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

In the Matter of the Accusation Against:

Case No. 3074

GREGORY A. CHAPPELL,
P.O. Box 292812
Sacramento, CA 95829

OAH No. 200708552

Original Pharmacist License No. RPH 39122

Respondent.

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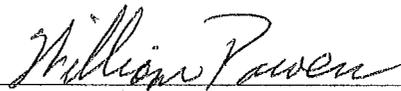
DECISION AND ORDER

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

This Decision shall become effective on January 16, 2008.

It is so ORDERED December 17, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 
WILLIAM POWERS
Board President

1 EDMUND G. BROWN, JR., Attorney General
of the State of California
2 JESSICA M. AMGWERD, State Bar No. 155757
Deputy Attorney General
3 California Department of Justice
1300 I Street, Suite 125
4 P.O. Box 944255
Sacramento, CA 94244-2550
5 Telephone: (916) 324-5393
Facsimile: (916) 324-5567

6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 3074

11 **GREGORY A. CHAPPELL,**
12 P.O. Box 292812
Sacramento, CA 95829

OAH No. 200708552

13 **Original Pharmacist License No. RPH 39122**

**STIPULATED SETTLEMENT;
ORDER AND DECISION**

14 Respondent.

15
16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 PARTIES

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

24 2. Gregory A. Chappell ("Respondent"), is not represented by counsel.

25 3. On or about March 7, 1985, the Board issued Pharmacist License No.
26 RPH 39122 to Respondent.

27 JURISDICTION

28 4. Accusation No. 3074 was filed before the Board of Pharmacy (Board),

1 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation
2 and all other statutorily required documents were properly served on Respondent on July 18,
3 2007. Respondent timely filed a Notice of Defense contesting the Accusation. A copy of
4 Accusation No. 3074 (also referred to as Case No. 3074) is attached as exhibit A and
5 incorporated herein by reference.

6 ADVISEMENT AND WAIVERS

7 5. Respondent has carefully read, and understands the charges and allegations
8 in Accusation No. 3074. Respondent also has carefully read, and understands the effects of this
9 Stipulated Settlement, Order and Decision.

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

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

20 8. This settlement shall be for the purposes of this proceedings, any future
21 proceedings before the parties and any other actions taken by or before any governmental agency
22 responsible for licensing, and shall not be used for any civil or criminal proceedings.

23 CULPABILITY

24 9 Respondent admits that from May 2005 through August 2006, while
25 working at Kaiser in Sacramento, California, Respondent stole at least 1,000 hydrocodone
26 containing tablets, diazepam, lorazepam, and butalbital containing medications. Further,
27 Respondent admits he violated the following Business and Professions Code sections:
28

- 1 §4301(f) acts involving dishonesty, fraud, deceit, corruption
2 §4301(j), (o) violation of state statutes/laws and regulations
3 § 4301(h) unlawful self-administration of controlled substance
4

5 Respondent agrees that cause exists for discipline of Respondent's Pharmacist License No. RPH
6 39122. Respondent also admits that on February 26, 2007, in the criminal case entitled, *People*
7 *v. Gregory Allan Chappell*, (Sacramento Sup. Ct., 2004, No. 06F11219), Respondent pled nolo
8 contendere to Business and Professions Code section 4060, a misdemeanor.

9 10. Respondent understands that by signing this stipulation Respondent
10 enables the Board to issue an order disciplining Respondent's Pharmacist License Number RPH
11 39122.

12 CONTINGENCY

13 11. This stipulation shall be subject to approval by the Board of Pharmacy.
14 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
15 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,
16 without notice to or participation by Respondent. By signing the stipulation, Respondent
17 understands and agrees that Respondent may not withdraw this agreement or seek to rescind the
18 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
19 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
20 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
21 the parties, and the Board shall not be disqualified from further action by having considered this
22 matter.

23 12. The parties understand and agree that facsimile copies of this Stipulated
24 Settlement, including facsimile signatures thereto, shall have the same force and effect as the
25 originals.

26 13. In consideration of the foregoing admissions and stipulations, the parties
27 agree that the Board may, without further notice or formal proceeding, issue and enter the
28 following Order:

1 ORDER

2 IT IS HEREBY ORDERED that License No. RPH 39122, issued to Respondent
3 Gregory A. Chappell, is revoked. The revocation, however, is immediately stayed and
4 Respondent is placed on a probation for five (5) years. Additionally, Respondent agrees to the
5 following terms and conditions:

6 1. **Suspension.** License No. RPH 39122 issued to Respondent is suspended
7 for sixty days, with credit for time documented not practicing. Additionally, prior to resuming
8 practice, Respondent must show evidence that the PRP approves a return to practice.

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

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

- 13 • An arrest or issuance of a criminal complaint for violation of any provision of the
14 Pharmacy Law, state and federal food and drug laws, or state and federal
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 Respondent's pharmacist license or which is related to
the practice of pharmacy or the manufacturing, obtaining, handling or
distribution or billing or charging for any drug, device or controlled substance.

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

26 4. **Interview with the Board.** Upon receipt of reasonable notice,
27 Respondent shall appear in person for interviews with the Board upon request at various
28

1 intervals at a location to be determined by the Board. Failure to appear for a scheduled
2 interview without prior notification to Board staff shall be considered a violation of probation.

3 5. **Cooperation with Board Staff.** Respondent shall cooperate with the
4 Board's inspectional program and in the Board's monitoring and investigation of Respondent's
5 compliance with the terms and conditions of his probation. Failure to comply shall be
6 considered a violation of probation.

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

9 7. **Notice to Employers.** Respondent shall notify all present and
10 prospective employers of the decision in case number 3074 and the terms, conditions and
11 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
12 this decision, and within 15 days of Respondent undertaking new employment, Respondent
13 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
14 writing acknowledging the employer has read the decision in case number 3074. If
15 Respondent works for or is employed by or through a pharmacy employment service,
16 Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every
17 pharmacy of the and terms conditions of the decision in case number 3074 in advance of the
18 Respondent commencing work at each pharmacy.

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

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

27 9. **Reimbursement of Board Costs.** Respondent shall pay to the Board
28 its costs of investigation and prosecution in the amount of Three Thousand Eight Hundred

1 Twenty Dollars (\$3,820.00). Said costs shall be paid within sixty days of the effective date of
2 the Decision, or upon good cause shown Respondent may be permitted to pay quarterly
3 payments in a payment plan approved by the Board, with payments to be completed no later
4 than three months prior to the end of the probation term.

5 The filing of bankruptcy by Respondent shall not relieve Respondent of
6 Respondent's responsibility to reimburse the Board its costs of investigation and prosecution.

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

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

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

17 12. **License Surrender while on Probation/Suspension.** Following the
18 effective date of this decision, should Respondent cease practice due to retirement or health, or
19 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender
20 her license to the Board for surrender. The Board shall have the discretion whether to grant
21 the request for surrender or take any other action it deems appropriate and reasonable. Upon
22 formal acceptance of the surrender of the license, Respondent will no longer be subject to the
23 terms and conditions of probation.

24 Upon acceptance of the surrender, Respondent shall relinquish her pocket
25 license to the Board within 10 days of notification by the Board that the surrender is accepted.
26 Respondent may not reapply for any license from the Board for three years from the effective
27 date of the surrender. Respondent shall meet all requirements applicable to the license sought
28 as of the date the application for that license is submitted to the Board.

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

6 14. **Tolling of Probation.** Should Respondent, regardless of residency, for
7 any reason cease practicing pharmacy for a minimum of forty hours per calendar month in
8 California, Respondent must notify the Board in writing within 10 days of cessation of the
9 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time
10 shall not apply to the reduction of the probation period. It is a violation of probation for
11 Respondent's probation to remain tolled pursuant to the provisions of this condition for a
12 period exceeding three years.

13 " Cessation of practice " means any period of time exceeding 30 days in which
14 Respondent is not engaged in the practice of pharmacy as defined in Section
15 4052 of the Business and Professions Code.

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

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

21 Substantial - At least 50% of a work week

22 Partial - At least 25% of a work week

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

24 Within 30 days of the effective date of this decision, Respondent shall have
25 Respondent's supervisor submit notification to the board in writing stating the supervisor has
26 read the decision in Case No. 3074 and is familiar with the level of supervision as determined
27 by the Board. If Respondent changes employment, respondent shall have Respondent's new
28 supervisor, within 15 days after employment commences, submit notification to the Board in

1 writing stating the direct supervisor and pharmacist-in-charge have read the decision in Case
2 No. 3074 and is familiar with the level of supervision as determined by the Board.

3 Within 10, days of leaving employment, respondent shall notify the board in
4 writing.

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

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

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

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

24 If Respondent is currently enrolled in the PRP, said participation is now
25 mandatory and is no longer considered a self-referral under Business and Professions Code
26 section 4363, as of the effective date of this decision. Respondent shall successfully
27 participate in and complete his current contract and any subsequent addendums with the PRP.
28 Probation shall be automatically extended until Respondent successfully completes his

1 treatment contract. Any person terminated from the program shall be automatically suspended
2 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified
3 by the Board in writing. The Board shall retain jurisdiction to institute action to terminate
4 probation for any violation of this term.

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

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

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

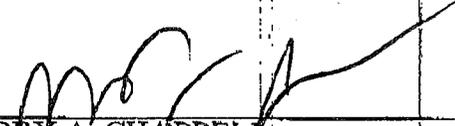
27 23. **Criminal Probation/Parole Reports.** Respondent shall provide a
28 copy of the conditions of any criminal probation/parole to the Board, in writing, within 10

1 days of the issuance or modification of those conditions. Respondent shall provide the name
2 of his probation/parole officer to the Board, in writing, within 10 days after that officer is
3 designated or a replacement for that officer is designated. Respondent shall provide a copy of
4 all criminal probation/parole reports to the Board within 10 days after Respondent receives a
5 copy of such a report.

6 **ACCEPTANCE**

7 I have carefully read the Stipulation, Decision and Order. I understand the
8 stipulation and the effect it will have on my Pharmacist License Number RPH 39122, and
9 have spoken to my attorney about the stipulation. I enter into this stipulation voluntarily,
10 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of
11 Pharmacy.

12 DATED: 10/29/07

13
14 
15 _____
16 GREGORY A. CHAPPELL
17 Respondent

18 **ENDORSEMENT**

19 The foregoing Stipulation is hereby respectfully submitted for consideration by
20 the Board of Pharmacy of the Department of Consumer Affairs.

21 DATED: 10-30-2007

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

24 
25 _____
26 JESSICA M. AMGWERD
27 Deputy Attorney General

28 Attorneys for Complainant

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Exhibit A
Accusation No. 3074

1 EDMUND G. BROWN, JR., Attorney General
of the State of California
2 ARTHUR D. TAGGART
Supervising Deputy Attorney General
3 JESSICA M. AMGWERD, State Bar No. 155757
Deputy Attorney General
4 California Department of Justice
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-7376
Facsimile: (916) 327-8643
7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3074

13 **GREGORY A. CHAPPELL,**
P.O. Box 292812
14 Sacramento, CA 95829

ACCUSATION

15 **Original Pharmacist License No. RPH 39122**

16 Respondent.

17 Complainant alleges:

- 18 1. Virginia K. Herold ("Complainant") brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
20 Affairs.
- 21 2. On or about March 7, 1985, the Board of Pharmacy ("Board") issued
22 Original Pharmacist License Number RPH 39122 to Gregory A. Chappell ("Respondent"). The
23 license will expire on August 31, 2008, unless renewed.

24 **I.**

25 **STATUTORY PROVISIONS**

- 26 3. Under Business and Professions Code ("Bus. & Prof. Code") section 4300
27 the Board may discipline any license, for any reason provided in the Pharmacy Law, (i.e., Bus. &
28 Prof. Code section 4000 et. seq.)

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4. Bus. & Prof. Code section 4301 states, in pertinent part:

§ 4301. Unprofessional conduct; licenses procured through misrepresentation, fraud, or mistake

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

....

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

...

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

...

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

....

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

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

...

5. Bus. & Prof. Code section 4060 states as follows:

§ 4060. Controlled substances; possession

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock containers correctly labeled with the name and address of the supplier or producer.

...

6. Health and Safety Code section 11350, in pertinent part, as follows:

§ 11350. Possession of designated controlled substances; punishment and fine

(a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or (2) any controlled substances classified in Schedule III, IV, or V which, is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison.

7. Section 490 of the Business and Professions Code ("Code") provides:

§ 490. Conviction of crime; relationship of crime to licensed activity

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been

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affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code."

8. Section 4327 of the Code provides:

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

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

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

10. Section 125.3 of the Code provides that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

II.

DRUGS

11. "Hydrocodone" is a Schedule III controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4), and is a dangerous drug, within the meaning of Bus. & Prof. Code 4022, that requires a prescription under federal law.

12. "Diazepam," is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(9), and is a dangerous drug, within the meaning of Bus. & Prof. Code 4022, that requires a prescription under federal law.

13. "Lorazepam," is a Schedule IV controlled substance as designated by Health & Safety Code section 11057, subdivision (d)(16), and is a dangerous drug, within the meaning of Bus. & Prof. Code 4022, that requires a prescription under federal law.

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1 14. "Butalbital containing medications" is a Schedule III controlled substance
2 as designated by Health and Safety Code section 1308.13 (c)(3), and is a dangerous drug, within
3 the meaning of Bus. & Prof. Code 4022, that requires a prescription under federal law.

4 BRAND NAME	5 GENERIC NAME	DANGEROUS DRUG PER B&PC 4022	CONTROLLED SUBSTANCE PER H&S CODE	INDICATIONS FOR USE
6 Ativan	Lorazepam	Yes	Yes-C4 HSC 11057(d)(16)	Nerves
7 Valium	Diazepam	Yes	Yes-C4 HSC 11057 (d)(9)	Nerves
8 Vicodin Norco	Hydrocodone/ acetaminophen	Yes	Yes-C3 HSC 11056 (e)(4)	Pain
9 Fioricet	Butalbital/ acetaminophen/ Caffeine	Yes	Yes-C3 HSC 1308.13 (c)(3)	Headache

13
14 **III.**

15 **GENERAL BACKGROUND**

16 15. From February 1991 through August 2006, Respondent worked as a
17 pharmacist at Kaiser Pharmacy. From May 2005, through August 2006, while working at Kaiser
18 in Sacramento, California, Respondent fraudulently stole at least 1,000 hydrocodone containing
19 tablets, diazepam and lorazepam, and butalbital containing medications. Additionally,
20 Respondent was under the influence of these stolen controlled substances while working as a
21 pharmacist, preparing prescriptions and providing patient care.

22 16. The Kaiser audit team discovered a drug loss trend and during
23 investigation, installed video cameras to monitor the pharmacy drug stock. Respondent was
24 observed on camera of taking controlled substances from the Kaiser pharmacy stock and self-
25 administering these stolen products. Respondent later admitted to the theft and self
26 administering of these drugs.

27 17. Due to the theft at Kaiser, a criminal complaint was filed against
28 Respondent on January 3, 2007, in the Sacramento County Superior Court, entitled, *The People*

1 of *The State of California v. Gregory Allen Chappell*, Case No. 06F11219. On February 26,
2 2007, Respondent pled Nolo Contendere to a misdemeanor violation of Business and Professions
3 Code section 4060.

4 **IV.**

5 **VIOLATIONS**

6 **B&P SECTION 490/4301(I)**

7 (Conviction of Crime)

8 18. Paragraphs 15 through 17 are incorporated herein. Respondent is subject
9 to discipline under Business and Professions Code section 490 and section 4301, subdivision (I),
10 due to his criminal conviction of Business and Professions Code section 4060, on February 26,
11 2007. The criminal conviction was based upon Respondent wrongfully possessing a controlled
12 substance without a prescription.

13 19. The circumstances of the conviction are substantially related to the
14 qualifications, functions or duties of a licensed pharmacist, as defined by California Code of
15 Regulations, title 16, section 1770, in that the conviction evidences to a substantial degree a
16 present or potential unfitness on the part of Respondent to perform the functions authorized by
17 that license in a manner consistent with the public health, safety, or welfare when, or about May
18 2005 through August 2006, Respondent wrongfully possessed controlled substances without a
19 prescription.

20 **B&P SECTION 4301(f)**

21 (Acts involving moral turpitude, dishonesty, fraud, deceit, or corruption)

22 20. Paragraphs 15 through 17 are incorporated herein by reference.
23 Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 4301,
24 subdivision (f), on the grounds of unprofessional conduct. More specifically, Respondent
25 engaged in the following acts which involve moral turpitude, dishonesty, fraud, deceit, or
26 corruption:

- 27 a. Between May 2005 and August 2006, Respondent stole at
28 least 1,000 tablets of hydrocodone-containing schedule III
controlled substances, as well as an unknown amount of

1 diazepam, lorazepam, and butalbital containing medications
2 from Kaiser of Sacramento, while on duty as a registered
3 pharmacist.

3 **(B&P SECTION 4301(j/o)**

4 (Violation of State Statutes/Laws and Regulations)

5 21. Paragraphs 15 through 17 are incorporated herein by reference.

6 Respondent is subject to disciplinary action on the grounds of unprofessional conduct, pursuant
7 to Bus. & Prof. Code section 4301, subdivision (j), for violating the state statutes, and
8 subdivision (o) for violating laws and regulations. More specifically, the violations are based
9 upon the following acts:

- 10 a. Respondent violated Bus. & Prof. Code section 4060(a) and
11 Health and Safety Code section 11350, by unlawfully
12 possessing narcotic controlled substances without a
13 prescription. Between May 2005 and August 2006,
14 Respondent stole at least 1,000 tablets of hydrocodone-
15 containing schedule III controlled substances, as well as an
16 unknown amount of diazepam, lorazepam, and butalbital
17 containing medications from Kaiser of Sacramento, while
18 on duty as a registered pharmacist.
- 19 b. Respondent sold, dispensed, or compounded drugs while on
20 duty as a pharmacist at Kaiser of Sacramento while under
21 the influence of hydrocodone, thereby violating Bus. &
22 Prof. Code section 4327.

18 **(B&P SECTION 4301(h)**

19 (Unlawful self-administration of a controlled substance)

20 22. Paragraphs 14 through 17 are incorporated herein by reference.

21 Respondent is subject to disciplinary action pursuant to Bus. & Prof. Code section 4301,
22 subdivision (h), on the grounds of unprofessional conduct, due to his administering to himself
23 controlled substances from May 2005 to August 2006, while working as a pharmacist.

24 Additionally, Respondent stole at least 1,000 tablets of hydrocodone-containing schedule III
25 controlled substances, as well as an unknown amount of diazepam, lorazepam, and butalbital
26 containing medications from Kaiser of Sacramento, while on duty as a registered pharmacist.

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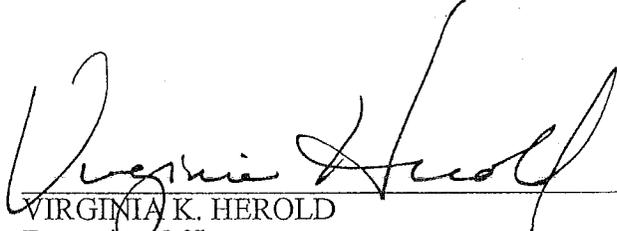
V.

PRAYER

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

1. Revoking or suspending Original Pharmacist License Number RPH 39122 issued to Gregory A. Chappell;
 2. Ordering Gregory A. Chappell to pay the reasonable costs incurred by the Board in the investigation and enforcement of this case pursuant to section 125.3 of the Code;
- and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 6/22/07



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

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