

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

In the Matter of the Accusation Against:

TERENCE W P LOK
2172 Bennington Ct
Thousand Oaks, CA 91360

Pharmacist License No. RPH 48193

Respondent.

Case No. 3139

OAH No. L-2009030940

DECISION AND ORDER

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

This decision shall become effective on January 6, 2010.

It is so ORDERED on December 7, 2009.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

Kenneth H. Schell

KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE TULLENERS
Deputy Attorney General
4 State Bar No. 157464
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2578
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 3139

12 **CITY OF ANGELS MEDICAL CENTER**
13 **PHARMACY**

OAH No. L-2009030940

13 1711 W. Temple Street
14 Los Angeles, CA 90026
Hospital Pharmacy Permit No. HSP 43766

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

15 and

16 **TERENCE W. P. LOK**
2172 Bennington Court
17 Thousand Oaks, CA 91360
18 Pharmacist License No. RPH 48193

19 Respondents.

20 In the interest of a prompt and speedy settlement of this matter, consistent with the public
21 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
22 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
23 be submitted to the Board for approval and adoption as the final disposition of the Accusation
24 solely with respect to Terence W. P. Lok. It does not apply to City of Angels Medical Center
25 Pharmacy.
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1 **PARTIES**

2 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
3 She brought this action solely in her official capacity and is represented in this matter by Edmund
4 G. Brown Jr., Attorney General of the State of California, by Desiree Tulleners, Deputy Attorney
5 General.

6 2. Respondent Terence W. P. Lok is represented in this proceeding by attorney
7 Benjamin Margolis, whose address is 1387 Monument Street, Pacific Palisades, CA 90272-2544.

8 3. On or about August 14, 1995, the Board of Pharmacy issued Pharmacist License No.
9 RPH 48193 to Terence W. P. Lok (Respondent). The Pharmacist License was in full force and
10 effect at all times relevant to the charges brought in Accusation No. 3139, and will expire on July
11 31, 2011, unless renewed.

12 **JURISDICTION**

13 4. Accusation No. 3139 was filed before the Board of Pharmacy (Board), Department of
14 Consumer Affairs, and is currently pending against Respondent Lok. The Accusation and all
15 other statutorily required documents were properly served on Respondent on December 1, 2008.
16 Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation
17 No. 3139 is attached as Exhibit A, and incorporated herein by reference.

18 **ADVISEMENT AND WAIVERS**

19 5. Respondent has carefully read, fully discussed with counsel, and understands the
20 charges and allegations in Accusation No. 3139. Respondent has also carefully read, fully
21 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
22 Order.

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

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

5 **CULPABILITY**

6 8. Respondent admits the truth of each and every charge and allegation in Accusation
7 No. 3139, except the Third Cause for Discipline and the allegations contained therein.

8 9. Respondent agrees that his Pharmacist License is subject to discipline, and he agrees
9 to be bound by the Board of Pharmacy (Board)'s imposition of discipline as set forth in the
10 Disciplinary Order below.

11 **CONTINGENCY**

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

21 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
22 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
23 effect as the originals.

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

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1 **DISCIPLINARY ORDER**

2 *IT IS HEREBY ORDERED* that Pharmacist License No. RPH 48193 issued to Respondent
3 Terence W. P. Lok (Respondent) is revoked. However, the revocation is stayed, and Respondent
4 is placed on probation for three (3) years on the following terms and conditions.

5 **1. Obey All Laws**

6 Respondent shall obey all state and federal laws and regulations.

7 Respondent shall report any of the following occurrences to the board, in writing, within
8 seventy-two (72) hours of such occurrence:

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

19 Failure to timely report such occurrence shall be considered a violation of probation.

20 **2. Report to the Board**

21 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
22 designee. The report shall be made either in person or in writing, as directed. Among other
23 requirements, respondent shall state in each report under penalty of perjury whether there has
24 been compliance with all the terms and conditions of probation. Failure to submit timely reports
25 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
26 in submission of reports as directed may be added to the total period of probation. Moreover, if
27 the final probation report is not made as directed, probation shall be automatically extended until
28 such time as the final report is made and accepted by the board.

1 **3. Interview with the Board**

2 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
3 with the board or its designee, at such intervals and locations as are determined by the board or its
4 designee. Failure to appear for any scheduled interview without prior notification to board staff,
5 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
6 the period of probation, shall be considered a violation of probation.

7 **4. Cooperate with Board Staff**

8 Respondent shall cooperate with the board's inspection program and with the board's
9 monitoring and investigation of respondent's compliance with the terms and conditions of their
10 probation. Failure to cooperate shall be considered a violation of probation.

11 **5. Continuing Education**

12 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
13 pharmacist as directed by the board or its designee.

14 **6. Notice to Employers**

15 During the period of probation, respondent shall notify all present and prospective
16 employers of the decision in case number 3139 and the terms, conditions and restrictions imposed
17 on respondent by the decision, as follows:

18 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
19 respondent undertaking any new employment, respondent shall cause their direct supervisor,
20 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
21 tenure of employment) and owner to report to the board in writing acknowledging that the listed
22 individual(s) has/have read the decision in case number 3139, and terms and conditions imposed
23 thereby. It shall be respondent's responsibility to ensure that their employer(s) and/or
24 supervisor(s) submit timely acknowledgment(s) to the board.

25 If respondent works for or is employed by or through a pharmacy employment service,
26 respondent must notify their direct supervisor, pharmacist-in-charge, and owner at every entity
27 licensed by the board of the terms and conditions of the decision in case number 3139 in advance
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1 of the respondent commencing work at each licensed entity. A record of this notification must be
2 provided to the board upon request.

3 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
4 (15) days of respondent undertaking any new employment by or through a pharmacy employment
5 service, respondent shall cause their direct supervisor with the pharmacy employment service to
6 report to the board in writing acknowledging that they has read the decision in case number 3139
7 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
8 that their employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

9 Failure to timely notify present or prospective employer(s) or to cause that/those
10 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
11 probation.

12 "Employment" within the meaning of this provision shall include any full-time,
13 part-time, temporary, relief or pharmacy management service as a pharmacist or any
14 position for which a pharmacist license is a requirement or criterion for employment,
15 whether the respondent is an employee, independent contractor or volunteer.

16 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
17 **Designated Representative-in-Charge, or Serving as a Consultant**

18 During the period of probation, respondent shall not supervise any intern pharmacist, be the
19 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
20 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
21 unauthorized supervision responsibilities shall be considered a violation of probation.

22 **8. Reimbursement of Board Costs**

23 As a condition precedent to successful completion of probation, respondent shall pay to the
24 board its costs of investigation and prosecution in the amount of five thousand dollars (\$5,000).
25 Respondent shall make said payments according to a payment schedule to be arranged with the
26 Board's designee, with the entire sum to be paid in full within the first thirty (30) months of
27 probation.
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1 There shall be no deviation from this schedule absent prior written approval by the board or
2 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
3 probation.

4 The filing of bankruptcy by respondent shall not relieve respondent of their responsibility to
5 reimburse the board its costs of investigation and prosecution.

6 **9. Probation Monitoring Costs**

7 Respondent shall pay any costs associated with probation monitoring as determined by the
8 board each and every year of probation. Such costs shall be payable to the board on a schedule as
9 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
10 be considered a violation of probation.

11 **10. Status of License**

12 Respondent shall, at all times while on probation, maintain an active, current license with
13 the board, including any period during which suspension or probation is tolled. Failure to
14 maintain an active, current license shall be considered a violation of probation.

15 If respondent's license expires or is cancelled by operation of law or otherwise at any time
16 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
17 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
18 probation not previously satisfied.

19 **11. License Surrender While on Probation/Suspension**

20 Following the effective date of this decision, should respondent cease practice due to
21 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
22 respondent may tender their license to the board for surrender. The board or its designee shall
23 have the discretion whether to grant the request for surrender or take any other action it deems
24 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
25 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
26 record of discipline and shall become a part of the respondent's license history with the board.

27 Upon acceptance of the surrender, respondent shall relinquish their pocket and wall license
28 to the board within ten (10) days of notification by the board that the surrender is accepted.

1 Respondent may not reapply for any license from the board for three (3) years from the effective
2 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
3 of the date the application for that license is submitted to the board, including any outstanding
4 costs.

5 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
6 **Employment**

7 Respondent shall notify the board in writing within ten (10) days of any change of
8 employment. Said notification shall include the reasons for leaving, the address of the new
9 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
10 shall further notify the board in writing within ten (10) days of a change in name, residence
11 address, mailing address, or phone number.

12 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
13 phone number(s) shall be considered a violation of probation.

14 **13. Tolling of Probation**

15 Except during periods of suspension, respondent shall, at all times while on probation, be
16 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.
17 Any month during which this minimum is not met shall toll the period of probation, i.e., the
18 period of probation shall be extended by one month for each month during which this minimum is
19 not met. During any such period of tolling of probation, respondent must nonetheless comply
20 with all terms and conditions of probation.

21 Should respondent, regardless of residency, for any reason (including vacation) cease
22 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,
23 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
24 must further notify the board in writing within ten (10) days of the resumption of practice. Any
25 failure to provide such notification(s) shall be considered a violation of probation.

26 It is a violation of probation for respondent's probation to remain tolled pursuant to the
27 provisions of this condition for a total period, counting consecutive and non-consecutive months,
28 exceeding thirty-six (36) months.

1 "Cessation of practice" means any calendar month during which respondent is
2 not practicing as a pharmacist for at least 40 hours, as defined by Business and
3 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
4 month during which respondent is practicing as a pharmacist for at least 40 hours as a
5 pharmacist as defined by Business and Professions Code section 4000 et seq.

6 Respondent is required to practice as a pharmacist in a licensed pharmacy setting that
7 dispenses medication for a minimum of one year prior to the completion of probation. After the
8 first year of probation, the board or its designee may consider a modification of this requirement.
9 If respondent fails to comply with this requirement or a subsequent modification thereto, such
10 failure shall be considered a violation of probation.

11 14. Violation of Probation

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

17 If respondent violates probation in any respect, the board, after giving respondent notice
18 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
19 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
20 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
21 a petition to revoke probation or an accusation is filed against respondent during probation, the
22 board shall have continuing jurisdiction and the period of probation shall be automatically
23 extended until the petition to revoke probation or accusation is heard and decided.

24 15. Completion of Probation

25 Upon written notice by the board or its designee indicating successful completion of
26 probation, respondent's license will be fully restored.

27 16. Community Services Program

28 Within sixty (60) days of the effective date of this decision, respondent shall submit to the

1 board or its designee, for prior approval, a community service program in which respondent shall
2 provide free health-care related services on a regular basis to a community or charitable facility or
3 agency for at least two hundred and fifty (250) hours before the completion of the term of
4 probation. Within thirty (30) days of board approval thereof, respondent shall submit
5 documentation to the board demonstrating commencement of the community service program. A
6 record of this notification must be provided to the board upon request. Respondent shall report on
7 progress with the community service program in the quarterly reports. Failure to timely submit,
8 commence, or comply with the program shall be considered a violation of probation.

9 **17. Remedial Education**

10 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
11 board or its designee, for prior approval, an appropriate program of remedial education related to
12 securing the drug supply within a pharmacy. The program of remedial education shall consist of
13 at least ten (10) hours, which shall be completed within one (1) year at respondent's own expense.
14 All remedial education shall be in addition to, and shall not be credited toward, continuing
15 education (CE) courses used for license renewal purposes.

16 Failure to timely submit or complete the approved remedial education shall be considered a
17 violation of probation. The period of probation will be automatically extended until such
18 remedial education is successfully completed and written proof, in a form acceptable to the board,
19 is provided to the board or its designee.

20 Following the completion of each course, the board or its designee may require the
21 respondent, at their own expense, to take an approved examination to test the respondent's
22 knowledge of the course. If the respondent does not achieve a passing score on the examination,
23 this failure shall be considered a violation of probation. Any such examination failure shall
24 require respondent to take another course approved by the board in the same subject area.

25 **18. No Ownership of Licensed Premises**

26 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
27 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
28 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell

1 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
2 days following the effective date of this decision and shall immediately thereafter provide written
3 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
4 documentation thereof shall be considered a violation of probation.

5 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
6 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
7 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
8 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
9 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
10 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
11 that interest, but only to the extent of that position or interest as of the effective date of this
12 decision. Violation of this restriction shall be considered a violation of probation.

13 **19. Report of Controlled Substances**

14 Respondent shall submit quarterly reports to the board detailing the total acquisition and
15 disposition of such controlled substances as the board may direct. Respondent shall specify the
16 manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g., from a
17 manufacturer, from another retailer, etc.) of such controlled substances. Respondent shall report
18 on a quarterly basis or as directed by the board. The report shall be delivered or mailed to the
19 board no later than ten (10) days following the end of the reporting period. Failure to timely
20 prepare or submit such reports shall be considered a violation of probation.

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22 **ACCEPTANCE**

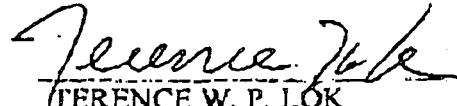
23 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
24 discussed it with my attorney, Benjamin Margolis. I understand the stipulation and the effect it
25 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
26 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order

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of the Board of Pharmacy.

DATED: 7/21/09

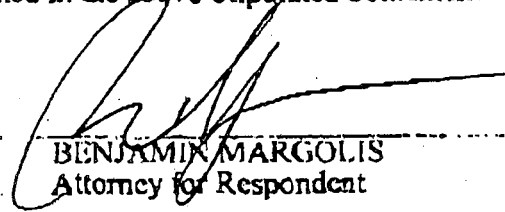


TERENCE W. P. LOK
Respondent

I have read and fully discussed with Respondent Terence W. P. Lok the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

I approve its form and content.

DATED: 7/21/09



BENJAMIN MARGOLIS
Attorney for Respondent

ENDORSEMENT

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

Dated: _____

Respectfully Submitted,

EDMUND G. BROWN JR.
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

DESIREE TULLENERS
Deputy Attorney General
Attorneys for Complainant

1 of the Board of Pharmacy.

2 DATED: _____
3 TERENCE W. P. LOK
4 Respondent.

5 I have read and fully discussed with Respondent Terence W. P. Lok the terms and
6 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

7 I approve its form and content.

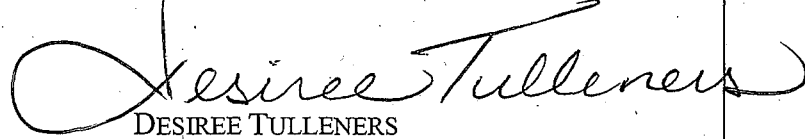
8 DATED: _____
9 BENJAMIN MARGOLIS
10 Attorney for Respondent

11 **ENDORSEMENT**

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

14 Dated: 7-22-09

15 Respectfully Submitted,
16 EDMUND G. BROWN JR.
17 Attorney General of California
18 GREGORY J. SALUTE
19 Supervising Deputy Attorney General

20 
21 DESIREE TULLENERS
22 Deputy Attorney General
23 *Attorneys for Complainant*

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Exhibit A

Accusation No. 3139

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE TULLENERS, State Bar No. 157464
Deputy Attorney General
4 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
5 Telephone: (213) 897-2578
Facsimile: (213) 897-2804
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:

Case No. 3139

12 **CITY OF ANGELS MEDICAL CENTER**
13 **PHARMACY**
1711 W. Temple Street
Los Angeles, CA 90026
Hospital Pharmacy Permit No. HSP 43766

A C C U S A T I O N

15 and

16 **TERENCE W.P. LOK**
2172 Bennington Court
17 Thousand Oaks, CA 91360
Pharmacist License No. RPH 48193
18

19 Respondents.

20
21 Complainant alleges:

22 **PARTIES**

- 23 1. Virginia Herold (Complainant) brings this Accusation solely in her official
24 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
25 2. On or about January 20, 1999, the Board of Pharmacy (Board) issued
26 Hospital Pharmacy Permit Number HSP 43766 to Respondent City of Angels Medical Center
27 Pharmacy ("Respondent Pharmacy"). The Hospital Pharmacy Permit was in full force and effect
28

1 at all times relevant to the charges brought herein, and will expire on January 1, 2009, unless renewed

2 3. On or about August 14, 1995, the Board of Pharmacy issued Pharmacist
3 License Number RPH 48193 to Respondent Terence W.P. Lok ("Respondent Lok"). His
4 Pharmacist License was in full force and effect at all times relevant to the charges brought herein,
5 and will expire on July 31, 2009, unless renewed.

6 4. Respondent Terence W.P. Lok and Respondent City of Angels Medical
7 Center Pharmacy will be referred to collectively as Respondents.

8 JURISDICTION

9 5. This Accusation is brought before the Board under the authority of the
10 following laws. All section references are to the Business and Professions Code ("Code") unless
11 otherwise indicated.

12 STATUTORY PROVISIONS

13 6. Code section 118, subdivision (b) provides that the suspension, expiration,
14 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with
15 a disciplinary action during the period within which the license may be renewed, restored,
16 reissued or reinstated.

17 7. Section 4022 of the Code states:

18 "Dangerous drug" or "dangerous device" means any drug or device unsafe
19 for self-use in humans or animals, and includes the following:

20 (a) Any drug that bears the legend: "Caution: federal law prohibits
dispensing without prescription," "Rx only," or words of similar import.

21 (b) Any device that bears the statement: "Caution: federal law restricts
22 this device to sale by or on the order of a _____," "Rx only," or words of
similar import, the blank to be filled in with the designation of the practitioner
23 licensed to use or order use of the device.

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

25 8. Section 4059.5 of the Code, subdivision (a) states:

26 Except as otherwise provided in this chapter, dangerous drugs or
27 dangerous devices may only be ordered by an entity licensed by the board and
shall be delivered to the licensed premises and signed for and received by a
28 pharmacist. Where a licensee is permitted to operate through a designated
representative, the designated representative may sign for and receive the delivery.

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9. Section 4081 of the Code states:

(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every . . . pharmacy, . . . or establishment holding a currently valid and unrevoked . . . license. . . [or] permit . . . who maintains a stock of dangerous drugs or dangerous devices.

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

....

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

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

11. Section 4127.1 of the Code, subdivision (a) states:

A pharmacy shall not compound injectable sterile drug products in this state unless the pharmacy has obtained a license from the board pursuant to this section. . . .

12. Section 4300 of the Code provides that every license may be disciplined by the Board.

13. Section 4301 of the Code states:

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

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

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

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1 **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

2 14. Hydrocodone is a semi-synthetic opioid narcotic pain reliever. When
3 mixed with acetaminophen, it is marketed under a number of trade names, including Vicodin and
4 Norco. Hydrocodone with Acetaminophen is a Schedule III controlled substance, as designated
5 by Health and Safety Code section 11056(e)(4), and is categorized as a dangerous drug pursuant
6 to Business and Professions Code section 4022.

7 15. Valium is a brand name for the anti-anxiety drug known as diazepam.
8 Diazepam is a Schedule IV controlled substance, as designated by Health and Safety Code
9 section 11057, and is categorized as a dangerous drug pursuant to Business and Professions Code
10 section 4022.

11 **REGULATORY PROVISIONS**

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

13 '"Current Inventory' as used in Sections 4081 and 4332 of the Business and
14 Professions Code shall be considered to include complete accountability for all
15 dangerous drugs handled by every licensee enumerated in Sections 4081 and
16 4332.

17 **COST RECOVERY**

18 17. Code Section 125.3 provides, in relevant part, that the Board may request
19 the administrative law judge to direct a licensee found to have committed a violation or
20 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
21 and enforcement of the case.

22 **FIRST CAUSE FOR DISCIPLINE**

23 *(Permitting Non-Pharmacists to Sign for Controlled Substances)*

24 18. Respondent Lok is subject to disciplinary action under Code section 4113,
25 subdivision (b), and section 4301, subdivisions (j) and (o), in conjunction with Code section
26 4059.5, subdivision (a), because non-pharmacists working on the premises of Respondent
27 Pharmacy signed for the receipt of controlled substances while Respondent Lok was the
28 pharmacist-in-charge.

1 19. The specific underlying factual circumstances occurred between
2 approximately August 2005 and approximately May 2006, when non-pharmacists working on the
3 premises of Respondent Pharmacy signed for the delivery of controlled substances on
4 approximately 26 occasions for a total of approximately 115,300 tablets of controlled substances.
5 The controlled substances included Norco and Valium.

6 **SECOND CAUSE FOR DISCIPLINE**

7 *(Pharmacist-in-Charge Failing to Comply with Requirements for*
8 *Adequate Acquisition and Disposition Records)*

9 20. Respondent Lok is subject to disciplinary action under Code section 4113,
10 subdivision (b), and Code section 4301, subdivisions (j) and (o), in conjunction with Code
11 section 4081, and California Code of Regulations, title 16, section 1718, for failing to maintain
12 adequate records documenting the acquisition and disposition of controlled substances. As
13 pharmacist-in-charge, Respondent Lok failed to maintain enough acquisition and disposition
14 records to indicate the location of 115,300 tablets of controlled substances. Between
15 approximately August 2005 and approximately May 2006, approximately 115,300 tablets of
16 controlled substances were received on the premises of Respondent Pharmacy, and then
17 disappeared, never arriving at their proper storage location. The acquisition and disposition
18 records were inadequate to locate the missing drugs.

19 **THIRD CAUSE FOR DISCIPLINE**

20 *(Unlicensed Sterile Compounding)*

21 21. Respondent Lok is subject to disciplinary action under Code section 4113,
22 subdivision (b), section 4127.1, subdivision (a), and section 4301, subdivision (o), because
23 unlicensed sterile compounding of drugs occurred on the premises of Respondent Pharmacy
24 while Respondent Lok was the pharmacist-in-charge. A Board inspection on November 16,
25 2006, revealed that unlicensed sterile compounding was taking place on the premises of
26 Respondent Pharmacy.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 *(Permitting Non-Pharmacists to Sign for Controlled Substances)*

3 22. Respondent Pharmacy is subject to disciplinary action under Code sections
4 4059.5, subdivision (a), and 4301, subdivision (o), in that Respondent Pharmacy permitted non-
5 pharmacists to sign for controlled substances, as set forth above in paragraphs 18-21.
6 Complainant refers to and incorporates all the allegations set forth in paragraphs 18-21, as though
7 set forth fully.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 *(Unlicensed Sterile Compounding)*

10 23. Respondent Pharmacy is subject to disciplinary action under Code sections
11 4127.1, and 4301, subdivision (o), in that the unlicensed sterile compounding of drugs occurred
12 on the premises of Respondent Pharmacy, as set forth above in paragraph 21. Complainant now
13 refers to and incorporates all of the allegations in paragraph 21, as though set forth fully.

14 **SIXTH CAUSE FOR DISCIPLINE**

15 *(Failure to Maintain Adequate Records Regarding the*
16 *Acquisition and Disposition of Dangerous Drugs)*

17 24. Respondent Pharmacy is subject to disciplinary action under Code section
18 4081, subdivision (b), section 4301, subdivision (o), and California Code of Regulations, title 16,
19 section 1718, for failing to maintain adequate records regarding the acquisition and disposition of
20 dangerous drugs, as set forth above in paragraph 20. Complainant refers to and incorporates all
21 of the allegations of paragraph 20, as though set forth fully.

22 **PRAYER**

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

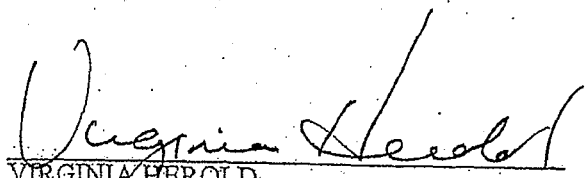
- 25 1. Revoking or suspending Hospital Pharmacy Permit Number HSP 43766,
26 issued to Respondent Pharmacy;
- 27 2. Revoking or suspending Pharmacist License Number RPH 48193, issued
28 to Respondent Lok;

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3. Ordering Respondents to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and

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

DATED: 11/17/08



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