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

12 In the Matter of the Accusation Against:

Case No. 3532

13 **BLAIN PHARMACY AND CONSULTING,**  
**dba LAKE ARROWHEAD VILLAGE**  
14 **PHARMACY; MICHELLE**  
**BLAIN(DRESSER),PRES/SEC/PIC**  
15 **28200 Highway 189**  
**Lake Arrowhead, CA 92352**  
**Pharmacy Permit No. PHY 46040,**

**THIRD AMENDED**  
**A C C U S A T I O N**

16 **and**

17 **MICHELLE LYNNE BLAIN AKA**  
**MICHELLE LYNNE DRESSER**  
18 **P.O. Box 2945**  
**Lake Arrowhead, CA 92352**  
19 **Pharmacist License No. RPH 39754**

20 Respondents.  
21

22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about November 13, 2002, the Board of Pharmacy issued Pharmacy Permit  
27 Number PHY 46040 to Blain Pharmacy and Consulting, dba Lake Arrowhead Village Pharmacy;  
28 Michelle Blain (Dresser), Pres/Sec/PIC (Respondents). The Pharmacy Permit was in full force

1 and effect at all times relevant to the charges brought herein and expires on November 1, 2012,  
2 unless renewed.

3 3. On or about September 16, 1985, the Board of Pharmacy issued Pharmacist License  
4 Number RPH 39754 to Michelle Lynne Blain aka Michelle Lynne Dresser (Respondent). The  
5 Pharmacist License was in full force and effect at all times relevant to the charges brought herein  
6 and will expire on September 30, 2013, unless renewed.

7 **JURISDICTION**

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

11 5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
12 surrender or cancellation of a license shall not deprive the Board, Registrar or Director of  
13 jurisdiction to proceed with a disciplinary action during the period within which the license may  
14 be renewed, restored, reissued or reinstated.

15 **FEDERAL REGULATORY PROVISIONS**

16 6. Code of Federal Regulations, title 21, section 1304.04, subd. (h) states, in pertinent  
17 part:

18 "Each registered pharmacy shall maintain the inventories and records of controlled  
19 substances as follows:

20 "(1) Inventories and records of all controlled substances listed in Schedule I and II shall be  
21 maintained separately from all other records of the pharmacy.

22 "(2) Paper prescriptions for Schedule II controlled substances shall be maintained at the  
23 registered location in a separate prescription file."

24 **STATE REGULATORY PROVISIONS**

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

26 "For the purpose of denial, suspension, or revocation of a personal or facility license  
27 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
28 crime or act shall be considered substantially related to the qualifications, functions or duties of a

1 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
2 licensee or registrant to perform the functions authorized by his license or registration in a manner  
3 consistent with the public health, safety, or welfare."

4 8. California Code of Regulations, title 16, section 1714, subd. (b) provides in pertinent  
5 part that each pharmacy be maintained in a manner so that drugs are safely and properly prepared,  
6 maintained, secured and distributed.

7 9. California Code of Regulations, title 16, section 1714, subd. (c) provides in pertinent  
8 part that the pharmacy shall be equipped with a sink with hot and cold running water for  
9 pharmaceutical purposes.

10 10. California Code of Regulations, title 16, section 1714, subd. (d) provides in pertinent  
11 part that each pharmacist while on duty shall be responsible for the security of the prescription  
12 department, including provisions for effective control against theft or diversion of dangerous  
13 drugs and records.

14 11. California Code of Regulations, title 16, section 1793.7, subd. (b) provides in  
15 pertinent part that pharmacy technicians must work under the direct supervision of a pharmacist  
16 and in such a relationship that the supervising pharmacist is fully aware of all activities involved  
17 in the preparation and dispensing of medications, including the maintenance of appropriate  
18 records.

19 12. California Code of Regulations, title 16, section 1793.7, subd. (d) provides in  
20 pertinent part that a pharmacist shall be responsible for all activities of pharmacy technicians to  
21 ensure that all such activities are performed completely, safely and without risk of harm to  
22 patients.

23 13. California Code of Regulations, title 16, section 1761, subd. (a) provides in pertinent  
24 part that no pharmacist shall compound or dispense any prescription which contains any  
25 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any  
26 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to  
27 validate the prescription.

28 ///

1 14. California Code of Regulations, title 16, section 1718 defines “Current Inventory” to  
2 include complete accountability for all dangerous drugs handled by every licensee.

3 15. California Code of Regulations, title 16, section 1709, subd. (a) states:

4 “Each permit to operate a pharmacy shall show the name and address of the pharmacy, the  
5 form of ownership (individual, partnership or corporation) and the pharmacist-in-charge. Each  
6 pharmacy shall, in its initial application on the annual renewal form, report the name of the  
7 pharmacist-in-charge, the names of all owners and the names of the corporate officers (if a  
8 corporation). Any changes in the pharmacist-in-charge, or the owners, or corporate officers shall  
9 be reported to the Board within 30 days.”

10 **STATUTORY PROVISIONS**

11 16. Section 4300 of the Code states:

12 "(a) Every license issued may be suspended or revoked.

13 "(b) The board shall discipline the holder of any license issued by the board, whose default  
14 has been entered or whose case has been heard by the board and found guilty, by any of the  
15 following methods:

16 "(1) Suspending judgment.

17 "(2) Placing him or her upon probation.

18 "(3) Suspending his or her right to practice for a period not exceeding one year.

19 "(4) Revoking his or her license.

20 "(5) Taking any other action in relation to disciplining him or her as the board in its  
21 discretion may deem proper.”

22 17. Section 4301 of the Code states:

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

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

1 . . . .

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

4 . . . .

5 "(l) The conviction of a crime substantially related to the qualifications, functions, and  
6 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
7 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
8 substances or of a violation of the statutes of this state regulating controlled substances or  
9 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
10 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
11 The board may inquire into the circumstances surrounding the commission of the crime, in order  
12 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
13 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
14 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
15 a conviction following a plea of *nolo contendere* is deemed to be a conviction within the meaning  
16 of this provision. The board may take action when the time for appeal has elapsed, or the  
17 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
18 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
19 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
20 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
21 indictment.

22 . . . .

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

27 "(p) Actions or conduct that would have warranted denial of a license.

28 . . . .

1           "(r) The selling, trading, transferring, or furnishing of drugs obtained pursuant to Section  
2 256b of Title 42 of the United States Code to any person a licensee knows or reasonably should  
3 have known, not to be a patient of a covered entity, as defined in paragraph (4) of subsection (a)  
4 of Section 256b of Title 42 of the United States Code.

5           18. Section 4022 of the Code states

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

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

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

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

15           19. Section 4052.2, subd. (a)(3) of the Code provides in pertinent part that a pharmacist  
16 can administer drugs and biological by injection in accordance with the policies and procedures  
17 or protocols of the physician.

18           20. Section 4059 of the Code states, in pertinent part, that a person may not furnish any  
19 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,  
20 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any  
21 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,  
22 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

23           21. Section 4060 of the Code states:

24           "No person shall possess any controlled substance, except that furnished to a person upon  
25 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
26 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
27 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
28 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,

1 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
2 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not  
3 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
4 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
5 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
6 labeled with the name and address of the supplier or producer.

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

10 22. Section 4067, subd. (a) of the Code states, in pertinent part, that no person or entity  
11 shall dispense or furnish, or cause to be dispensed or furnished, dangerous drugs or dangerous  
12 devices, as defined in Section 4022, on the Internet for delivery to any person in this state without  
13 a prescription issued pursuant to a good faith prior examination of a human or animal for whom  
14 the prescription is meant if the person or entity either knew or reasonably should have known that  
15 the prescription was not issued pursuant to a good faith prior examination of a human or animal,  
16 or if the person or entity did not act in accordance with Section 1761 of Title 16 of the California  
17 Code of Regulations.

18 23. Section 4077 of the Code states, in pertinent part, that except as provided in  
19 subdivisions (b) and (c) of this section, no person shall dispense any dangerous drug upon  
20 prescription except in a container correctly labeled with the information required by Section  
21 4076.

22 24. Section 4081 of the Code states:

23 "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs  
24 or dangerous devices shall be at all times during business hours open to inspection by authorized  
25 officers of the law, and shall be preserved for at least three years from the date of making. A  
26 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary  
27 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,  
28 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,

1 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and  
2 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and  
3 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

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

7 25. Section 4104, of the Code provides in pertinent part:

8 "(b) Every pharmacy shall have written policies and procedures for addressing chemical,  
9 mental, or physical impairment, as well as theft, diversion, or self-use of dangerous drugs, among  
10 licensed individuals employed by or with the pharmacy.

11 (c) Every pharmacy shall report to the board, within 30 days of the receipt or development  
12 of the following information with regard to any licensed individual employed by or with the  
13 pharmacy:

14 (2) Any admission by a licensed individual of theft, diversion, or self-use of dangerous  
15 drugs.

16 . . . .

17 (4) Any video or documentary evidence demonstrating theft, diversion, or self-use of  
18 dangerous drugs by a licensed individual.

19 (5) Any termination based on chemical, mental, or physical impairment of a licensed  
20 individual to the extent it affects his or her ability to practice.

21 (6) Any termination of a licensed individual based on theft, diversion, or self-use of  
22 dangerous drugs.”

23 26. Section 4113 of the Code states:

24 "(a) Every pharmacy shall designate a pharmacist-in-charge and, within 30 days thereof,  
25 shall notify the board in writing of the identity and license number of that pharmacist and the date  
26 he or she was designated."

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1           27. Section 4324 of the Code states:

2           "(a) Every person who signs the name of another, or of a fictitious person, or falsely makes,  
3 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any  
4 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the  
5 state prison, or by imprisonment in the county jail for not more than one year.

6           "(b) Every person who has in his or her possession any drugs secured by a forged  
7 prescription shall be punished by imprisonment in the state prison, or by imprisonment in the  
8 county jail for not more than one year."

9           28. Section 4328 of the Code states:

10           "Except as otherwise provided in this chapter, any person who permits the compounding or  
11 dispensing of prescriptions, or the furnishing of dangerous drugs in his or her pharmacy, except  
12 by a pharmacist, is guilty of a misdemeanor."

13           29. Section 4342, subd. (a) of the Code provides that the board may institute action that it  
14 deems necessary in its discretion to prevent the sale of pharmaceutical preparations and drugs that  
15 do not conform to the standard and tests as to quality and strength.

16           30. Section 4110, subd. (a) of the Code states:

17           "No person shall conduct a pharmacy in the State of California unless he or she has  
18 obtained a license from the board. A license shall be required for each pharmacy owned or  
19 operated by a specific person. A separate license shall be required for each of the premises of any  
20 person operating a pharmacy in more than one location. The license shall be renewed annually.  
21 The board may, by regulation, determine the circumstances under which a license may be  
22 transferred."

23           31. Section 4059.5, subd. (b) of the Code states:

24           "(b) A dangerous drug or dangerous device transferred, sold, or delivered to a person within  
25 this state shall be transferred, sold, or delivered only to an entity licensed by the board, to a  
26 manufacturer, or to an ultimate user or the ultimate user's agent."

27           ///

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1 32. Section 4169, subd. (a), of the Code states, in pertinent part:

2 “(3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or  
3 reasonably should have known were misbranded, as defined in Section 11335 of the Health  
4 and Safety Code.”

5 33. Section 480 states, in pertinent part:

6 “(a) A board may deny a license regulated by this code on the grounds that the applicant has  
7 one of the following:

8 “(1) Been convicted of a crime. A conviction within the meaning of this section  
9 means a plea or verdict of guilty or a conviction following a plea of nolo contendere.  
10 Any action which a board is permitted to take following the establishment of a  
11 conviction may be taken when the time for appeal has elapsed, or the judgment of  
12 conviction has been affirmed on appeal, or when an order granting probation is made  
13 suspending the imposition of sentence, irrespective of a subsequent order under the  
14 provisions of Section 1203.4 of the Penal Code.

15 “(2) Done any act involving dishonesty, fraud or deceit with the intent to  
16 substantially benefit himself or another, or substantially injure another; or

17 “(3) Done any act which if done by a licentiate of the business or profession in  
18 question, would be grounds for suspension or revocation of license.

19 “The board may deny a license pursuant to this subdivision only if the crime or  
20 act is substantially related to the qualifications, functions or duties of the business or  
21 profession for which application is made.”

22 34. Section 475 of the Code states:

23 “(a) Notwithstanding any other provisions of this code, the provisions of this division shall  
24 govern the denial of licenses on the grounds of:

25 “(3) Commission of any act involving dishonesty, fraud or deceit with the  
26 intent to substantially benefit himself or another, or substantially injure another.

27 “(4) Commission of any act which, if done by a licentiate of the business or  
28 profession in question, would be grounds for suspension or revocation of license.

1           "(b) Notwithstanding any other provisions of this code, the provisions of this division shall  
2 govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2)  
3 of subdivision (a) .”

4           35. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
5 revoke a license on the ground that the licensee has been convicted of a crime substantially  
6 related to the qualifications, functions, or duties of the business or profession for which the  
7 license was issued.

8           36. Section 810 of the Code states:

9           “(a) It shall constitute unprofessional conduct and grounds for disciplinary action,  
10 including suspension or revocation of a license or certificate, for a health care professional to do  
11 any of the following in connection with his or her professional activities:

12                   (1) Knowingly present or cause to be presented any false or fraudulent claim  
13 for the payment of a loss under a contract of insurance.

14                   (2) Knowingly prepare, make, or subscribe any writing, with intent to present  
15 or use the same, or to allow it to be presented or used in support of any false or  
16 fraudulent claim.

17           “(b) It shall constitute cause for revocation or suspension of a license or certificate for a  
18 health care professional to engage in any conduct prohibited under Section 1871.4 of the  
19 Insurance Code or Section 549 or 550 of the Penal Code.”

20           37. Section 11165, subd. (d) of the Health and Safety Code states:

21           “For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance,  
22 the dispensing pharmacy or clinic shall provide the following information to the Department of  
23 Justice on a weekly basis and in a format specified by the Department of Justice:

24                   “(1) Full name, address, and the telephone number of the ultimate user or research  
25 subject, or contact information as determined by the Secretary of the United States  
26 Department of Health and Human Services, and the gender, and date of birth of the ultimate  
27 user.

28       ///

1           “(2) The prescriber's category of licensure and license number; federal controlled  
2 substance registration number; and the state medical license number of any prescriber using  
3 the federal controlled substance registration number of a government-exempt facility.

4           “(3) Pharmacy prescription number, license number, and federal controlled substance  
5 registration number.

6           “(4) NDC (National Drug Code) number of the controlled substance dispensed.

7           “(5) Quantity of the controlled substance dispensed.

8           “(6) ICD-9 (diagnosis code), if available.

9           “(7) Number of refills ordered.

10           “(8) Whether the drug was dispensed as a refill of a prescription or as a first-time  
11 request.

12           “(9) Date of origin of the prescription.

13           “(10) Date of dispensing of the prescription.”

14       38. Section 11350, subd. (a) of the Health and Safety Code states:

15       “Except as otherwise provided in this division, every person who possesses (1) any  
16 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of  
17 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or  
18 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section  
19 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic  
20 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian  
21 licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of  
22 Section 1170 of the Penal Code.

23       39. Section 11377, subd. (a) of the Health and Safety Code states:

24       “Except as authorized by law and as otherwise provided in subdivision (b) or Section  
25 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the  
26 Business and Professions Code, every person who possesses any controlled substance which is  
27 (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in  
28 subdivision (d) of Section 11054, except paragraphs (13), (14), (15), and (20) of subdivision (d),

1 (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2)  
2 or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section  
3 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to  
4 practice in this state, shall be punished by imprisonment in a county jail for a period of not more  
5 than one year or pursuant to subdivision (h) of Section 1170 of the Penal Code.”

6 40. Section 56.10, subd. (a) of the California Civil Code states:

7 “No provider of health care, health care service plan, or contractor shall disclose medical  
8 information regarding a patient of the provider of health care or an enrollee or subscriber of a  
9 health care service plan without first obtaining an authorization, except as provided in subdivision  
10 (b) or (c).”

#### 11 **COST RECOVERY**

12 41. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
13 administrative law judge to direct a licentiate found to have committed a violation or violations of  
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15 enforcement of the case.

#### 16 **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

17 A “Vicoprofen” is a brand name for Hydrocodone/ Ibuprofen 7.5/200 mg. and is a  
18 Schedule III controlled substance as designated by Health and Safety Code section 11056, subd.  
19 (e) and classified as a dangerous drugs pursuant to Business and Professions Code section 4022

20 B. “Vicodin”, “Norco”, “Lortab” and “Lorcet” are brand names for Hydrocodone and  
21 Acetaminophen, and are Schedule III controlled substances as designated by Health and Safety  
22 Code section 11056(e) and classified as dangerous drugs pursuant to Business and Professions  
23 Code section 4022.

24 C. “Oxycontin” is a brand name for Oxycodone and is a Schedule II controlled  
25 substance as designated by Health and Safety Code section 11055 subd. (b)(1)(N) and is  
26 categorized as a “dangerous drug” pursuant to section 4022 of the Code.

27 D. “Tussionex Ext-Rel. Susp” is a brand name for Hydrocodone/Chlorpheniramine Ext  
28 Release Susp and is a Schedule III controlled substance as defined in Health and Safety Code

1 section 11056, subd. (e)(6) and is categorized as a “dangerous drug” pursuant to section 4022 of  
2 the Code.

3 E. “Phenergan/Codeine” is a brand name for “Promethazine/codeine syrup” and is a  
4 Schedule V controlled substance as defined in Health and Safety Code section 11058, subd. (c)(1)  
5 and is categorized as a dangerous drug according to Business and Professions Code section 4022.

6 F. “Diazepam” is generic for the brand name Valium 10 mg. and is a benzodiazepine  
7 derivative, a Schedule IV controlled substance as designated by Health and Safety Code section  
8 11057(d)(8) and is categorized as a dangerous drug pursuant to section 4022 of the Code.

9 G. “Lorazepam” is generic for Ativan, a Schedule IV controlled substance as defined in  
10 Health and Safety Code section 11057, subdivision (d)(13), and is categorized as a dangerous  
11 drug pursuant to section 4022 of the Code.

12 H. “Darvocet N-100” is a brand name for “Propoxyphene Napsylate/acetaminophen”  
13 and is a Schedule IV controlled substance as defined in Health and Safety Code section 11057,  
14 subd. (c)(2) and is categorized as a dangerous drug pursuant to section 4022 of the Code.

15 I. “Soma” is a brand name for Carisoprodol 350 mg. and is a dangerous drug pursuant  
16 to section 4022 of the Code.

17 J. “Alprazolam” is generic for the brand name Xanax, a Schedule IV controlled  
18 substance as designated by Health and Safety Code section 11057(d)(1) and is categorized as a  
19 dangerous drug pursuant to section 4022 of the Code.

20 K. “Restoril” is a brand of Temazepam, a Schedule IV controlled substance  
21 as designated by Health and Safety Code section 11057(d)(24), and is categorized as a dangerous  
22 drug pursuant to section 4022 of the Code.

23 L. “Ambien CR 12.5 mg” is a brand of Zolpidem, a Schedule IV controlled substance  
24 as designated by Health and Safety Code section 11057(d)(32), and is categorized as a dangerous  
25 drug pursuant to section 4022 of the Code.

26 M. “Fiorinal” is a compound consisting of 50 mg. of Butalbital, a Schedule III controlled  
27 substance as designated by Health and Safety Code section 11056(c)(3), 40 mg. of caffeine, 325  
28 mg. of aspirin, and 30 mg. of codeine.

1 N. "Ultram" is a brand name for Tramadol and is a dangerous drug pursuant to section  
2 4022 of the Code.

3 O. "Floriset" is a compound consisting of Butalbital, Aceptaminophen (APAP) and  
4 Caffeine, and is a Schedule III controlled substance as designated by Health and Safety Code  
5 section 11056(c)(3).

6 P. "Diaphenoxylate/Atrophine" is a Schedule V controlled substance as designated by  
7 Health and Safety Code section 11058(c)(4).

8 Q. "Zolpidem" is a Schedule IV controlled substance as designated by Health and Safety  
9 Code section 11057(d)(32).

10 R. "Loratidine" is a dangerous drug pursuant to section 4022 of the Code.

11 S. "Minocycline" is a dangerous drug pursuant to section 4022 of the Code.

12 T. "Sildenafil" is generic for the brand name Viagra, is categorized as a dangerous drug  
13 pursuant to section 4022 of the Code.

14 U. "Metformin" is a dangerous drug pursuant to section 4022 of the Code.

15 V. "Levothyroxine" is a dangerous drug pursuant to section 4022 of the Code.

16 W. "Aspirin" is a dangerous drug pursuant to section 4022 of the Code.

17 X. "Gabapentin" is a dangerous drug pursuant to section 4022 of the Code.

18 Y. "Phentermine" is a Schedule IV controlled substance as designated by Health and  
19 Safety Code section 11057(f)(4), and is categorizes as a dangerous drug pursuant to section 4022  
20 of the Code.

21 Z. "Amoxicillin" is a dangerous drug pursuant to section 4022 of the Code.

22 **STATEMENT OF FACTS**

23 Pharmacy Technician Cecilia Romero

24 42. On or about January 10, 2007 at 1800 hours, Cecilia Romero ("Romero"), a  
25 pharmacy technician employed since May 2003 by Respondent, Blain Pharmacy and Consulting,  
26 dba Lake Arrowhead Village Pharmacy located at 28200 Hwy. 189 in Lake Arrowhead, CA, was  
27 arrested by San Bernardino County Sherriff's deputies for the following violations: Vehicle Code  
28 sec. 23152, subd. (a) [driving under the influence of alcohol or drugs, a misdemeanor]; Vehicle

1 Code sec. 14601, subd. (a) [driving on a suspended license, a misdemeanor]; Penal Code sec. 484,  
2 subd. (a) [petty theft, a misdemeanor]; and Code sec. 4060 [possession of a controlled substance  
3 without a prescription, a misdemeanor].

4 43. The circumstances of the arrest are that during a routine traffic stop, deputies  
5 observed Romero to be nervous, fidgety, clenching her teeth and continually moving her hands  
6 and fingers. Romero was asked to perform, and did fail a field sobriety test.

7 44. Romero admitted to deputies that she worked at Respondent pharmacy and was  
8 coming from there on her way to drop off prescription medications for a client on her way home.  
9 A subsequent search of Romero's vehicle uncovered a white paper bag from Respondent  
10 pharmacy and three (3) green plastic bottles all containing pills. Two of the bottles had  
11 prescription labels, prescribed to a client of Respondent pharmacy. The third bottle contained  
12 white pills with no prescription label on it. A fourth bottle was found in Romero's purse, that  
13 contained five, white, round pills.

14 45. Romero told deputies that the smaller bottle with five pills was Tylenol III with  
15 codeine that was prescribed to her, but she had no prescription to document that. Romero stated  
16 that the large bottle contained approximately 100 Vicodin tablets that she had taken to put aside  
17 for a customer that was coming in the next day.

18 46. A deputy phoned Respondent Dresser, the pharmacy owner and pharmacist-in-charge  
19 concerning Romero's story. Dresser stated that she was not aware of any prescriptions that  
20 Romero was supposed to be delivering, and directed the deputy to the pharmacist that had been  
21 on duty. Respondent Dresser further admitted that the two pill bottles that had no prescription  
22 labels should not have left the pharmacy and that it was against their policy to allow people to  
23 remove prescription bottles of pills without prescription labels.

24 47. The deputy phoned the pharmacist in charge who told him that he had worked all day  
25 with Romero and that when they closed the store, Romero was to take two bottles of prescription  
26 medication to one of their customers for delivery on Romero's way home. The pharmacist stated  
27 that he did not give Romero permission, nor did he know that Romero had taken a bottle of  
28 Vicodin from Respondent pharmacy, nor that Romero had taken the bottle of Tylenol III with



1 codeine. The pharmacist stated if he had known, he would not have allowed Romero to remove  
2 the bottles from the pharmacy because they are not allowed to remove prescription bottles  
3 containing pills without prescription labels.

4 48. A deputy asked Romero if she had permission from the staff pharmacist or  
5 Respondent Dresser, the pharmacy owner, to remove the Vicodin and Tylenol III with Codeine  
6 from Respondent pharmacy and responded, "No". Romero was asked when she had last used  
7 Methamphetamine, to which she stated that she had snorted a line earlier that day.

8 49. The evidence seized by deputies from Romero were: a bottle of Vicodin containing  
9 119 pills; a bottle of Tylenol III with Codeine containing 5 pills; a bottle of Hydrocodone  
10 containing 20 pills; and a bottle of Soma containing 34 pills.

11 50. Respondent Dresser terminated Romero's employment with Respondent pharmacy on  
12 or about January 11, 2007, following Romero's arrest.

13 Pharmacy Technician Crystal Hutson

14 51. Crystal Hutson ("Hutson") was employed by Respondent pharmacy as a pharmacy  
15 technician from on or about February 7, 2003 until March 5, 2008, when Hutson's employment  
16 was terminated by Respondent Dresser for engaging in "deceptive, misleading or fraudulent  
17 acts"; admitting to diverting drugs from Respondent pharmacy; admitting to filling prescriptions  
18 without a pharmacist's supervision; failure to enter into a chemical dependency program; and  
19 billing Medi-cal for the wrong drugs.

20 52. Between January 2007 and July 2007, Hutson diverted a total of 980 Hydrocodone-  
21 containing tablets, including Norco 10/325 mg and Vicoprofen, through unauthorized  
22 prescriptions ostensibly from Dr. Lawrence Walker, M.D.

23 53. Between February 2005 and January 2008, Hutson diverted a total of 480  
24 Carisoprodol tablets; 300 ml. Tussionex Ext-Rel. Susp.; 30 Phentermine capsules and 1300  
25 Hydrocodone-containing tablets, including Vicoprofen and Lortab, through unauthorized  
26 prescriptions ostensibly from Dr. Kevin Herrick, M.D.

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1 Pharmacy Technician Lisa Wright

2 54. Respondent pharmacy employed Lisa Wright (“Wright”) as a pharmacy technician  
3 from March 2004 until on or about July 7, 2006. On multiple dates from March 2004 until  
4 February 2008, while employed Respondent pharmacy and continuing after her employment  
5 termination, Wright fraudulently authorized and processed, and/or conspired to fraudulently  
6 authorize and process multiple prescriptions for controlled substances for herself, her husband  
7 Terry Wright, and her daughter, including approximately 12,240 hydrocodone-containing tablets;  
8 4920 mls. (more than ten (10) pints) Tussionex Ext-Rel. Susp; 2880 mls. (more than six (6) pints)  
9 Promethazine/codeine syrup; 2400 tablets of various benzodiazepines (Diazepam, Lorazepam and  
10 Temazepam); 900 tablets of Propoxyphene Napsylate/acetaminophen; and 800 tablets of  
11 Carisoprodol. The circumstances are as follows:

12 55. Between October 2005 and March 2006, Wright fraudulently authorized and  
13 processed, and/or conspired to fraudulently authorize and process multiple prescriptions  
14 ostensibly authorized by Dr. Kyi Kyi Win to Wright’s husband, Terry Wright, for the following  
15 controlled substances or dangerous drugs: Diazepam 5mg; Diazepam 10mg; Temazepam 30mg;  
16 Hydrocodone/APAP 7.5/750 mg.; Carisoprodol 350 mg.; and Valium 10mg.

17 56. Between November 2005 and February 2008, Wright fraudulently authorized and  
18 processed, and/or conspired to fraudulently authorize and process multiple prescriptions  
19 ostensibly authorized by Dr. Lawrence Walker to Wright, for the following controlled substances  
20 or dangerous drugs: Vicoprofen #100; Vicodin ES #100; Vicoprofen #200; Vicodin ES #80;  
21 and Norco 10/325 #220.

22 57. Between January 2005 and February 2008, Wright fraudulently authorized and  
23 processed, and/or conspired to fraudulently authorize and process multiple prescriptions  
24 ostensibly authorized by Dr. Kevin Herrick to Wright, for the following controlled substances or  
25 dangerous drugs: Vicodin ES; Tussionex Ext-Rel. Susp. 300 ml; Phenergan/Codeine 240 ml;  
26 Norco 10/325 #200; Ativan 2mg #100; Vicoprofen #100; Vicodin ES #100; Vicoprofen #200;  
27 Vicodin ES #80; Norco 10/325 #220; Fiorinal/Codeine no. 3 #60; Ambien 10mg #14; Xanax .5  
28 mg #60; Darvocet N-100 #100; Ativan 1 mg #100; and Phentermine 30 mg #30.

1           58. Between October 2005 and April 2007, Wright fraudulently authorized and  
2 processed, and/or conspired to fraudulently authorize and process multiple prescriptions  
3 ostensibly authorized by Dr. Kevin Herrick to Wright's daughter, Katie Wright, for the following  
4 controlled substances or dangerous drugs: Hydrocodone/ APAP 10/325 mg #120.

5 Parole Search of Respondent Dresser's Residence

6           59. On or about October 14, 2009, State Parole Officers received information that a  
7 parolee, R.F., was living at the residence of his girlfriend, Respondent Dresser, without  
8 permission from his parole officer. On or about October 15, 2009, the State Parole Officers,  
9 along with San Bernardino County Sheriff's deputies arrived at the residence and discovered R.F.  
10 living there. Upon consent to enter and search Respondent Dresser's residence, the deputies  
11 noticed in plain view several bottles of prescription pills in the dining room area and contacted  
12 the Sheriff's Narcotics Division.<sup>1</sup>

13           60. During their search of the residence, deputies found approximately 250 prescription  
14 pill bottles, filled with Schedule IV pharmaceutical drugs scattered throughout the residence and  
15 inside of five (5) large trash bags that were stored in the garage. Some of the bottles did not have  
16 a patient's label or name on the bottle and the bottles that did have labels and a patient's name,  
17 had different names listed on each bottle. During the search of the home, the following items of  
18 interest were located:

19           a. Five (5) non-labeled prescription pill bottles filled with Xanax, Ambien, Soma and  
20 Viagra in Respondent Dresser's dresser drawer.

21           b. 12 pills of Diphenoxylate/Atropine 2.5 mg/0.25mg in a non-numbered bottle in the  
22 bedroom.

23           c. 52 pills of Zolpidem 10 mg in a non-labeled bottle on the nightstand next to the bed  
24 in the bedroom.

25           d. 19 pills of Loratidine 10 mg in a non-labeled bottle in the bedroom.

26           e. 22 pills of Alprazolam inside of a non-labeled bottle in the bedroom.

27 <sup>1</sup> Although Respondent Dresser and R.F. gave the officers permission to search  
28 Respondent Dresser's residence, the officers also had a valid search warrant.

- 1 f. One (1) pill of Alprazolam in a non-labeled bottle in the bedroom.
- 2 g. A non-labeled bottle in the bedroom containing a total of 17 mixed pills as follows:  
3 three (3) pills of Minocycline 100 mg ,12 pills of Diphenoxylate and two (2) pills of Alprazolam.
- 4 h. Four (4) pills of Viagra in a non-labeled bottle next to the bed.
- 5 i. 182 pills of Butalbital/APAP/Caffeine 50 mg/325 mg/ 40 mg in a non-labeled bottle  
6 in a brown paper bag.
- 7 j. 20 pills of Alprazolam 0.5 mg in a bottle labeled as “Lipitor” prescribed to patient  
8 M.P. under the bed,
- 9 k. 15 pills of Alprazolam in a non-labeled bottle of the bedroom.
- 10 l. A bottle mislabeled as “Enalapril 100 mg” prescribed to patient G.M. in the console  
11 of Respondent Dresser’s vehicle which contained total of 30 mixed pills as follows: eight (8) pills  
12 of Metformin 500 mg and 22 pills of Levothyroxine.
- 13 m. Lake Arrowhead Village Pharmacy bottles that were mislabeled as follows:
- 14 i. A bottle labeled as “Carisoprodol 350 mg” prescribed to patient R.K. but was  
15 filled with Aspirin pills.
- 16 ii. A bottled labeled as “Carisoprodol 350 mg” prescribed to patient F.G. but was  
17 filled with 295 Aspirin pills.
- 18 n. “Hope for All Pharmacy” bottle that was mislabeled as “Carisoprodol 350 mg” but  
19 was filled with 332 Aspirin pills.
- 20 o. 2,142 dosage units of Carisoprodol 350 mg, 182 dosage units of Tramadol, 175  
21 dosage units of Butalbital 180 mg, 295 dosage units of Aspirin and 360 additional dosage units of  
22 Butalbital in the first of the five (5) garbage bags located in the garage.
- 23 p. 4,447 dosage units of Carisoprodol 350 mg in the second of the five (5) garbage bags  
24 located in the garage.
- 25 q. 3,441 dosage units of Carisoprodol 350 mg and 185 dosage units of Tramadol in the  
26 third of the five (5) garbage bags located in the garage.
- 27 r. 1,969 dosage units of Carisoprodol 350 mg, 174 dosage units of Tramadol 50 mg,  
28 182 dosage units of Butalbital in the fourth of the five (5) garbage bags located in the garage.

1 s. 5,780 dosage units of Carisoprodol 350 mg, 182 dosage units of Butalbital in the fifth  
2 of the five (5) garbage bags located in the garage.

3 t. Three (3) cardboard boxes filled with prescription and medical records for patients  
4 and doctors located throughout the United States reflecting that the patients were prescribed  
5 multiple Schedule II, III and IV controlled substances. In addition, the following was found  
6 inside of the record boxes:

7 i. 410 Tramadol Hydrochloride pills.

8 ii. 5 Amoxicillin pills.

9 u. A paper bag labeled "Arrowhead Village Pharmacy" containing a total of \$2,335.00  
10 (two thousand three hundred thirty-five dollars and no cents) in the following denominations: two  
11 (2) one hundred dollar bills, two (2) fifty dollar bills, 102 twenty dollar bills, three (3) ten dollar  
12 bills and five (5) one dollar bills.

13 61. During the search, San Bernardino County Sheriff's Deputy Sherry Eversole,  
14 contacted Drug Enforcement Administration (DEA) Diversion Investigator C.C. regarding the  
15 large quantity of pharmaceuticals that were found at Respondent Dresser's home. Upon arrival at  
16 Respondent Dresser's residence, the Diversion Investigator conducted an interview of  
17 Respondent Dresser wherein Respondent Dresser stated the following:

18 a. In October 2008, J.S., the owner of a company named Cyber Support, contacted  
19 Respondent Dresser and solicited her to fill prescriptions via what she referred to as  
20 "telemedicine".

21 b. Respondent Dresser began filling prescriptions for J.S./Cyber Support in October  
22 2008, and continued doing so up until June 2009.

23 c. In order to fill a prescription, Respondent Dresser would log onto a website and  
24 would verify that the prescribed drug matched the customer's medical condition and diagnosis.  
25 Respondent Dresser indicated to the Diversion Investigator that before she filled an order, she  
26 often spoke with the prescribing doctor to verify that prescription and verify that the doctor had a  
27 valid DEA number and state license. Once the verification process was completed, Respondent

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1 Dresser reported that she printed out a prescription label from the database, packaged the drugs  
2 and then shipped them.

3 d. Respondent Dresser reported that she only filled prescriptions for the following  
4 drugs: Fiorocet, Soma and Ultram and that the prescription bottles usually contained 120 or 180  
5 tablets per bottle. She stated that she filled approximately twenty prescriptions per day for  
6 approximately five (5) to ten (10) doctors and 100 patients located in five (5) to ten (10) states.  
7 She stated that she did not fill any prescriptions for controlled substances.

8 e. Respondent Dresser indicated that payments were wire transferred to Respondent  
9 Lake Arrowhead Village Pharmacy's bank account every two (2) weeks by Cyber Support and  
10 that she received six dollars per prescription, averaging approximately \$5,000 in income every  
11 two (2) weeks.

12 f. Respondent Dresser stated that the pharmaceuticals located in the garage were  
13 returned parcels of drugs that she had taken from the pharmacy to her residence for storage while  
14 she "sorted out the problems she had encountered with the Board of Pharmacy."

15 g. She also reported that her husband, C.D., would take drugs out of Lake Arrowhead  
16 Village Pharmacy and bring them to her home, and that he was abusive and had planted a knife in  
17 her home.

18 h. She stated that she could not remember the last time she had conducted an inventory  
19 of controlled substances.

20 62. A Sheriff's Department Deputy conducted an interview of R.F., Respondent's  
21 boyfriend wherein he stated the following:

22 a. Respondent Dresser was his pharmacist and that he buys his medication from her  
23 which is prescribed to him by his doctor. R.F. stated that he pays \$30.00 for an office visit with  
24 his doctor and then pays Respondent Dresser \$13.00 for one of his prescriptions and \$20.00 for  
25 his second prescription. He stated that Respondent Dresser provided to him a "freedom card  
26 which helps him out with the co-pay."

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1           63. As a result of the search of Respondent Dresser's home, she and R.F., were placed  
2 under arrest.<sup>2</sup> In the matter *People of the State of California v. Michelle Lynne Blaine*, 2010,  
3 Super Ct. of San Bernardino County, Case No. FSB1004132, Respondent Dresser was charged  
4 with four (4) felony counts as follows: (1) one count of possession for sale of designated  
5 controlled substance (Alprazolam) on or about October 15, 2009, in violation of Health and  
6 Safety Code section 11375, subdivision (b); (2) one count of possession for sale of a controlled  
7 substance (Atropine Sulfate with Diphenoxylate) on or about October 15, 2009, in violation of  
8 Health and Safety Code section 11351; (3) two counts of possession for sale of controlled  
9 substances (Zolpidem and Phentermine) on or about October 15, 2009, in violation of Health and  
10 Safety Code section 11378. The criminal matter is still pending.

11 Inspection of Respondent Lake Arrowhead Village Pharmacy

12           64. On September 22, 2010, Board Inspectors Valerie Knight and Joseph Wong visited  
13 Respondent Pharmacy for a routine inspection. Upon arriving at the premises, the inspectors  
14 encountered pharmacy technician, Jamie English. The inspectors reviewed the pharmacy's drug  
15 inventory and records for compliance with all state and federal laws and regulations pertaining to  
16 the practice of pharmacy and the daily controlled substance logs. Inspector Wong asked  
17 Pharmacy Technician English to retrieve a controlled substance drug usage report but she was  
18 unable to provide him with a copy. Upon Inspector Wong's review of the controlled substance  
19 acquisition records, he discovered the co-mingling of controlled substance invoices with non-  
20 controlled substance invoices.

21           65. The September 2010 inspection of the pharmacy brought to light several areas of non-  
22 compliance within the pharmacy, as follows: (a) failure to maintain hot water in the sink; (b)  
23 failure to maintain a thermometer in the refrigerator; (c) reconstitution of antibiotics with a  
24 "plastic (mass-produced) amber bottle as a measure for oral antibiotic requiring reconstitution and  
25 estimate amount of water" instead of using a proper measuring device such as a graduated

26 \_\_\_\_\_  
27 <sup>2</sup> On September 5, 2010, R.F. died at Mountains Community Hospital after Respondent  
28 Dresser called "911" from her home to report that he was unresponsive. Sheriff's investigators  
suspected that painkillers may have contributed to R.F.'s death.

1 cylinder; (d) pharmacy technician verifying “unusual directions on a patient prescription”; (e)  
2 failure to maintain a current pharmacy self-assessment, written policies and procedures for  
3 theft/impairment and vaccination protocols available for review; (f) failure to have a pharmacist-  
4 in-charge on record since October 2009 and (g) failure to maintain updated pharmacy ownership  
5 information with the Board since the dissolution of Blain Pharmacy and Consulting Services Inc.  
6 in September 2008.

7 66. Upon a review of the Board’s file for Respondent Pharmacy, Inspector Wong  
8 retrieved a letter written by Respondent Dresser disassociating herself as pharmacist-in-charge of  
9 Respondent Pharmacy effective October 13, 2009.

10 67. On or about February 7, 2011, Supervising Board of Pharmacy Inspector R.R., and  
11 Board of Pharmacy Inspector A.Y., went to Respondent Lake Arrowhead Village Pharmacy and  
12 issued a “cease and desist” order to the pharmacy ordering the pharmacy to immediately cease  
13 and desist operating as a pharmacy until such time a pharmacist-in-charge (PIC) was identified  
14 and approved.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Against Respondents, Lake Arrowhead Village Pharmacy and Michelle Dresser)**

17 **(Failure to Maintain Adequate Security over Pharmacy Prescriptions)**

18 68. Respondents are subject to disciplinary action under section 4301, subd. (o) for  
19 violation of California Code of Regulations, title 16, sections 1714, subdivisions (b) and (d) for  
20 failure to maintain the pharmacy in a secure manner that insures drugs are properly maintained,  
21 secured and distributed and for failure of the pharmacist on duty to maintain adequate security  
22 against theft or diversion of dangerous drugs. The circumstances are as alleged in the preceding  
23 paragraphs 42 through 58, which are incorporated by reference, as though fully set forth.

24 69. From in or about January 5, 2005 through March 5, 2008, pharmacist technicians  
25 Romero, Hutson and Wright, while employed at Respondent pharmacy and thereafter, diverted  
26 over 14,520 hydrocodone-containing tablets and 5,120 mls of Tussionex (hydrocodone)  
27 Suspension, both schedule III controlled substances and narcotics; 2,880 mls (more than six (6)  
28 pints) Promethazine with codeine syrup, a schedule IV controlled substance and narcotic; 2,400



1 tablets of various benzodiazepines (Diazepam, Lorazepam and Temazepam) and 900 tablets of  
2 propoxyphene napsylate/acetaminophen, all schedule IV controlled substances; and 1,280  
3 Carisoprodol 350 mg tablets, a dangerous drug as defined by section 4022, through theft and  
4 fraudulent prescriptions.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Against Respondents, Lake Arrowhead Village Pharmacy and Michelle Dresser)**

7 **(Inadequate Supervision of Pharmacy Technicians)**

8 70. Respondents are subject to disciplinary action under section 4301, subd. (o) for  
9 violation of California Code of Regulations, title 16, sections 1793.7, subdivisions (b) and (e) for  
10 failure to properly supervise pharmacy technician(s) such that the supervising pharmacist is fully  
11 aware of all activities involved in the preparation and dispensing of medications , including the  
12 maintenance of proper records, in derogation of the responsibility of the supervising pharmacist  
13 for all activities of pharmacy technician(s) to ensure that all activities are properly performed.  
14 The circumstances are as alleged in the preceding paragraphs 42 through 58 and 64-67, which are  
15 incorporated by reference, as though fully set forth.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Against Respondents, Lake Arrowhead Village Pharmacy and Michelle Dresser)**

18 **(Failure to Maintain and or Produce Adequate Inventory Records)**

19 71. Respondents are subject to disciplinary action under section 4301, subd. (o) for  
20 violation of section 4081, subd. (a) as defined by California Code of Regulations, title 16, section  
21 1718, for failure to maintain current inventory records to establish complete accountability for all  
22 dangerous drugs handled by Respondent pharmacy, including sale, acquisition or disposition of  
23 dangerous drugs for at least three (3) years from the date of making. The circumstances are as  
24 follows:

25 72. On or about January 16, 2009, while working at Respondent pharmacy, pharmacist-  
26 in-charge Michelle Dresser failed to maintain acquisition and disposition records sufficient to  
27 ensure complete accountability of all dangerous drugs handled by Respondent pharmacy, in that

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1 she failed to produce all acquisition records for all oxycodone-containing products purchased by  
2 Respondent pharmacy within the requested time period.

3 73. On or about August 4, 2009, during an inspection at Respondent pharmacy, ten  
4 original prescriptions for oxycodone-containing products were missing from Respondent  
5 pharmacy's prescription files.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **(Against Respondents, Lake Arrowhead Village Pharmacy and Michelle Dresser)**

8 **(Failure to Report to Board Employee Termination(s) Related to Theft or Impairment)**

9 74. Respondents are subject to disciplinary action under section 4301, subd. (o) for  
10 violation of section 4104, subd. (c) for failure to report to the Board within thirty (30) days any  
11 termination of a licensed individual based on theft, diversion, or self-use of dangerous drugs. The  
12 circumstances are as follows:

13 75. Respondent pharmacy's pharmacist-in-charge, Michelle Dresser, while working at  
14 Respondent pharmacy, failed to notify the Board when she terminated licensed pharmacist  
15 technician Romero on or about January 11, 2007; when she terminated licensed pharmacist  
16 technician Wright on or about July 7, 2006 and when she terminated licensed pharmacist  
17 technician Hutson on or about March 5, 2008. All three licensed technicians were terminated  
18 based on charges of theft, diversion or self-use of controlled substances, as alleged in the  
19 preceding paragraphs 42 through 58, which are incorporated by reference, as though fully set  
20 forth.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Against Respondents, Lake Arrowhead Village Pharmacy and Michelle Dresser)**

23 **(Corrupt Acts- Fraudulent Insurance Billing)**

24 76. Respondents are subject to disciplinary action under section 4301, subd. (f) for  
25 unprofessional conduct in that pharmacist-in-charge Michelle Dresser committed acts involving  
26 moral turpitude, dishonesty, fraud, deceit, or corruption. The circumstances are that on March 21,  
27 2006, May 16, 2006, and June 27, 2006, Respondent billed Blue Shield for Rx 117729 Accutane

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1 20 mg #90. Rx 117729 was not authorized by the physician, nor was it dispensed to the patient  
2 on March 21, 2006, May 16, 2006 and June 27, 2006.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Against Respondents, Lake Arrowhead Village Pharmacy and Michelle Dresser)-**  
5 **(Failure to Designate Pharmacist-In-Charge)**

6 77. Respondents are subject to disciplinary action under section 4113, subd. (a) which  
7 requires every pharmacy to designate a pharmacist-in-charge and, within 30 days of such  
8 designation, to notify the Board in writing. The circumstances are that from October 13, 2009 to  
9 the present, Respondents have failed to designate a pharmacist-in-charge, as alleged in the  
10 preceding paragraphs 64 through, which are incorporated by reference, as though fully set forth.

11 **SEVENTH CAUSE FOR DISCIPLINE**

12 **(Against Respondents, Lake Arrowhead Village Pharmacy and Michelle Dresser)**  
13 **(Failure to Notify of Change of Ownership)**

14 78. Respondents are subject to disciplinary action under section 4110, subd. (a) in  
15 conjunction with Title 16 C.C.R. section 1709, subd. (a) which requires every pharmacy that is a  
16 corporation to report the name of the pharmacist-in-charge, the names of all owners, and the  
17 names of corporate officers in its initial application and on the annual renewal form. Any  
18 changes in the pharmacists-in-charge, the owners or corporate officers are to be reported to the  
19 Board within 30 days. The circumstances are that on or about September 18, 2008, Blain  
20 Pharmacy and Consulting Services, Inc., the corporate owner of Lake Arrowhead Village  
21 Pharmacy was dissolved as a corporation and since that time Respondents have failed to report  
22 current ownership to the Board or notify the Board of this change of ownership.

23 **EIGHTH CAUSE FOR DISCIPLINE**

24 **(Against Respondents, Lake Arrowhead Village Pharmacy and Michelle Dresser)**  
25 **(No Separation of Controlled Substance Records)**

26 79. Respondents are subject to disciplinary action under section 4301, subd. (j) in  
27 conjunction with Code of Federal Regulations section 1304.04, subd. (h)(1)(2) which requires  
28 that each pharmacy maintain records of all controlled substances listed in Schedules II, III, IV and

1 V separately from all other records of the pharmacy. The circumstances are that on or about  
2 September 22, 2010, Respondents failed to maintain controlled substance purchase invoices from  
3 all wholesalers separately from all other (non- controlled substance) purchase invoices. Schedule  
4 II controlled substances were comingled with Schedule III, IV and V controlled substance  
5 invoices along with other non-controlled substance invoices.

6 **NINTH CAUSE FOR DISCIPLINE**

7 **(Against Respondents, Lake Arrowhead Village Pharmacy and Michelle Dresser)**

8 **(Failure to Have Hot Water Available for Pharmaceutical Purposes)**

9 80. Respondents are subject to disciplinary action under section 4301, subd. (o) in  
10 conjunction with Title 16 C.C.R. section 1714, subd. (c) which requires every pharmacy to be  
11 equipped with a sink with hot and cold running water for pharmaceutical purposes. The  
12 circumstances are that on or about September 22, 2010, Lake Arrowhead Village Pharmacy failed  
13 to have hot running water in the sink available for pharmaceutical purposes.

14 **TENTH CAUSE FOR DISCIPLINE**

15 **(Against Respondents, Lake Arrowhead Village Pharmacy and Michelle Dresser)**

16 **(Failure to Have Thermometer to Monitor Refrigerated Drugs and Vaccines)**

17 81. Respondents are subject to disciplinary action under section 4342, subd. (a), which  
18 prohibits the sale of pharmaceutical preparations and drugs that do not conform to the standard  
19 and tests as to quality and strength. The circumstances are that on or about September 22, 2010,  
20 Lake Arrowhead Village Pharmacy failed to maintain a thermometer in the refrigerator to monitor  
21 the drugs and vaccines that require refrigeration.

22 **ELEVENTH CAUSE FOR DISCIPLINE**

23 **(Against Respondents, Lake Arrowhead Village Pharmacy and Michelle Dresser)**

24 **(No Written Policies and Procedures)**

25 82. Respondents are subject to disciplinary action under section 4104, subd. (b) which  
26 requires that every pharmacy have written policies and procedures for addressing chemical,  
27 mental, or physical impairment, as well as theft, diversion or self-use of dangerous drugs among  
28 licensed individuals employed by or with the pharmacy. The circumstances are that on or about

1 September 22, 2010, Lake Arrowhead Village Pharmacy failed to have available for review  
2 written policies and procedures on licensed employee impairment and theft.

3 **TWELFTH CAUSE FOR DISCIPLINE**

4 **(Against Respondents, Lake Arrowhead Village Pharmacy and Michelle Dresser)**

5 **(Failure to Have Vaccination Protocols Available for Review)**

6 83. Respondents are subject to disciplinary action under section 4052.2, subd. (a) which  
7 requires that a pharmacist perform the administering of drugs and biological by injection in  
8 accordance with the policies and procedures or protocols of the physician. The circumstances are  
9 that on or about September 22, 2010, Lake Arrowhead Village Pharmacy failed to have available  
10 for review vaccination protocols.

11 **THIRTEENTH CAUSE FOR DISCIPLINE**

12 **(Against Respondents, Lake Arrowhead Village Pharmacy and Michelle Dresser)**

13 **(No CURES<sup>3</sup> Transmission)**

14 84. Respondents are subject to disciplinary action under 4301, subd. (j) in conjunction  
15 with Health and Safety Code section 11165, subd. (d), which requires that the dispensing  
16 pharmacy provide information to the Department of Justice on a weekly basis for each  
17 prescription for a Schedule II, III and IV controlled substance. The circumstances are that since  
18 on or about July, 2009, Respondents have failed to transmit Schedule II, III and IV controlled  
19 substance prescription information to the Department of Justice.

20 **FOURTEENTH CAUSE FOR DISCIPLINE**

21 **(Against Respondent Lake Arrowhead Village Pharmacy)**

22 **(Furnishing Uncertain Prescriptions)**

23 85. Respondent Lake Arrowhead Pharmacy is subject to disciplinary action under  
24 California Code of Regulations section 1761, subd. (a), which requires that a pharmacist, upon  
25 receipt of any prescription which contains any significant error, omission, irregularity,  
26 uncertainty, ambiguity, or alteration, contact the prescriber to obtain the information needed to

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28 <sup>3</sup> CURES is an acronym for “California Utilization Review and Evaluation System.”

1 validate the prescription. The circumstances are from on or about approximately April 1, 2009, to  
2 April 30, 2009, Respondent Lake Arrowhead Village Pharmacy furnished approximately 110  
3 dangerous drug prescriptions to residents outside of California pursuant to prescriptions issued  
4 via the Internet which were obtained without a good faith prior examination. The circumstances  
5 are as alleged in the preceding paragraphs 59 through 63, which are incorporated by reference, as  
6 though fully set forth.

7 **FIFTEENTH CAUSE FOR DISCIPLINE**

8 **(Against Respondent Lake Arrowhead Village Pharmacy)**

9 **(Failure to Maintain Complete Records)**

10 86. Respondent Lake Arrowhead Village Pharmacy is subject to disciplinary action under  
11 section 4081, subd. (a) in conjunction with section 4105, subd. (a), which require that all records  
12 of manufacture and of sale, acquisition or disposition of dangerous drugs be preserved for at least  
13 three (3) years from the date of creation. The circumstances are from on or about approximately  
14 April 1, 2009, to April 30, 2009, Respondent Lake Arrowhead Village Pharmacy failed to  
15 document the disposition of approximately 110 dangerous drug prescriptions of Carisoprodol 350  
16 mg, Tramadol 50 mg and Butalbital/APAP/Caffeine 50 mg/325 mg/40 mg received pursuant to  
17 prescriptions issued via the Internet. The circumstances are as alleged in the preceding  
18 paragraphs 59 through 63, which are incorporated by reference, as though fully set forth.

19 **SIXTEENTH CAUSE FOR DISCIPLINE**

20 **(Against Respondent Michelle Dresser)**

21 **(Unauthorized Possession of Dangerous Drugs)**

22 87. Respondent Dresser is subject to disciplinary action under section 4059, subd. (a)  
23 which provides that a person may not furnish any dangerous drug, except upon the prescription of  
24 a physician. The circumstances are that on or about October 15, 2009, Respondent Dresser was  
25 in possession of dangerous drugs in unlabeled and mislabeled containers at her place of residence.  
26 The circumstances are as alleged in the preceding paragraphs 59 through 63, which are  
27 incorporated by reference, as though fully set forth.

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**SEVENTEENTH CAUSE FOR DISCIPLINE**

**(Against Respondent Michelle Dresser)**

**(Unauthorized Possession of Controlled Substances)**

88. Respondent Dresser is subject to disciplinary action under section 4060 which provides that a person shall not possess any controlled substance, except that which is furnished to a person upon the prescription of a physician. The circumstances are that on or about October 15, 2009, Respondent Dresser was in possession of controlled substances in unlabeled and mislabeled containers at her residence. The circumstances are as alleged in the preceding paragraphs 59 through 63, which are incorporated by reference, as though fully set forth.

**EIGHTEENTH CAUSE FOR DISCIPLINE**

**(Against Respondent Michelle Dresser)**

**(Unlawful Possession of Narcotic Drugs)**

89. Respondent Dresser is subject to disciplinary action under section 11350, subd. (a) of the Health and Safety Code which provides that no person may possess any Schedule III, IV or V controlled substance which are also classified as narcotic drugs without a written prescription from a physician. The circumstances are that on or about October 15, 2009, Respondent Dresser was in possession of controlled substances classified as narcotic drugs in unlabeled and mislabeled containers at her residence. The circumstances are as alleged in the preceding paragraphs 59 through 63, which are incorporated by reference, as though fully set forth.

**NINETEENTH CAUSE FOR DISCIPLINE**

**(Against Respondent Michelle Dresser)**

**(Unlawful Possession of Controlled Substances)**

90. Respondent Dresser is subject to disciplinary action under section 11377, subd. (a) of the Health and Safety Code which provides that no person may possess any Schedule III, IV or V controlled substance which are not classified as narcotic drugs without a written prescription from a physician. The circumstances are that on or about October 15, 2009, Respondent Dresser was in possession of controlled substances not classified as narcotic drugs in unlabeled containers at

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1 her residence. The circumstances are as alleged in the preceding paragraphs 59 through 63,  
2 which are incorporated by reference, as though fully set forth.

3 **TWENTIETH CAUSE FOR DISCIPLINE**

4 **(Against Respondent Michelle Dresser)**

5 **(Furnishing/Delivery to Unlicensed Entity)**

6 91. Respondent Dresser is subject to disciplinary action under section 4059.5, subd. (b)  
7 which requires that a dangerous drug or dangerous device transferred, sold or delivered to a  
8 person within the state of California shall be transferred, sold, or delivered only to an entity  
9 licensed by the Board, to a manufacturer, or to an ultimate user or the ultimate user's agent. The  
10 circumstances are that on or about October 15, 2009, it was determined that Respondent Dresser  
11 had transferred dangerous drugs and controlled substances from Lake Arrowhead Village  
12 Pharmacy to her residence where she stored them in trash bags located in the garage area of her  
13 home and in various places throughout her home. The circumstances are as alleged in the  
14 preceding paragraphs 59 through 63, which are incorporated by reference, as though fully set  
15 forth.

16 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

17 **(Against Respondent Michelle Dresser)**

18 **(Unauthorized Disclosure)**

19 92. Respondent is subject to disciplinary action under section 56.10, subd. (a) of the  
20 California Civil Code which provides that no provider of health care, health care service plan, or  
21 contractor shall disclose medical information regarding a patient of the provider of health care or  
22 an enrollee or subscriber of a health care service plan without first obtaining an authorization.  
23 The circumstances are that on or about October 15, 2009, Respondent Dresser was found to be in  
24 possession of prescription containers labeled for different patients at her place of residence. The  
25 prescription information from the containers was disclosed to an occupant (R.F.) residing at  
26 Respondent Dresser's residence. The circumstances are as alleged in the preceding paragraphs 59  
27 through 63, which are incorporated by reference, as though fully set forth.

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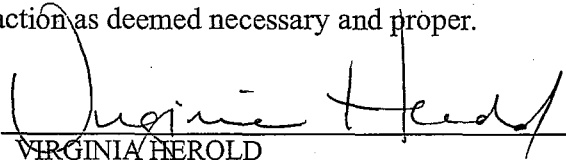
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PRAYER

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 46040, issued to Blain Pharmacy and Consulting, dba Lake Arrowhead Village Pharmacy; Michelle Blain (Dresser), Pres/Sec/PIC.
2. Revoking or suspending Pharmacist License Number RPH 39754, issued to Michelle Lynne Blain aka Michelle Lynne Dresser.
3. Ordering Lake Arrowhead Village Pharmacy and Michelle Lynne Blain aka Michelle Lynne Dresser 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;
4. Taking such other and further action as deemed necessary and proper.

DATED: 1/27/12



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