

1 BILL LOCKYER, Attorney General
of the State of California
2 JENNIFER S. CADY
Supervising Deputy Attorney General
3 NANCY A. KAISER, State Bar No. 192083
Deputy Attorney General
4 California Department of Justice
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-5794
6 Facsimile: (213) 897-2804
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 FAITH A. WILSON
13 5220 Shenandoah Street
Ventura, CA 93003

14 Pharmacy Technician Reg. No. TCH 61594

15 Respondent.

Case No. 2987

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

16
17 FINDINGS OF FACT

18 1. On or about September 7, 2006, Complainant Virginia Herold, in her
19 official capacity as the Interim Executive Officer of the Board of Pharmacy, filed Accusation No.
20 2987 against Faith A. Wilson (Respondent) before the Board of Pharmacy.

21 2. On or about April 14, 2005, the Board of Pharmacy (Board) issued
22 Pharmacy Technician Registration No. TCH 61594 to Respondent. The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on October 31, 2006, unless renewed.

25 3. On or about September 15, 2006, Rita Cruz, an employee of the
26 Department of Justice, served by Certified Mail a copy of the Accusation No. 2987, Statement to
27 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
28 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 5220

1 Shenandoah Street, Ventura, CA 93003. A copy of the Accusation, the related documents, and
2 Declaration of Service are attached as **Exhibit A**, and are incorporated herein by reference.

3 4. Service of the Accusation was effective as a matter of law under the
4 provisions of Government Code section 11505, subdivision (c).

5 5. On or about September 16, 2006, a signed Domestic Return Receipt,
6 which was affixed to the above referenced Certified Mail package, was returned to the
7 Department of Justice. A copy of the Domestic Return Receipt is attached hereto as **Exhibit B**,
8 and is incorporated herein by reference.

9 6. Government Code section 11506 states, in pertinent part:

10 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
11 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
12 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
13 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

14 7. Respondent failed to file a Notice of Defense within 15 days after service
15 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
16 Accusation No. 2987.

17 8. California Government Code section 11520 states, in pertinent part:

18 "(a) If the respondent either fails to file a notice of defense or to appear at the
19 hearing, the agency may take action based upon the respondent's express admissions or
20 upon other evidence and affidavits may be used as evidence without any notice to
21 respondent."

22 9. Pursuant to its authority under Government Code section 11520, the Board
23 finds Respondent is in default. The Board will take action without further hearing and, based on
24 Respondent's express admissions by way of default and the evidence before it, contained in
25 exhibits A and B, finds that the allegations in Accusation No. 2987 are true.

26 10. The total costs for investigation and enforcement are **\$2,621.25** as of
27 October 24, 2006.

28 ///

DETERMINATION OF ISSUES

1
2 1. Based on the foregoing findings of fact, Respondent Faith A. Wilson has
3 subjected her Pharmacy Technician Registration No. TCH 61594 to discipline.

4 2. A copy of the Accusation and the related documents and Declaration of
5 Service are attached.

6 3. The agency has jurisdiction to adjudicate this case by default.

7 4. The Board is authorized to revoke Respondent's Pharmacy Technician
8 Registration based upon the following violations alleged in the Accusation:

9 5. Unprofessional conduct in violation of Business and Professions Code
10 section 4301, subdivision (h), in that Respondent used controlled substances, as follows:

11 a. In or about January 2005 to on or about May 10, 2005, Respondent took
12 the following controlled substances and other dangerous drugs from her place of employment,
13 Longs Drugs Store #221, without a prescription, for her personal use: Norco, Vicodin,
14 Lorazepam, Vicoprofen, Phentermine, Hydrocodone, Tramadol and Flexeril.

15 6. Unprofessional conduct in violation of Business and Professions Code
16 section 4301, subdivision (o), in that Respondent violated Business and Professions Code section
17 4060, as follows:

18 a. In or about January 2005 to on or about May 10, 2005, Respondent
19 possessed and furnished to herself the following controlled substances from her place of
20 employment, Longs Drugs Store #221, without a prescription: Norco, Vicodin, Lorazepam,
21 Vicoprofen, Phentermine, and Hydrocodone.

22 7. Furnishing dangerous drugs without a prescription in violation of Business
23 and Professions Code section 4059, subdivision (a), as follows:

24 a. In or about January 2005 to on or about May 10, 2005, Respondent
25 furnished to herself the following dangerous drugs from her place of employment, Longs Drugs
26 Store #221, without a prescription: Norco, Vicodin, Lorazepam, Vicoprofen, Phentermine,
27 Hydrocodone, Tramadol and Flexeril.

28 ///

1 8. Unprofessional conduct in violation of Business and Professions Code
2 section 4301, subdivision (j), in that Respondent violated Health and Safety Code sections 11170
3 and 11171, as follows:

4 a. In or about January 2005 to on or about May 10, 2005, Respondent
5 obtained and consumed the following controlled substances, without a prescription: Norco,
6 Vicodin, Lorazepam, Vicoprofen, Phentermine, and Hydrocodone.

7 9. Unprofessional conduct in violation of Business and Professions Code
8 section 4301, subdivision (f), as follows:

9 a. In or about January 2005 to on or about May 10, 2005, Respondent
10 committed acts of dishonesty by taking controlled substances and other dangerous drugs from her
11 place of employment, Longs Drugs Store #221, without her employer's consent.

12 10. Unprofessional conduct in violation of Business and Professions Code
13 section 4301, subdivision (p), as follows:

14 a. Respondent engaged in actions or conduct that would have warranted the
15 denial of a pharmacy technician's license, as set forth in paragraphs 5 through 9, above.

16 ///
17 ///
18 ///
19 ///
20 ///
21 ///
22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28 ///

ORDER

IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 61594, heretofore issued to Respondent Faith A. Wilson, is revoked.

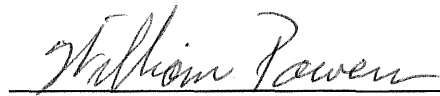
Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This decision shall become effective on January 18, 2007.

It is so ORDERED on December 19, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS
Board President

Exhibit A

Accusation No. 2987,
Related Documents and Declaration of Service

1 BILL LOCKYER, Attorney General
of the State of California
2 NANCY A. KAISER, State Bar No. 192083
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-5794
5 Facsimile: (213) 897-2804

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. 2987

11 FAITH A. WILSON

STATEMENT TO RESPONDENT

12 Respondent.

[Gov. Code §§ 11504, 11505(b)]

15 TO RESPONDENT:

16 Enclosed is a copy of the Accusation that has been filed with the Board of
17 Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

18 Unless a written request for a hearing signed by you or on your behalf is delivered
19 or mailed to the Board, represented by Deputy Attorney General Nancy A. Kaiser, within fifteen
20 (15) days after a copy of the Accusation was personally served on you or mailed to you, you will
21 be deemed to have waived your right to a hearing in this matter and the Board may proceed upon
22 the Accusation without a hearing and may take action thereon as provided by law.

23 The request for hearing may be made by delivering or mailing one of the enclosed
24 forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided
25 in section 11506 of the Government Code, to

26 **Nancy A. Kaiser**
27 **Deputy Attorney General**
28 **Ronald Reagan Building**
300 South Spring Street, Suite 1702
Los Angeles, CA 90013.

1 You may, but need not, be represented by counsel at any or all stages of these
2 proceedings.

3 The enclosed Notice of Defense, if signed and filed with the Board, shall be
4 deemed a specific denial of all parts of the Accusation, but you will not be permitted to raise any
5 objection to the form of the Accusation unless you file a further Notice of Defense as provided in
6 section 11506 of the Government Code within fifteen (15) days after service of the Accusation
7 on you.

8 If you file any Notice of Defense within the time permitted, a hearing will be held
9 on the charges made in the Accusation.

10 The hearing may be postponed for good cause. If you have good cause, you are
11 obliged to notify the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los
12 Angeles, California 90013, within ten (10) working days after you discover the good cause.
13 Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a
14 postponement.

15 Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are
16 enclosed.

17 If you desire the names and addresses of witnesses or an opportunity to inspect
18 and copy the items mentioned in section 11507.6 of the Government Code in the possession,
19 custody or control of the Board you may send a Request for Discovery to the above designated
20 Deputy Attorney General.

21 **NOTICE REGARDING STIPULATED SETTLEMENTS**

22 It may be possible to avoid the time, expense and uncertainties involved in an
23 administrative hearing by disposing of this matter through a stipulated settlement. A stipulated
24 settlement is a binding written agreement between you and the government regarding the matters
25 charged and the discipline to be imposed. Such a stipulation would have to be approved by the
26 Board of Pharmacy but, once approved, it would be incorporated into a final order.

27 Any stipulation must be consistent with the Board's established disciplinary
28 guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the

1 BILL LOCKYER, Attorney General
of the State of California
2 NANCY A. KAISER, State Bar No. 192083
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-5794
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8

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

9
10

11 In the Matter of the Accusation Against:
12 **FAITH A. WILSON**
5220 Shenandoah Street
13 Ventura, CA 93003
14 Pharmacy Technician Reg. No. TCH 61594
15 Respondent.

Case No. 2987
OAH No.
ACCUSATION

16

17 Complainant alleges:

18

PARTIES

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

22 2. On or about April 14, 2005, the Board issued Pharmacy Technician
23 Registration Number TCH 61594 to Faith A. Wilson (Respondent). The Pharmacy Technician
24 Registration will expire on October 31, 2006, unless renewed.

25

JURISDICTION

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

1 4. Section 4300 of the Code permits the Board to take disciplinary action to
2 suspend or revoke a license issued by the Board.

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

4 The board shall take action against any holder of a license who is guilty of
5 unprofessional conduct . . . Unprofessional conduct shall include, but is not
6 limited to, any of the following:

6 . . .

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

9 . . .

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

13 . . .

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

16 . . .

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

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

21 (q) Engaging in any conduct that subverts or attempts to subvert an
22 investigation of the board.

22 6. Section 4059, subdivision (a), of the Code states:

23 A person may not furnish any dangerous drug, except upon the
24 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
25 naturopathic doctor pursuant to Section 3640.7.

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

26 “No person shall possess any controlled substance, except that furnished to a
27 person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
28 naturopathic doctor . . .”

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

1
2 15. Flexeril is a brand name for Cyclobenzaprine, a muscle relaxant for
3 muscle spasms. It is categorized as a dangerous drug pursuant to section 4022 of the Code.
4 Currently, Flexeril is not scheduled by the U.S. Drug Enforcement Administration.

5 16. Hydrocodone is a Schedule II controlled substance pursuant to Health and
6 Safety Code section 11055, subdivision (b)(1)(J), and a dangerous drug according to Business
7 and Professions Code section 4022.

8 17. Lorazepam (Alzapam, Ativan, Loraz, Lorazepam Intenso1) is an
9 antianxiety agent (benzodiazepines, mild tranquilizer) used for the relief of anxiety. It is a
10 Schedule IV controlled substance as defined in Health and Safety Code section 11057,
11 subdivision (d)(16), and is categorized as a dangerous drug according to section 4022 of the
12 Code.

13 18. Norco is the brand name for the combination narcotic, Hydrocodone
14 (described above) and Acetaminophen is a Schedule III controlled substance as designated in
15 Health and Safety Code section 11056, subdivision (e)(4), and is categorized as a
16 dangerous drug pursuant to section 4022 of the Code.

17 19. Phentermine, a stimulant, is classified as a Schedule IV controlled
18 substance pursuant to the Health and Safety Code section 11057, subdivision (f)(4), and is a
19 dangerous drug within the meaning of section 4022 of the Code.

20 20. Tramadol, a pain reliever (analgesic), is categorized as a dangerous drug
21 pursuant to section 4022 of the Code. Currently, Tramadol is not scheduled by the U.S. Drug
22 Enforcement Administration.

23 21. Vicodin, a trade name for a combination drug containing hydrocodone
24 bitartrate (opioid analgesic) and acetaminophen, is a Schedule III controlled substance as defined
25 in Health and Safety Code section 11056, subdivision (e)(4), and is categorized as a dangerous
26 drug according to section 4022 of the Code.

27 22. Vicoprofen is the brand name for a fixed combination of hydrocodone, a
28 narcotic and controlled substance, and ibuprofen, an anti-inflammatory and analgesic, a

1 Schedule III controlled narcotic substance pursuant to Health and Safety Code section 11056,
2 subdivision (e)(4), and a dangerous drug pursuant to section 4022 of the Code.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Use of Controlled Substances and Other Dangerous Drugs)**

5 23. Respondent has subjected her license to disciplinary action under section
6 4301, subdivision (h), on the grounds of unprofessional conduct, in that Respondent used
7 controlled substances, as follows:

8 a. On or about December 2, 2004, Respondent was hired by Longs Drug
9 Store #221, located in Newbury Park, California. In or about January 2005, to on or about May
10 10, 2005, Respondent took the following controlled substances and other dangerous drugs from
11 her place of employment, Longs Drugs Store #221, without a prescription, for her personal use:
12 Norco, Vicodin, Lorazepam, Vicoprofen, Phentermine, Hydrocodone, Tramadol and Flexeril.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Possession of Controlled Substances and Other Dangerous Drugs)**

15 24. Respondent has subjected her license to disciplinary action under section
16 4301, subdivision (o), on the grounds of unprofessional conduct, as follows:

17 a. Respondent violated section 4060 of the Code in that in or about January
18 2005, to on or about May 10, 2005, Respondent furnished to herself the following controlled
19 substances from her place of employment, Longs Drugs Store #221, without a prescription:
20 Norco, Vicodin, Lorazepam, Vicoprofen, Phentermine, and Hydrocodone.

21 b. Respondent violated section 4059, subdivision (a), of the Code in that in
22 or about January 2005, to on or about May 10, 2005, Respondent furnished to herself the
23 following dangerous drugs from her place of employment, Longs Drugs Store #221, without a
24 prescription: Norco, Vicodin, Lorazepam, Vicoprofen, Phentermine, Hydrocodone, Tramadol
25 and Flexeril.

26 ///

27 ///

28 ///

1 THIRD CAUSE FOR DISCIPLINE

2 (Violation of State Laws Regulating Controlled Substances)

3 25. Respondent has subjected her license to disciplinary action under section
4 4301, subdivision (j), on the grounds of unprofessional conduct, as follows:

5 a. Respondent violated Health and Safety Code sections 11170 and 11171, in
6 that in or about January 2005, to on or about May 10, 2005, Respondent obtained and consumed
7 the following controlled substances, without a prescription: Norco, Vicodin, Lorazepam,
8 Vicoprofen, Phentermine, and Hydrocodone.

9 FOURTH CAUSE FOR DISCIPLINE

10 (Committed Acts of Dishonesty)

11 26. Respondent has subjected her license to disciplinary action under section
12 4301, subdivision (f), on the grounds of unprofessional conduct, in that in or about January 2005
13 to on or about May 10, 2005, Respondent committed acts of dishonesty by taking controlled
14 substances and other dangerous drugs from her place of employment, Longs Drugs Store #221,
15 without her employer's consent.

16 FIFTH CAUSE FOR DISCIPLINE

17 (Unprofessional Conduct)

18 27. Respondent has subjected her license to disciplinary action under section
19 4301, subdivision (p), on the grounds of unprofessional conduct, in that Respondent engaged in
20 actions or conduct that would have warranted the denial of a pharmacy technician's license, as
21 set forth in paragraphs 23 to 26.

22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein
24 alleged, and that following the hearing, the Board issue a decision:

25 A. Revoking or suspending Pharmacy Technician Registration Number TCH
26 61594, issued to Faith A. Wilson.

27 ///

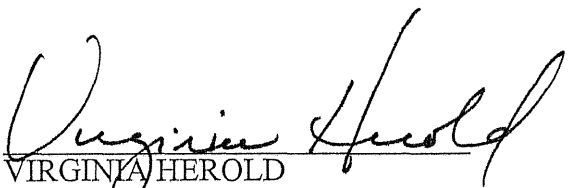
28 ///

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

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

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

DATED: 9/7/06


VIRGINIA HEROLD
Interim Executive Officer
Board of Pharmacy
State of California
Complainant

LA2006600771

60156920.wpd

2006-09-07

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

In the Matter of the Accusation Against:

FAITH A. WILSON

Respondent.

Case No. 2987

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Check appropriate box:

- I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

60165745.wpd

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

In the Matter of the Accusation Against:

FAITH A. WILSON

Respondent.

Case No. 2987

NOTICE OF DEFENSE

[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Accusation.

DATED: _____

Respondent's Name

Respondent's Signature

Respondent's Mailing Address

City, State and Zip Code

Respondent's Telephone Number

Check appropriate box:

- I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

- I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name

Counsel's Mailing Address

City, State and Zip Code

Counsel's Telephone Number

- I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Accusation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

60165745.wpd

1 BILL LOCKYER, Attorney General
of the State of California
2 NANCY A. KAISER, State Bar No. 192083
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-5794
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:
11 FAITH A. WILSON
12 Respondent.

Case No. 2987
REQUEST FOR DISCOVERY
[Gov. Code § 11507.6]

14 TO RESPONDENT:

15 Under section 11507.6 of the Government Code of the State of California, parties
16 to an administrative hearing, including the Complainant, are entitled to certain information
17 concerning the opposing party's case. A copy of the provisions of section 11507.6 of the
18 Government Code concerning such rights is included among the papers served.

19 PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU
20 ARE HEREBY REQUESTED TO:

- 21 1. Provide the names and addresses of witnesses to the extent known to the
22 Respondent, including, but not limited to, those intended to be called to testify at the hearing, and
- 23 2. Provide an opportunity for the Complainant to inspect and make a copy of any of
24 the following in the possession or custody or under control of the Respondent:
 - 25 a. A statement of a person, other than the Respondent, named in the initial
26 administrative pleading, or in any additional pleading, when it is claimed that the act or
27 omission of the Respondent as to this person is the basis for the administrative
28 proceeding;

1 b. A statement pertaining to the subject matter of the proceeding made by any
2 party to another party or persons;

3 c. Statements of witnesses then proposed to be called by the Respondent and
4 of other persons having personal knowledge of the acts, omissions or events which are the
5 basis for the proceeding, not included in (a) or (b) above;

6 d. All writings, including but not limited to reports of mental, physical and
7 blood examinations and things which the Respondent now proposes to offer in evidence;

8 e. Any other writing or thing which is relevant and which would be
9 admissible in evidence, including but not limited to, any patient or hospital records
10 pertaining to the persons named in the pleading;

11 f. Investigative reports made by or on behalf of the Respondent pertaining to
12 the subject matter of the proceeding, to the extent that these reports (1) contain the names
13 and addresses of witnesses or of persons having personal knowledge of the acts,
14 omissions or events which are the basis for the proceeding, or (2) reflect matters
15 perceived by the investigator in the course of his or her investigation, or (3) contain or
16 include by attachment any statement or writing described in (a) to (e), inclusive, or
17 summary thereof.

18 For the purpose of this Request for Discovery, "statements" include written
19 statements by the person, signed, or otherwise authenticated by him or her, stenographic,
20 mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person,
21 and written reports or summaries of these oral statements.

22 YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for
23 Discovery should be deemed to authorize the inspection or copying of any writing or thing which
24 is privileged from disclosure by law or otherwise made confidential or protected as attorney's
25 work product.

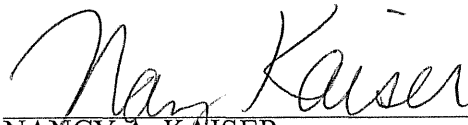
26 Your response to this Request for Discovery should be directed to the undersigned
27 attorney for the Complainant at the address on the first page of this Request for Discovery **within**
28 **30 days after service** of the Accusation.

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

Failure without substantial justification to comply with this Request for Discovery may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the Government Code.

DATED: 9/13/06

BILL LOCKYER, Attorney General
of the State of California



NANCY A. KAISER
Deputy Attorney General
Attorneys for Complainant

60165745.wpd

**COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505**

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

Case Name: **Faith A. Wilson**
Case No.: **2987**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On September 15, 2006, I served the attached **Statement to Respondent, Accusation, Notice of Defense, Request for Discovery, and Discovery Statutes** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Statement to Respondent, Accusation, Notice of Defense, Request for Discovery, and Discovery Statutes** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 300 South Spring Street, Suite 1702, Los Angeles, CA 90013, addressed as follows:

Faith A. Wilson
5220 Shenandoah Street
Ventura, CA 93003

Certified Mail Receipt No.:
7001 2510 0001 5842 9085

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on September 15, 2006, at Los Angeles, California.

RITA CRUZ
Declarant



Signature

Exhibit B
Domestic Return Receipt

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Received by (Please Print Clearly)	B. Date of Delivery SEP 16
<p>1. Article Addressed to:</p> <p>Faith A. Wilson 5220 Shenandoah Street Ventura, CA 93003</p>	<p>C. Signature X <i>[Signature]</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>2. Article Number (Copy from service label)</p>	<p>3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
	<p>700 1 2510 0001 5842 90</p>	
PS Form 3811, July 1999	Domestic Return Receipt	102595-00-M-0952

U.S. Postal Service CERTIFIED MAIL RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)	
OFFICIAL USE	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees \$	
<p>Sent To</p> <p>Street, Apt. No., or PO Box No. Faith A. Wilson 5220 Shenandoah Street City, State, ZIP+4 Ventura, CA 93003</p>	
PS Form 3800, January 2001	See Reverse for Instructions

7001 2510 0001 5842 9085