

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

In the Matter of the Accusation Against:

**WALGREENS PHARMACY NO. 2306
1138 West Tennyson
Hayward, CA 94544**

Original Permit Nos. PHY 36136 and PHY 52810

**LAI WING CHENG
5413 Reseda Circle
Fremont, CA 94538**

Pharmacist License No. RPH 46865

**EZBON PRYOR
249 W. Jackson Street, #104
Hayward, CA 94544**

**Pharmacy Technician License No. TCH
11293**

Case No. 5058

OAH No. 2014100373

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER – as to
WALGREENS PHARMACY NO. 2306
ONLY**

Respondents.

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 February 19, 2016.

It is so ORDERED on January 20, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
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BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

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11 In the Matter of the Accusation Against:
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13 Hayward, CA 94544
14 Original Permit Nos. PHY 36136 and PHY
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WALGREENS PHARMACY NO. 2306
ONLY**

22 Respondents.

23
24 In the interest of a prompt and speedy settlement of this matter, consistent with the public
25 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
26 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
27 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

28 *///*

1 PARTIES

2 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
3 She brought this action solely in her official capacity and is represented in this matter by Kamala
4 D. Harris, Attorney General of the State of California, by Char Sachson, Deputy Attorney
5 General.

6 2. Respondent Walgreens Pharmacy No. 2306 ("Respondent") is represented in this
7 proceeding by attorney Jonathan Klein, Esq., whose address is: Kelly, Hockel & Klein, P.C, 44
8 Montgomery Street, Suite 1500, San Francisco, CA 94104.

9 3. On or about March 5, 1990, the Board of Pharmacy issued Original Permit No. PHY
10 36136 to Respondent Walgreens Pharmacy No. 2306. The Original Permit was in full force and
11 effect at all times relevant to the charges brought in Accusation No. 5058 and was canceled on
12 December 31, 2014, due to a change in ownership. On or about December 31, 2014, the Board of
13 Pharmacy issued Original Permit No. PHY 52810 to Respondent Walgreens Pharmacy No. 2306.
14 The Original Permit will expire on December 1, 2015, unless renewed.

15 JURISDICTION

16 4. Accusation No. 5058 was filed before the Board of Pharmacy ("Board"), Department
17 of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
18 statutorily required documents were properly served on Respondent on August 7, 2014.
19 Respondent timely filed its Notice of Defense contesting the Accusation.

20 5. A copy of Accusation No. 5058 is attached as exhibit A and incorporated herein by
21 reference.

22 ADVISEMENT AND WAIVERS

23 6. Respondent has carefully read, fully discussed with counsel, and understands the
24 charges and allegations in Accusation No. 5058. Respondent has also carefully read, fully
25 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
26 Order.

27 7. Respondent is fully aware of its legal rights in this matter, including the right to a
28 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at

1 its own expense; the right to confront and cross-examine the witnesses against them; the right to
2 present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel
3 the attendance of witnesses and the production of documents; the right to reconsideration and
4 court review of an adverse decision; and all other rights accorded by the California
5 Administrative Procedure Act and other applicable laws.

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

8 CULPABILITY

9 9. Respondent understands and agrees that the charges and allegations in Accusation
10 No. 5058, if proven at hearing, constitute cause for imposing discipline upon its pharmacy permit.

11 10. Respondent agrees that its Original Permit is subject to discipline and agrees to be
12 bound by the Board's probationary terms as set forth in the Disciplinary Order below.

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 of Pharmacy may
16 communicate directly with the Board regarding this stipulation and settlement, without notice to
17 or participation by Respondent or its counsel. By signing the stipulation, Respondent understands
18 and agrees that they may not withdraw its 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 Portable Document Format (PDF) and facsimile
24 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
25 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

26 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 14. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Original Permit No. PHY 52810 issued to Respondent
9 Walgreens Pharmacy No. 2306 is revoked. However, the revocation is stayed and Respondent is
10 placed on probation for two (2) years on the following terms and conditions.

11 **1. Community Services Program**

12 Within sixty (60) days of the effective date of this decision, Respondent Pharmacy shall
13 submit to the board or its designee, for prior approval, a community service program in which
14 Respondent Pharmacy shall provide free health-care related services to a community or charitable
15 facility or agency, or provide free health-care related services, valuing \$20,000.00. It is
16 specifically contemplated that this program will be commenced within the calendar year 2015 and
17 that Respondent Pharmacy will report on its progress in quarterly reports. It is also contemplated
18 that the value of the health-care related services may be split among the first two years of
19 Respondent's probation.

20 Within thirty (30) days of board approval thereof, Respondent Pharmacy shall submit
21 documentation to the board demonstrating commencement of the community service program.
22 Respondent Pharmacy shall report on progress with the community service program in the
23 quarterly reports.

24 Failure to timely submit, commence, or comply with the program shall be considered a
25 violation of probation

26 **2. Obey All Laws**

27 Respondent owner shall obey all state and federal laws and regulations.

28 Respondent owner shall report any of the following occurrences to the board, in writing,

1 within seventy-two (72) hours of such occurrence:

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

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

13 **3. Report to the Board**

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

22 **4. Interview with the Board**

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

28 **5. Cooperate with Board Staff**

1 Respondent owner shall cooperate with the board's inspection program and with the board's
2 monitoring and investigation of respondent's compliance with the terms and conditions of their
3 probation. Failure to cooperate shall be considered a violation of probation.

4 **6. Reimbursement of Board Costs**

5 As a condition precedent to successful completion of probation, respondent owner shall pay
6 to the board its costs of investigation and prosecution in the amount of \$11,415.50. Respondent
7 owner shall make said payments pursuant to a plan approved by the Board. There shall be no
8 deviation from this schedule absent prior written approval by the board or its designee. Failure to
9 pay costs by the deadline(s) as directed shall be considered a violation of probation.

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

12 **7. Probation Monitoring Costs**

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

17 **8. Status of License**

18 Respondent owner shall, at all times while on probation, maintain current licensure with the
19 board. If respondent owner submits an application to the board, and the application is approved,
20 for a change of location, change of permit or change of ownership, the board shall retain
21 continuing jurisdiction over the license, and the respondent shall remain on probation as
22 determined by the board. Failure to maintain current licensure shall be considered a violation of
23 probation.

24 If respondent owner's license expires or is cancelled by operation of law or otherwise at any
25 time during the period of probation, including any extensions thereof or otherwise, upon renewal
26 or reapplication respondent owner's license shall be subject to all terms and conditions of this
27 probation not previously satisfied.

28

1 **9. License Surrender While on Probation/Suspension**

2 Following the effective date of this decision, should respondent owner discontinue
3 business, respondent owner may tender the premises license to the board for surrender. The
4 board or its designee shall have the discretion whether to grant the request for surrender or take
5 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of
6 the license, respondent will no longer be subject to the terms and conditions of probation.

7 Upon acceptance of the surrender, respondent owner shall relinquish the premises wall and
8 renewal license to the board within ten (10) days of notification by the board that the surrender is
9 accepted. Respondent owner shall further submit a completed Discontinuance of Business form
10 according to board guidelines and shall notify the board of the records inventory transfer.

11 Respondent owner shall also, by the effective date of this decision, arrange for the
12 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written
13 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that
14 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating
15 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five
16 days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a copy
17 of the written notice to the board. For the purposes of this provision, "ongoing patients" means
18 those patients for whom the pharmacy has on file a prescription with one or more refills
19 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)
20 days.

21 Respondent owner may not apply for any new licensure from the board for three (3) years
22 from the effective date of the surrender. Respondent owner shall meet all requirements applicable
23 to the license sought as of the date the application for that license is submitted to the board.

24 Respondent owner further stipulates that he or she shall reimburse the board for its costs of
25 investigation and prosecution prior to the acceptance of the surrender.

26 **10. Notice to Employees**

27 Respondent owner shall, upon or before the effective date of this decision, ensure that all
28 employees involved in permit operations are made aware of all the terms and conditions of

1 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.
2 If the notice required by this provision is posted, it shall be posted in a prominent place and shall
3 remain posted throughout the probation period. Respondent owner shall ensure that any
4 employees hired or used after the effective date of this decision are made aware of the terms and
5 conditions of probation by posting a notice, circulating a notice, or both. Additionally,
6 respondent owner shall submit written notification to the board, within fifteen (15) days of the
7 effective date of this decision, that this term has been satisfied. Failure to submit such
8 notification to the board shall be considered a violation of probation.

9 "Employees" as used in this provision includes all full-time, part-time,
10 volunteer, temporary and relief employees and independent contractors employed or
11 hired at any time during probation.

12 **11. Owners and Officers: Knowledge of the Law**

13 Respondent shall provide, within thirty (30) days after the effective date of this decision,
14 signed and dated statements from its owners, including any owner or holder of ten percent (10%)
15 or more of the interest in respondent or respondent's stock, and any officer or any District
16 Manager authorized by Respondent, stating under penalty of perjury that said individuals have
17 read and are familiar with state and federal laws and regulations governing the practice of
18 pharmacy. The failure to timely provide said statements under penalty of perjury shall be
19 considered a violation of probation.

20 **12. Posted Notice of Probation**

21 Respondent owner shall prominently post a probation notice provided by the board in a
22 place conspicuous and readable to the public. The probation notice shall remain posted during
23 the entire period of probation.

24 Respondent owner shall not, directly or indirectly, engage in any conduct or make any
25 statement which is intended to mislead or is likely to have the effect of misleading any patient,
26 customer, member of the public, or other person(s) as to the nature of and reason for the probation
27 of the licensed entity.

28 Failure to post such notice shall be considered a violation of probation.

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13. Violation of Probation

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

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


14. Completion of Probation

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

ACCEPTANCE

I am authorized to sign on behalf of Respondent. I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Swetha Patel. I understand the stipulation and the effect it will have on my Original Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 9/28/15



MICHAEL SIMKO - RICHARD GATES
WALGREENS PHARMACY NO. 2306
Respondent VICE PRESIDENT, PHARMACY OPERATIONS

I have read and fully discussed with Respondent Walgreens Pharmacy No. 2306 the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary

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Order. I approve its form and content.

DATED: 10/21/15

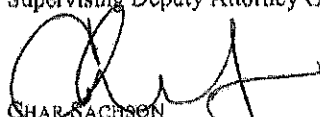

JONATHAN ALLAN KLEIN
Attorney for Respondent
ENDORSEMENT

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

Dated: 11/17/15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General


CHAR SACHSEN
Deputy Attorney General
Attorneys for Complainant

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WALGREENS STIP REVISED WITH NEW OWNER.docx

Exhibit A

Accusation No. 5058

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
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Attorneys for Complainant
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10 In the Matter of the Accusation Against:

Case No. 5058

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12 **1138 West Tennyson**
13 **Hayward, CA 94544**

ACCUSATION

14 **Original Permit No. PHY 36136**

15 **LAI WING CHENG**
16 **5413 Reseda Circle**
17 **Fremont, CA 94538**

18 **Pharmacist License No. RPH 46865**

19 **EZBON PRYOR**
20 **249 W. Jackson Street, #104**
21 **Hayward, CA 94544**

22 **Pharmacy Technician License No. TCH**
23 **11293**

24 Respondents.

25 Complainant alleges:

26 **PARTIES**

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

29 2. On or about March 5, 1990, the Board of Pharmacy issued Original Permit Number
30 PHY 36136 to Walgreens No. 2306 (Respondent Walgreens). The Original Permit was in full

31 Accusation

1 force and effect at all times relevant to the charges brought herein and will expire on May 1,
2 2015, unless renewed.

3 3. On or about March 4, 1994, the Board of Pharmacy issued Pharmacist License
4 Number RPH 46865 to Lai Wing Cheng (Respondent Cheng). The Pharmacist License was in
5 full force and effect at all times relevant to the charges brought herein and will expire on October
6 31, 2015, unless renewed.

7 4. On or about January 5, 1994, the Board of Pharmacy issued Pharmacy Technician
8 Registration No. TCH 11293 to Ezbon Pryor (Respondent Pryor). The Pharmacy Technician
9 Registration was in full force and effect at all times relevant to the charges brought herein and
10 will expire on February 28, 2015, unless renewed.

11 JURISDICTION

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

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

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

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

1 STATUTORY AND REGULATORY PROVISIONS

2 9. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
3 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but
4 not be limited to, any of the following:

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

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

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

14 (q) Engaging in any conduct that subverts or attempts to subvert an investigation of the
15 board.

16 10. Code section 4060 provides, in pertinent part, that no person shall possess any
17 controlled substance, except that furnished upon a valid prescription/drug order.

18 11. Section 4081 of the Code provides, in pertinent part, that every pharmacy shall keep a
19 current inventory of all dangerous drugs and dangerous devices, and that the owner, officer, and
20 partner of a pharmacy shall be jointly responsible with the pharmacist in charge for maintaining
21 the inventory of dangerous drugs and dangerous devices.

22 12. Section 4113, subdivision (c) of the Code states:

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

25 13. California Code of Regulations, title 16, section 1714, subdivision (b) provides that
26 each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment
27 so that drugs are safely and properly prepared, maintained, secured and distributed.

28

1 14. California Code of Regulations, title 16, section 1714, subdivision (d) provides that
2 each pharmacist licensed by the board shall be responsible for the security of the prescription
3 department, including provisions for effective control against theft or diversion of dangerous
4 drugs and devices, and records for such drugs and devices, and that possession of a key to the
5 pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a
6 pharmacist.

7 15. Health and Safety Code section 11377(a) states, in pertinent part, that no person shall
8 possess Schedule III, IV or V controlled substances, unless upon the valid prescription of a
9 physician or other licensed health care provider.

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

13 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

14 17. Section 4021 of the Code states:

15 "Controlled substance" means any substance listed in Chapter 2 (commencing with Section
16 11053) of Division 10 of the Health and Safety Code."

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

18 "'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self use,
19 except veterinary drugs that are labeled as such, and includes the following:

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

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

24 19. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are among the brand names for
25 compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III
26 controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous
27 drug as designated by Business and Professions Code section 4022. The varying compounds are
28 also known generically as **Hydrocodone with APAP**. These are all narcotic drugs.

1 b. On July 31, 2012, pharmacy surveillance cameras depicted Respondent Pryor
2 looking around, then walking up to the pill dispenser machine, opening the cassette containing the
3 **diazepam** pills, pouring an unknown number of pills into his hand a total of three times, and
4 putting them into his pocket. The camera showed him putting the cassette back into the machine,
5 then picking up pills that had fallen to the floor as he poured them into his hand. The surveillance
6 camera also showed that on July 31, 2012, Respondent Pryor removed two bottles of
7 **promethazine/codeine** from the shelf and walked out of the view of the camera, towards the
8 back of the pharmacy, inconsistent with pharmacy policy.

9 c. Subsequent audits of the controlled substances stock of Walgreens Pharmacy
10 No. 2306 revealed a shortage of approximately 25,381 tablets of **Hydrocodone with APAP**
11 **10/325** (generic **Norco**), 120,016 ml of **promethazine/codeine**, and 1880 tablets of **diazepam 10**
12 **mg** for the period from June 10, 2011 to August 15, 2012.

13 FIRST CAUSE FOR DISCIPLINE

14 (Failure to Maintain Pharmacy Security)

15 25. Respondent Walgreens and Respondent Cheng are subject to discipline under section
16 4301(j) and/or (o), and/or section 4113(c), of the Code, in combination with California Code of
17 Regulations, title 16, sections 1714(b) and/or 1714(d), in that, as described in paragraphs 22-24
18 above, Respondents violated statutes regulating controlled substances or dangerous drugs, and/or
19 directly or indirectly violated, attempted to violate, and/or assisted in or abetted violation of, laws
20 or regulations governing the practice of pharmacy, by acts including failure(s) to maintain
21 pharmacy facilities, space, fixtures, and equipment so that drugs were safely and properly
22 prepared, maintained, secured and distributed.

23 SECOND CAUSE FOR DISCIPLINE

24 (Failure to Maintain Accurate and Secure Controlled Substances Inventory)

25 26. Respondent Walgreens and Respondent Cheng are subject to discipline under section
26 4301(j) and/or (o) and/or section 4113(c) of the Code, in combination with section 4081 of the
27 Code, in that, as described in paragraphs 22-24 above, Respondents violated statutes regulating
28 controlled substances or dangerous drugs, and/or directly or indirectly violated, attempted to

1 violate, and/or assisted in or abetted violation of, laws or regulations governing the practice of
2 pharmacy, by acts including failure(s) to maintain an accurate and secure inventory of all
3 controlled substances.

4 THIRD CAUSE FOR DISCIPLINE

5 (Illegal Possession of Controlled Substances)

6 27. Respondent Pryor is subject to discipline under section 4301(j) and/or (o), in
7 combination with section 4060 of the Code and Health and Safety Code section 11377(a), in that,
8 as described in paragraphs 22-25 above, Respondent Pryor illegally possessed controlled
9 substances.

10 FOURTH CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct – Dishonesty, Fraud, Deceit or Corruption)

12 28. Respondent Pryor is subject to discipline under section 4301(f), in that, as described
13 in paragraphs 22-25 above, Respondent Pryor committed acts involving moral turpitude,
14 dishonesty, fraud, deceit, or corruption.

15 PRAYER

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

18 1. Revoking or suspending Original Permit Number PHY 36136, issued to Respondent
19 Walgreens Pharmacy No. 2306;

20 2. Revoking or suspending Pharmacist License Number RPH 46865, issued to
21 Respondent Lai Wing Cheng;

22 3. Revoking or suspending Pharmacist Technician License Number TCH 11293, issued
23 to Respondent Ezbon Pryor;

24 4. Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the
25 investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3;

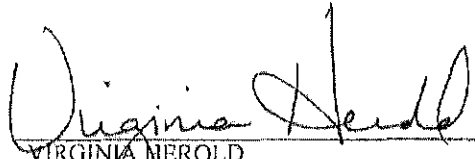
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5. Taking such other and further action as deemed necessary and proper.

DATED: 7/26/14



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

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