

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

In the Matter of the Accusation Against:

LORI ANN FENIX
3855 Royal Manor Place
Santa Rosa, CA 95404

Pharmacist License No. RPH 51014

Respondent.

Case No. 3141

OAH No. N2008060361

DECISION AND ORDER

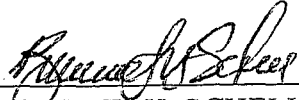
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 5, 2008.

It is so ORDERED October 6, 2008.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

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
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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:

11 LORI ANN FENIX
12 3855 Royal Manor Place
Santa Rosa, CA 95404

13 Pharmacist License No. RPH 51014

14 Respondent.

Case No. 3141

OAH No. N2008060361

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15
16 In the interest of a prompt and speedy settlement of this matter, consistent with the
17 public interest and responsibility of the Board of Pharmacy, Department of Consumer Affairs,
18 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
19 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

20
21 PARTIES

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

26 2. Lori Ann Fenix (Respondent) is represented in this proceeding by attorney
27 Donald B. Brown, whose address is Law Offices of Brown & Brown, 3848 Carson Street, Suite
28 206, Torrance, California 90503 (telephone (310) 792-1315).

1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in
3 Accusation No. 3141.

4 9. Respondent agrees that her Pharmacist License is subject to discipline and
5 she agrees to be bound by the Board of Pharmacy (Board)'s imposition of discipline as set forth
6 in the Disciplinary Order below.

7
8 RESERVATION

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

12
13 CONTINGENCY

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

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

1 DISCIPLINARY ORDER

2 IT IS HEREBY ORDERED that Pharmacist License No. 51014, issued to Lori
3 Ann Fenix (Respondent), is revoked. However, the revocation is stayed and Respondent is
4 placed on probation for three (3) years on the following terms and conditions.

5 1. **Obey All Laws.** Respondent shall obey all state and federal laws and
6 regulations substantially related to or governing the practice of pharmacy.

7 Respondent shall report any of the following occurrences to the Board, in writing,
8 within 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
11 controlled substances laws
12 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
13 any criminal complaint, information or indictment
14 • a conviction of any crime
15 • discipline, citation, or other administrative action filed by any state and federal
16 agency which involves Respondent's license or which is related to the practice
17 of pharmacy or the manufacturing, obtaining, handling or distribution or billing
18 or charging for any drug, device or controlled substance.

19 2. **Reporting to the Board.** Respondent shall report to the Board on a
20 quarterly basis, in person or in writing, as directed. In each such report, Respondent shall state
21 under penalty of perjury whether there has been compliance with all the terms and conditions
22 of probation. Failure to make any report timely and complete as directed shall be considered a
23 violation of probation. If the final probation report is not made as directed, probation shall be
24 extended automatically until such time as the final report is made and accepted by the Board.

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

1 4. **Cooperation with Board Staff.** Respondent shall cooperate with the
2 Board's inspection program and in the Board's monitoring and investigation of Respondent's
3 compliance with the terms and conditions of her probation. Failure to cooperate or comply
4 with Board monitoring or investigation shall be considered a violation of probation.

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

7 6. **Community Services Program.** Within sixty (60) days of the effective
8 date of this decision, Respondent shall submit to the Board or its designee, for prior approval,
9 a community service program in which Respondent agrees to provide free health-care related
10 services on a regular basis to a community or charitable facility or agency for a total of at least
11 300 hours during the first two (2) years of probation, and shall subsequently serve said hours
12 in timely fashion. The hours served shall be in addition to and not include any hours already
13 served or to be served for requirements imposed by another authority or agency (e.g., criminal
14 probation). Respondent shall include in her quarterly reporting to the Board a running tally
15 and assessment of the hours served. Failure to timely report on, or to make timely progress
16 toward completion of, the service hours shall be considered a violation of probation.

17 7. **Rehabilitation Program - Pharmacists Recovery Program (PRP).**

18 Within thirty (30) days of the effective date of this decision, Respondent shall
19 contact the Pharmacists Recovery Program (PRP) for evaluation and shall successfully
20 participate in and complete the treatment contract and any subsequent addendums as
21 recommended and provided by the PRP and as approved by the Board. The costs for PRP
22 participation shall be borne by Respondent. If Respondent is currently enrolled in the PRP,
23 said participation is now mandatory and is no longer considered a self-referral under Business
24 and Professions Code section 4363, as of the effective date of this decision. Respondent shall
25 hereafter successfully participate in and complete her current contract and any subsequent
26 addendums with the PRP. Probation shall be automatically extended until Respondent
27 successfully completes any such treatment contract(s).

28 ///

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

5 8. **Random Drug Screening.** Respondent, at her own expense, shall
6 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 Testing shall be required 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. Upon such suspension, Respondent
14 may not resume the practice of pharmacy until notified by the Board in writing.

15 9. **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 a drug is lawfully prescribed by a licensed practitioner
18 as part of a documented medical treatment. Upon request of the Board, Respondent shall
19 provide documentation from the licensed practitioner that the prescription was legitimately
20 issued and is a necessary part of the treatment of the Respondent.

21 10. **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.

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28 ///

1 11. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
2 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern
3 pharmacist or perform any duties of a preceptor, nor shall Respondent be the pharmacist-in-
4 charge of any entity licensed by the Board during the period of probation.

5 12. **Supervised Practice.** Respondent shall practice only under supervision
6 of a pharmacist not on probation with the Board, and shall not practice until the supervisor is
7 approved by the Board. The supervision shall be, as required by the Board, either:

8 Continuous - 75% to 100% of a work week;

9 Substantial - At least 50% of a work week;

10 Partial - At least 25% of a work week; or

11 Daily Review - Supervisor's review of daily activities within 24 hours.

12 Within 30 days of the effective date of this decision, Respondent shall have her supervisor
13 submit notification to the Board in writing stating the supervisor has read the decision in Case
14 Number 3141 and is familiar with the level of supervision as determined by the Board.

15 If Respondent changes employment, Respondent shall have her new supervisor,
16 within 15 days after employment commences, submit notification to the Board in writing
17 stating the direct supervisor and pharmacist-in-charge have read the decision in Case Number
18 3141 and is familiar with the level of supervision as determined by the Board.

19 13. **Notice to Employers.** Respondent shall notify all present and
20 prospective employers of the decision in Case Number 3141 and the terms, conditions and
21 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
22 this decision, and within 15 days of Respondent undertaking new employment, Respondent
23 shall cause her direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
24 writing acknowledging the employer has read the decision in Case Number 3141.

25 If Respondent works for or is employed by or through a pharmacy employment
26 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
27 every pharmacy of the and terms conditions of the decision in Case Number 3141 in advance
28 of the Respondent commencing work at each pharmacy.

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

3 14. **Notification of Employment/Mailing Address Change.** Respondent
4 shall notify the Board in writing within ten (10) days of any change of employment. Said
5 notification shall include the reasons for leaving and/or the address of the new employer,
6 supervisor or owner and work schedule if known. Respondent shall notify the Board in
7 writing within ten (10) days of a change in name, mailing address or phone number. Failure to
8 timely provide either notification to the Board shall be considered a violation of probation.

9 15. **Reimbursement of Board Costs.** Respondent shall pay to the Board
10 its costs of investigation and prosecution in the amount of \$7,700.00. Payments shall be due
11 on a quarterly basis, with the entire amount to be paid within two (2) years. Failure to make
12 timely payments of Board costs as directed shall be considered a violation of probation.

13 The filing of bankruptcy by Respondent shall not relieve Respondent of her
14 responsibility to reimburse the Board its costs of investigation and prosecution.

15 16. **Probation Monitoring Costs.** Respondent shall pay costs associated
16 with probation monitoring as determined by the Board each and every year of probation. Such
17 costs shall be payable to the Board at the end of each year of probation. Failure to timely pay
18 such costs as directed shall be considered a violation of probation.

19 17. **Status of License.** Respondent shall, at all times while on probation,
20 maintain an active current license with the Board, including any period during which a period
21 of suspension or probation is tolled.

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

25 18. **Tolling of Probation.** Respondent shall work at least forty (40) hours
26 as a pharmacist in each calendar month and at least an average of eighty (80) hours per month
27 in any six (6) consecutive months. Failure to do so will be considered a violation of
28 probation. If Respondent has not complied with this condition during the probationary term,

1 and Respondent has presented sufficient documentation of her good faith efforts to comply
2 with this condition, and if no other conditions have been violated, the Board, in its discretion,
3 may grant an extension of Respondent's probation period of up to one (1) year without further
4 hearing in order to comply with this condition.

5 Should Respondent, regardless of residency, for any reason cease practicing
6 pharmacy for a minimum of forty (40) hours per calendar month in California, Respondent
7 must notify the Board in writing within ten (10) days of cessation of the practice of pharmacy
8 or the resumption of the practice of pharmacy. Such periods of time shall not apply to the
9 reduction of the probation period. It is a violation of probation for Respondent's probation to
10 remain tolled pursuant to this term and condition for a period exceeding three (3) years.

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

13 **19. License Surrender while on Probation/Suspension.** Following the
14 effective date of this decision, should Respondent cease practice due to retirement or health, or
15 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender
16 her license to the Board for surrender. The Board shall have the discretion whether to grant
17 the request for surrender or take any other action it deems appropriate and reasonable. Upon
18 formal acceptance of the surrender of the license, Respondent will no longer be subject to the
19 terms and conditions of the probation set forth herein. Upon acceptance of the surrender,
20 Respondent shall relinquish her pocket license to the Board within ten (10) days of
21 notification by the Board that the surrender of the license is accepted.

22 Respondent may not reapply for any license from the Board for three (3) years
23 from the effective date of the surrender. Respondent shall meet all requirements applicable to
24 the license sought as of the date the application for that license is submitted to the Board.

25 **20. Violation of Probation.** If Respondent violates probation in any
26 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
27 probation and carry out the disciplinary order which was stayed. If a petition to revoke
28 probation or an accusation is filed against Respondent during probation, the Board shall have

1 continuing jurisdiction and the period of probation shall be extended, until the petition to
2 revoke probation or accusation is heard and decided.

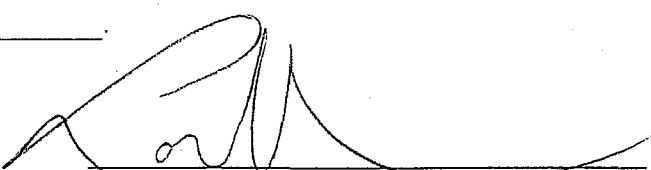
3 If Respondent has not complied with any term or condition of probation, the
4 Board shall have continuing jurisdiction over Respondent, and probation shall automatically
5 be extended until all terms and conditions have been satisfied or the Board has taken other
6 action as deemed appropriate to treat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

8 21. **Completion of Probation.** Upon successful completion of probation,
9 Respondent's license will be fully restored.

10
11 ACCEPTANCE


12 I have carefully read the above Stipulated Settlement and Disciplinary Order
13 and have fully discussed it with my attorney, Donald B. Brown. I understand the stipulation
14 and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement
15 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
16 Decision and Order of the Board of Pharmacy.

17 DATED: 8/5/08

18
19 
20 LORI ANN FENIX
21 Respondent

22 I have read and fully discussed with Respondent Lori Ann Fenix the terms and
23 conditions and other matters contained in the above Stipulated Settlement and Disciplinary
24 Order. I approve its form and content.

25 DATED: AUG - 7 2008

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28 DONALD B. BROWN
Attorney for Respondent

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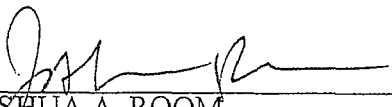
ENDORSEMENT

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

DATED: 8/21/08

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

FRANK H. PACOE
Supervising Deputy Attorney General



JOSHUA A. ROOM
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SF2008400038
20128486.wpd

Exhibit A
Accusation No. 3141

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
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8 **BEFORE THE**
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9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 3141

11 LORI ANN FENIX
12 3855 Royal Manor Place
Santa Rosa, CA 95404

A C C U S A T I O N

13 Pharmacist License No. RPH 51014

14 Respondent.
15

16
17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about September 1, 1999, the Board of Pharmacy issued Pharmacist
22 License No. RPH 51014 to Lori Ann Fenix (Respondent). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on September
24 30, 2009, unless renewed.

25 JURISDICTION

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

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

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

6 6. Section 118(b) of the Code provides, in pertinent part, that the suspension,
7 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
8 proceed with a disciplinary action during the period within which the license may be renewed,
9 restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license
10 that is not renewed within three years following its expiration may not be renewed, restored, or
11 reinstated and shall be canceled by operation of law at the end of the three-year period. Section
12 4402(e) of the Code provides that any other license issued by the Board may be canceled by the
13 Board if not renewed within 60 days after its expiration, and any license canceled in this fashion
14 may not be reissued but will instead require a new application to seek reissuance.

15 STATUTORY PROVISIONS

16 7. Section 4301 of the Code provides, in pertinent part, that the Board shall
17 take action against any holder of a license who is guilty of “unprofessional conduct,” defined to
18 include, but not be limited to, any of the following:

19

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

23

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

1
2 “(j) The violation of any of the statutes of this state or of the United States
3 regulating controlled substances and dangerous drugs.

4
5 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or
6 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
7 applicable federal and state laws and regulations governing pharmacy, including regulations
8 established by the board.

9 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any
10 dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

11 9. Section 4060 of the Code provides, in pertinent part, that no person shall
12 possess any controlled substance, except that furnished upon a valid prescription/drug order.

13 10. Health and Safety Code section 11170 provides that no person shall
14 prescribe, administer, or furnish a controlled substance for himself or herself.

15 11. Health and Safety Code section 11173, subdivision (a), provides that no
16 person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
17 the administration of or prescription for controlled substances, (1) by fraud, deceit,
18 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

19 12. Health and Safety Code section 11350, in pertinent part, makes it unlawful
20 to possess any controlled substance classified in Schedule III, IV, or V (Health and Safety Code
21 sections 11056-11058) which is a narcotic drug, except upon a valid prescription.

22 13. Health and Safety Code section 11377, in pertinent part, makes it unlawful
23 to possess any controlled substance classified in Schedule III, IV, or V (Health and Safety Code
24 sections 11056-11058) which is not a narcotic drug, except upon a valid prescription.

25 14. Health and Safety Code section 11550, in pertinent part, makes it unlawful
26 for any person to use or be under the influence of any controlled substance classified in Schedule
27 III, IV, or V (Health and Safety Code sections 11056-11058) which is a narcotic drug, except
28 when administered by or under the direction of an authorized licensee.

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

4 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

5 16. Section 4021 of the Code states:

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

8 17. Section 4022 of the Code states, in pertinent part:

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

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

13 ...
14 “(c) Any other drug or device that by federal or state law can be lawfully
15 dispensed only on prescription or furnished pursuant to Section 4006.”

16 18. **Norco** and **Vicodin** are among the brand names for compounds of varying
17 dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled substance as
18 designated by Health and Safety Code section 11056(e)(4) and a dangerous drug as designated by
19 Business and Professions Code section 4022. These are narcotic pain relief drugs.

20 19. **Xanax** is a brand name for **alprazolam**, a Schedule IV controlled
21 substance as designated by Health and Safety Code section 11057(d)(1) and a dangerous drug as
22 designated by Business and Professions Code section 4022. It is a depressant drug.

23 20. **Motrin** is a brand name for **ibuprofen**, a pain reliever; at 400mg strength
24 or above it is a dangerous drug as designated by Business and Professions Code section 4022.

25 21. **Penicillin** is an antibiotic and a dangerous drug as designated by Business
26 and Professions Code section 4022.

27 22. **Senna** is an herbal over-the-counter (non-prescription) drug product used
28 to treat constipation (sometimes sold under the brand name **Senokot**).

1 FACTUAL BACKGROUND

2 23. Between in or about February 1998 and in or about November 2006, the
3 Respondent was employed as a pharmacist by Rite Aid Corporation. For at least part of that time
4 she was employed at a Rite Aid Pharmacy in Rohnert Park, California, and for at least part of her
5 time at the Rohnert Park store Respondent served as the Pharmacist-in-Charge.

6 24. During her employment at Rite Aid, and including while Respondent was
7 on duty as a pharmacist and/or as the Pharmacist-in-Charge, Respondent took/stole from the Rite
8 Aid Pharmacy stock, for her own use, controlled substances and/or dangerous drugs. The exact
9 dates of all diversion and self-use are not known, but this conduct took place on at least several
10 dates in the latter half of 2006. Similarly, the exact types and quantities of all drugs taken are not
11 known, but the drugs diverted for self-use included at least 30 tablets of controlled substance and
12 dangerous drug **alprazolam (Xanax)**, at least 2 tablets of dangerous drug (prescription strength)
13 **ibuprofen** (400 mg), at least 14 tablets of dangerous drug **penicillin**, and at least 100 tablets of
14 non-prescription drug **senna**. All of these drugs were diverted for Respondent's self-use.

15 25. In addition, Respondent improperly took from Rite Aid Pharmacy and/or
16 had in her possession at least two (2) bottles/vials each containing 30 tablets of **Vicodin** or other
17 **hydrocodone**-containing products, which had been dispensed to Patients R.W. and J.L.¹, and for
18 which Respondent has neither prescriber nor patient authorization for possession or use. These
19 drugs were dispensed and/or picked up by Respondent on September 12 and October 14, 2006.

20
21 FIRST CAUSE FOR DISCIPLINE

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

23 26. Respondent is subject to discipline under section 4301(f) of the Code in
24 that Respondent, as described in paragraphs 24-25 above, committed acts involving moral
25 turpitude, dishonesty, fraud, deceit, or corruption.

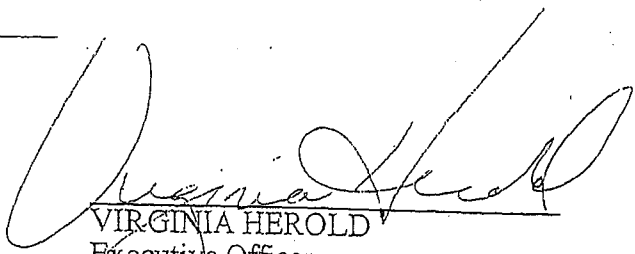
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28 1. The full names of these patients can be provided to Respondent during discovery.

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

DATED: 4/10/08



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

SF2008400038

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