1 2 3 4 5 6 7 8	EDMUND G. BROWN JR, Attorney General of the State of California LINDA K. SCHNEIDER Supervising Deputy Attorney General ANTOINETTE B. CINCOTTA, State Bar No. 1204 Deputy Attorney General California Department of Justice 110 West "A" Street, Suite 1100 San Diego, CA 92101 Telephone: (619) 645-2095 Facsimile: (619) 645-2061 Attorneys for Complainant BEFORE BOARD OF PH	THE
9	DEPARTMENT OF CON	NSUMER AFFAIRS
10	STATE OF CAI	LIFORNIA
11	In the Matter of the Accusation Against:	Case No. 3587
12	JOHN C. MURPHY 79685 Star Flower Trail La Quinta, CA 92253	WITHDRAWAL OF ACCUSATION
14	Pharmacist License No. RPH 22398	
15	Respondent.	
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18	On or about June 3, 2010, Complainant Virg	ginia Herold ("Complainant"), in her official
19	capacity as the Executive Officer of the Board of Pl	narmacy, Department of Consumer Affairs,
20	filed Accusation No. 3587 against Respondent Johr	C. Murphy (Pharmacist License No. RPH
21	22398).	
22	Complainant, exercising her discretionary a	uthority pursuant to Title 16, California Code
23	of Regulations, Section 1703, and acting on inform	ation submitted to her, and in the interest of
24	justice, has determined that good cause exists to wi	thdraw Accusation No. 3587 against
25	Respondent John C. Murphy.	
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WHEREFORE, Complainant hereby withdraws Accusation No. 3587, filed on or about June 3, 2010, against Respondent John C. Murphy (Pharmacist License No. RPH 22398). DATED: 10/5/10 VIRGINIA HEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs State of California Complainant 

1	Edmund G. Brown Jr.		
2	Attorney General of California LINDA K. SCHNEIDER		
3	Supervising Deputy Attorney General ANTOINETTE B. CINCOTTA		
4	Deputy Attorney General State Bar No. 120482		
5	110 West "A" Street, Suite 1100 San Diego, CA 92101		
6	P.O. Box 85266 San Diego, CA 92186-5266		
7	Telephone: (619) 645-2095 Facsimile: (619) 645-2061		
8	Attorneys for Complainant		
9	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFADS		
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against:		
12	JOHN C. MURPHY		
13	79685 Star Flower Trail La Quinta, CA 92253 A C C U S A T I O N		
14	Pharmacist License No. RPH 22398		
15	Respondent.		
16			
17	Complainant alleges:		
18	PARTIES		
19.	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity		
20	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
21	2. On or about February 5, 1962, the Board of Pharmacy issued Pharmacist License		
22	Number RPH 22398 to John C. Murphy (Respondent). The Pharmacist License was in full force		
23	and effect at all times relevant to the charges brought herein and will expire on January 31, 2011,		
24	unless renewed.		
25	JURISDICTION		
26 27	3. This Accusation is brought before the Board of Pharmacy (Board), Department of		
27	Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.		
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4. Section 4300 of the Code states, in relevant part: ""(a) Every license issued may be suspended or revoked."

5. Section 118 of the Code states in relevant part:

"(b) The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

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## STATUTORY PROVISIONS

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Section 4301 of the Code states:

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

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"(j) The violation of any of the statutes of this state, or any other state, or of the United 1 States regulating controlled substances and dangerous drugs. 2 ". . . . 3 "(0) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the 4 violation of or conspiring to violate any provision or term of this chapter or of the applicable 5 federal and state laws and regulations governing pharmacy, including regulations established by 6 the board or by any other state or federal regulatory agency. 7 "……" 8 7. Section 4022 of the Code states 9 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in 10 humans or animals, and includes the following: 11 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without 12 prescription," "Rx only," or words of similar import. 13 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale 14 by or on the order of a ," "Rx only," or words of similar import, the blank to be filled 15 in with the designation of the practitioner licensed to use or order use of the device. 16 17 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on 18 prescription or furnished pursuant to Section 4006." 19 DRUGS 8. Hydrocodone is a Schedule III controlled substance as designated by Health and 20 Safety Code section 11056(e)(4), and is a dangerous drug pursuant to Business and Professions 21 22 Code section 4022. Hydrocodone is a narcotic pain reliever. 9. Diphenoxylate/atropin is a Schedule V controlled substance as designated by Health 23 and Safety Code section 11058, and is a dangerous drug persuant to Business and Professions 24 Code section 4022. It is used for the treatment of diarrhea. 25 COST RECOVERY 26 Section 125.3 of the Code states, in pertinent part, that the Board may request the 10. 27 administrative law judge to direct a licentiate found to have committed a violation or violations of 28 3 Accusation

1	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and	
2	enforcement of the case.	
3	FIRST CAUSE FOR DISCIPLINE	
4	(Unprofessional Conduct – Committing Acts Involving	
5	Moral Turpitude, Dishonesty, Fraud or Deceit)	
6	11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in	
7	that Respondent stole and self administered dangerous drugs while performing duties as a	
8	pharmacist. The circumstances are as follows:	
9	12. Between April 10, 2008 and December 18, 2008, while working as a pharmacist at	
10	Ralphs Pharmacy 160, located at 49908 Jefferson Street in Indio, California, Respondent stole	
11	and self-administered Hydrocodone, and Diphenoxylate/atropin tablets.	
12	SECOND CAUSE FOR DISCIPLINE	
13	(Unlawful Self-Administration of a Controlled Substance)	
14	13. Respondent is subject to disciplinary action under section 4301, subdivision (h), in	
15	that Respondent stole and self-administered dangerous drugs while performing duties as a	
16	pharmacist as set forth in paragraph 12 above, which is incorporated here by this reference.	
17	THIRD CAUSE FOR DISCIPLINE	
18	(Unlawful Possession of a Controlled Substance)	
19	14. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and	
20	(o) in that Respondent stole dangerous drugs while performing duties as a pharmacist as set forth	
21	in paragraph 12, above which is incorporated here by this reference.	
22	FOURTH CAUSE FOR DISCIPLINE	
23	(Unprofessional Conduct - Working While Under the Influence of Dangerous Drugs)	
24	15. Respondent is subject to disciplinary action under section 4301, subdivision (0), for	
25	violation of section 4327 in that Respondent used dangerous drugs without a valid prescription	
26	while performing duties as a pharmacist. The circumstances are set forth in paragraph 12, which	
27	are incorporated here by this reference.	
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	Accusation	

1	PRAYER	
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
3	hat following the hearing, the Board of Pharmacy issue a decision:	
4	1. Revoking or suspending Pharmacist Number RPH 22398, issued to John C. Murphy;	
5	2. Ordering John C. Murphy to pay the Board of Pharmacy the reasonable costs of the	
6	investigation and enforcement of this case, pursuant to Business and Professions Code section	
7	125.3;	
8	3. Taking such other and further action as deemed necessary and proper.	
9	DATED: 63/10 Lieno Leid	
10	VIRGINIA HEROLD ( Executive Officer	
11	Board of Pharmacy Department of Consumer Affairs	
12	State of California Complainant	
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