

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

In the Matter of the Accusation Against:

Case No. 3762

HILTON WONG
33272 Martin Street
Fremont, CA 94555

Pharmacist License No. RPH 40772

Respondent.

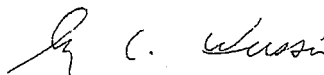
DECISION AND ORDER

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 March 28, 2012.

It is so ORDERED on February 27, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
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. 3762

11 **HILTON WONG**
12 33272 Martin Street
13 Fremont, CA 94555

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **Pharmacist License No. RPH 40772**

15 Respondent.

16 In the interest of a prompt and speedy settlement of this matter, consistent with the public
17 interest and the responsibility of the Board of Pharmacy of the 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 PARTIES

21 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought
22 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,
23 Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

24 2. Hilton Wong (Respondent) is representing himself in this proceeding and has chosen
25 not to exercise his right to be represented by counsel.

26 3. On or about March 17, 1987, the Board of Pharmacy issued Pharmacist License No.
27 RPH 40772 to Respondent. The License was in full force and effect at all times relevant to the
28 charges brought in Accusation No. 3762 and will expire on March 31, 2013, unless renewed.

1. CULPABILITY

2. 8. Respondent admits the truth of each and every charge and allegation in Accusation
3. No. 3762.

4. 9. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
5. to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

6. RESERVATION

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

10. CONTINGENCY

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

20. 12. The parties understand and agree that facsimile copies of this stipulation, including
21. facsimile signatures thereto, shall have the same force and effect as the originals.

22. 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
23. integrated writing representing the complete, final, and exclusive embodiment of their agreement.
24. It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
25. negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
26. Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
27. writing executed by an authorized representative of each of the parties.

28. ///

1 14. In consideration of the foregoing, the parties agree that the Board may, without
2 further notice or formal proceeding, issue and enter the following Disciplinary Order:

3
4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Pharmacist License No. RPH 40772, issued to Hilton
6 Wong (Respondent), is revoked. However, the revocation is stayed and Respondent is placed on
7 probation for five (5) years on the following terms and conditions.

8 1. **Suspension**

9 As part of probation, Respondent is suspended from the practice of pharmacy for 90 days
10 beginning on the effective date of this decision. Upon timely provision of documentation by
11 Respondent showing to the satisfaction of the board or its designee that at any time since January
12 1, 2009, Respondent has not worked as a pharmacist because he was (a) resident in an in-patient
13 treatment program for alcohol and/or drug abuse, or (b) suspended or otherwise prohibited from
14 working as a pharmacist at the direction of the Pharmacists Recovery Program, Respondent may
15 receive credit against this suspension period for such documented period(s) of non-work.

16 During suspension, respondent shall not enter any pharmacy area or any portion of the
17 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
18 drugs licensed by the board, or any manufacturer, or where dangerous drugs and devices or
19 controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
20 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
21 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
22 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
23 and controlled substances. Respondent shall not resume practice until notified by the board.

24 During suspension, respondent shall not engage in any activity that requires the
25 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
26 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
27 designated representative for any entity licensed by the board.

28 Failure to comply with this suspension shall be considered a violation of probation.

1 **2. Tolling of Suspension**

2 During the period of suspension, Respondent shall not leave California for any period
3 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
4 of ten (10) days during suspension shall be considered a violation of probation.

5 Moreover, any absence from California during the period of suspension exceeding ten (10)
6 days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over
7 ten (10) days Respondent is absent from California. During any such period of tolling of
8 suspension, Respondent must nonetheless comply with all terms and conditions of probation.

9 Respondent must notify the board in writing within ten (10) days of departure, and must
10 further notify the board in writing within ten (10) days of return. The failure to provide such
11 notification(s) shall constitute a violation of probation. Upon such departure and return,
12 Respondent shall not resume the practice of pharmacy until notified by the board that the period
13 of suspension has been satisfactorily completed.

14 **3. Obey All Laws**

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

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

- 18 • an arrest or issuance of a criminal complaint for violation of any provision of the
19 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
20 substances laws
21 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
22 criminal complaint, information or indictment
23 • a conviction of any crime
24 • discipline, citation, or other administrative action filed by any state or federal agency
25 which involves Respondent's pharmacist license or which is related to the practice of
26 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
27 for any drug, device or controlled substance.

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

4. Report to the Board

 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
 designee. The report shall be made either in person or in writing, as directed.

1 Among other requirements, Respondent shall state in each report under penalty of perjury
2 whether there has been compliance with all the terms and conditions of probation. Failure to
3 submit timely reports in a form as directed shall be considered a violation of probation. Any
4 period(s) of delinquency in submission of reports as directed may be added to the total period of
5 probation. Moreover, if the final probation report is not made as directed, probation shall be
6 automatically extended until such time as the final report is made and accepted by the board.

7 **5. Interview with the Board**

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

13 **6. Cooperate with Board Staff**

14 Respondent shall cooperate with the board's inspection program and with the board's
15 monitoring and investigation of Respondent's compliance with the terms and conditions of his
16 probation. Failure to cooperate shall be considered a violation of probation.

17 **7. Continuing Education**

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

20 **8. Notification of Change in Employment, Name, Address(es), or Phone(s)**

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

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

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1 **9. Tolling of Probation**

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

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

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

16 "Cessation of practice" means any calendar month during which Respondent is
17 not practicing as a pharmacist for at least forty (40) hours, as defined by Business and
18 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
19 month during which Respondent is practicing for at least forty (40) hours as a
20 pharmacist as defined by Business and Professions Code section 4000 et seq.

21 **10. Supervised Practice**

22 During the period of probation, Respondent shall practice only under the supervision of a
23 licensed pharmacist not on probation with the board. Upon and after the effective date of this
24 decision, Respondent shall not practice pharmacy and his license shall be automatically
25 suspended until a supervisor is approved by the board or its designee. The supervision shall be,
26 as required by the board or its designee, either:

27 Continuous – At least 75% of a work week

28 Substantial - At least 50% of a work week

 Partial - At least 25% of a work week

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

1 Within thirty (30) days of the effective date of this decision, Respondent shall have his
2 supervisor submit notification to the board in writing stating that the supervisor has read the
3 decision in case number 3762 and is familiar with the required level of supervision as determined
4 by the board or its designee. It shall be the Respondent's responsibility to ensure that his
5 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
6 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
7 acknowledgements to the board shall be considered a violation of probation.

8 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
9 that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely
10 acknowledgement(s) to the board. Respondent shall have his new supervisor, within fifteen (15)
11 days after employment commences, submit notification to the board in writing stating the direct
12 supervisor and pharmacist-in-charge have read the decision in case number 3762 and is/are
13 familiar with the level of supervision as determined by the board. Respondent shall not practice
14 pharmacy and his license shall be automatically suspended until the board or its designee
15 approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to
16 submit timely acknowledgements to the board shall be considered a violation of probation.

17 During any such suspension, Respondent shall not enter any pharmacy area or any portion
18 of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other
19 distributor of drugs licensed by the board, or any manufacturer, or where dangerous drugs and
20 devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do
21 any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or
22 patient consultation; nor shall Respondent manage, administer, or be a consultant to any licensee
23 of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous
24 drugs or controlled substances. Respondent shall not resume practice until notified by the board.

25 During any such suspension, Respondent shall not engage in any activity that requires the
26 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
27 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
28 designated representative for any entity licensed by the board.

1 Failure to comply with any such suspension shall be considered a violation of probation.

2 **11. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
3 **Designated Representative-in-Charge (DRIC), or Serving as a Consultant**

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

8 **12. Status of License**

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

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

16 **13. No Ownership of Licensed Premises**

17 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
18 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
19 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
20 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
21 days following the effective date of this decision and shall immediately thereafter provide written
22 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
23 documentation thereof shall be considered a violation of probation.

24 **14. Remedial Education**

25 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
26 board or its designee, for prior approval, an appropriate program of remedial education related to
27 alcohol and drug abuse, drug diversion, and/or proper drug inventory. The program of remedial
28 education shall consist of at least twenty (20) hours, which shall be completed within two (2)

1 years at Respondent's own expense. All remedial education shall be in addition to, and shall not
2 be credited toward, continuing education (CE) courses used for license renewal purposes.

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

7 Following the completion of each course, the board or its designee may require the
8 Respondent, at his own expense, to take an approved examination to test the Respondent's
9 knowledge of the course. If the Respondent does not achieve a passing score on the examination,
10 this failure shall be considered a violation of probation. Any such examination failure shall
11 require Respondent to take another course approved by the board in the same subject area.

12 15. **Ethics Course**

13 Within sixty (60) days of the effective date of this decision, Respondent shall, at his own
14 expense, enroll in a course in ethics approved in advance by the board or its designee.

15 Failure to initiate the course during the first year of probation, and complete it within the
16 second year of probation, shall be considered a violation of probation. Respondent shall submit a
17 certificate of completion to the board or its designee within five (5) days after course completion.

18 16. **Community Services Program**

19 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
20 board or its designee, for prior approval, a community service program in which Respondent shall
21 provide free health-care related services on a regular basis to a community or charitable facility or
22 agency for at least one hundred fifty (150) hours total over the period of probation, with at least
23 fifty (50) of those hours coming during the first year of probation. Within thirty (30) days of
24 receiving approval by the board or its designee thereof, Respondent shall submit documentation
25 to the board demonstrating commencement of the community service program. A record of this
26 notification must be provided to the board upon request. Respondent shall report on progress
27 with the community service program in the quarterly reports. Failure to timely submit,
28 commence, or comply with the program shall be considered a violation of probation.

1 **17. Pharmacists Recovery Program (PRP)**

2 Within thirty (30) days of the effective date of this decision, Respondent shall contact the
3 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
4 successfully participate in, and complete the treatment contract and any subsequent addendums as
5 recommended and provided by the PRP and as approved by the board or its designee. The costs
6 for PRP participation shall be borne by Respondent.

7 If Respondent is currently enrolled in the PRP, said participation is now mandatory and as
8 of the effective date of this decision is no longer considered a self-referral under Business and
9 Professions Code section 4362(a)(2). Respondent shall successfully participate in and complete
10 his current contract and any subsequent addendums with the PRP.

11 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
12 the treatment contract and/or any addendums, shall be considered a violation of probation.

13 Probation shall be automatically extended until Respondent successfully completes the
14 PRP. Any termination from the PRP program shall result in suspension by the board.
15 Respondent may not resume the practice of pharmacy until notified by the board in writing.

16 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
17 licensed practitioner as part of a documented medical treatment shall result in the automatic
18 suspension of practice by Respondent and shall be considered a violation of probation.
19 Respondent may not resume the practice of pharmacy until notified by the board in writing.

20 During any such suspension, Respondent shall not enter any pharmacy area or any portion
21 of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other
22 distributor of drugs licensed by the board, or any manufacturer, or where dangerous drugs and
23 devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do
24 any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or
25 patient consultation; nor shall Respondent manage, administer, or be a consultant to any licensee
26 of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous
27 drugs or controlled substances. Respondent shall not resume practice until notified by the board.

28 During any such suspension, Respondent shall not engage in any activity that requires the

1 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
2 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
3 designated representative for any entity licensed by the board.

4 Failure to comply with any such suspension shall be considered a violation of probation.

5 Respondent shall pay fees as invoiced by the PRP or its designee. Fees not paid timely are
6 a violation of probation. The board will collect unpaid fees as part of probation monitoring costs.

7 **18. Abstain from Drug and Alcohol Possession or Use**

8 Respondent shall completely abstain from the possession or use of alcohol, controlled
9 substances, dangerous drugs and their associated paraphernalia except when the drugs are
10 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
11 request of the board or its designee, Respondent shall provide documentation from the licensed
12 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
13 treatment of the Respondent. Failure to timely provide such documentation shall be considered a
14 violation of probation. Respondent shall ensure that he is not in the same physical location as
15 individuals who are using illicit substances even if Respondent is not personally ingesting the
16 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
17 not supported by the documentation timely provided, and/or any physical proximity to persons
18 using illicit substances, shall be considered a violation of probation.

19 **19. Random Drug Screening**

20 Respondent, at his own expense, shall participate in random testing, including but not
21 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
22 screening program for the detection of alcohol, narcotics, hypnotics, dangerous drugs or
23 controlled substances as the board or its designee may direct. Respondent may be required to
24 participate in testing for the entire probation period and frequency of testing will be determined
25 by the board or its designee. At all times, Respondent shall fully cooperate with the board or its
26 designee, and shall, when directed, submit to such tests and samples.

27 Failure to timely submit to testing as directed shall be considered a violation of probation.
28 Upon request of the board or its designee, Respondent shall provide documentation from a

1 licensed practitioner that the prescription for a detected drug was legitimately issued and is a
2 necessary part of the treatment of the Respondent. Failure to timely provide such documentation
3 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any
4 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
5 shall be considered a violation of probation and shall result in automatic suspension of practice by
6 Respondent. Respondent may not resume practice until notified by the board in writing.

7 During any such suspension, Respondent shall not enter any pharmacy area or any portion
8 of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other
9 distributor of drugs licensed by the board, or any manufacturer, or where dangerous drugs and
10 devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do
11 any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or
12 patient consultation; nor shall Respondent manage, administer, or be a consultant to any licensee
13 of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous
14 drugs or controlled substances. Respondent shall not resume practice until notified by the board.

15 During any such suspension, Respondent shall not engage in any activity that requires the
16 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
17 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
18 designated representative for any entity licensed by the board.

19 Failure to comply with any such suspension shall be considered a violation of probation.

20 **20. Reimbursement of Board Costs**

21 As a condition precedent to successful completion of probation, Respondent shall pay to the
22 board its costs of investigation and prosecution in the amount of \$6,696.00. Respondent shall be
23 permitted to pay these costs in a payment plan approved by the Board or its designee, so long as
24 full payment is made within fifty-four (54) months of the effective date of this decision. There is
25 to be no deviation from this schedule absent prior written approval by the Board or its designee.
26 Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

27 The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to
28 reimburse the board its costs of investigation and prosecution.

1 **21. Probation Monitoring Costs**

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

6 **22. Violation of Probation**

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

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

19 **23. 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 his 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 surrender, Respondent shall relinquish his pocket and wall license to
28 the board within ten (10) days of notification by the board the surrender is accepted.


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, including any
4 outstanding costs owed to the board.

5 **24. Completion of Probation**

6 Upon written notice by the board or its designee indicating successful completion of
7 probation, Respondent's license will be fully restored.

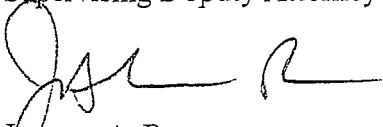
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9 ACCEPTANCE

10 I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the
11 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated
12 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
13 bound by the Decision and Order of the Board of Pharmacy.

14
15 DATED: 12/15/11 
16 HILTON WONG
17 Respondent

18 ENDORSEMENT

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

21 Dated: 1/6/2012 Respectfully submitted,
22 KAMALA D. HARRIS
23 Attorney General of California
24 FRANK H. PACOE
25 Supervising Deputy Attorney General
26 
27 JOSHUA A. ROOM
28 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3762

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
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
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Case No. 3762

13 **HILTON WONG**
14 **33272 Martin Street**
15 **Fremont, CA 94555**

ACCUSATION

16 **Pharmacist License No. RPH 40772**

Respondent.

17 Complainant alleges:

18 PARTIES

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about March 17, 1987, the Board of Pharmacy issued Pharmacist License No.
22 RPH 40772 to Hilton Wong (Respondent). The License was in full force and effect at all times
23 relevant to the charges brought herein and will expire on March 31, 2011, unless renewed.

24 JURISDICTION

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

28 ///

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

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

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

14 STATUTORY AND REGULATORY PROVISIONS

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

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

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

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

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

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

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

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

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

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

18 COST RECOVERY

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

22 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

23 14. Section 4021 of the Code states:

24 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
25 11053) of Division 10 of the Health and Safety Code.”

26 15. Section 4022 of the Code states, in pertinent part:

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

1 c. During subsequent interviews with Kaiser investigator(s) and then with Board
2 Inspector(s), Respondent admitted to repeated diversion/theft for self-use of generic **Lortab** elixir
3 from Kaiser HP South 1. After initially denying similar diversion/theft from Kaiser HP South 2,
4 Respondent later also admitted to a pattern of similar diversion/theft from this pharmacy. Though
5 Respondent was unable to specify or estimate an exact number of instances of diversion/theft, a
6 total length of time during which such diversion/theft had taken place, or a total amount diverted
7 or stolen, Respondent did admit: that he had been diverting/taking generic **Lortab** elixir from the
8 pharmacy/pharmacies for self-use for over a year; that he had been addicted to **Hydrocodone** for
9 between two and five years; that his diversion/theft from the pharmacy had begun with his taking
10 **Norco** returned to the pharmacy for destruction, and had progressed to generic **Lortab** elixir; that
11 although at first he could not imagine he had taken that much, upon further reflection the amounts
12 reported missing from each of the pharmacies (1,512 mls, approximately 3 pints, from Kaiser HP
13 South 1, and 7,327 mls, approximately 15 pints, from Kaiser HP South 2) were probably accurate
14 counts of the amounts he had diverted/stolen for self-use; and that he had also taken cough drops
15 and lip balm from one or both pharmacies without paying for them.

16 d. On or about February 3, 2010, management staff at Kaiser HP South 1 filed a
17 Report of Theft or Loss of Controlled Substances (DEA-106) identifying a shortage attributed to
18 employee pilferage of 1,512 mls of **Lortab** elixir. On or about February 4, 2010, a similar filing
19 on behalf of Kaiser HP South 2 reported a shortage due to pilferage of 7,327 mls of **Lortab** elixir.

20
21
22 FIRST CAUSE FOR DISCIPLINE

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

24 20. Respondent is subject to discipline under section 4301(f) of the Code, in that
25 Respondent, as described in paragraphs 17 to 19 above, committed acts involving moral
26 turpitude, dishonesty, fraud, deceit, or corruption.

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SECOND CAUSE FOR DISCIPLINE

(Self-Administration of Controlled Substance(s))

21. Respondent is subject to discipline under section 4301(h) of the Code, and/or 4301(j) and/or (o) of the Code and Health and Safety Code section 11170, in that Respondent, as described in paragraphs 17 to 19 above, administered a controlled substance to himself.

THIRD CAUSE FOR DISCIPLINE

(Furnishing of Controlled Substance(s))

22. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4059 of the Code, and/or Health and Safety Code section 11170, in that Respondent, as described in paragraphs 17 to 19 above, furnished to himself or another without a valid prescription, and/or conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.

FOURTH CAUSE FOR DISCIPLINE

(Possession of Controlled Substance(s))

23. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described in paragraphs 17 to 19 above, possessed, conspired to possess, and/or assisted in or abetted possession of, a controlled substance, without a prescription.

FIFTH CAUSE FOR DISCIPLINE

(Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

24. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs 17 to 19 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

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1 SIXTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

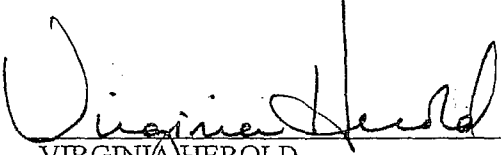
3 25. Respondent is subject to discipline under section 4301 of the Code in that
4 Respondent, as described in paragraphs 17 to 24 above, engaged in unprofessional conduct.

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7 PRAYER

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

- 10 1. Revoking or suspending Pharmacist License No. RPH 40772, issued to Hilton Wong
11 (Respondent);
- 12 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
13 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 14 3. Taking such other and further action as is deemed necessary and proper.

15
16 DATED: 11/15/10


17 VIRGINIA HEROLD
18 Executive Officer
19 Board of Pharmacy
20 Department of Consumer Affairs
21 State of California
22 Complainant

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