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

In the Matter of the Accusation Against:

BELINDA GONZALEZ P.O. Box 38 Watsonville, CA 95077 Case No. 5559

Pharmacy Technician Registration No. TCH 15050

Respondent.

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 December 22, 2016.

It is so ORDERED on November 22, 2016.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

Bу

Amy Gutierrez, Pharm.D. Board President

1	KAMALA D. HARRIS				
2	Attorney General of California LINDA K. SCHNEIDER				
3	Senior Assistant Attorney General JOSHUA A. ROOM				
4	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004				
5					
6	Telephone: (415) 703-1299 Facsimile: (415) 703-5480				
7	Attorneys for Complainant				
8	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA				
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10					
11	In the Matter of the Accusation Against:	Case No. 5559			
12	BELINDA GONZALEZ P.O. Box 38				
13	Watsonville, CA 95077	STIPULATED SURRENDER OF			
14	Pharmacy Technician License No. TCH 15050	LICENSE AND ORDER			
15	Respondent.	· · · ·			
16	In the interest of a prompt and speedy settle	ment 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 Stipulate	d Surrender and Disciplinary Order which will			
19	be submitted to the Board for approval and adopti	on as the final disposition of the Accusation.			
20	PART	IES			
21	1. Virginia Herold (Complainant), Exect	tive Officer, Board of Pharmacy, brought this			
22	action solely in her official capacity and is represe	nted herein by Kamala D. Harris, Attorney			
23	General of the State of California, by Joshua A. R	oom, Supervising Deputy Attorney General.			
24	2. Belinda Gonzalez (Respondent) is rep	resenting herself in this proceeding and has			
25	chosen not to exercise her right to be represented	by counsel.			
26	3. On or about February 6, 1995, the Boa	rd of Pharmacy issued Pharmacy Technician			
27	License No. TCH 15050 to Belinda Gonzalez (Re	spondent). The License was in effect at all			
28	times relevant to the charges herein and will expir				
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1	JURISDICTION	
2	4. Accusation No. 5559 was filed before the Board of Pharmacy (Board), Department of	
3	Consumer Affairs, and is currently pending against Respondent. The Accusation and all other	
4	statutorily required documents were properly served on Respondent on July 1, 2016. Respondent	
5	timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 5559 is	
6	attached as Exhibit A and incorporated by reference.	
7	ADVISEMENT AND WAIVERS	
8	5. Respondent has carefully read, and understands, the charges and allegations in	
9	Accusation No. 5559. Respondent also has carefully read, and understands the effects of, this	
10	Stipulated Surrender of License and Order.	
11	6. Respondent is fully aware of her legal rights in this matter, including the right to a	
12	hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at	
13	her own expense; the right to confront and cross-examine the witnesses against her; the right to	
14	present evidence and to testify on her own behalf; the right to the issuance of subpoenas to	
15	compel the attendance of witnesses and the production of documents; the right to reconsideration	
16	and court review of an adverse decision; and all other rights accorded by the California	
17	Administrative Procedure Act and other applicable laws.	
18	7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and	
19	every right set forth above.	
20	CULPABILITY	
21	8. Respondent admits the truth of each and every charge and allegation in Accusation	
22	No. 5559, agrees that cause exists for discipline, and hereby surrenders her Pharmacy Technician	
23	License No. TCH 15050 for the Board's formal acceptance.	
24	9. Respondent understands that by signing this stipulation she enables the Board to issue	
25	an order accepting the surrender of her Pharmacy Technician License without further process.	
26	CONTINGENCY	
27	10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent	
28	understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may	
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Stipulated Surrender of License (Case No. 5559)

communicate directly with the Board regarding this stipulation and surrender, without notice to or 1 participation by Respondent. By signing the stipulation, Respondent understands and agrees that 2 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board 3 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, 4 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this 5 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not 6 be disqualified from further action by having considered this matter. 7

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11. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format 9 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals. 10

This Stipulated Surrender of License and Order is intended by the parties to be an 11 12. integrated writing representing the complete, final, and exclusive embodiment of their agreement. 12 It supersedes any and all prior or contemporaneous agreements, understandings, discussions, 13 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order 14 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing 15 executed by an authorized representative of each of the parties. 16

In consideration of the foregoing admissions and stipulations, the parties agree that 13. 17 the Board may, without further notice or formal proceeding, issue and enter the following Order: 18

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ORDER

IT IS HEREBY ORDERED that Pharmacy Technician License No. TCH 15050, issued to 20Respondent Belinda Gonzalez, is surrendered and accepted by the Board of Pharmacy. 21

1. The surrender of Respondent's Pharmacy Technician License and the acceptance of 22 the surrendered license by the Board shall constitute the imposition of discipline against 23

Respondent. This stipulation constitutes a record of the discipline and shall become a part of 24 Respondent's license history with the Board of Pharmacy. 25

2. Respondent shall lose all rights and privileges as a Pharmacy Technician in California 26 as of the effective date of the Board's Decision and Order. 27

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3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.

4. Respondent may not apply, reapply, or petition for any license from the Board for three (3) years from the effective date of the Decision and Order.

5 5. If she ever applies for licensure or petitions for reinstatement, the Board shall treat it 6 as a new application for licensure. Respondent must comply with all the laws, regulations and 7 procedures for licensure in effect at the time the application or petition is filed, and all of the 8 charges and allegations contained in Accusation No. 5559 shall be deemed to be true, correct and 9 admitted by Respondent when the Board determines whether to grant or deny.

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6. Respondent shall pay the agency its costs of investigation and enforcement in the
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amount of \$6,000.00 prior to issuance of a new or reinstated license.

12 7. If Respondent should ever apply or reapply for a new license or certification, or
13 petition for reinstatement of a license, by any other health care licensing agency in the State of
14 California, all of the charges and allegations contained in Accusation No. 5559 shall be deemed to
15 be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
16 other proceeding seeking to deny or restrict licensure.

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<u>ACCEPTANCE</u>

I have carefully read the Stipulated Surrender of License and Order. I understand the
stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this
Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to
be bound by the Decision and Order of the Board-of-Pharmacy.

23 DATED: 24

9/28/16

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BELINDA GONZALEZ Respondent

Stipulated Surrender of License (Case No. 5559)

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1	ENDORSEMENT
2	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
3	for consideration by the Board of Pharmacy of the Department of Consumer Affairs.
4	Dated: $10/25/2016$ Respectfully submitted,
5	KAMALA D. HARRIS
6	Attorney General of California LINDA K. SCHNEIDER
7	Senior Assistant Attorney General
8	Acre
9	JOSHUA A. ROOM Supervising Deputy Attorney General
10	Supervising Deputy Attorney General Attorneys for Complainant
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Exhibit A

Accusation No. 5559

1	Kamala D. Harris	
. 2	Attorney General of California LINDA K. SCHNEIDER	
3	Senior Assistant Attorney General JOSHUA A. ROOM	
4	Supervising Deputy Attorney General State Bar No. 214663	
5	455 Golden Gate Avenue, Suite 11000 San Francisco, CA 94102-7004	,
6	Telephone: (415) 703-1299 Facsimile: (415) 703-5480	
7	Attorneys for Complainant	
8	BEFORE THE BOARD OF PHARMACY	
9	DEPARTMENT OF CO STATE OF CA	DNSUMER AFFAIRS
10		1
11	In the Matter of the Accusation Against:	Case No. 5559
12	BELINDA GONZALEZ P.O. Box 38	
13	Watsonville, CA 95077	ACCUSATION
14	Pharmacy Technician License No. TCH 15050	
15	Respondent.	
16	Complainant alleges:	•
17	PART	IES
18	1. Virginia Herold (Complainant) brings	this Accusation solely in her official capacity
19	as the Executive Officer of the Board of Pharmacy	, Department of Consumer Affairs.
20	2. On or about February 6, 1995, the Boa	rd of Pharmacy issued Pharmacy Technician
21	License No. TCH 15050 to Belinda Gonzalez (Res	pondent). The Pharmacy Technician License
22	was in full force and effect at all times relevant to	the charges brought herein and will expire on
23	December 31, 2016, unless renewed.	
24	JURISDI	CTION
25	3. This Accusation is brought before the	Board of Pharmacy (Board), Department of
26	Consumer Affairs, under the authority of the follow	ving laws. All section references are to the
27	Business and Professions Code (Code) unless othe	rwise indicated.
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ļ		(BELINDA GONZALEZ) ACCUSATION

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

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

6 6. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or
7 suspension of a Board-issued license, the placement of a license on a retired status, or the
8 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to
9 commence or proceed with any investigation of, or action or disciplinary proceeding against, the
10 licensee or to render a decision suspending or revoking the license.

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STATUTORY AND REGULATORY PROVISIONS

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

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

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

(j) The violation of any of the statutes of this state, of any other state, or of the 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.

8. California Code of Regulations, title 16, section 1770, states:

"For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by her license or registration in a manner consistent with the public health, safety, or welfare."

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

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

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

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

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

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COST RECOVERY

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

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CONTROLLED SUBSTANCES / DANGEROUS DRUGS

15. Section 4021 of the Code states:

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

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

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

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

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

9 17. Norco, Vicodin, Vicodin ES, Lortab, and Lorcet are among the brand names for compounds of varying dosages of acetaminophen (aka APAP) and hydrocodone, a Schedule III 10 controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous 11 drug as designated by Business and Professions Code section 4022. The varying compounds are 12 also known generically as Hydrocodone with APAP. These are all narcotic drugs. Products like 13 these that combine hydrocodone with non-controlled substances are also called hydrocodone 14 combination products. Effective October 6, 2014, hydrocodone combination productions 15 were switched at the federal level from Schedule III (21 C.F.R. § 1308.13(e)(1)(iii) and (iv)) to 16 17 Schedule II (21 C.F.R. § 1308.12(b)(1)). This includes Hydrocodone with APAP drugs.

18 18. Soma is a brand name for carisoprodol, a dangerous drug as designated by Business
and Professions Code section 4022. Since January 11, 2012, carisoprodol has been a Schedule
IV controlled substance at the federal level (21 C.F.R. § 1308.14(c)(6)). It is a depressant drug.

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FACTUAL BACKGROUND

19. From on or about October 1, 2012 until on or about September 26, 2013, Respondent
was employed as a pharmacy technician by Walgreens Pharmacy. For at least some portion of
that time she worked at a Walgreens Pharmacy (PHY 43181) in Seaside, CA, where by virtue of
her employment she had access to controlled substances and dangerous drugs.

26 20. During the tenure of her employment by the Walgreens Pharmacy in Seaside, CA,
27 Respondent used her access to divert/steal controlled substances and dangerous drugs, including
28 Soma and/or carisoprodol controlled substance/dangerous drug products.

The exact number of instances of diversion/theft by Respondent, and the full quantity
 of controlled substances or dangerous drugs diverted/stolen by Respondent, are not known, but in
 the course of investigations conducted by the pharmacy, by police, and by the Board of Pharmacy,
 the following were among the observations, admissions, and revelations reported:

a. On or about September 21, 2013, Respondent engaged in behavior arousing the
suspicion of a pharmacist supervisor, whereby she claimed she had poured the contents of a
return-to-stock container of Soma/carisprodol into a manufacturer's stock bottle of same. As a
result, Walgreens Pharmacy supervisors/investigators reviewed surveillance video.

b. Review of the surveillance video revealed Respondent pocketing a vial into
which she had poured some portion of the Soma/carisoprodol before return to the pharmacist.

c. On or about September 21, 2013, Respondent was interviewed by Walgreens
 Pharmacy supervisors/investigators and admitted to taking/diverting/stealing thirty (30) tablets of
 Soma/carisoprodol for her personal use. She could not appropriately explain this behavior.

d. On or about September 21, 2013, Respondent also wrote and signed a written
statement admitting to her conduct in diverting the thirty (30) tablets of Soma/carisprodol.

e. On or about September 23, 2013, Seaside Police Department conducted an
investigation of the incident. During an interview with the officer(s), Respondent repeated her
admission of the theft of the thirty (30) Soma/carisoprodol tablets, and offered "no excuse."

f. Audit(s) of the dangerous drug/controlled substance stock of the Walgreens
 Pharmacy where Respondent worked revealed shortages experienced during the audit period from
 June 9, 2013 to September 29, 2013 of approximately 1,435 to 1,585 tablets of carisoprodol 350
 mg, as well as approximately 550 to 802 tablets of Hydrocodone with APAP 7.5/325 mg, and
 approximately 123 to 561 tablets of Hydrocodone with APAP 10/325 mg.

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22. The Seaside Police Department discovered during the 2013 investigation that there was also a prior 2011 investigation of Respondent by the Watsonville Police Department. That prior 2011 investigation included the following observations, admissions, and revelations:

a. On or about June 27, 2011, Watsonville Police responded to a Kmart Pharmacy
(PHY 39321) report of a possible fraudulent prescription incident involving Respondent.

b. On or about June 24, 2011, the pharmacy received a call from a female caller identifying herself as "Diane from Dr. Robert Weber's office" and authorized a refill for Norco 10mg (240 tablets) and Soma 350mg (56 tablets) for Respondent. Respondent picked up the dispensed prescription on or about June 24, 2011.

c. On or about June 27, 2011, the pharmacy attempted to confirm the refill with
the prescriber, and staff were told that neither Dr. Weber nor anyone on his staff had authorized
the prescription/refill. On that same date, a pharmacist called Respondent, and Respondent said
that the prescriptions were actually authorized by a Dr. Osterer. However, the DEA number
provided by Respondent did not appear to be authentic, so Watsonville Police were called.

d. On or about June 28, 2011, Dr. Weber told police that Respondent had been his
patient for several years, but he had not authorized the prescription in question. Office assistant
"Diane" also denied authorizing the refill. Dr. Weber said he was contacted by Respondent on or
about June 23 and/or June 24, 2011, asking him to authorize a refill, but he refused. He believed
that Respondent had then posed as his office assistant to call in the refill.

e. On or about June 28, 2011, during a police interview, Respondent confirmed
that she picked up the prescription on or about June 24, 2011. She said that she had asked for the
refill from a Dr. Joseph Gallagher, and assumed that when she picked it up it had been authorized
by Dr. Gallagher. On or about June 28, 2011, Watsonville Police contacted Dr. Gallagher. He
confirmed that Respondent left him a message requesting a refill on or about June 23, 2011. He
said that he did not authorize the refill for Respondent.

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FIRST CAUSE FOR DISCIPLINE

23 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)
 24 23. Respondent is subject to discipline under section 4301(f) of the Code, in that
 25 Respondent, as described in paragraphs 19 to 22 above, committed acts involving moral turpitude,
 26 dishonesty, fraud, deceit, or corruption.

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SECOND CAUSE FOR DISCIPLINE (Furnishing of Controlled Substance(s))	
(Furnishing of Controlled Substance(s))	
(Furnishing of Controlled Substance(s))	
24. 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 19 to 22 above, furnished to herself or another without a valid prescription, and/or	
conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.	
THIRD CAUSE FOR DISCIPLINE	
(Possession of Controlled Substance(s))	
25. 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 19 to 22 above, possessed, conspired to possess, and/or assisted in or abetted	
possession of, a controlled substance, without a valid prescription.	
FOURTH CAUSE FOR DISCIPLINE	
(Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)	
26. 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	
19 to 22 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.	
FIFTH CAUSE FOR DISCIPLINE	
(Unprofessional Conduct)	
27. Respondent is subject to discipline under section 4301 of the Code in that	
Respondent, as described in paragraphs 19 to 26 above, engaged in unprofessional conduct.	
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7 (BELINDA GONZALEZ) ACCUSATION	

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1	PRAYER	
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
3	and that following the hearing, the Board of Pharmacy issue a decision:	
4	1. Revoking or suspending Pharmacy Technician License Number TCH 15050, issued to	
5	Belinda Gonzalez (Respondent);	
6 2. Ordering Respondent to pay the Board the reasonable costs of the investigation		
7	enforcement of this case, pursuant to Business and Professions Code section 125.3;	
8	3. Taking such other and further action as is deemed necessary and proper.	
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10	(((((((((((((((((((
11	DATED: 2/29/16 Usine feeld	
12	VIRGINIA HEROLD Executive Officer	
13	Board of Pharmacy Department of Consumer Affairs	
14	State of California Complainant	
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