

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

In the Matter of the Accusation Against:

DOUGLAS HOWARD HUBBARD  
15955 Lime St.  
Hesperia, CA 92345

Pharmacist License No. 28366

Respondent.

Case No. 2976

OAH No. L 2007050173

**DECISION AND ORDER**

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

This Decision shall become effective on September 14, 2007.

It is so ORDERED August 15, 2007.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



WILLIAM POWERS  
Board President

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 MARC D. GREENBAUM, State Bar No. 138213  
Supervising Deputy Attorney General  
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7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 DOUGLAS HOWARD HUBBARD  
15955 Lime St.  
13 Hesperia, CA 92345

14 Pharmacist License No. 28366

15 Respondent.

Case No. 2976

OAH No. L 2007050173

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
19 above-entitled proceedings that the following matters are true:

20 PARTIES

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of  
22 Pharmacy. She brought this action solely in her official capacity and is represented in this matter  
23 by Edmund G. Brown Jr., Attorney General of the State of California, by Jami L. Cantore,  
24 Deputy Attorney General.

25 2. Respondent Douglas Howard Hubbard is representing himself in this  
26 proceeding and has chosen not to exercise his right to be represented by counsel.

27 3. On or about July 31, 1973, the Board of Pharmacy issued Pharmacist  
28 License No. 28366 to Douglas Howard Hubbard. The License was in full force and effect at all

1 times relevant to the charges brought in Accusation No. 2976 and will expire on October 31,  
2 2008, unless renewed.

3 JURISDICTION

4 4. Accusation No. 2976 was filed on March 22, 2007, before the Board of  
5 Pharmacy (Board), Department of Consumer Affairs, and is currently pending against  
6 Respondent. The Accusation and all other statutorily required documents were properly served  
7 on Respondent on March 28, 2007. Respondent timely filed his Notice of Defense contesting the  
8 Accusation. A copy of Accusation No. 2976 is attached as Exhibit A and incorporated herein by  
9 reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, and understands the charges and allegations  
12 in Accusation No. 2976. Respondent has also carefully read, and fully understands the effects of  
13 this Stipulated Settlement and Disciplinary Order.

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

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

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in  
25 Accusation No. 2976.

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

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CIRCUMSTANCES IN MITIGATION

10. Respondent Douglas Howard Hubbard has never been the subject of any disciplinary action. He is admitting responsibility at an early stage in the proceedings.

RESERVATION

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

CONTINGENCY

12. 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 settlement, without notice to or participation by Respondent. 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 Settlement 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.

OTHER MATTERS

13. 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.

DISCIPLINARY ORDER

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:

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1 IT IS HEREBY ORDERED that Pharmacist License No. 28366 issued to  
2 Respondent Douglas Howard Hubbard is revoked. However, the revocation is stayed and  
3 Respondent is placed on probation for five (5) years on the following terms and conditions.

4 1. **Actual Suspension - Pharmacist.** License number 28366, issued to  
5 Respondent Douglas Howard Hubbard is suspended for a period of forty-five (45) days.  
6 Respondent will be credited for 45 days actual suspension previously imposed by the Pharmacist  
7 Recovery Program.

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

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

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

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

- 26 • an arrest or issuance of a criminal complaint for violation of any provision of the  
27 Pharmacy Law, state and federal food and drug laws, or state and federal  
28 controlled substances laws

- 1 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
- 2 any criminal complaint, information or indictment
- 3 • a conviction of any crime
- 4 • discipline, citation, or other administrative action filed by any state and federal
- 5 agency which involves Respondent's license or which is related to the practice
- 6 of pharmacy or the manufacturing, obtaining, handling or distribution or billing
- 7 or charging for any drug, device or controlled substance.

8           **3. Reporting to the Board.** Respondent shall report to the Board  
9 quarterly. The report shall be made either in person or in writing, as directed. Respondent  
10 shall state under penalty of perjury whether there has been compliance with all the terms and  
11 conditions of probation. If the final probation report **is not** made as directed, probation shall  
12 be extended automatically until such time as the final report is made and accepted by the  
13 Board.

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

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

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

24           **7. Notice to Employers.** Respondent shall notify all present and  
25 prospective employers of the decision in case number 2976 and the terms, conditions and  
26 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of  
27 this decision, and within 15 days of Respondent undertaking new employment, Respondent  
28 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in

1 writing acknowledging the employer has read the decision in case number 2976.

2 If Respondent works for or is employed by or through a pharmacy employment  
3 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at  
4 every pharmacy of the and terms conditions of the decision in case number 2976 in advance of  
5 the Respondent commencing work at each pharmacy.

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

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

14 9. **Reimbursement of Board Costs.** Respondent shall pay to the Board  
15 its costs of investigation and prosecution in the amount of \$8300.00. Respondent shall make  
16 said payments as follows: equal quarterly payments over the five (5) year probation period.

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

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

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

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

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

8                   Upon acceptance of the surrender, Respondent shall relinquish his pocket  
9 license to the Board within 10 days of notification by the Board that the surrender is accepted.  
10 Respondent may not reapply for any license from the Board for three years from the effective  
11 date of the surrender. Respondent shall meet all requirements applicable to the license sought  
12 as of the date the application for that license is submitted to the Board.

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

18                   14.     **Tolling of Probation.** Should Respondent, regardless of residency, for  
19 any reason cease practicing pharmacy for a minimum of forty (40) hours per calendar month  
20 in California, Respondent must notify the Board in writing within 10 days of cessation of the  
21 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time  
22 shall not apply to the reduction of the probation period. It is a violation of probation for  
23 Respondent's probation to remain tolled pursuant to the provisions of this condition for a  
24 period exceeding three years.

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

28     ///



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

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

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

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

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

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

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

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

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

22                   Substantial - At least 50% of a work week

23                   Partial - At least 25% of a work week

24                   Daily Review - Supervisor's review of probationer's daily activities within 24  
25 hours

26                   Within 30 days of the effective date of this decision, Respondent shall have his  
27 supervisor submit notification to the Board in writing stating the supervisor has read the  
28 decision in case number 2976 and is familiar with the level of supervision as determined by

1 the Board.

2 If Respondent changes employment, Respondent shall have his new supervisor,  
3 within 15 days after employment commences, submit notification to the Board in writing  
4 stating the direct supervisor and pharmacist-in-charge have read the decision in case number  
5 2976 and is familiar with the level of supervision as determined by the Board.

6 Within 10, days of leaving employment, Respondent shall notify the Board in  
7 writing.

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

14

15 ACCEPTANCE

16 I have carefully read the Stipulated Settlement and Disciplinary Order. I  
17 understand the stipulation and the effect it will have on my Pharmacist License. I enter into  
18 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,  
19 and agree to be bound by the Decision and Order of the Board of Pharmacy.

20 DATED: June 8 2007.

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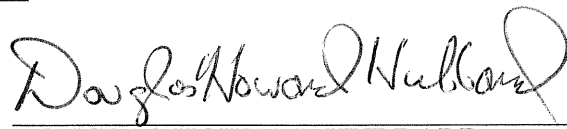
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DOUGLAS HOWARD HUBBARD  
Respondent

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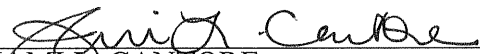
ENDORSEMENT

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

DATED: 6/13/07

EDMUND G. BROWN JR., Attorney General  
of the State of California

MARC D. GREENBAUM  
Supervising Deputy Attorney General

  
JAMI L. CANTORE  
Deputy Attorney General

Attorneys for Complainant

**Exhibit A**  
**Accusation No. 2976**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 MARC GREENBAUM, State Bar No. 138213  
Supervising Deputy Attorney General  
3 JAMI L. CANTORE, State Bar No. 165410  
Deputy Attorney General  
4 California Department of Justice  
300 So. Spring Street, Suite 1702  
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Telephone: (213) 897-2569  
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7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 2976

12 DOUGLAS HOWARD HUBBARD  
15955 Lime St.  
13 Hesperia, CA 92345

**ACCUSATION**

14 Pharmacist License No. RPH 28366

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs  
21 (Board).

22 2. On or about July 31, 1973, the Board of Pharmacy issued Pharmacist  
23 License Number RPH 28366 to Douglas Howard Hubbard (Respondent). The Pharmacist  
24 License was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on October 31, 2008, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board of Pharmacy, Department of  
28 Consumer Affairs, under the authority of the following laws. All section references are to the

1 Business and Professions Code unless otherwise indicated.

2 4. Section 4300 of the Code states, in pertinent part:

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

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

7 "(1) Suspending judgment.

8 "(2) Placing him or her upon probation.

9 "(3) Suspending his or her right to practice for a period not exceeding one year.

10 "(4) Revoking his or her license.

11 "(5) Taking any other action in relation to disciplining him or her as the board in  
12 its discretion may deem proper.

13 . . . .

14 "(e) The proceedings under this article shall be conducted in accordance with  
15 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code,  
16 and the board shall have all the powers granted therein. The action shall be final, except that the  
17 propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the  
18 Code of Civil Procedure."

19 5. Section 4301 of the Code states, in pertinent part:

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

24 . . . .

25 "(d) The clearly excessive furnishing of controlled substances in violation of  
26 subdivision (a) of Section 11153 of the Health and Safety Code.

27 "(e) The clearly excessive furnishing of controlled substances in violation of  
28 subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be considered in

1 determining whether the furnishing of controlled substances is clearly excessive shall include,  
2 but not be limited to, the amount of controlled substances furnished, the previous ordering  
3 pattern of the customer (including size and frequency of orders), the type and size of the  
4 customer, and where and to whom the customer distributes its product.

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

8 "(g) Knowingly making or signing any certificate or other document that falsely  
9 represents the existence or nonexistence of a state of facts.

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

15 . . . .

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

18 . . . .

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

23 . . . .

24 "(q) Engaging in any conduct that subverts or attempts to subvert an investigation  
25 of the board."

26 6. Section 4060 of the Code states:

27 "No person shall possess any controlled substance, except that furnished to a  
28 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished



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

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

9 7. Section 4327 of the Code states:

10 "Any person who, while on duty, sells, dispenses or compounds any drug while  
11 under the influence of any dangerous drug or alcoholic beverages shall be guilty of a  
12 misdemeanor."

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

14 "(a) All records of manufacture and sale, acquisition, or disposition of  
15 dangerous drugs or dangerous devices shall be at all times during business hours open to  
16 inspection by authorized officers of the law, and shall be preserved for at least three years from  
17 the date of making. A current inventory shall be kept by every manufacturer, wholesaler,  
18 pharmacy, . . . or establishment holding a currently valid and unrevoked certificate, license,  
19 permit, registration, or exemption under Division 2 (commencing with Section 1200) of the  
20 Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the  
21 Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

22 "(b) The owner, officer, and partner of a pharmacy, wholesaler, or veterinary  
23 food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or  
24 representative-in-charge, for maintaining the records and inventory described in this section."

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

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

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

3 10. Health and Safety Code section 11158, subdivision (a), states:

4 "Except as provided in Section 11159 or in subdivision (b) of this section, no  
5 controlled substance classified in Schedule II shall be dispensed without a prescription meeting  
6 the requirements of this chapter. Except as provided in Section 11159 or when dispensed  
7 directly to an ultimate user by a practitioner, other than a pharmacist or pharmacy, no controlled  
8 substance classified in Schedule III, IV, or V may be dispensed without a prescription meeting  
9 the requirements of this chapter."

10 11. Health and Safety Code section 11170 states:

11 "No person shall prescribe, administer, or furnish a controlled substance for  
12 himself."

13 12. Health and Safety Code section 11173, subdivision (a), states:

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

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

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

25 15. CONTROLLED SUBSTANCES.

26 (a) Hydrocodone/APAP: A combination of a narcotic and acetaminophen  
27 used to relieve moderate to severe pain. Hydrocodone is a narcotic pain reliever and a cough  
28 suppressant. Brand names: Vicodin, Vicodin ES, Anexsia, Lorcet, Lorcet Plus, Norco.

1 Hydrocodone is a semi-synthetic opioid derived from two naturally occurring opiates, codeine  
2 and thebaine. Hydrocodone can be habit-forming, and can lead to physical and psychological  
3 addiction. Hydrocodone/APAP 10-325, 10-500 and 10-650 are considered Schedule III  
4 controlled substances pursuant to Health and Safety Code section 11056 (e)(4).

5 FACTUAL STATEMENT

6 16. From on or about July 12, 1999 to on or about August 26, 2005,  
7 Respondent was employed at Sav-on #6505 in Hesperia, California. Respondent was the  
8 Pharmacist-in-Charge at Sav-on #6505 from on or about September 26, 2003 to on or about  
9 August 26, 2005. Following an internal investigation by Sav-on Loss Prevention, Respondent  
10 admitted to diverting for self-use the controlled substance Norco (Hydrocodone 10-325) without  
11 a prescription. In a written statement, Respondent admitted that in April 2005, he consumed  
12 approximately 60 to 70 Norco tablets per day, and that in July to August 2005, he consumed up  
13 to 100 tablets of Norco per day. Respondent admitted to diverting without payment or a  
14 prescription, approximately 113 bottles of Norco between January 2005 and August 2005. On or  
15 about August 26, 2005, Respondent was terminated from Sav-on #6505 for diverting controlled  
16 substances.

17 FIRST CAUSE FOR DISCIPLINE

18 (Furnishing Controlled Substances to Himself Without a Prescription)

19 17. Respondent is subject to disciplinary action under sections 4301,  
20 subdivisions (j) and (o), 4060, and Health and Safety Code section 11158, subdivision (a), in that  
21 from on or about May 4, 2004 to on or about August 26, 2005, while employed as the  
22 Pharmacist-in-Charge at Sav-on #6505, Respondent diverted and furnished to himself without a  
23 prescription, the controlled substance Hydrocodone/APAP 10-325. Respondent, by his own  
24 admission, diverted approximately 113 bottles of Norco (Hydrocodone/APAP 10-325) from Sav-  
25 on #6505. On or about November 10, 2005, Sav-on #6505 filed a DEA Loss Report indicating a  
26 loss of 113 bottles of Hydrocodone/APAP 10-325 with a reported loss date of August 2005.

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SECOND CAUSE FOR DISCIPLINE

(Self-Administration of a Controlled Substance)

18. Respondent is subject to disciplinary action under sections 4301, subdivisions (h) and (o), and Health and Safety Code section 11170 in that from on or about May 4, 2004 to on or about August 26, 2005, Respondent administered to himself the controlled substance Hydrocodone/APAP 10-325, which he admittedly diverted from his employer Sav-on #6505, as more fully set forth above in paragraphs 16 - 17 and incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Obtaining a Controlled Substance by Fraud)

19. Respondent is subject to disciplinary action under sections 4301, subdivisions (f) and (o), and Health and Safety Code section 11173, subdivision (a), in that from on or about May 4, 2004 to on or about August 26, 2005, Respondent, by his own admission, diverted for his own personal use the controlled substance Hydrocodone/APAP 10-325 from his employer Sav-on #6505. The circumstances are set forth above in paragraphs 16-18 and incorporated herein by reference.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate Records)

20. Respondent is subject to disciplinary action under sections 4301, subdivisions (j) and (o), 4081, and title 16 California Code of Regulations section 1718, in that Respondent failed to maintain accurate records of the disposition of the controlled substances Hydrocodone/APAP 10-325, 10-500, and 10-650. The circumstances are that on or about August 6, 2005, August 15, 2005, and August 17, 2005, Respondent, by his own admission, reprinted pharmacy prescription labels, without actually filling the prescriptions, in order to divert Hydrocodone/APAP products from his employer Sav-on #6505. The circumstances are set forth above in paragraphs 16-19 and incorporated herein by reference.

FIFTH CAUSE FOR DISCIPLINE

(Falsification of Records)

21. Respondent is subject to disciplinary action under section 4301,

1 subdivisions (g) and (q), in that while employed as the Pharmacist-in Charge at Sav-on #6505,  
2 Respondent falsified and/or altered computer inventory records and DEA inventories in order to  
3 conceal his diversion of controlled substances. The circumstances are as follows:

4 22. On or about August 16, 2005, August 18, 2005, and August 19, 2005,  
5 Respondent admittedly falsified computer inventory records.

6 23. On or about May 4, 2004 and May 1, 2005, Respondent submitted altered  
7 and/or falsified DEA inventories for Sav-on #6505.

8 SIXTH CAUSE FOR DISCIPLINE

9 (Under the Influence While On Duty)

10 24. Respondent is subject to disciplinary action under sections 4301,  
11 subdivision (h), and 4327 in that from on or about May 4, 2004 to on or about August 26, 2005,  
12 Respondent, by his own admission, while on duty as the Pharmacist-in-Charge at Sav-on #6505,  
13 worked while under the influence of controlled substances, which he diverted from the  
14 pharmacy, as fully set forth above in paragraphs 16-23 and incorporated herein by reference.

15 PRAYER

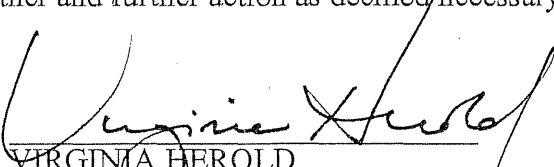
16 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
17 alleged and that, following the hearing, the Board of Pharmacy issue a decision:

18 1. Revoking or suspending Pharmacist License Number 28366 issued to  
19 Douglas Howard Hubbard,

20 2. Ordering Douglas Howard Hubbard to pay the Board of Pharmacy the  
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
22 Professions Code section 125.3;

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

24 DATED: 3/22/07

25   
26 VIRGINIA HEROLD  
27 Executive Officer  
28 Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant