

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

In the Matter of the Accusation Against:

JEFFERY QUON, RPH  
24331 Cimarron Court  
Laguna Niguel, CA 92677

Pharmacist No. RPH 29995

Respondent.

Case No. 3044

OAH No. L-2007031004

**DECISION AND ORDER**


The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on December 6, 2007.

It is so ORDERED November 6, 2007.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

  
WILLIAM POWERS  
Board President

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 DIANE DE KERVOR, State Bar No. 174721  
Deputy Attorney General  
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9 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3044

13 JEFFERY QUON, RPH  
14 24331 Cimarron Court  
Laguna Niguel, CA 92677

OAH No. L-2007031004

15 Pharmacist No. RPH 29995

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

16 Respondent.  
17

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

23 PARTIES

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board of  
25 Pharmacy. She brought this action solely in her official capacity and is represented in this matter  
26 by Edmund G. Brown Jr., Attorney General of the State of California, by Diane De Kervor,  
27 Deputy Attorney General.

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1           2. Respondent Jeffery Quon, RPH (Respondent) is represented in this  
2 proceeding by attorney Bruce Benson, Esquire, whose address is 17592 Irvine Boulevard  
3 Tustin, CA 92673.

4           3. On or about December 3, 1975, the Board of Pharmacy issued Pharmacist  
5 License No. RPH 29995 to Jeffery Quon, RPH (Respondent). Unless renewed, the Pharmacist  
6 License will expire on July 31, 2008.

7  
8                                       JURISDICTION

9           4. Accusation No. 3044 was filed before the Board of Pharmacy (Board),  
10 Department of Consumer Affairs, and is currently pending against Respondent. The Accusation  
11 and all other statutorily required documents were properly served on Respondent on January 23,  
12 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of  
13 Accusation No. 3044 is attached as exhibit A and incorporated herein by reference.

14                                       ADVISEMENT AND WAIVERS

15           5. Respondent has carefully read, discussed with counsel, and fully  
16 understands the charges and allegations in Accusation No. 3044. Respondent has also carefully  
17 read, discussed with counsel, and fully understands the effects of this Stipulated Settlement and  
18 Disciplinary Order.

19           6. Respondent is fully aware of his legal rights in this matter, including the  
20 right to a hearing on the charges and allegations in the Accusation; the right to be represented by  
21 counsel at his own expense; the right to confront and cross-examine the witnesses against him;  
22 the right to present evidence and to testify on his own behalf; the right to the issuance of  
23 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
24 reconsideration and court review of an adverse decision; and all other rights accorded by the  
25 California Administrative Procedure Act and other applicable laws.

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

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CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 3044 with the exception that his conviction was reduced to a conviction for a violation of Penal Code section 484 (petty theft), a misdemeanor.

9. Respondent agrees that his Pharmacist license is subject to discipline and he agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

OTHER MATTERS

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

DISCIPLINARY ORDER

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

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///

1 IT IS HEREBY ORDERED that Pharmacist License No. RPH 29995 issued to  
2 Respondent Jeffery Quon, RPH is revoked. However, the revocation is stayed and Respondent is  
3 placed on probation for five (5) years on the following terms and conditions.

4 1. **Actual Suspension - Pharmacist.** License No. RPH 22995, issued to  
5 Respondent Jeffery Quon is suspended from the practice of pharmacy until evaluated by the  
6 Pharmacist Recovery Program and determined safe to return to the practice of pharmacy.

7 During suspension, Respondent shall not enter any pharmacy area or any portion  
8 of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other  
9 distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous  
10 drugs and devices or controlled substances are maintained. Respondent shall not practice  
11 pharmacy nor do any act involving drug selection, selection of stock, manufacturing,  
12 compounding, dispensing or patient consultation; nor shall Respondent manage, administer, **or**  
13 be a consultant to any licensee of the Board, or have access to or control the ordering,  
14 manufacturing or dispensing of dangerous drugs and devices or controlled substances.

15 Respondent shall not engage in any activity that requires the professional  
16 judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of  
17 pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for  
18 any entity licensed by the Board. Subject to the above restrictions, Respondent may continue to  
19 own or hold an interest in any pharmacy in which he holds an interest at the time this decision  
20 becomes effective unless otherwise specified in this order.

21 2. **Obey All Laws.** Respondent shall obey all state and federal laws and  
22 regulations substantially related to or governing the practice of pharmacy.

23 Respondent shall report any of the following occurrences to the Board, in writing,  
24 within 72 hours of such occurrence:

- 25 • an arrest or issuance of a criminal complaint for violation of any provision of the  
26 Pharmacy Law, state and federal food and drug laws, or state and federal  
27 controlled substances laws

28 ///

- 1 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
- 2 any criminal complaint, information or indictment
- 3 • a conviction of any crime
- 4 • discipline, citation, or other administrative action filed by any state and federal
- 5 agency which involves Respondent's license or which is related to the practice
- 6 of pharmacy or the manufacturing, obtaining, handling or distribution or billing
- 7 or charging for any drug, device or controlled substance.

8           **3. Reporting to the Board.** Respondent shall report to the Board  
9 quarterly. The report shall be made either in person or in writing, as directed. Respondent  
10 shall state under penalty of perjury whether there has been compliance with all the terms and  
11 conditions of probation. If the final probation report **is not** made as directed, probation shall  
12 be extended automatically until such time as the final report is made and accepted by the  
13 Board.

14           **4. Interview with the Board.** Upon receipt of reasonable notice,  
15 Respondent shall appear in person for interviews with the Board upon request at various  
16 intervals at a location to be determined by the Board. Failure to appear for a scheduled  
17 interview without prior notification to Board staff shall be considered a violation of probation.

18           **5. Cooperation with Board Staff.** Respondent shall cooperate with the  
19 Board's inspectional program and in the Board's monitoring and investigation of Respondent's  
20 compliance with the terms and conditions of his probation. Failure to comply shall be  
21 considered a violation of probation.

22           **6. Continuing Education.** Respondent shall provide evidence of efforts  
23 to maintain skill and knowledge as a pharmacist as directed by the Board.

24           **7. Notice to Employers.** Respondent shall notify all present and  
25 prospective employers of the decision in case number 3044 and the terms, conditions and  
26 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of  
27 this decision, and within 15 days of Respondent undertaking new employment, Respondent  
28 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in

1 writing acknowledging the employer has read the decision in case number 3044.

2 If Respondent works for or is employed by or through a pharmacy employment  
3 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at  
4 every pharmacy of the and terms conditions of the decision in case number 3044 in advance of  
5 the Respondent commencing work at each pharmacy.

6 "Employment" within the meaning of this provision shall include any full-time, part-  
7 time, temporary, relief or pharmacy management service as a pharmacist, whether the  
8 Respondent is considered an employee or independent contractor.

9 **8. No Preceptorships, Supervision of Interns, Being Pharmacist-in-**  
10 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern  
11 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the  
12 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this  
13 order.

14 **9. Reimbursement of Board Costs.** Respondent shall pay to the Board  
15 its costs of investigation and prosecution in the amount of \$7,747.25. Respondent shall make  
16 payments on a payment plan approved by the Board.

17 The filing of bankruptcy by Respondent shall not relieve Respondent of his  
18 responsibility to reimburse the Board its costs of investigation and prosecution.

19 **10. Probation Monitoring Costs.** Respondent shall pay the costs  
20 associated with probation monitoring as determined by the Board each and every year of  
21 probation. Such costs shall be payable to the Board at the end of each year of probation.  
22 Failure to pay such costs shall be considered a violation of probation.

23 **11. Status of License.** Respondent shall, at all times while on probation,  
24 maintain an active current license with the Board, including any period during which  
25 suspension or probation is tolled.

26 If Respondent's license expires or is cancelled by operation of law or otherwise,  
27 upon renewal or reapplication, Respondent's license shall be subject to all terms and  
28 conditions of this probation not previously satisfied.

1           12.     **License Surrender while on Probation/Suspension.** Following the  
2 effective date of this decision, should Respondent cease practice due to retirement or health, or  
3 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender  
4 his license to the Board for surrender. The Board shall have the discretion whether to grant  
5 the request for surrender or take any other action it deems appropriate and reasonable. Upon  
6 formal acceptance of the surrender of the license, Respondent will no longer be subject to the  
7 terms and conditions of probation.

8           Upon acceptance of the surrender, Respondent shall relinquish his pocket  
9 license to the Board within 10 days of notification by the Board that the surrender is accepted.  
10 Respondent may not reapply for any license from the Board for three years from the effective  
11 date of the surrender. Respondent shall meet all requirements applicable to the license sought  
12 as of the date the application for that license is submitted to the Board.

13           13.     **Notification of Employment/Mailing Address Change.** Respondent  
14 shall notify the Board in writing within 10 days of any change of employment. Said  
15 notification shall include the reasons for leaving and/or the address of the new employer,  
16 supervisor or owner and work schedule if known. Respondent shall notify the Board in  
17 writing within 10 days of a change in name, mailing address or phone number.

18           14.     **Tolling of Probation.** Should Respondent, regardless of residency, for  
19 any reason cease practicing pharmacy for a minimum 40 hours per calendar month in  
20 California, Respondent must notify the Board in writing within 10 days of cessation of the  
21 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time  
22 shall not apply to the reduction of the probation period. It is a violation of probation for  
23 Respondent's probation to remain tolled pursuant to the provisions of this condition for a  
24 period exceeding three years.

25           "Cessation of practice" means any period of time exceeding 30 days in which  
26 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of the  
27 Business and Professions Code.

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1 Respondent shall work at least 40 hours in each calendar month as a pharmacist  
2 and at least an average of 80 hours per month in any six consecutive months. Failure to do so  
3 will be a violation of probation. If Respondent has not complied with this condition during  
4 the probationary term, and Respondent has presented sufficient documentation of his good  
5 faith efforts to comply with this condition, and if no other conditions have been violated, the  
6 Board, in its discretion, may grant an extension of Respondent's probation period up to one  
7 year without further hearing in order to comply with this condition.

8 **15. Violation of Probation.** If Respondent violates probation in any  
9 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke  
10 probation and carry out the disciplinary order which was stayed. If a petition to revoke  
11 probation or an accusation is filed against Respondent during probation, the Board shall have  
12 continuing jurisdiction and the period of probation shall be extended, until the petition to  
13 revoke probation or accusation is heard and decided.

14 If Respondent has not complied with any term or condition of probation, the  
15 Board shall have continuing jurisdiction over Respondent, and probation shall automatically  
16 be extended until all terms and conditions have been satisfied or the Board has taken other  
17 action as deemed appropriate to treat the failure to comply as a violation of probation, to  
18 terminate probation, and to impose the penalty which was stayed.

19 **16. Completion of Probation.** Upon successful completion of probation,  
20 Respondent's license will be fully restored.

21 **17. Rehabilitation Program - Pharmacists Recovery Program (PRP).**  
22 Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists  
23 Recovery Program for evaluation and shall successfully participate in and complete the  
24 treatment contract and any subsequent addendums as recommended and provided by the PRP  
25 and as approved by the Board. The costs for PRP participation shall be borne by the  
26 Respondent.

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1           If Respondent is currently enrolled in the PRP, said participation is now  
2 mandatory and is no longer considered a self-referral under Business and Professions Code  
3 section 4363, as of the effective date of this decision. Respondent shall successfully  
4 participate in and complete his current contract and any subsequent addendums with the PRP.  
5 Probation shall be automatically extended until Respondent successfully completes his  
6 treatment contract. Any person terminated from the program shall be automatically suspended  
7 upon notice by the Board. Respondent may not resume the practice of pharmacy until notified  
8 by the Board in writing. The Board shall retain jurisdiction to institute action to terminate  
9 probation for any violation of this term.

10           18.     **Random Drug Screening.** Respondent, at his own expense, shall  
11 participate in random testing, including but not limited to biological fluid testing (urine,  
12 blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board.  
13 The length of time shall be for the entire probation period and the frequency of testing will be  
14 determined by the Board. At all times Respondent shall fully cooperate with the Board, and  
15 shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics,  
16 hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as  
17 directed shall constitute a violation of probation. Any confirmed positive drug test shall result  
18 in the immediate suspension of practice by Respondent. Respondent may not resume the  
19 practice of pharmacy until notified by the Board in writing.

20           19.     **Abstain from Drugs and Alcohol Use.** Respondent shall completely  
21 abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their  
22 associated paraphernalia except when the drugs are lawfully prescribed by a licensed  
23 practitioner as part of a documented medical treatment. Upon request of the Board,  
24 Respondent shall provide documentation from the licensed practitioner that the prescription  
25 was legitimately issued and is a necessary part of the treatment of the Respondent.

26           20.     **Supervised Practice.** Respondent shall practice only under the  
27 supervision of a pharmacist not on probation with the Board. Respondent shall not practice  
28 until the supervisor is approved by the Board. The supervision shall be, as required by the

1 Board, either:

2 Continuous - 75% to 100% of a work week

3 Substantial - At least 50% of a work week

4 Partial - At least 25% of a work week

5 Daily Review - Supervisor's review of probationer's daily activities within 24  
6 hours

7 Within 30 days of the effective date of this decision, Respondent shall have his  
8 supervisor submit notification to the Board in writing stating the supervisor has read the  
9 decision in case number 3044 and is familiar with the level of supervision as determined by  
10 the Board.

11 If Respondent changes employment, Respondent shall have his new supervisor,  
12 within 15 days after employment commences, submit notification to the Board in writing  
13 stating the direct supervisor and pharmacist-in-charge have read the decision in case number  
14 3044 and is familiar with the level of supervision as determined by the Board.

15 Within 10, days of leaving employment, Respondent shall notify the Board in  
16 writing.

17 **21. No Ownership of Premises.** Respondent shall not own, have any legal  
18 or beneficial interest in, or serve as a manager, administrator, member, officer, director,  
19 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter  
20 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any  
21 entity licensed by the Board within 90 days following the effective date of this decision and  
22 shall immediately thereafter provide written proof thereof to the Board.

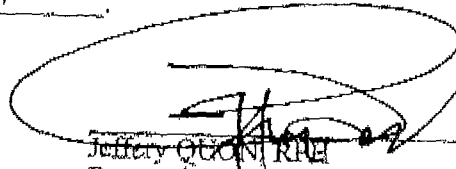
23 Respondent shall not acquire any new ownership, legal or beneficial interest  
24 nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner  
25 of any additional business, firm, partnership, or corporation licensed by the Board. If  
26 Respondent currently owns or has any legal or beneficial interest in, or serves as a manager,  
27 administrator, member, officer, director, associate, or partner of any business, firm,  
28 partnership, or corporation currently or hereinafter licensed by the Board, Respondent may

1 continue to serve in such capacity or hold that interest, but only to the extent of that position  
2 or interest as of the effective of this decision.

3 ACCEPTANCE

4 I have carefully read the above Stipulated Settlement and Disciplinary Order  
5 and have fully discussed it with my attorney, San Diego Regional Office. I understand the  
6 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated  
7 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
8 bound by the Decision and Order of the Board of Pharmacy.

9 DATED: 9/19/07

10   
11 \_\_\_\_\_  
12 Jeffrey QUON, RPH  
13 Respondent

14 I have read and fully discussed with Respondent Jeffery Quon, RPH the terms  
15 and conditions and other matters contained in the above Stipulated Settlement and  
16 Disciplinary Order. I approve its form and content.

17 DATED: 9/19/07

18 B. Benson  
19 BRUCE BENSON, ESQUIRE  
20 Attorney for Respondent

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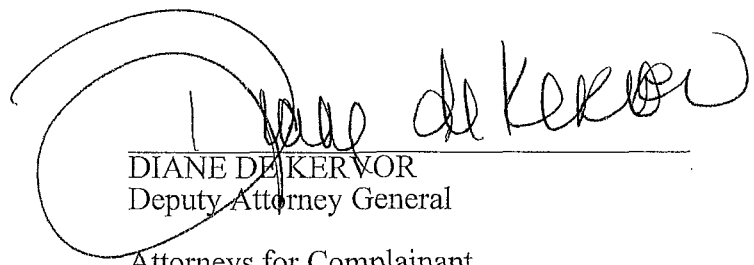
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ENDORSEMENT

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

DATED: 9/19/07

EDMUND G. BROWN JR., Attorney General  
of the State of California

  
\_\_\_\_\_  
DIANE DEKERVOR  
Deputy Attorney General  
Attorneys for Complainant

DOJ Matter ID: SD2006802280  
80165334.wpd

**Exhibit A**  
**Accusation No. 3044**

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PH 4:21

1 BILL LOCKYER, Attorney General  
of the State of California  
2 MARGARET A. LAFKO  
Supervising Deputy Attorney General  
3 DIANE DE KERVOR, State Bar No. 174721  
Deputy Attorney General  
4 California Department of Justice  
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7 Telephone: (619) 645-2611  
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8 Attorneys for Complainant

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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 3044

13 JEFFEREY QUON, RPH  
14 P.O. Box 17862  
Anaheim Hills, CA 92817  
15 24331 Cimarron Ct  
16 Laguna Niguel, CA 92677  
17 Pharmacist No. RPH 29995

**ACCUSATION**

18 Respondent.

19  
20 Complainant alleges:

21 **PARTIES**

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

25 2. On or about December 3, 1975, the Board of Pharmacy issued Pharmacist  
26 License Number RPH 29995 to Jefferey Quon, RPH (Respondent). The Pharmacist License  
27 will expire on July 31, 2008, unless renewed.

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JURISDICTION AND STATUTORY PROVISIONS

3. This Accusation is brought before the Board of Pharmacy, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Code section 118, subdivision (b), states, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Code section 482 states:

"Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

"(a) Considering the denial of a license by the board under Section 480; or

"(b) Considering suspension or revocation of a license under Section 490.

"Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee."

6. Section 490 of the Code states, in pertinent part:

"A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. . . ."

7. Code section 493 states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,



1 and the board may inquire into the circumstances surrounding the commission of the crime in  
2 order to fix the degree of discipline or to determine if the conviction is substantially related to the  
3 qualifications, functions, and duties of the licensee in question.

4 "As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
5 'registration.'"

6 8. Section 4022 of the Code states:

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

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

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

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

17 9. Section 4059 of the Code states, in pertinent part:

18 "(a) A person may not furnish any dangerous drug, except upon the prescription of  
19 a physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any  
20 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or  
21 veterinarian."

22 10. Section 4060 of the Code states:

23 "No person shall possess any controlled substance, except that furnished to a  
24 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished  
25 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse  
26 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1. This  
27 section shall not apply to the possession of any controlled substance by a manufacturer,  
28 wholesaler, pharmacy, physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse

1 practitioner, or physician assistant, when in stock in containers correctly labeled with the name  
2 and address of the supplier or producer.

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

5 11. Section 4081 of the Code states:

6 "(a) All records of manufacture and of sale, acquisition, or disposition of  
7 dangerous drugs or dangerous devices shall be at all times during business hours open to  
8 inspection by authorized officers of the law, and shall be preserved for at least three years from  
9 the date of making. A current inventory shall be kept by every manufacturer, wholesaler,  
10 pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian,  
11 laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked  
12 certificate, license, permit, registration, or exemption under Division 2 (commencing with  
13 Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000)  
14 of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or  
15 dangerous devices.

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

19 "(c) The pharmacist-in-charge or exemptee shall not be criminally responsible for  
20 acts of the owner, officer, partner, or employee that violate this section and of which the  
21 pharmacist-in-charge or exemptee had no knowledge, or in which he or she did not knowingly  
22 participate."

23 12. Section 4300 of the Code states, in pertinent part:

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

25 13. Section 4301 of the Code states, in pertinent part:

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

1 following:

2                   "(a) Gross immorality.

3                   ". . . .

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

7                   ". . . .

8                   "(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving  
9 away, or administering or offering to sell, furnish, give away, or administer any controlled  
10 substance to an addict.

11                   "(j) The violation of any of the statutes of this state or of the United States  
12 regulating controlled substances and dangerous drugs.

13                   ". . . .

14                   "(l) The conviction of a crime substantially related to the qualifications, functions,  
15 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
16 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
17 substances or of a violation of the statutes of this state regulating controlled substances or  
18 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
19 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
20 The board may inquire into the circumstances surrounding the commission of the crime, in order  
21 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
22 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
23 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty  
24 or a conviction following a plea of nolo contendere is deemed to be a conviction within the  
25 meaning of this provision. The board may take action when the time for appeal has elapsed, or  
26 the judgment of conviction has been affirmed on appeal or when an order granting probation is  
27 made suspending the imposition of sentence, irrespective of a subsequent order under Section  
28 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a

1 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,  
2 or indictment.

3 ". . . .

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

8 14. Health and Safety Code section 11171 states:

9 "No person shall prescribe, administer, or furnish a controlled substance except under the  
10 conditions and in the manner provided by this division."

11 15. Health and Safety Code section 11173 provides, in pertinent part:

12 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or  
13 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,  
14 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

15 16. Health and Safety Code section 11350 provides:

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

23 17. California Code of Regulations, title 16, section 1769 states:

24 ". . . .

25 "(b) When considering the suspension or revocation of a facility or a personal  
26 license on the ground that the licensee or the registrant has been convicted of a crime, the board,  
27 in evaluating the rehabilitation of such person and his present eligibility for a license will  
28 consider the following criteria:

- 1 "(1) Nature and severity of the act(s) or offense(s).
- 2 "(2) Total criminal record.
- 3 "(3) The time that has elapsed since commission of the act(s) or offense(s).
- 4 "(4) Whether the licensee has complied with all terms of parole, probation,
- 5 restitution or any other sanctions lawfully imposed against the licensee.
- 6 "(5) Evidence, if any, of rehabilitation submitted by the licensee."

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

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

14 **COST RECOVERY**

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

19 **DRUGS**

20 20. **Vicodin ES**, generic name **Hydrocodone/APAP 7.5-750**, is a pain  
 21 reliever. It is a dangerous drug pursuant to section 4022 and a Schedule III controlled substance  
 22 pursuant to Health and Safety Code section 11056(e)(4).

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(October 10, 2006 Criminal Conviction - Grand Theft on or about December 5, 2005)**

25 21. Grounds exist to revoke Respondent's license under sections 490, 493, and  
 26 4301(f), (j), (l), and (o) for a criminal conviction that is substantially related to the qualifications,  
 27 functions, and duties of a Pharmacist.

28 ///

1                   22.     On or about October 7, 2005, the Management of the Sav-On Drug Store,  
2 located at 1240 E. Yorba Linda Road, in Placentia, California, learned about the loss of a large  
3 quantity of Vicodin from the store. It was determined that the losses only occurred on the days  
4 that Respondent was working at the store as the Pharmacy Manager. Videocameras were  
5 installed at the store, pointing to where the Vicodin was kept. On November 22, 2005, the video  
6 cameras caught Respondent taking bottles of Vicodin and concealing them under the front  
7 counter of the pharmacy. The video did not show Respondent taking the Vicodin from the store.

8                   23.     On December 5, 2005, Respondent admitted in a written statement that he  
9 had been stealing Vicodin to give to his girlfriend, D.A., for her addiction for the past year. In a  
10 verbal interview, he also admitted that he knew he was wrong and that he "has taken care of [his]  
11 girlfriend's problem of addiction, but [he] knows continuation of employment is not an option."  
12 He further admitted that the quantity of tablets stolen over the previous year was undecided, but  
13 was not less than 800, which amounted to his estimation of value of approximately \$384.00.  
14 Respondent admitted to the store management that he had stolen between 800 to 1,000 Vicodin  
15 tablets over the span of one year. He admitted that he would put the Vicodin in his pocket and  
16 walk out of the store.

17                   24.     On December 21, 2005, the store informed the Board of the issue. A  
18 subsequent investigation and audit revealed much greater losses than estimated by the store.  
19 Inventory records of the quantity of Hydrocodone/APAP 7.5-750 at the pharmacy were not  
20 accurately maintained. Accordingly, the actual amount taken by Respondent was never  
21 determined.

22                   25.     On April 20, 2006, the District Attorney charged Respondent with  
23 violations of Code section 4060 (Possession of a Controlled Substance without a Prescription),  
24 Penal Code section 487(a) (Grand Theft), and Penal Code sections 484(a)-488 (Petty Theft).  
25 determined.

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1                   26.     On or about October 10, 2006 in the Superior Court for the County of  
2 Orange, in a case entitled *People vs. Jeffrey Quon* (Sup. Ct., Orange, 2006, Case No.  
3 06NM05326 M A), respondent pled guilty to a violation of Penal Code section 487(a) (Grand  
4 Theft), a misdemeanor. Counts one and three of the complaint were dismissed.

5                   27.     Pursuant to a plea agreement, on or about October 10, 2006, Respondent  
6 was ordered to complete 400 hours of community service in lieu of 50 days in county jail and he  
7 was placed on 3 years probation. Respondent was also ordered to pay \$120 in fines and fees.

8   **SECOND CAUSE FOR DISCIPLINE**

9   **(Furnishing Dangerous Drugs Without a Prescription**  
10   **in Violation of Pharmacy and Drug Laws)**

11                   28.     Respondent is subject to disciplinary action under sections 4301(j) and (o)  
12 as well as 4059(a) in that he stole approximately 800 to 1,000 pills of **Hydrocodone/APAP 7.5-**  
13 **750**, a dangerous drug pursuant to Code section 4022(a), from the pharmacy where he worked as  
14 the Pharmacy Manager and provided it to a known addict and without a prescription for the  
15 medication. The circumstances of this cause for discipline are set forth in paragraphs 22-27  
16 above, and are incorporated by reference herein.

17   **THIRD CAUSE FOR DISCIPLINE**

18   **(Furnishing Controlled Substances Without a Prescription to an Addict**  
19   **in Violation of Pharmacy and Drug Laws)**

20                   29.     Respondent is subject to disciplinary action under section 4301(i), (j), and  
21 (o) as well as Health and Safety Code section 11171 in that he stole 800 to 1,000 pills of  
22 Hydrocodone/APAP 7.5-750, a dangerous drug pursuant to Code section 4022(a), from the  
23 pharmacy where he worked as the Pharmacy Manager, and provided it to a known addict and  
24 without a prescription for the medication. The circumstances of this cause for discipline are set  
25 forth in paragraphs 22-27 above, and are incorporated by reference herein.

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27 ///

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1 FOURTH CAUSE FOR DISCIPLINE

2 (Procurement and Possession of Controlled Substances By Theft  
3 in Violation of Pharmacy and Drug Laws)

4 30. Respondent is subject to disciplinary action under section 4301(j) and (o),  
5 section 4060, and Health and Safety Code sections 11173(a) and 11350(a) in that he stole 800 to  
6 1,000 pills of Hydrocodone/APAP 7.5-750, a dangerous drug pursuant to Code section 4022(a),  
7 from the pharmacy where he worked as the Pharmacy Manager, and provided it to a known  
8 addict and without a prescription for the medication. The circumstances of this cause for  
9 discipline are set forth in paragraphs 22-27 above, and are incorporated by reference herein.

10 FIFTH CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct Involving Gross Immorality, Moral Turpitude,  
12 and Dishonesty and in Violation of Pharmacy and Drug Laws)

13 31. Respondent is subject to disciplinary action under section 4301(a), (f), (j),  
14 and (o) in that he stole 800 to 1,000 pills of Hydrocodone/APAP 7.5-750, a dangerous drug  
15 pursuant to Code section 4022(a), from the pharmacy where he worked as the Pharmacy  
16 Manager, and provided it to a known addict and without a prescription for the medication. The  
17 circumstances of this cause for discipline are set forth in paragraphs 22-27 above, and are  
18 incorporated by reference herein.

19 SIXTH CAUSE FOR DISCIPLINE

20 (Failure to Maintain Accurate Pharmacy Records  
21 in Violation of Pharmacy and Drug Laws)

22 32. Respondent is subject to disciplinary action under section 4301 (j) and (o)  
23 and 4081 in that he failed to maintain accurate records of Hydrocodone/APAP 7.5-750, a  
24 dangerous drug pursuant to Code section 4022(a), at the pharmacy where he worked as the  
25 Pharmacy Manager. Audits by the Pharmacy and the Pharmacy Board reflected inaccurate  
26 records for the disposition of this and other narcotics, and failed to account for the loss of over  
27 1,000 pills of Hydrocodone/APAP 7.5-750 in the one year that Respondent worked as the  
28 Pharmacy Manager at the pharmacy. A subsequent investigation and audit revealed that




1 Inventory records of the quantity of Hydrocodone/APAP 7.5-750 at the pharmacy were not  
2 accurately maintained. Accordingly, the actual amount taken by Respondent was never  
3 determined.

4 PRAYER

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

- 7 1. Revoking or suspending Pharmacist Number RPH 29995, issued to  
8 Jefferey Quon, RPH.
- 9 2. Ordering Jefferey Quon to pay the Pharmacy Board the reasonable costs of  
10 the investigation and enforcement of this case, pursuant to Business and Professions Code  
11 section 125.3;
- 12 3. Taking such other and further action as deemed necessary and proper.

13  
14 DATED: 1/11/07

  
15  
16 VIRGINIA HEROLD  
17 Interim Executive Officer  
18 Board of Pharmacy  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

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