

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

In the Matter of the Accusation Against:

**DARYL SCOTT WOLFE**

1529 Golf Course Drive  
Windsor, CA 95492

Pharmacist License No. RPH 46273

Respondent.

Case No. 3152

OAH No. 2009040720

**DECISION AND ORDER**

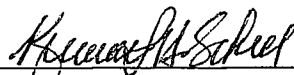
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 25, 2009.

It is so ORDERED October 26, 2009.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

  
\_\_\_\_\_  
KENNETH H. SCHELL  
Board President

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM  
Deputy Attorney General  
4 State Bar No. 214663  
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*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 **DARYL SCOTT WOLFE**  
12 **1529 Golf Course Drive**  
13 **Windsor, CA 95492**

14 **Pharmacist License No. RPH 46273**

15 Respondent.

Case No. 3152

OAH No. 2009040720

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

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

21  
22 PARTIES

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

26 2. Respondent Daryl Scott Wolfe (Respondent) is represented in this proceeding by  
27 attorney Donald B. Brown, whose address is Law Offices of Brown & Brown, 3848 Carson  
28 Street, Suite 206, Torrance, CA 90503 (Telephone: (310) 792-1315).



1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 3152.

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

7  
8 RESERVATION

9 10. The admissions made by Respondent herein are only made for the purposes of this  
10 proceeding, or any other proceedings in which the Board or other professional licensing agency is  
11 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. Respondent  
15 understands and agrees that counsel for Complainant and the staff of the Board may communicate  
16 directly with the Board regarding this stipulation and settlement, without notice to or participation  
17 by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees  
18 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the  
19 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and  
20 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for  
21 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall  
22 not be disqualified from further action by having considered this matter.

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

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

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Pharmacist License No. RPH 46273, issued to Daryl Scott Wolfe (Respondent), is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. **Suspension.** License number RPH 46273, issued to Respondent Daryl Scott Wolfe, is suspended for one hundred twenty (120) days from the effective date of this decision. Upon provision of documentation showing to the satisfaction of the Board or its designee that at any time since January 1, 2008 Respondent has been suspended or otherwise prohibited from working as a pharmacist at the direction of the Pharmacists Recovery Program or other treatment program, Respondent may receive credit against this suspension period for such documented period(s).

During suspension, Respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

During suspension, Respondent shall not engage in any activity requiring the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the Board. Subject to the above restrictions, Respondent may continue to own or hold an interest in any pharmacy in which he holds an interest at the time this decision becomes effective unless otherwise specified in this order.

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

Respondent shall report any of the following occurrences to the Board, in writing, within seventy-two (72) hours:

1 • an arrest or issuance of a criminal complaint for violation of any provision of the  
2 Pharmacy Law, state or federal food and drug laws, or state or federal controlled substances laws;

3 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
4 criminal complaint, information or indictment;

5 • a conviction of any crime; or

6 • discipline, citation, or other administrative action filed by any state or federal agency  
7 involving Respondent's license or which is related to practice of pharmacy or the manufacturing,  
8 obtaining, handling, distribution, billing or charging for any drug, device or controlled substance.

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

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

19 **5. Cooperation with Board Staff.** Respondent shall cooperate with the Board's  
20 inspection program and in the Board's monitoring and investigation of Respondent's compliance  
21 with the terms and conditions of his probation. Failure to cooperate or comply with Board  
22 monitoring or investigation shall be considered a violation of probation.

23 **6. Rehabilitation Program - Pharmacists Recovery Program (PRP).** Within thirty  
24 (30) days of the effective date of this decision, Respondent shall contact the Pharmacists  
25 Recovery Program (PRP) for evaluation and shall successfully participate in and complete the  
26 treatment contract and any subsequent addendums as recommended and provided by the PRP and  
27 as approved by the Board. The costs for PRP participation shall be borne by Respondent.  
28

1 If Respondent is currently enrolled in the PRP, said participation is now mandatory and is  
2 no longer considered a self-referral under Business and Professions Code section 4363, as of the  
3 effective date of this decision. Respondent shall hereafter successfully participate in and  
4 complete his current contract and any subsequent addendums with the PRP. Probation shall be  
5 automatically extended until Respondent successfully completes any such treatment contract(s).

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

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

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

26 **9. No Preceptorships or Pharmacist-in-Charge Duties.** Respondent shall not  
27 supervise any intern pharmacist or perform any duties of a preceptor, nor shall Respondent be the  
28 pharmacist-in-charge of any entity licensed by the Board during the period of probation.

1           10. **No Ownership of Premises.** Respondent shall not own, have any legal or beneficial  
2 interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of  
3 any business, firm, partnership, or corporation currently or hereinafter licensed by the Board.  
4 Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the  
5 Board within ninety (90) days following the effective date of this decision and shall immediately  
6 thereafter provide written proof thereof to the Board.

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

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

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

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

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

14           Within 30 days of the effective date of this decision, Respondent shall have his supervisor  
15 submit notification to the Board in writing stating the supervisor has read the decision in Case  
16 Number 3152 and is familiar with the level of supervision as determined by the Board.

17           If Respondent changes employment, Respondent shall have his new supervisor, within  
18 fifteen (15) days after employment commences, submit notification to the Board in writing stating  
19 the direct supervisor and pharmacist-in-charge have read the decision in Case Number 3152 and  
20 is/are familiar with the required level of supervision as determined by the Board.

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

27                   ///

28                   ///



1           13. **Notice to Employers.** Respondent shall notify all present and prospective employers  
2 of the decision in Case Number 3152 and the terms, conditions and restrictions imposed on  
3 Respondent by the decision. Within thirty (30) days of the effective date of this decision, and  
4 within fifteen (15) days of Respondent undertaking new employment, Respondent shall cause his  
5 direct supervisor, pharmacist-in-charge and/or owner to report to the Board in writing  
6 acknowledging the employer(s) has/have read the decision in Case Number 3152.

7           If Respondent works for or is employed by or through a pharmacy employment service,  
8 Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every  
9 pharmacy of the and terms conditions of the decision in Case Number 3152 in advance of the  
10 Respondent commencing work at each pharmacy.

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

14           14. **Reimbursement of Board Costs.** Respondent shall pay to the Board its costs of  
15 investigation and prosecution in the amount of \$5,000.00 within ninety (90) days of the effective  
16 date of decision, unless Respondent requests a payment schedule in which case equal payments  
17 shall be due on a quarterly basis, with the entire amount to be paid within four (4) years. Failure  
18 to make timely payments of Board costs as directed shall be considered a violation of probation.

19           The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to  
20 reimburse the Board its costs of investigation and prosecution.

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

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

28           ///

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

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

6 **18. Tolling of Probation.** Except during periods of suspension, should Respondent,  
7 regardless of residency, for any reason cease practicing pharmacy for a minimum of forty (40)  
8 hours per calendar month in California, Respondent must notify the Board in writing within ten  
9 (10) days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy.  
10 Such periods of time shall not apply to the reduction of the probation period. It is a violation of  
11 probation for Respondent's probation to remain tolled pursuant to this term and condition for a  
12 period exceeding three (3) years. "Cessation of practice" means any period of time exceeding  
13 thirty (30) days in which Respondent is not engaged in the practice of pharmacy as defined in  
14 Section 4052 of the Business and Professions Code.

15 **19. Tolling of Suspension.** If Respondent leaves California to reside or practice outside  
16 the state for any period exceeding 10 days (including vacation), he shall notify the Board in  
17 writing of the dates of departure and return. Periods of residency or practice outside the state - or  
18 any absence exceeding a period of 10 days - shall not apply to reduction of the suspension period.

19 Respondent shall not practice pharmacy upon returning to this state until notified by the  
20 Board that the period of suspension has been completed.

21 **20. License Surrender while on Probation/Suspension.** Following the effective date of  
22 this decision, should Respondent cease practice due to retirement or health, or be otherwise  
23 unable to satisfy the terms and conditions of probation, Respondent may tender his license to the  
24 Board for surrender. The Board shall have the discretion whether to grant the request for  
25 surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance  
26 of the surrender of the license, Respondent will no longer be subject to the terms and conditions  
27 of the probation set forth herein. Upon acceptance of the surrender, Respondent shall relinquish  
28 his license to the Board within ten (10) days of notification by the Board of acceptance.

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

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

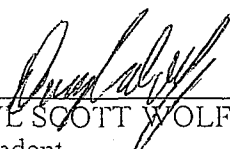
9 If Respondent has not complied with any term or condition of probation, the Board shall  
10 have continuing jurisdiction over Respondent, and probation shall automatically be extended until  
11 all terms and conditions have been satisfied or the Board has taken other action as deemed  
12 appropriate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

14 **22. Completion of Probation.** Upon successful completion of probation, Respondent's  
15 license will be fully restored.

16  
17  
18 ACCEPTANCE


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

24  
25 DATED: 6-24-09

26   
DARYE SCOTT WOLFE  
27 Respondent  
28

1 I have read and fully discussed with Respondent Daryl Scott Wolfe the terms and  
2 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
3 I approve its form and content.

4 DATED: JUN 26 2009

  
DONALD B. BROWN  
Attorney for Respondent


7 ENDORSEMENT

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

10 Dated: 7/21/09

11 Respectfully Submitted,

12 EDMUND G. BROWN JR.  
13 Attorney General of California  
14 FRANK H. PACOE  
15 Supervising Deputy Attorney General

  
16 JOSHUA A. ROOM  
17 Deputy Attorney General  
18 *Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 3152**

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

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. 3152

11 DARYL SCOTT WOLFE  
12 1529 Golf Course Drive  
Windsor, CA 95492

**ACCUSATION**

13  
14 Pharmacist License No. RPH 46273

15 Respondent.

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 August 10, 1993, the Board of Pharmacy issued Pharmacist  
22 License No. RPH 46273 to Daryl Scott Wolfe (Respondent). The License was in full force and  
23 effect at all times relevant to these charges and will expire on October 31, 2008, unless renewed.

24 JURISDICTION

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

28 ///



1  
2           “(o) Violating or attempting to violate, directly or indirectly, or assisting in or  
3 abetting the violation of or conspiring to violate any provision or term of this chapter or of the  
4 applicable federal and state laws and regulations governing pharmacy, including regulations  
5 established by the board.

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

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

10          10.       Section 4327 of the Code makes it unlawful for any person, while on duty,  
11 to sell, dispense or compound any drug while under the influence of a dangerous drug or alcohol.

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

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

18          13.       Health and Safety Code section 11350, in pertinent part, makes it unlawful  
19 to possess any controlled substance listed in Schedule II (Health and Safety Code section 11055),  
20 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

21          14.       Health and Safety Code section 11550, in pertinent part, makes it unlawful  
22 for any person to use or be under the influence of any controlled substance in Schedule II (Health  
23 and Safety Code section 11055), subdivision (b) or (c), or any narcotic drug in Schedules III-V,  
24 except when administered by or under the direction of an authorized licensee.

25                   CONTROLLED SUBSTANCES / DANGEROUS DRUGS

26          15.       Section 4021 of the Code states:

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





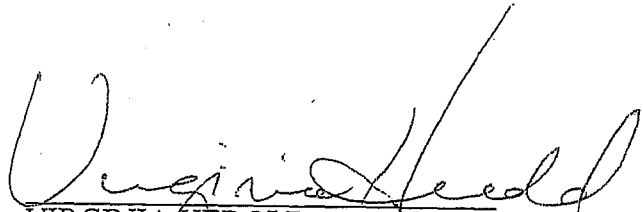




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- A. Revoking or suspending Pharmacist License Number RPH 3152, issued to Daryl Scott Wolfe (Respondent);
- B. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- C. Taking such other and further action as is deemed necessary and proper.

DATED: 8/14/08

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

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