

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

In the Matter of the Accusation Against:

Case No. 5554

**VONS CORPORATION, DBA VONS PHARMACY
2406
750 North Imperial Avenue
El Centro, CA 92243**

Pharmacy Permit No. PHY 43000

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 at 5:00 p.m. on May 4, 2017.

It is so ORDERED on April 4, 2017.

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
2 ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
3 MARICHELLE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9435
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 **VONS CORPORATION,**
13 **DBA VONS PHARMACY 2406**
14 **750 North Imperial Avenue**
El Centro, CA 92243

15 **Pharmacy Permit No. PHY 43000**

16 Respondents.

Case No. 5554

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL AS TO VONS
CORPORATION, DBA VONS
PHARMACY 2406 ONLY**

[Bus. & Prof. Code § 495]

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

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

25 2. Respondent Vons Corporation, dba Vons Pharmacy 2406 (Respondent) is represented
26 in this proceeding by attorney Craig O'Loughlin, Quarles & Brady, Two North Central Avenue,
27 Phoenix, AZ, 85004-2391.

28 ///

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JURISDICTION

2 3. On or about August 25, 1997, the Board issued Pharmacy Permit No. PHY 43000 to
3 Vons Corporation, dba Vons Pharmacy 2406 (Respondent). The Pharmacy Permit was in full
4 force and effect at all times relevant to the charges brought in Accusation No. 5554. The
5 Pharmacy Permit was cancelled on April 17, 2015 pursuant to a change of ownership.

6 4. Accusation No. 5554 was filed before the Board and is currently pending against
7 Respondent. The Accusation and all other statutorily required documents were properly served
8 on Respondent on July 1, 2016. Respondent timely filed its Notice of Defense contesting the
9 Accusation. A copy of Accusation No. 5554 is attached as exhibit A and incorporated herein by
10 reference.

11

ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 5554. Respondent has also carefully read, fully
14 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
15 Order for Public Reposal.

16 6. Respondent is fully aware of its legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
18 the witnesses against it; the right to present evidence and to testify on its own behalf; the right to
19 the issuance of subpoenas to compel the attendance of witnesses and the production of
20 documents; the right to reconsideration and court review of an adverse decision; and all other
21 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

24

CULPABILITY

25 8. Respondent understands that the charges and allegations in Case No. 5554, if proven
26 at a hearing, constitute cause for imposing discipline.

27 9. For the purposes of resolving the Accusation without the expense and uncertainty of
28 further proceedings, Respondent's authorized representative, on behalf of Respondent, agrees that

1 at a hearing Complainant could establish a factual basis for the charges in the Accusation, and
2 hereby gives up its right to contest those charges.

3 10. Respondent agrees that its Original Permit No. PHY 43000 is subject to discipline
4 and it agrees to be bound by the terms as set forth in the Disciplinary Order below.

5 RESERVATION

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

10 CONTINGENCY

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

20 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
21 copies of this Stipulated Settlement and Disciplinary Order for Public Repeval, including
22 Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and
23 effect as the originals.

24 14. This Stipulated Settlement and Disciplinary Order for Public Repeval is intended by
25 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
26 of their agreement. It supersedes any and all prior or contemporaneous agreements,
27 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
28 Settlement and Disciplinary Order for Public Repeval may not be altered, amended, modified,

1 supplemented, or otherwise changed except by a writing executed by an authorized representative
2 of each of the parties.

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

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 43000 issued to Respondent
8 Vons Corporation, dba Vons Pharmacy 2406 (Respondent), shall be publicly reprovod by the
9 Board of Pharmacy under Business and Professions Code section 495 in resolution of Accusation
10 No. 5554, attached as exhibit A. Respondent owner is required to report this reprovod as a
11 disciplinary action.

12 **Administrative Fine.** Within 30 days of the effective date of this decision, Respondent
13 shall pay an administrative fine of \$60,000 to the Board. Payment shall be made by certified
14 check or money order payable to the Board of Pharmacy, delivered or mailed to Board of
15 Pharmacy, Attn: Susan Cappello, 1625 N. Market Blvd., Suite N219, Sacramento, CA 95834-
16 1924. Failure to timely pay the administrative fine shall be considered unprofessional conduct
17 pursuant to Business and Professions Code section 4301 and an accusation may be filed by the
18 Executive Officer of the Board for such unprofessional conduct. Failure to pay the full amount of
19 the fine within 30 days of the effective date may result in license discipline, including revocation
20 of the Pharmacy Permit and/or the denial of any application for renewal or reinstatement of
21 licensure.

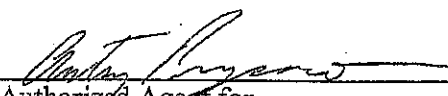
22 **ACCEPTANCE**

23 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
24 Reprovod and have fully discussed it with our attorney, Craig O'Loughlin, Quarles & Brady. I
25 understand the stipulation and the effect it will have on the Pharmacy Permit of Vons Corporation
26 dba Vons Pharmacy 2406. I enter into this Stipulated Settlement and Disciplinary Order for

27 ///
28 ///

1 Public Repeval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision
2 and Order of the Board of Pharmacy.

3
4 DATED: 1/13/17


Authorized Agent for
VONS CORPORATION,
DBA VONS PHARMACY 2406
Respondent

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7
8 I have read and fully discussed with Respondent Vons Corporation, dba Vons Pharmacy
9 2406, the terms and conditions and other matters contained in the above Stipulated Settlement and
10 Disciplinary Order for Public Repeval. I approve its form and content.

11
12 DATED: _____

CRAIG O'LOUGHLIN
Attorney for Respondent

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14
15 ENDORSEMENT

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

19
20 Dated:

Respectfully submitted,

21 KAMALA D. HARRIS
22 Attorney General of California
23 ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General

24
25 MARICHELE S. TAHIMIC
26 Deputy Attorney General
Attorneys for Complainant

27
28 SD2015801861/81534360.doc

1 Public Repeval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision
2 and Order of the Board of Pharmacy.

3
4 DATED: _____
5 Authorized Agent for
6 VONS CORPORATION,
7 DBA VONS PHARMACY 2406
8 Respondent

9 I have read and fully discussed with Respondent Vons Corporation, dba Vons Pharmacy
10 2406, the terms and conditions and other matters contained in the above Stipulated Settlement and
11 Disciplinary Order for Public Repeval. I approve its form and content.

12 DATED: 1/13/17 _____
13 
14 CRAIG O'LOUGHLIN
15 Attorney for Respondent

16 ENDORSEMENT

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

20 Dated: _____ Respectfully submitted,
21 KAMALA D. HARRIS
22 Attorney General of California
23 ANTOINETTE B. CINCOTTA
24 Supervising Deputy Attorney General

25 MARICHELE S. TAHIMIC
26 Deputy Attorney General
27 Attorneys for Complainant

28 SD2015801861/81534360.doc

1 Public Repeval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision
2 and Order of the Board of Pharmacy.

3
4 DATED: _____

5 Authorized Agent for
6 VONS CORPORATION,
7 DBA VONS PHARMACY 2406
8 Respondent

9 I have read and fully discussed with Respondent Vons Corporation, dba Vons Pharmacy
10 2406, the terms and conditions and other matters contained in the above Stipulated Settlement and
11 Disciplinary Order for Public Repeval. I approve its form and content.

12 DATED: _____

13 CRAIG O'LOUGHLIN
14 Attorney for Respondent

15 ENDORSEMENT

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

19
20 Dated: *Jan. 23, 2017*

Respectfully submitted,

21 KAMALA D. HARRIS
22 Attorney General of California
23 ANTOINETTE B. CINCOTTA
24 Supervising Deputy Attorney General

25 *Marichelle Tahimic*
26 MARICHELE S. TAHIMIC
27 Deputy Attorney General
28 Attorneys for Complainant

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Exhibit A

Accusation No. 5554

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 MARICHELE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3154
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 **VONS CORPORATION DBA VONS**
PHARMACY 2406
13 **750 North Imperial Avenue**
El Centro, CA 92243
14
15 **Pharmacy Permit No. PHY 43000**
(Change of Ownership to Pharmacy Permit
16 **No. 52136)**
17 **and**
18 **YOUNG JU WOO**
13876 Kerry Lane
19 **San Diego, CA 92130**
20 **Pharmacist License No. 56562**
21 **and**
22 **ROGELIO VEGA**
P.O. Box 924
23 **Calipatria, CA 92233**
24 **Pharmacy Technician Registration No. TCH**
55763
25
26 Respondents.

Case No. 5554

ACCUSATION

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Complainant alleges:

PARTIES

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

2. On or about August 25, 1997, the Board of Pharmacy issued Pharmacy Permit Number PHY 43000 to Vons Corporation to do business as Vons Pharmacy 2406 (Respondent Vons). The Pharmacy Permit was cancelled on April 17, 2015 pursuant to a change of ownership.

3. On or about November 8, 2004, the Board of Pharmacy issued Pharmacist License Number RPH 56562 to Young Ju Woo (Respondent Woo). Woo was the Pharmacist-in-Charge of Vons from July 18, 2010 through June 23, 2014. The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on February 29, 2016, unless renewed.

4. On or about March 29, 2004, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 55763 to Rogelio A. Vega (Respondent Vega). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2017, unless renewed.

JURISDICTION

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

6. Section 4300 of the Code states:

- (a) Every license issued may be suspended or revoked.
- (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
 - (1) Suspending judgment.
 - (2) Placing him or her upon probation.
 - (3) Suspending his or her right to practice for a period not exceeding one year.

1 (4) Revoking his or her license.

2 (5) Taking any other action in relation to disciplining him or her as the
3 board in its discretion may deem proper.

4 (e) The proceedings under this article shall be conducted in accordance with
5 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
6 Government Code, and the board shall have all the powers granted therein. The
7 action shall be final, except that the propriety of the action is subject to review
8 by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

9 7. Section 4300.1 of the Code states:

10 The expiration, cancellation, forfeiture, or suspension of a board-issued license by
11 operation of law or by order or decision of the board or a court of law, the
12 placement of a license on a retired status, or the voluntary surrender of a license by
13 a licensee shall not deprive the board of jurisdiction to commence or proceed with
14 any investigation of, or action or disciplinary proceeding against, the licensee or to
15 render a decision suspending or revoking the license.

16 STATUTORY AND REGULATORY PROVISIONS

17 8. Section 4301 of the Code states:

18 The board shall take action against any holder of a license who is guilty of
19 unprofessional conduct or whose license has been procured by fraud or
20 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
21 not limited to, any of the following:

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

25 (g) Knowingly making or signing any certificate or other document that falsely
26 represents the existence or nonexistence of a state of facts.

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

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

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

3 9. Section 4022 of the Code states:

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

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

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

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

14 10. Section 4059 of the Code states in part:

15 (a) A person may not furnish any dangerous drug, except upon the prescription of a
16 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
17 pursuant to Section 3640.7. A person may not furnish any dangerous device, except
18 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
19 naturopathic doctor pursuant to Section 3640.7.

20 ...
21 11. Section 4060 of the Code states:

22 No person shall possess any controlled substance, except that furnished to a person
23 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
24 naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug
25 order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse
26 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section
27 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
28 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
shall not apply to the possession of any controlled substance by a manufacturer,
wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
physician assistant, when in stock in containers correctly labeled with the name and
address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
physician assistant, or a naturopathic doctor, to order his or her own stock of
dangerous drugs and devices.

12. Section 4081 of the Code states:

(a) All records of manufacture and of sale, acquisition, or disposition of dangerous
drugs or dangerous devices shall be at all times during business hours open to
inspection by authorized officers of the law, and shall be preserved for at least three

1 years from the date of making. A current inventory shall be kept by every
2 manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer,
3 physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or
4 establishment holding a currently valid and unrevoked certificate, license, permit,
5 registration, or exemption under Division 2 (commencing with Section 1200) of the
6 Health and Safety Code or under Part 4 (commencing with Section 16000) of
7 Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous
8 drugs or dangerous devices.

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

13 (c) The pharmacist-in-charge or representative-in-charge shall not be criminally
14 responsible for acts of the owner, officer, partner, or employee that violate this
15 section and of which the pharmacist-in-charge or representative-in-charge had no
16 knowledge, or in which he or she did not knowingly participate.

17 13. Section 4105 of the Code states:

18 (a) All records or other documentation of the acquisition and disposition of
19 dangerous drugs and dangerous devices by any entity licensed by the board shall be
20 retained on the licensed premises in a readily retrievable form.

21 (b) The licensee may remove the original records or documentation from the
22 licensed premises on a temporary basis for license-related purposes. However, a
23 duplicate set of those records or other documentation shall be retained on the
24 licensed premises.

25 (c) The records required by this section shall be retained on the licensed premises
26 for a period of three years from the date of making.

27 (d) Any records that are maintained electronically shall be maintained so that the
28 pharmacist-in-charge, the pharmacist on duty if the pharmacist-in-charge is not on
duty, or, in the case of a veterinary food-animal drug retailer or wholesaler, the
designated representative on duty, shall, at all times during which the licensed
premises are open for business, be able to produce a hard copy and electronic copy
of all records of acquisition or disposition or other drug or dispensing-related
records maintained electronically.

...

(f) When requested by an authorized officer of the law or by an authorized
representative of the board, the owner, corporate officer, or manager of an entity
licensed by the board shall provide the board with the requested records within
three business days of the time the request was made. The entity may request in
writing an extension of this timeframe for a period not to exceed 14 calendar days
from the date the records were requested. A request for an extension of time is
subject to the approval of the board. An extension shall be deemed approved if the
board fails to deny the extension request within two business days of the time the
extension request was made directly to the board.

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1 14. Title 16, California Code of Regulations (CCR), section 1714 states in part:

2 ...
3 (b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures,
4 and equipment so that drugs are safely and properly prepared, maintained, secured
5 and distributed. The pharmacy shall be of sufficient size and unobstructed area to
6 accommodate the safe practice of pharmacy.

7 ...
8 (d) Each pharmacist while on duty shall be responsible for the security of the
9 prescription department, including provisions for effective control against theft or
10 diversion of dangerous drugs and devices, and records for such drugs and devices.
11 Possession of a key to the pharmacy where dangerous drugs and controlled
12 substances are stored shall be restricted to a pharmacist.

13 ...
14 15. Title 16, CCR, section 1718 states:

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

18 The controlled substances inventories required by Title 21, CFR, Section 1304 shall
19 be available for inspection upon request for at least 3 years after the date of the
20 inventory.

21 16. Health and Safety Code section 11350 states in part:

22 Except as otherwise provided in this division, every person who possesses (1) any
23 controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of
24 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
25 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
26 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
27 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
28 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to
practice in this state, shall be punished by imprisonment in a county jail for not more
than one year, except that such person shall instead be punished pursuant to
subdivision (h) of Section 1170 of the Penal Code if that person has one or more
prior convictions for an offense specified in clause (iv) of subparagraph (C) of
paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense
requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code.

29 ...
30 17. Health and Safety Code section 11351 states:

31 Except as otherwise provided in this division, every person who possesses for
32 sale or purchases for purposes of sale (1) any controlled substance specified in
33 subdivision (b), (c), or (e) of Section 11054, specified in paragraph (14), (15), or
34 (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of
35 Section 11055, or specified in subdivision (h) of Section 11056, or (2) any

1 controlled substance classified in Schedule III, IV, or V which is a narcotic drug,
2 shall be punished by imprisonment pursuant to subdivision (h) of Section 1170
3 of the Penal Code for two, three, or four years.

4 COST RECOVERY

5 18. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licentiate found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
9 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
10 included in a stipulated settlement.

11 DRUGS

12 19. Hydrocodone with acetaminophen, sold under the brand names Norco and Vicodin,
13 was a Schedule III controlled substance as designated by Health and Safety Code section
14 11055(b)(1)(l) at the times pertinent to this Accusation and is currently classified a Schedule II
15 controlled substance pursuant to Health and Safety Code section 11056(e)(4). It is a dangerous
16 drug pursuant to Business and Professions Code section 4022. It is used for the relief of pain.

17 FACTS

18 20. On or about December 5, 2013, the Board was notified that Respondent Vega, a
19 Pharmacy Technician, was terminated from his employment by Respondent Vons for theft of
20 hydrocodone in 2013.

21 21. Respondent Vons became aware of the theft after being notified of the discrepancy
22 between the amount of hydrocodone/apap 10/325 purchased by the pharmacy and the amount
23 dispensed. The pharmacy conducted an investigation that revealed an unusual amount of inventory
24 adjustments for hydrocodone between January 1, 2013 and November 1, 2013. All the
25 adjustments were negative adjustments that reduced the inventory of hydrocodone by 34,642 pills.
26 The adjustments were made using Vega's unique password and were made when Vega was
27 scheduled to work. Vega made the inventory adjustments to hide his theft.

28 22. After making inventory adjustments to cover his thefts, Vega admitted that he placed
the stolen tablets into his smock and exited the pharmacy. Vega sold the stolen tablets for \$1.00

1 per tablet for financial gain. Later, when interviewed by a Board inspector, Vega admitted to
2 stealing only insulin and antibiotics from the pharmacy for his personal use.

3 23. On or about January 23, 2014, the Board received documents from Respondents Woo
4 and Vons in response to the Board's request for more information. Woo and Vons reported the
5 loss of 14,967 tablets of hydrocodone 5mg/apap; 9,977 tablets of hydrocodone 7.5mg/apap; and
6 180,459 tablets of hydrocodone 10mg/apap. Respondents also provided an audit for the period
7 May 1, 2010 to December 30, 2013 that showed the shortages above but failed to identify the
8 specific strengths of tablets lost. In addition, the audit did not include a beginning inventory on
9 May 1, 2010 and Respondents did not perform an ending inventory on December 30, 2013.

10 24. Vega's theft of hydrocodone accounted for the loss of 34,642 tablets between January
11 1, 2013 and November 1, 2013. However, Respondents reported the loss of 14,967 tablets of
12 hydrocodone 5mg/apap; 9,977 tablets of hydrocodone 7.5mg/apap; and 180,459 tablets of
13 hydrocodone 10mg/apap. Respondents attributed the rest of the loss to a "flurry of robberies and
14 other activity both internal and external" without further explanation.

15 25. A Board inspector conducted an inspection of the pharmacy on May 29, 2014.
16 Because of the lack of a beginning inventory and accurate ending inventory, the Board inspector
17 performed an audit for the period May 1, 2010 to May 1, 2013 from documents provided by Woo
18 and Vons for hydrocodone/apap in four strengths: 10/325, 5/500, 5/325 and 7.5/750. However, a
19 beginning inventory was not available to the Board inspector. This audit showed:

20 Hydrocodone/ 21 apap 22 strength	Beginning Inventory	Acquisition Until 5/1/2013	Dispo. Until 5/1/2013	On hand 5/1/2013	Expected	Variance
23 7.5/750mg	N/A	31,720	25,395	170	6325	-6155
24 10/325mg	N/A	190,891	103,677	480	87,214	-86,734
25 5/500mg	N/A	300,895	199,845	520	1049	-529
26 5/325mg	N/A	20,525	20,300	480	225	255

27 26. Because of the lack of a starting inventory, the Board inspector requested that
28 Respondents perform an audit with actual beginning and ending inventories for hydrocodone/apap
10/325 and 5/325 for the period May 1, 2013 through May 29, 2014. The beginning inventory
was obtained from the DEA inventory on May 1, 2013 and the ending inventory was taken from

1 the stock on hand on the day of the Board's inspection. Respondents' audit showed a loss of
2 controlled substances:

3 Drug	4 Beginning inventory 5/1/2013	Acquisition	Disposition	Ending inventory 5/29/2014	Variance
5 Hydrocodone/apap 10/325mg	480	75,000	53,323	2,785	-19,372
6 Hydrocodone/apap 5/325mg	480	47,700	46,226	1,477	-477

7
8 **FIRST CAUSE FOR DISCIPLINE**

9 **AS TO VONS PHARMACY 2406 AND YOUNG JU WOO**

10 **(Failure to Maintain Pharmacy Security)**

11 27. Respondents are subject to disciplinary action under Code section 4301(o) for
12 violating title 16, CCR, 1714, subdivisions (b) and (d) for failing to provide effective control
13 against theft or diversion of dangerous drugs in that Respondents failed to protect against the theft
14 of approximately 34,000 tablets hydrocodone/apap between January 1, 2013 and November 1,
15 2013, the loss of 19,372 tablets of hydrocodone/apap 10/325mg and 477 tablets of
16 hydrocodone/apap 5/325mg between May 1, 2013 and May 29, 2014, and the reported loss of
17 180,459 tablets of hydrocodone 10mg/apap, as more fully set forth in paragraphs 20 – 26 above
18 and incorporated by this reference as though set forth in full herein.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **AS TO VONS PHARMACY 2406 AND YOUNG JU WOO**

21 **(Failure to Maintain Records of Acquisition and Disposition)**

22 28. Respondents are subject to disciplinary action under Code section 4301(o) for
23 violating Code sections 4081 and 4105 in that Respondents failed to maintain a current inventory
24 such that an accurate count of the loss of hydrocodone/apap could not be determined for the
25 periods May 1, 2010 through December 30, 2013 and May 1, 2010 through May 1, 2013,
26 although all of the audits showed a loss of hydrocodone/apap, as more fully set forth in paragraphs
27 20 – 26 above and incorporated by this reference as though set forth in full herein.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **AS TO ROGELIO VEGA ONLY**

3 **(Unlawful Possession of Controlled Substances)**

4 29. Respondent Vega is subject to disciplinary action under Code section 4060 in
5 conjunction with Health and Safety Code section 11350 for unlawfully possessing controlled
6 substances in that Respondent Vega, while employed at Vons Pharmacy 2406 stole approximately
7 34,000 tablets of hydrocodone/apap, as more fully set forth in paragraphs 20 – 26 above and
8 incorporated by this reference as though set forth in full herein.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **AS TO ROGELIO VEGA ONLY**

11 **(Unlawful Furnishing of Controlled Substances)**

12 30. Respondent Vega is subject to disciplinary action under Code section 4059 for
13 unlawfully furnishing controlled substances in that Respondent Vega, while employed at Vons
14 Pharmacy 2406 furnished hydrocodone/apap to himself and others when he stole approximately
15 34,000 tablets of hydrocodone/apap, as more fully set forth in paragraphs 20 – 26 above and
16 incorporated by this reference as though set forth in full herein.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **AS TO ROGELIO VEGA ONLY**

19 **(Unlawful Possession of Controlled Substances for Sale)**

20 31. Respondent Vega is subject to disciplinary action under Code section 4301
21 subdivisions (j) and/or (o) in conjunction with Health and Safety Code section 11351 for
22 unlawfully possessing controlled substances for sale in that Respondent Vega, while employed at
23 Vons Pharmacy 2406 stole approximately 34,000 tablets of hydrocodone/apap and sold the tablets,
24 as more fully set forth in paragraphs 20 – 26 above and incorporated by this reference as though
25 set forth in full herein.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **AS TO ROGELIO VEGA ONLY**

3 **(Committing Acts Involving Dishonesty, Fraud or Deceit)**

4 32. Respondent Vega is subject to disciplinary action under Code section 4301,
5 subdivision (f) for committing acts involving dishonesty, fraud or deceit in that Respondent Vega,
6 while employed at Vons Pharmacy 2406, stole approximately 34,000 tablets of hydrocodone/apap
7 and made false adjustments to the pharmacy's records to cover up his theft, as more fully set forth
8 in paragraphs 20 – 26 above and incorporated by this reference as though set forth in full herein.

9 **SEVENTH CAUSE FOR DISCIPLINE**

10 **AS TO ROGELIO VEGA ONLY**

11 **(Subverting Investigation and Signing a False Document)**

12 33. Respondent Vega is subject to disciplinary action under Code section 4301,
13 subdivisions (q) and (g) for attempting to subvert an investigation of the Board and knowingly
14 making or signing a false document. The circumstances are as follows.

15 34. Respondent Vega informed the Board inspector that he never stole medications
16 containing hydrocodone from Vons Pharmacy 2406 and signed a statement indicating the only
17 products he had taken from Vons 2406 were insulin and antibiotics. However, Respondent Vega
18 admitted to the theft of hydrocodone to a Vons loss prevention employee and signed a statement
19 that he stole hydrocodone, as more fully set forth in paragraphs 20 – 26 above and incorporated by
20 this reference as though set forth in full herein.

21 **DISCIPLINE CONSIDERATIONS**

22 35. To determine the degree of discipline, if any, to be imposed on Respondent Vons
23 Pharmacy 2406, Complainant alleges that on or about January 15, 2015, in a prior action, the
24 Board of Pharmacy issued Citation Number CI 2013 61625 to Vons Pharmacy for a medication
25 error in violation of title 16, CCR, section 1716. This Citation is now final and is incorporated by
26 reference as if fully set forth.

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PRAYER

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

1. Revoking or suspending Pharmacy Permit Number PHY 43000, issued to Vons Corporation, dba Vons Pharmacy 2406;
2. Revoking or suspending Pharmacist License 56562 issued to Young Ju Woo;
3. Revoking or suspending Pharmacy Technician Registration Number TCH 55763 issued to Rogelio A. Vega;
4. Ordering Vons Corporation, dba Vons Pharmacy 2406, Young Ju Woo and Rogelio A. Vega, jointly and severally, to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
5. Taking such other and further action as deemed necessary and proper.

DATED: 6/13/16

Virginia Herold

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

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