

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

In the Matter of the Accusation Against:

NOLAN WONG
2830 – 34TH Avenue
San Francisco, CA 94116

Pharmacist License No. RPH 31808

and

PMC PHARMACY
901 Campus Drive
Daly City, CA 94015

Pharmacy Permit No. PHY 36005

Respondents.

AND

In the Matter of the Statement of Issues Against:

NURSING CARE PHARMACIES, INC
dba PMC PHARMACY
Barbara Jiang, CEO
Jason Wong, V.P.
901 Campus Drive #108
Daly City, CA 94015

Applicant for Community Pharmacy Permit

Respondent.

Case No. 3025

OAH No.

DECISION AND ORDER

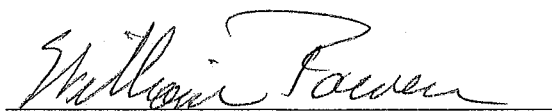
The attached Stipulated Surrender of Licenses and Order and Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy of the Department of Consumer Affairs, as its Decision in the above-entitled matter.

This decision shall become effective on May 21, 2008.

It is so ORDERED on April 21, 2008.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in cursive script, appearing to read "William Powers", written over a horizontal line.

WILLIAM POWERS
Board President

2008 MAR 16 PM 5:05

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
5 Telephone: (415) 703-1299
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6
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 NOLAN WONG
2830 - 34th Avenue
13 San Francisco, CA 94116
14 Pharmacist License No. RPH 31808
15 and
16 PMC PHARMACY
901 Campus Drive
17 Daly City, CA 94015
18 Pharmacy Permit No. PHY 36005
19
20 Respondents.

Case No. 3025

OAH No.

**STIPULATED SURRENDER OF
LICENSES AND ORDER**

AND

21 In the Matter of the Statement of Issues Against:
22 NURSING CARE PHARMACIES, INC
23 dba PMC PHARMACY
Barbara Jiang, CEO
24 Jason Wong, V.P.
901 Campus Drive # 108
25 Daly City, CA 94015
26 Applicant for Community Pharmacy Permit
27
28 Respondent.

Case No. 3025

OAH No.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

1 In the interest of a prompt and speedy resolution of this matter, consistent with the
2 public interest and the responsibility of the Board of Pharmacy, of the Department of Consumer
3 Affairs, the parties to these related cases hereby agree to: (1) a Stipulated Surrender of License
4 and Order in settlement of the Accusation and Supplemental Accusation filed against Respondent
5 Nolan Wong, License No. RPH 31808 ("Respondent Wong"), and Respondent PMC Pharmacy,
6 Permit No. PHY 36005 ("Respondent PMC"); and (2) a Stipulated Settlement and Disciplinary
7 Order in settlement of the Statement of Issues denying the Application for Community Pharmacy
8 Permit by Respondent Nursing Care Pharmacies, Inc. dba PMC Pharmacy ("Applicant PMC").
9 This global settlement shall hereafter be submitted to the Board for its approval and adoption as
10 the final disposition of Accusation and Supplemental Accusation No. 3025 against Respondents
11 Wong and PMC, and Statement of Issues No. 3025, against Applicant PMC.

12 PARTIES

13 1. Virginia Herold (Complainant) is the Executive Officer of the Board of
14 Pharmacy. She brought these actions solely in her official capacity and is represented in these
15 matters by Edmund G. Brown Jr., Attorney General of the State of California, by Joshua A.
16 Room, Deputy Attorney General.

17 2. Respondent Wong, Respondent PMC, and Applicant PMC (collectively,
18 "Respondents and Applicant") are all jointly and severally represented in this proceeding by
19 attorney Donald B. Brown, in the Law Offices of Brown & Brown, Torrance Executive Plaza,
20 3848 Carson Street, Suite 206, Torrance, CA 90503; (310) 792-1315.

21 3. On or about March 7, 1978, the Board of Pharmacy issued Pharmacist
22 License No. RPH 31808 to Nolan Wong (Respondent Wong). The Pharmacist License was in
23 full force and effect at all times relevant to the charges brought in Accusation No. 3025 and will
24 expire on September 30, 2008, unless renewed.

25 4. On or about June 4, 1990, the Board of Pharmacy issued Pharmacy Permit
26 No. PHY 36005 to PMC Pharmacy, Nolan Wong, V.P, Gordon Wong, President (Respondent
27 PMC). The Pharmacy Permit was in full force and effect at all times relevant to the charges
28 brought in Accusation No. 3025 and will expire on June 1, 2008, unless renewed.

1 5. On or about July 20, 2007, the Board of Pharmacy received an application
2 for a Community Pharmacy Permit from Nursing Care Pharmacies, Inc. dba PMC Pharmacy,
3 Barbara Jiang, CEO, Jason Wong, V.P. (Applicant PMC). The application lists Ms. Jiang as
4 35% owner, and Mr. Wong as 65% owner, and was signed by each on or about July 3, 2007.

5 JURISDICTION

6 6. Accusation No. 3025 was filed before the Board of Pharmacy (Board),
7 Department of Consumer Affairs, and is currently pending against Respondents Wong and PMC.
8 The Accusation and other statutorily required documents were properly served on Respondents
9 Wong and PMC on or about February 26, 2007. Respondents Wong and PMC timely filed their
10 Notice(s) of Defense contesting the Accusation. Subsequently, Supplemental Accusation No.
11 3025 and other statutorily required documents were properly served on Respondents Wong and
12 PMC on or about July 20, 2007. Copies of Accusation and Supplemental Accusation No. 3025
13 are attached as exhibit A and incorporated herein by reference.

14 7. Statement of Issues No. 3025 was filed before the Board of Pharmacy
15 (Board), Department of Consumer Affairs, and is currently pending against Applicant PMC. The
16 Statement of Issues and other statutorily required documents were properly served on Applicant
17 PMC on or about January 30, 2008. Applicant timely filed a Notice of Defense. A copy of
18 Statement of Issues No. 3025 is attached as exhibit B and incorporated herein by reference.

19 ADVISEMENT AND WAIVERS

20 8. Respondents Wong and PMC have carefully read, fully discussed with
21 counsel, and understand, the charges and allegations in Accusation and Supplemental Accusation
22 No. 3025. Respondents have also carefully read, fully discussed with counsel, and understand,
23 the effects of this Stipulated Surrender of Licenses and Order, as applicable to their licenses.

24 9. Applicant PMC has carefully read, fully discussed with counsel, and
25 understands, the charges and allegations in Statement of Issues No. 3025. Applicant has also
26 carefully read, fully discussed with counsel, and understands, the effects of this Stipulated
27 Settlement and Disciplinary Order, as applicable to the license to be issued thereto.

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1 CONTINGENCY

2 16. This stipulation shall be subject to approval by the Board of Pharmacy.
3 Respondents and Applicant understand and agree that counsel for Complainant and the staff of
4 the Board of Pharmacy may communicate directly with the Board regarding this stipulation and
5 surrender, without notice to or participation by Respondents, Applicant, or their counsel. By
6 signing the stipulation, Respondents and Applicant understand and agree that they may not
7 withdraw their agreement or seek to rescind the stipulation prior to the time the Board considers
8 and acts upon it. If the Board fails to adopt this agreement as its Decision and Order, this
9 Stipulated Surrender of Licenses and Order and Stipulated Settlement and Disciplinary Order
10 shall be of no force or effect, except for this paragraph, shall be inadmissible in any legal action
11 between the parties, and the Board shall not be disqualified from further action against any party
12 to this global stipulation by having considered this matter.

13 17. The parties understand and agree that facsimile copies of this Stipulated
14 Surrender of Licenses and Order and Stipulated Settlement and Disciplinary Order, including
15 facsimile signatures thereto, shall have the same force and effect as the originals.

16 18. In consideration of the foregoing admissions and stipulations, the parties
17 agree that the Board may, without further notice or formal proceeding, issue and enter the
18 following Disciplinary Order:

19 DISCIPLINARY ORDER

20 IT IS HEREBY ORDERED that Pharmacist License No. RPH 31808, issued to
21 Respondent Wong, and Pharmacy Permit No. PHY 36005, issued to Respondent PMC, are now
22 surrendered and accepted by the Board of Pharmacy. The terms and conditions of these license
23 surrenders are further described in Paragraphs 19-26, below.

24 IT IS FURTHER HEREBY ORDERED that, upon satisfaction of all statutory and
25 regulatory requirements for issuance of a license, a Pharmacy Permit shall issue to Applicant
26 PMC and be immediately revoked. That order of revocation is stayed and the Pharmacy Permit
27 issued to Applicant PMC is placed on probation for five (5) years on the terms and conditions of
28 probation described in Paragraphs 27-42, below.

1 TERMS AND CONDITIONS OF SURRENDER(S)

2 19. The surrender of Respondent Wong's Pharmacist License and Respondent
3 PMC's Pharmacy Permit, and the acceptance of these surrendered licenses by the Board, shall
4 constitute the imposition of discipline against Respondents. This stipulation constitutes a record
5 of the discipline and shall become a part of Respondents' license histories with the Board.

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

8 21. Respondent PMC shall lose all rights and privileges as a Pharmacy in
9 California as of the effective date of the Board's Decision and Order.

10 22. Respondents Wong and PMC shall cause to be delivered to the Board all
11 documentation of his and its licenses issued by the Board, including any wall and pocket license
12 certificates, on or before the effective date of the Decision and Order.

13 23. Respondents Wong and PMC may not apply, reapply, or petition for any
14 licensure or registration of the Board for three (3) years from the effective date of the Decision
15 and Order. Respondents Wong and PMC understand and agree that if either of them ever applies
16 for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a
17 new application for licensure. Each or either Respondent must comply with all of the laws,
18 regulations and procedures for licensure in effect at the time the application or petition is filed,
19 and all of the charges and allegations contained in Accusation and Supplemental Accusation No.
20 3025 shall be deemed to be true, correct and admitted by each or either Respondent when the
21 Board determines whether to grant or deny the application or petition.

22 24. Should either Respondent Wong or PMC ever apply or reapply for a new
23 license or certification, or petition for reinstatement of a license, by any other health care
24 licensing agency in the State of California, all of the charges and allegations contained in
25 Accusation and Supplemental Accusation No. 3025 shall be deemed to be true, correct, and
26 admitted by each or either Respondent for the purpose of any Statement of Issues or any other
27 proceeding seeking to deny or restrict licensure.

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1 25. Respondent Wong shall pay the Board its costs of investigation and
2 enforcement in the amount of \$9,521.50 prior to issuance of a new or reinstated license.

3 26. Respondent PMC shall pay the Board its costs of investigation and
4 enforcement in the amount of \$9,313.00 prior to issuance of a new or reinstated license.

5
6
7 **TERMS AND CONDITIONS OF PROBATION**

8 The terms and conditions of probation for Applicant PMC shall include:

9 27. **Obey All Laws.** Applicant PMC and its owners shall obey all state and
10 federal laws and regulations substantially related to or governing the practice of pharmacy, and
11 shall report any of the following to the Board, in writing, within seventy-two (72) hours:

- 12 • an arrest or issuance of a criminal complaint for violation of any provision of the
13 Pharmacy Law, state and federal food and drug laws, or state and federal
14 controlled substances laws
15 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
16 any criminal complaint, information or indictment
17 • a conviction of any crime
18 • discipline, citation, or other administrative action filed by any state and federal
19 agency which involves Applicant's license or which is related to the practice of
20 pharmacy or the manufacturing, obtaining, handling or distribution or billing or
21 charging for any drug, device or controlled substance.

22 Any violation of pertinent law or any failure to timely report to the Board in
23 writing any of the foregoing occurrences shall be considered a violation of probation.

24 28. **Reporting to the Board.** Applicant PMC shall report to the Board on a
25 quarterly basis, in person or in writing, as directed. In each such report, Applicant's owners
26 shall state under penalty of perjury whether there has been compliance with all the terms and
27 conditions of probation. Failure to make any report timely and complete as directed shall be
28 considered a violation of probation. Any period(s) of delinquency in submission of reports as
directed may be added to the total period of probation, and if the final probation report is not
made as directed, the period of probation shall be extended automatically until such time as
the final report is made and accepted by the Board.

1 29. **Interview with the Board.** Upon receipt of reasonable notice, one or
2 more owners or officers of Applicant PMC, as directed, shall appear in person for interviews
3 with the Board or its designee, at intervals and locations set by the Board or its designee.

4 Failure to appear for any scheduled interview without prior notification to
5 Board staff, or failure to appear for two (2) or more scheduled interviews during the period of
6 probation, even with prior notice, shall be considered a violation of probation.

7 30. **Cooperation with Board Staff.** Applicant PMC and its owners shall
8 cooperate with the Board's inspection program and in the Board's monitoring and investigation
9 of Applicant's compliance with the terms and conditions of probation. Failure to cooperate or
10 comply with Board monitoring or investigation shall be considered a violation of probation.

11 31. **Barring of Prior PMC Pharmacy Managers, Officers, Etc.** No
12 person who served as a manager, administrator, owner, member, officer, director, associate, or
13 partner of Respondent PMC during the time of the matters charged in Accusation No. 3025 or
14 Supplemental Accusation No. 3025, who had knowledge of or participated in any charged
15 conduct, may serve as a manager, administrator, owner, member, officer, director, associate,
16 or partner of Applicant PMC at any time during the period of probation.

17 Moreover, Gordon Wong and Nolan Wong, officers of Respondent PMC, may
18 not participate in or have any involvement in the business dealings of Applicant PMC, nor be
19 engaged thereby as employees, independent contractors, consultants, or in any other paid or
20 volunteer position. Neither Gordon Wong nor Nolan Wong may enter any restricted area of
21 the pharmacy or area(s) where dangerous drugs or devices or controlled substances are stored,
22 nor shall either have any access to or control over ordering or dispensing of same or direct or
23 control any aspect of the practice of pharmacy by or within the premises of Applicant PMC.

24 Any violation of this provision shall be considered a violation of probation. At
25 the request of the Board or its designee, Applicant PMC and its owners shall provide copies of
26 or make available for inspection any records, including but not limited to personnel files, that
27 may be necessary to investigate the officers, employees, and other personnel of Applicant.

28 ///

1 32. **Owners and Officers: Knowledge of the Law.** Applicant PMC shall
2 provide, within thirty (30) days after the effective date of this decision, signed and dated
3 statements from its owners and officers, including any owner or holder of 10% or more of the
4 interest in Applicant or Applicant's stock, and any officer, stating that said individuals have
5 read and are familiar with all state and federal laws and regulations governing the practice of
6 pharmacy, and that each has read and is familiar with this decision. Failure to timely submit
7 signed statements from all owners and officers shall be considered a violation of probation.

8 33. **Policies and Procedures for Drug Handling.** Within thirty (30) days
9 after the effective date of this decision, Applicant PMC and its owners shall develop written
10 policies and procedures for drug handling, to include at least the following, in detail:

- 11 a. The person(s) with authority and responsibility for acquisition, security,
12 storage, disposition, returns, and/or disposal of controlled substances and dangerous drugs;
- 13 b. Procedures for acquisition, security, storage, disposition, returns, and/or
14 disposal of controlled substances and dangerous drugs, to conform to state and federal law;
- 15 c. Procedures for monitoring drug stocks to detect, segregate, and dispose
16 of expired or otherwise questionable controlled substances and dangerous drugs; and
- 17 d. Procedures for proper use and reuse of patient med paks/packs.

18 If any of the information or procedures in these written policies and procedures
19 becomes inaccurate or incomplete as a result of changes in personnel, changes in the law, or
20 other causes, the written policies and procedures shall be updated within thirty (30) days.

21 These written policies and procedures shall be made immediately available for
22 inspection by the Board or its designee upon request. Failure to timely generate or provide the
23 written policies and procedures upon request shall be considered a violation of probation.

24 34. **Prompt Segregation & Disposal of Expired Drugs.** Applicant PMC
25 shall, on an ongoing basis, promptly identify and segregate expired controlled substances and
26 dangerous drugs, and promptly return or dispose of same by lawful means. Any failure(s) to
27 identify, segregate, and dispose of expired drugs shall be considered a violation of probation.

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1 35. **Reporting on Drug Acquisition & Disposition.** As part of its reports
2 to be made quarterly to the Board pursuant to Term & Condition 28, above, Applicant PMC
3 shall for each such report include a specific statement or statements regarding its generation,
4 maintenance, and compliance with written policies and procedures for drug handling and its
5 segregation and disposal of expired drugs, pursuant to Terms & Conditions 33 and 34, above.
6 Failure to include such information shall be considered a violation of probation.

7 36. **Notice to Employees.** Applicant PMC and its owners shall, upon or
8 before the effective date of this decision, ensure that all employees involved in permit
9 operations are made aware of all the terms and conditions of probation, either by posting a
10 notice of the terms and conditions, circulating such notice, or both. If the notice required by
11 this provision is posted, it shall be posted in a prominent place and shall remain posted
12 throughout the probation period. Applicant PMC and its owners shall ensure that any
13 employees hired or used after the effective date of this decision are made aware of the terms
14 and conditions by posting a notice, circulating a notice, or both.

15 "Employees" as used in this provision includes all full-time, part-time,
16 voluntary, temporary and relief employees and independent contractors
 employed or hired at any time during the period of probation.

17 Failure to give timely and adequate notice to current or prospective employees
18 shall be considered a violation of probation.

19 37. **Probation Monitoring Costs.** Applicant PMC shall pay to the Board
20 any costs associated with probation monitoring as determined by the Board during each year
21 of probation. Such costs shall be payable to the Board on a schedule as directed by the Board
22 or its designee. Failure to timely pay such costs shall be considered a violation of probation.

23 38. **Reimbursement of Board Costs.** Applicant PMC and its owners shall
24 pay to the Board its costs of investigation and prosecution in the amount of \$2,809.00. This
25 amount shall be paid on a quarterly basis, with the entire amount to be paid within three (3)
26 years. Applicant may make full payment in a shorter time period. Failure to make timely
27 payments of Board costs as directed shall be considered a violation of probation.

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1 The filing of bankruptcy by Applicant PMC or its owners shall not relieve them
2 of their responsibility to reimburse the Board its costs of investigation and prosecution.

3 **39. Status of License.** Applicant PMC shall, at all times while on
4 probation, maintain a current license with the Board. If Applicant submits an application to
5 the Board, and the application is approved, for a change of location, change of permit or
6 change of ownership, the Board shall retain continuing jurisdiction over the license, and the
7 Applicant shall remain on probation as determined by the Board. Failure to maintain current
8 licensure shall be considered a violation of probation.

9 If Applicant's license expires or is cancelled by operation of law or otherwise
10 at any time during the period of probation, including any extensions thereof or otherwise,
11 upon renewal or reapplication Applicant's license shall be subject to all terms and conditions
12 of this probation not previously satisfied.

13 **40. License Surrender while on Probation/Suspension.** Following the
14 effective date of this decision, should Applicant PMC discontinue business or be otherwise
15 unable to satisfy the terms and conditions of probation, Applicant's owners may tender this
16 license to the Board for surrender. The Board or its designee shall have the discretion whether
17 to grant the request for surrender or take any other action it deems appropriate and reasonable.
18 Upon formal acceptance of the surrender of the license, Applicant PMC shall no longer be
19 subject to the terms and conditions of probation.

20 Upon acceptance of the surrender, Applicant shall relinquish the premises wall
21 and renewal license to the board within ten (10) days of notification by the Board that the
22 surrender is accepted. Applicant's owners shall further submit a completed Discontinuance of
23 Business form according to Board guidelines and shall notify the Board of the records and
24 inventory transfer. Neither Applicant nor its owners may petition or reapply for any license
25 from the Board for three (3) years from the effective date of the surrender. Applicant PMC
26 and its owners shall meet all requirements applicable to the license sought as of the date the
27 application for that license is submitted to the Board.

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1 Applicant PMC and its owners further stipulate that it and they will reimburse
2 the Board for its costs of investigation and prosecution prior to acceptance of the surrender.

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

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

14 42. **Completion of Probation.** Upon successful completion of probation,
15 Applicant PMC's Pharmacy Permit will be fully restored.

16
17
18 ACCEPTANCE

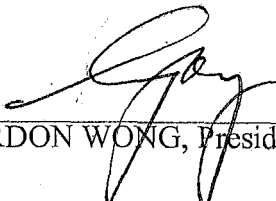
19 I have carefully read the above Stipulated Surrender of Licenses and Order and
20 Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney,
21 Adam B. Brown. I understand the stipulation and the effect it will have on my Pharmacist
22 License No. RPH 31808. I enter into this Stipulated Surrender of Licenses and Order and
23 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
24 agree to be bound by the Decision and Order of the Board of Pharmacy.

25 DATED: 2/29/08

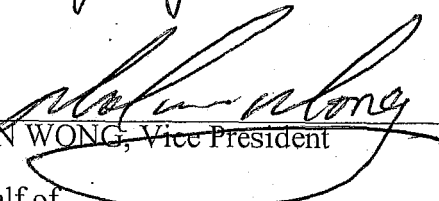
26
27 NOLAN WONG
28 Respondent
Pharmacist License No. RPH-31808

1 I have carefully read the above Stipulated Surrender of Licenses and Order and
2 Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney,
3 Adam B. Brown. I understand the stipulation and the effect it will have on my Pharmacy
4 Permit No. PHY 36005 I enter into this Stipulated Surrender of Licenses and Order and
5 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
6 agree to be bound by the Decision and Order of the Board of Pharmacy.

7 DATED: 3-1-2008

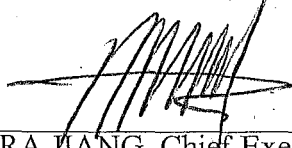

GORDON WONG, President

10 DATED: 5/29/08

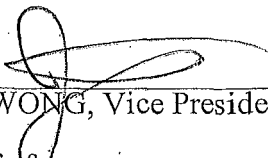

NOLAN WONG, Vice President
on behalf of
PMC PHARMACY
Respondent
Pharmacy Permit No. 36005

15 I have carefully read the above Stipulated Surrender of Licenses and Order and
16 Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney,
17 Adam B. Brown. I understand the stipulation and the effect it will have on my Application for
18 Community Pharmacy Permit, and Pharmacy Permit. I enter into this Stipulated Surrender of
19 Licenses and Order and Stipulated Settlement and Disciplinary Order voluntarily, knowingly,
20 and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

21 DATED: 2/29/08

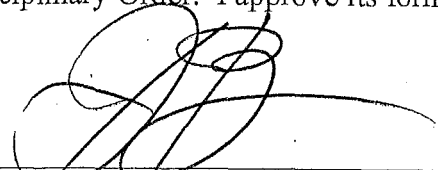

BARBARA JIANG, Chief Executive Officer

24 DATED: 2-29-08


JASON WONG, Vice President
on behalf of
NURSING CARE PHARMACIES, INC
dba PMC PHARMACY
Respondent/Applicant for Pharmacy Permit

1 I have read and fully discussed with Respondents Nolan Wong and PMC
2 Pharmacy, and Respondent/Applicant Nursing Care Pharmacies, Inc. dba PMC Pharmacy, the
3 terms and conditions and other matters contained in this Stipulated Surrender of Licenses and
4 Order and Stipulated Settlement and Disciplinary Order. I approve its form and content.

5 DATED: FEB 20 2008

6 
7 _____
8 DONALD B. BROWN
9 Attorney for Respondents and Applicant

10 ENDORSEMENT

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

14 DATED: 3/14/08

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

17 FRANK H. PACOE
18 Supervising Deputy Attorney General


19 
20 _____
21 JOSHUA A. ROOM
22 Deputy Attorney General
23 Attorneys for Complainant

Exhibit A
Accusation and Supplemental Accusation No. 3025

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480

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 NOLAN WONG
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14 Pharmacist License No. RPH 31808
15 and
16 PMC PHARMACY
901 Campus Drive
17 Daly City, CA 94015
18 Pharmacy Permit No. PHY 36005
19 Respondents.

Case No. 3025
OAH No.
ACCUSATION

21 Complainant alleges:

22 PARTIES

- 23 1. Virginia Herold (Complainant) brings this Accusation solely in her official
24 capacity as Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
25 2. On or about March 7, 1978, the Board of Pharmacy issued Pharmacist
26 License No. RPH 31808 to Nolan Wong (Respondent Wong). The Pharmacist License was in
27 full force and effect at all times relevant to the charges brought herein and will expire on
28 September 30, 2008, unless renewed.

1 3. On or about June 4, 1990, the Board of Pharmacy issued Pharmacy Permit
2 No. PHY 36005 to PMC Pharmacy (Respondent PMC), with Respondent Wong Vice President
3 of the company, and his brother Gordon Wong President. Since its licensure and through to all
4 times relevant to the charges brought herein, Respondent Wong served as Pharmacist in Charge
5 (PIC) for Respondent PMC. The PMC Pharmacy Permit was in full force and effect at all times
6 relevant to the charges brought herein and will expire on June 1, 2007, unless renewed.

7 JURISDICTION

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

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

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

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

22 STATUTORY PROVISIONS

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

26 ...
27 "(c) Gross negligence.
28 ...

1 “(f) The commission of any act involving moral turpitude, dishonesty, fraud,
2 deceit, or corruption, whether the act is committed in the course of relations as a licensee or
3 otherwise, and whether the act is a felony or misdemeanor or not.
4 . . .

5 “(g) Knowingly making or signing any certificate or other document that falsely
6 represents the existence or nonexistence of a state of facts.
7 . . .

8 “(j) The violation of any of the statutes of this state or of the United States
9 regulating controlled substances and dangerous drugs.
10 . . .

11 “(l) The conviction of a crime substantially related to the qualifications, functions,
12 and duties of a licensee under this chapter. . . .
13 . . .

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

19 9. California Code of Regulations, title 16, section 1770, states:

20 “For the purpose of denial, suspension, or revocation of a personal or facility
21 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
22 Code, a crime or act shall be considered substantially related to the qualifications, functions or
23 duties of a licensee or registrant if to a substantial degree it evidences present or potential
24 unfitness of a licensee or registrant to perform the functions authorized by his license or
25 registration in a manner consistent with the public health, safety, or welfare.”

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

27 “‘The pharmacist-in-charge shall be responsible for a pharmacy's compliance with
28 all state and federal laws and regulations pertaining to the practice of pharmacy.’”

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

2 “(a) All records of manufacture and of sale, acquisition, or disposition of
3 dangerous drugs or dangerous devices shall be at all times during business hours open to
4 inspection by authorized officers of the law, and shall be preserved for at least three years from
5 the date of making. A current inventory shall be kept by every . . . pharmacy . . . who maintains a
6 stock of dangerous drugs or dangerous devices.”

7 12. Section 4332 of the Code states:

8 “Any person who fails, neglects, or refuses to maintain the records required by
9 Section 4081 or who, when called upon by an authorized officer or a member of the board, fails,
10 neglects, or refuses to produce or provide the records within a reasonable time, or who willfully
11 produces or furnishes records that are false, is guilty of a misdemeanor.”

12 13. Section 4105 of the Code provides, in pertinent part, that all records or
13 other documentation of the acquisition and disposition of dangerous drugs and dangerous devices
14 by any entity licensed by the board shall be retained on the licensed premises in a readily
15 retrievable form for a period of three years from the date of making.

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

17 “‘Current Inventory’ as used in Sections 4081 and 4332 of the Business and
18 Professions Code shall be considered to include complete accountability for all dangerous drugs
19 handled by every licensee enumerated in Sections 4081 and 4332.

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

22 15. California Code of Regulations, title 16, section 1717, states in part:

23 “(a) No medication shall be dispensed on prescription except in a new container
24 which conforms with standards established in the official compendia. Notwithstanding the
25 above, a pharmacist may dispense and refill a prescription for non-liquid oral products in a clean
26 multiple-drug patient medication package (patient med pak) provided: (1) a patient med pak is
27 reused only for the same patient; (2) no more than a one-month supply is dispensed at one time;
28 and (3) each patient med pak bears an auxiliary label which reads, ‘store in a cool, dry place.’”

1 16. Section 4126.5 of the Code provides, in pertinent part, that a pharmacy
2 may furnish dangerous drugs only to: (1) A wholesaler owned or under common control by the
3 wholesaler from whom the dangerous drug was acquired; (2) The pharmaceutical manufacturer
4 from whom the dangerous drug was acquired; (3) A licensed wholesaler acting as a reverse
5 distributor; (4) Another pharmacy or wholesaler to alleviate a temporary shortage of a dangerous
6 drug that could result in the denial of health care; (5) A patient or to another pharmacy pursuant
7 to a prescription or as otherwise authorized by law; (6) A health care provider that is not a
8 pharmacy but that is authorized to purchase dangerous drugs; or (7) Another pharmacy under
9 common control. "Common control" means the power to direct or cause the direction of the
10 management and policies of another, by ownership, voting rights, contract, or other means.

11 17. Title 21, Code of Federal Regulations, section 1307.11 (hereinafter "21
12 C.F.R. § 1307.11") provides in pertinent part that a practitioner who is registered to dispense a
13 controlled substance may distribute (without being registered to distribute) a quantity of such
14 substance to (1) another practitioner registered to dispense that substance for the purpose of
15 general dispensing by the practitioner to patients, or to (2) a reverse distributor who is registered
16 to receive such controlled substance(s).

17 18. Title 21, Code of Federal Regulations, section 1307.21 (hereinafter "21
18 C.F.R. § 1307.21") provides in pertinent part that any person in possession of any controlled
19 substance and desiring or required to dispose of such substance may request assistance from the
20 Special Agent in Charge of the Drug Enforcement Administration (DEA) in the area in which the
21 person is located for authority and instructions to dispose of such substance. In the event of a
22 properly-made request, the Special Agent in Charge shall authorize and instruct the applicant to
23 dispose of the controlled substance by transfer to a person registered under the Drug Enforcement
24 Act and authorized to possess the substance, by delivery to an agent of the DEA, by destruction
25 in the present of an agent of the DEA or other authorized person, or by other appropriate means.

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

1 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

2 20. Section 4021 of the Code states:

3 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing
4 with Section 11053) of Division 10 of the Health and Safety Code.”

5 21. Section 4022 of the Code states, in pertinent part:

6 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for
7 self-use, except veterinary drugs that are labeled as such, and includes the following:

8 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing
9 without prescription,’ ‘Rx only,’ or words of similar import.

10 ...

11 “(c) Any other drug or device that by federal or state law can be lawfully
12 dispensed only on prescription or furnished pursuant to Section 4006.”

13 22. **Triamterine/HCTZ** (brand name **Dyazide**) is a dangerous drug as
14 designated by Business and Professions Code section 4022. It is a hypertension drug.

15 23. **Chlordiazepoxide** (brand name **Librium**) is a Schedule IV controlled
16 substance as designated by Health and Safety Code section 11057(d)(5) and a dangerous drug as
17 designated by Business and Professions Code section 4022. It is an anti-anxiety drug.

18 24. **Diazepam** (brand name **Valium**) is a Schedule IV controlled substance as
19 designated by Health and Safety Code section 11057(d)(9) and a dangerous drug as designated by
20 Business and Professions Code section 4022. It is a depressant drug.

21 25. **Fentanyl** (brand names **Actiq**, **Duragesic**) is a Schedule II controlled
22 substance as designated by Health and Safety Code section 11055(c)(8) and a dangerous drug as
23 designated by Business and Professions Code section 4022. It is for treatment of severe pain.

24 26. **Tylenol # 3**, or **Tylenol with Codeine**, is a brand name for a compound of
25 acetaminophen (or APAP) and **Codeine**, a narcotic and Schedule III controlled substance as
26 designated by Health and Safety Code section 11056(e)(2) and a dangerous drug as designated by
27 Business and Professions Code section 4022. It is intended for pain relief.

28 ///

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

4 FACTUAL BACKGROUND

5 28. Respondent Wong attended pharmacy school in Idaho with an individual
6 named George Chiu. Respondent Wong and Mr. Chiu remained in touch in succeeding years.

7 29. On numerous unknown dates, on approximately 20-33 occasions between
8 an unknown commencement date sometime in the mid-1990s and an unknown ending date in the
9 year 2000, Respondent Wong purchased from Mr. Chiu, on behalf of Respondent PMC using the
10 funds thereof, numerous unknown dangerous drugs. On each occasion, Respondent Wong met
11 Mr. Chiu on a street corner in San Francisco, paid cash, and received no invoices or paperwork
12 documenting the origin of the drugs. He/PMC paid approximately \$100,000.00 total, all in cash.

13 30. The drugs purchased in this manner were subsequently dispensed to the
14 patients of Respondent PMC, under Respondent Wong's supervision as PIC thereof.

15 31. On May 19 and May 20, 2000, Mr. Chiu was videotaped while diverting
16 dangerous drugs and controlled substances from a Kaiser Health Plan Main Pharmacy (PHY
17 32380) in Antioch, CA by which he was employed as a pharmacist. During a subsequent search
18 of Mr. Chiu's home and car, 580 bottles of dangerous drugs and controlled substances belonging
19 to Kaiser were found. Mr. Chiu pleaded no contest to 8 felony counts and was sent to prison.

20 32. In 2001, the Internal Revenue Service (IRS) began a criminal investigation
21 regarding Mr. Chiu's sale of drugs he stole from Kaiser. On March 20, 2001, IRS investigators
22 interviewed Mr. Chiu at San Quentin State Prison and he told them that Respondent Wong had
23 purchased at least some of the drugs that were stolen from Kaiser during the preceding years.

24 33. When Mr. Chiu was released from prison in or about February 2002, he
25 contacted Respondent Wong, told him about his theft of the drugs from Kaiser, about his arrest
26 and imprisonment for that theft, and about his sale of at least some stolen drugs to Respondent.

27 34. On or about June 11, 2002, Respondent Wong was interviewed by IRS
28 investigators, and falsely told the IRS investigators that he did not know Mr. Chiu.

1 35. On or about November 29, 2005, in U.S. District Court for the Northern
2 District of California, Respondent Wong was convicted by plea of guilty of one (1) count of
3 violating 18 U.S.C. § 1001(a)(2) [knowing or willing false/fraudulent statement], a felony. On or
4 about April 4, 2006, Respondent Wong was given a sentence including criminal probation for a
5 term of three (3) years, a fine of \$5,000.00, and a special assessment of \$100.00.

6 36. On or about January 12, 2006, Respondent PMC was inspected by one or
7 more Board of Pharmacy inspectors. On that occasion, the inspector(s) observations included:

8 a. Respondent PMC was stocked with a significant quantity of expired drugs,
9 including both dangerous drugs and controlled substances, intermingled with active inventory.
10 Approximately 559 bottles of over 90 different drugs, not the full quantity of expired drugs in
11 stock, were tabulated and isolated pursuant to Business and Professions Code section 4342.

12 b. Respondent PMC held in its inventory dangerous drugs and controlled
13 substances for which it could not document its legitimate acquisition or possession, including:
14 (i) in its active inventory area, four manufacturers' bottles of **Triamterine/HCTZ** with Kaiser
15 patient-specific prescription labels on them; (ii) in its active inventory, one manufacturers' bottle
16 containing **Chlordiazepoxide** with a Longs' Pharmacy patient-specific label attached, dispensing
17 date June 8, 2004; (iii) in its active inventory, one prescription bottle with approximately 300
18 tablets of **Diazepam** with an Express Scripts patient-specific label attached, with the name of the
19 patient obliterated by "white out"; (iv) in its active inventory, one box of 7 **Fentanyl** patches
20 with a Safeway Pharmacy patient-specific label attached; and (v) up to 50 other drugs which staff
21 said were returned by assisted living facilities but for which no documentation was maintained.

22 c. Respondent PMC had in its active inventory area about 100 used patient
23 med packs, which Respondent Wong and other staff stated had been returned from assisted living
24 facilities, and which Respondent PMC re-used by emptying, cleaning with rubbing alcohol, and
25 re-using for new distributions. The re-use was not limited to the same/returning patient(s).

26 d. Respondent PMC's protocol for disposal of returned or expired drugs was
27 to place them into sharps containers (intended for disposal of needles and hazardous waste) that
28 were picked up by or delivered to a company called Stericycle, Inc. for subsequent destruction.

1 37. On or about February 6, 2006, Respondent Wong provided the inspector(s)
2 with a statement under penalty of perjury on behalf of Respondent PMC stating, *inter alia*, that
3 all expired drugs at PMC had been properly returned or destroyed. Respondents included copies
4 of Regulated Shipping Waste Documents generated by Stericycle, Inc. of Lake Forest, Illinois
5 showing materials picked up or delivered for destruction on January 18, 2006 and February 1,
6 2006, and also included copies of shipping labels for drugs returned to a wholesaler.

7 38. On or about March 1, 2006, Respondent PMC was re-inspected by one or
8 more Board of Pharmacy inspectors. On that occasion, the inspector(s) observations included:

9 a. Some expired drugs had been removed, but significant numbers were still
10 in the active inventory area of Respondent PMC;

11 b. Included among the expired drugs were approximately 30 that had expired
12 in the 1990s and approximately a dozen others that expired in 2000 or 2001, including controlled
13 substances. It appeared particularly that there had been no return or destruction of Schedule II
14 controlled substances by Respondent PMC for approximately ten years;

15 c. Another 33 bottles of expired dangerous drugs were isolated from active
16 inventory at Respondent PMC, only a sampling of the over 200 additional expired bottles.

17 39. On or about March 21, 2006, Respondent PMC provided documentation to
18 the Board's inspector(s) of an additional delivery to/pick-up by Stericycle, Inc. of controlled
19 substances or dangerous drugs for destruction on or about March 15, 2006.

20 40. Subsequent investigation revealed the following:

21 a. In January 2006 (corresponding to the January 18, 2006 documentation),
22 Respondent PMC sent one 25-gallon sharps container to Stericycle for destruction;

23 b. In February 2006 (corresponding to the February 1, 2006 documentation),
24 Respondent PMC sent four 25-gallon sharps containers to Stericycle for destruction;

25 c. In March 2006 (corresponding to the March 15, 2006 documentation),
26 Respondent PMC sent three 12-gallon sharps containers to Stericycle for destruction;

27 d. In May 2006, Respondent PMC sent two 12-gallon sharps containers to
28 Stericycle for destruction;

- 1 e. Stericycle, Inc. is not licensed as a reverse distributor;
- 2 f. Stericycle, Inc. does not have a federal Drug Enforcement Administration
3 license to handle or possess controlled substances;
- 4 g. Stericycle, Inc. would not knowingly accept dangerous drugs or controlled
5 substances because they were not licensed to do so;
- 6 h. The drugs that were sent to Stericycle were inside sharps containers
7 intended for contaminated medical waste, which were not opened prior to destruction;
- 8 i. The drugs sent to Stericycle included at least 6000 tablets of **Tylenol #3**
9 (generic), and 2000 tablets of **Alprazolam**, both controlled substances.

10
11 FIRST CAUSE FOR DISCIPLINE

12 As to Respondent Wong

13 (Conviction of Substantially Related Crime)

14 41. Respondent Wong is subject to discipline under section 4301(1) of the
15 Code by reference to California Code of Regulations, title 16, section 1770, in that on or about
16 November 29, 2005, in a criminal case titled *United States of America v. Nolan Wong*, Case No.
17 CR05-0546-01 WHA in U.S. District Court for the Northern District of California, Respondent
18 Wong was convicted by his plea of guilty of one (1) count of violating 18 U.S.C. § 1001(a)(2)
19 [knowing or willing false/fraudulent statement], a felony. The circumstances were as follows:

20 a. On or about June 11, 2002, Respondent Wong was interviewed by IRS
21 investigators regarding his purchases of dangerous drugs from a long-time acquaintance named
22 George Chiu, and Respondent falsely told the IRS investigators that he did not know Mr. Chiu.

23 b. On or about August 30, 2005, Respondent was criminally charged by an
24 Information with one (1) count of violating 18 U.S.C. § 1001(a)(2) [knowing or willing making
25 of false/fraudulent statement], a felony, based on the falsity in the June 11, 2002 interview.

26 c. On or about November 29, 2005, Respondent entered a plea of guilty.

27 d. On or about April 4, 2006, Respondent was given a sentence including
28 criminal probation of three (3) years, a fine of \$5,000.00, and a special assessment of \$100.00.

1 SIXTH CAUSE FOR DISCIPLINE

2 As to Respondents Wong and PMC

3 (Failure to Maintain/Provide Adequate Documentation)

4 46. Respondents Wong and PMC are subject to discipline under Code section
5 4301(j) and/or 4301(o) in that Respondents, as described in Paragraph 36 above, were unable to
6 produce and/or failed to maintain adequate records of acquisition or disposition as required by
7 Code sections 4081, 4105, and 4332, and California Code of Regulations, title 16, section 1718,
8 with regard to dangerous drugs and/or controlled substances in their possession or control.

9 SEVENTH CAUSE FOR DISCIPLINE

10 As to Respondents Wong and PMC

11 (Furnishing Dangerous Drugs to Unauthorized Person)

12 47. Respondents Wong and PMC are subject to discipline under Code section
13 4301(j) and/or 4301(o) in that Respondents, as described in Paragraphs 37-40 above, on at least 4
14 occasions delivered to, or arranged for pick-up by, Stericycle, Inc., large quantities of dangerous
15 drugs and/or controlled substances. Stericycle, Inc. is not a licensed reverse distributor nor is it
16 otherwise an entity to which Respondents are/were authorized to furnish dangerous drugs and/or
17 controlled substances pursuant to Code section 4126.5 and/or 21 C.F.R. § 1307.11.

18 EIGHTH CAUSE FOR DISCIPLINE

19 As to Respondents Wong and PMC

20 (Improper Disposal of Controlled Substances)

21 48. Respondents Wong and PMC are subject to discipline under Code section
22 4301(j) and/or 4301(o) in that Respondents, as described in Paragraphs 37-40 and 47 above, sent
23 to or arranged for pick-up by Stericycle, Inc., controlled substances including at least 6000 tablets
24 of **Tylenol #3** (generic) and 2000 tablets of **Alprazolam**, without Stericycle, Inc. being licensed
25 or registered to receive same and without following the procedure to request assistance with the
26 disposal of controlled substances outlined by 21 C.F.R. § 1307.21.

27 ///

28 ///

1 NINTH CAUSE FOR DISCIPLINE

2 As to Respondents Wong and PMC

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

4 49. Respondents Wong and PMC are subject to discipline under Code section
5 4301(f) in that, as described in Paragraphs 37-40 and 47-48 above, Respondents committed one
6 or more acts involving moral turpitude, dishonesty, fraud, deceit, or corruption when they falsely
7 represented to Stericycle, Inc. that materials for destruction were sharps/hazardous medical waste
8 rather than the dangerous drugs and controlled substances that were actually in the containers.

9 TENTH CAUSE FOR DISCIPLINE

10 As to Respondents Wong and PMC

11 (Improper Re-Use of Patient Med Packs/Paks)

12 50. Respondents Wong and PMC are subject to discipline under Code section
13 4301(j) and/or 4301(o) in that Respondents, as described in Paragraph 36 above, improperly set
14 forth a protocol for re-use of patient med packs/paks which did not limit re-use to the patient by
15 which the med pack/pak had been previously used, but which instead allowed re-use by another
16 or several other patients, in violation of California Code of Regulations, title 16, section 1717.

17 ELEVENTH CAUSE FOR DISCIPLINE

18 As to Respondents Wong and PMC

19 (Unprofessional Conduct)

20 51. Respondents Wong and PMC are subject to discipline under Code section
21 4301 in that, by way of the conduct described in Paragraphs 45-50 above, Respondents engaged
22 in acts constituting unprofessional conduct not becoming the professional practice of pharmacy.

23
24 PRAYER

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

27 A. Revoking or suspending Pharmacist License Number RPH 31808, issued
28 to Respondent Nolan Wong (Respondent Wong);

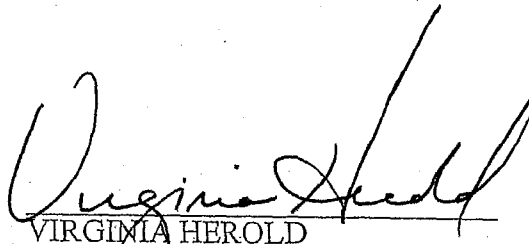
1 B. Revoking or suspending Pharmacy permit Number PHY 36005, issued to
2 Respondent PMC Pharmacy (Respondent PMC);

3 C. Forbidding Respondent Wong from serving as a manager, administrator,
4 owner, member, officer, director, associate, or partner of Respondent PMC or of any other Board
5 licensee, pursuant to Business and Professions Code section 4307;

6 D. Ordering Respondent Wong and Respondent PMC (Respondents) jointly
7 and severally to pay to the Board of Pharmacy the reasonable costs of the investigation and
8 enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

10
11 DATED: 2/23/07



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
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4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
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Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480

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 NOLAN WONG
2830 - 34th Avenue
13 San Francisco, CA 94116

14 Pharmacist License No. RPH 31808

15 and

16 PMC PHARMACY
901 Campus Drive
17 Daly City, CA 94015

18 Pharmacy Permit No. PHY 36005

19 Respondents.

Case No. 3025

OAH No.

SUPPLEMENTAL ACCUSATION

21 Complainant alleges:

22 PARTIES

23 1. Virginia Herold (Complainant) brings this Supplemental Accusation solely
24 in her official capacity as the Executive Officer for the Board of Pharmacy in the Department of
25 Consumer Affairs.

26 2. The allegations of paragraphs 2 through 51 of the Accusation on file with
27 this administrative body are realleged and incorporated by reference as if fully set forth herein.

28 ///

1 TWELFTH CAUSE FOR DISCIPLINE

2 As to Respondent Wong

3 (Conviction of Substantially Related Crime)

4 3. Respondent Wong is subject to discipline under section 4301(l) of the
5 Code by reference to California Code of Regulations, title 16, section 1770, in that on or about
6 December 27, 1989, in a criminal case titled *United States of America v. Nolan K. Wong*, Case
7 No. CR88-0609 CAL in U.S. District Court for the Northern District of California, Respondent
8 Wong was convicted by his plea of guilty of one (1) count of violating 18 U.S.C. §§ 1341 and
9 1342 [Mail Fraud with Aiding and Abetting], a felony.

10 THIRTEENTH CAUSE FOR DISCIPLINE

11 As to Respondent Wong

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

13 4. Respondent Wong is subject to discipline under Code section 4301(f) in
14 that, as described in Paragraph 3 above, Respondent Wong committed one or more acts involving
15 moral turpitude, dishonesty, fraud, deceit, or corruption.

16 FOURTEENTH CAUSE FOR DISCIPLINE

17 As to Respondent Wong

18 (Unprofessional Conduct)

19 5. Respondents Wong and PMC are subject to discipline under Code section
20 4301 in that, by way of the conduct described in Paragraph 3 above, Respondent engaged in acts
21 constituting unprofessional conduct not becoming the professional practice of pharmacy.

22 PRAYER

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

25 A. Revoking or suspending Pharmacist License Number RPH 31808, issued
26 to Respondent Nolan Wong (Respondent Wong);

27 B. Revoking or suspending Pharmacy permit Number PHY 36005, issued to
28 Respondent PMC Pharmacy (Respondent PMC);

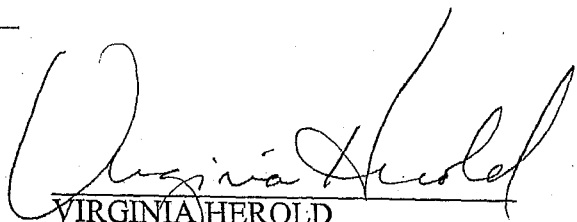
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C. Forbidding Respondent Wong from serving as a manager, administrator, owner, member, officer, director, associate, or partner of Respondent PMC or of any other Board licensee, pursuant to Business and Professions Code section 4307;

D. Ordering Respondent Wong and Respondent PMC (Respondents) jointly and severally to pay to the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 7/12/07



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SF2006402750

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Exhibit B
Statement of Issues No. 3025

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
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3 JOSHUA A. ROOM, State Bar No. 214663
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5 Telephone: (415) 703-1299
Facsimile: (415) 703-5480

6 Attorneys for Complainant

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

12 In the Matter of the Statement of Issues Against:

Case No. 3025

13 NURSING CARE PHARMACIES, INC
14 dba PMC PHARMACY
Barbara Jiang, CEO
15 Jason Wong, V.P.
901 Campus Drive # 108
16 Daly City, CA 94015

STATEMENT OF ISSUES

17 Applicant for Community Pharmacy Permit

Respondent.

18 Complainant alleges:

19 PARTIES

20 1. Virginia Herold (Complainant) brings this Statement of Issues solely in
21 her official capacity as the Executive Officer of the Board of Pharmacy within the Department of
22 Consumer Affairs.

23 2. On or about July 20, 2007, the Board of Pharmacy, Department of
24 Consumer Affairs received an application for a Community Pharmacy Permit from Nursing Care
25 Pharmacies, Inc. dba PMC Pharmacy, Barbara Jiang, CEO, Jason Wong, V.P. (Respondent). The
26 application documents list Ms. Jiang as 35% owner, and Mr. Wong as 65% owner. On or about
27 July 3, 2007, Ms. Jiang and Mr. Wong signed one or more certifications under penalty of perjury
28 as to the truthfulness of all statements, answers, and representations in the application.

1 11. Nolan Wong, licensed as a Pharmacist (License No. RPH 31808) by the
2 Board of Pharmacy since March 7, 1978, served as Pharmacist in Charge at PMC Pharmacy from
3 its licensure through to May 1, 2006. The PMC Pharmacy Permit was in full force and effect at
4 all times relevant to the facts herein and will expire on June 1, 2008, unless renewed.

5 12. Between in or about January 2006 and in or about June 2006, Nolan Wong
6 and PMC Pharmacy were the subjects of an investigation conducted by the Board of Pharmacy.

7 13. That investigation revealed, among other things: that Gordon Wong and
8 Nolan Wong are brothers; that Pharmacy Technician Barbara Jiang (License No. TCH 52663,
9 issued 11/17/03) worked/works at PMC Pharmacy and is a sister-in-law to Gordon Wong; that
10 Pharmacist Angela Po-Chu Yeung (License No. RPH 31278, issued 08/03/77) worked/works as a
11 Pharmacist at PMC Pharmacy, has served as Pharmacist in Charge at PMC Pharmacy since May
12 1, 2006, and was/is married to Nolan Wong; and that Pharmacy Technician Jason Wong (TCH
13 53082, issued 11/26/03) worked/works at PMC Pharmacy and is a son of Nolan Wong.

14 14. On or about April 21, 2006 and April 28, 2006, Nolan Wong participated
15 in interviews with one or more Board of Pharmacy Inspectors. Mr. Wong represented during the
16 interview(s) that he and his brother Gordon Wong were then the only owners of PMC Pharmacy.
17 Barbara Jiang also participated in interview(s) with Board Inspectors, and did not represent that
18 she had any ownership or beneficial interest in the licensure of PMC Pharmacy.

19 15. The Board investigation revealed alleged violations of pharmacy law. On
20 or about February 23, 2007, in a case titled *In the Matter of the Accusation against Nolan Wong*
21 *and PMC Pharmacy*, Case No. 3025 before the Board of Pharmacy, an Accusation was filed that
22 charged Nolan Wong and PMC Pharmacy with eleven causes for discipline (the first two alleged
23 only against Nolan Wong, the remaining nine alleged against both respondents). On or about
24 July 12, 2007, a Supplemental Accusation filed before the Board alleged three additional causes
25 for discipline (causes 12 through 14) solely against respondent Nolan Wong.

26 16. The present application for new/changed ownership of PMC Pharmacy
27 was received by the Board on or about July 20, 2007, from Nursing Care Pharmacies, Inc. dba
28 PMC Pharmacy, Barbara Jiang, CEO, Jason Wong, V.P. (Respondent).

1 17. That application, signed under penalty of perjury by Ms. Jiang and Mr.
2 Wong on or about July 3, 2007, indicates that ownership of the pharmacy was transferred to Ms.
3 Jiang (35%) and Mr. Wong (65%) on or about January 1, 2006, more than 18 months prior to the
4 submission of the present application notifying the Board of the change.

5 FIRST CAUSE FOR DENIAL OF APPLICATION

6 (Conducting Pharmacy Without License)

7 18. Respondent's application is subject to denial pursuant to sections 480(a)(3)
8 and/or 4300(c) of the Code, and/or sections 4301(o) and 4110 of the Code, in that following the
9 transfer of ownership of PMC Pharmacy on or about January 1, 2006 and through to the present,
10 Respondent has directly or indirectly violated, attempted to violate, assisted in or abetted the
11 violation of, or conspired to violate, the laws and/or regulations governing pharmacy, by
12 conducting a pharmacy in California without a valid license therefor.

13 SECOND CAUSE FOR DENIAL OF APPLICATION

14 (Failing to Timely Notify Board of Ownership Change)

15 19. Respondent's application is subject to denial pursuant to sections 480(a)(3)
16 and/or 4300(c) of the Code, and/or section 4301(o) and California Code of Regulations, title 16,
17 section 1709, in that following the transfer of ownership of PMC Pharmacy on or about January
18 1, 2006 and through to July 20, 2007, Respondent has directly or indirectly violated, attempted to
19 violate, assisted in or abetted the violation of, or conspired to violate, the laws and/or regulations
20 governing pharmacy, by failing to timely notify the Board of the change in ownership.

21 THIRD CAUSE FOR DENIAL OF APPLICATION

22 (Dishonesty, Fraud, or Deceit)

23 20. Respondent's application is subject to denial pursuant to sections 480(a)(2)
24 and/or 4300(c) of the Code, and/or sections 4301(f) and/or 4301(o) of the Code, in that following
25 the transfer of ownership of PMC Pharmacy on or about January 1, 2006 and through to July 20,
26 2007, Respondent has directly or indirectly violated, attempted to violate, assisted in or abetted
27 the violation of, or conspired to violate, the laws and/or regulations governing pharmacy, by
28 dishonestly failing to notify the Board of the change in ownership, and/or concealing same.

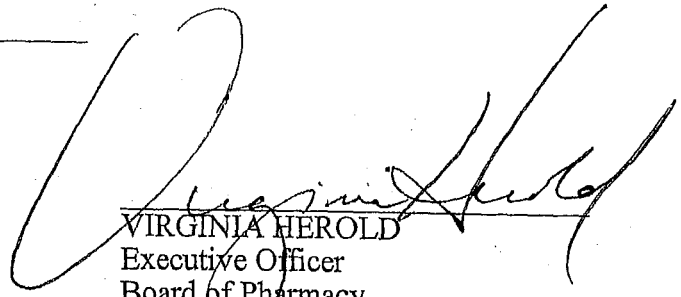
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PRAYER

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. Denying the application of PMC Pharmacy for a Pharmacy License;
- B. Taking such other and further action as is deemed necessary and proper.

DATED: 1/16/08



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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