

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

In the Matter of the First Amended Accusation
Against:

FLETCHER MED PHARMACY
8881 Fletcher Parkway, Suite 103
La Mesa, CA 91942
TYCHAR CORPORATION, OWNER
LASHARA C. SMITH, PRESIDENT
WILLIAM MC CURINE, JR., VICE
PRESIDENT
YOLANDA PHILLIPS, SECRETARY
DAVID E. BELL, TREASURER
Pharmacy permit No. PHY 44780

and

LASHARA SMITH
1832 Madera Street
Lemon Grove, CA 91945
Pharmacy Technician License No. TCH 8245

Respondents.

Case No. 3123

OAH No. L-208090507

DECISION AND ORDER

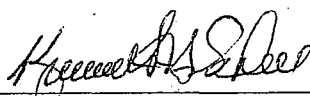
The attached Stipulated Surrender of License Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 10, 2009.

It is so ORDERED on March 11, 2009.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
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
4 110 West "A" Street, Suite 1100
San Diego, CA 92101

5
6 P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 645-2611
7 Facsimile: (619) 645-2061

8 Attorneys for Complainant

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

12 In the Matter of the First Amended Accusation
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Case No. 3123

OAH No. L-2008090507

13 **FLETCHER MED PHARMACY**
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WILLIAM MC CURINE, JR., VICE
16 **PRESIDENT**
YOLANDA PHILLIPS, SECRETARY
17 **DAVID E. BELL, TREASURER**
Pharmacy Permit No. PHY44780,

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

18 and

19
20 **LASHARA SMITH**
1832 Madera Street
Lemon Grove, CA 91945
21 Pharmacy Technician No. TCH 8245

22 Respondents.

23 In the interest of a prompt and speedy resolution of this matter, consistent with the
24 public interest and the responsibility of the Board of Pharmacy of the Department of Consumer
25 Affairs, the following Stipulated Surrender of License and Order will be submitted to the Board
26 for approval and adoption as the final disposition of the Accusation.

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1 PARTIES

2 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
3 She brought this action solely in her official capacity and is represented in this matter by Edmund
4 G. Brown Jr., Attorney General of the State of California, by Diane de Kervor, Deputy Attorney
5 General.

6 2. On or about August 17, 2000, the Board of Pharmacy issued Original Pharmacy
7 Permit Number PHY 44780 to Tychar Inc., Owner; Lashara C. Smith, President;
8 William Mc Curine, Jr., Vice President; Yolanda Phillips, Secretary; and David E. Bell,
9 Treasurer, to do business as Fletcher Med Pharmacy (Respondent Fletcher Med). The Pharmacy
10 Permit expired on August 1, 2007 and has not been renewed.

11 3. On or about July 2, 1993, the Board of Pharmacy issued Pharmacy Technician
12 License No. TCH 8245 to LaShara Smith (Respondent Smith). The Pharmacy Technician
13 license will expire on May 31, 2009, unless renewed.

14 4. Respondents are represented in this proceeding by attorney Shana Black, Esq.,
15 whose address is 750 "B" Street, #2720, San Diego, CA 92101.

16 JURISDICTION

17 5. First Amended Accusation No. 3123 was filed before the Board of
18 Pharmacy (Board), Department of Consumer Affairs, and is currently pending against
19 Respondents. The First Amended Accusation and all other statutorily required documents were
20 properly served on Respondents on November 26, 2008. Respondents had timely filed their
21 Notice of Defense contesting the Accusation. A copy of First Amended Accusation No. 3123 is
22 attached as exhibit A and incorporated herein by reference.

23 ADVISEMENT AND WAIVERS

24 6. Respondents have carefully read, fully discussed with counsel, and
25 understand the charges and allegations in Accusation No. 3123. Respondents also have carefully
26 read, fully discussed with counsel, and understand the effects of this Stipulated Surrender of
27 License and Order.

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1 7. Respondents are fully aware of their legal rights in this matter, including
2 the right to a hearing on the charges and allegations in the Accusation; the right to be represented
3 by counsel, at their own expense; the right to confront and cross-examine the witnesses against
4 them; the right to present evidence and to testify on their own behalf; the right to the issuance of
5 subpoenas to compel the attendance of witnesses and the production of documents; the right to
6 reconsideration and court review of an adverse decision; and all other rights accorded by the
7 California Administrative Procedure Act and other applicable laws.

8 8. Respondents voluntarily, knowingly, and intelligently waive and give up
9 each and every right set forth above.

10 CULPABILITY

11 9. Respondent Fletcher Med Pharmacy admits the truth of each and every
12 charge and allegation in Accusation No. 3123, agrees that cause exists for discipline and hereby
13 surrenders Pharmacy Permit No. PHY44780 for the Board's formal acceptance.

14 10. Respondent Smith admits the truth of the Fifth Cause for Discipline
15 against her in the First Amended Accusation.

16 11. Respondent Smith understands and agrees that the First, Second, Third,
17 and Fourth Causes for Discipline in First Amended Accusation No. 3123, if proven at a hearing,
18 constitute cause for imposing discipline upon her License. For the purpose of resolving the
19 Accusation without the expense and uncertainty of further proceedings, Respondent Smith agrees
20 that, at a hearing, Complainant could establish a factual basis for these four charges in the
21 Accusation, and that Respondent hereby gives up her right to contest those charges.

22 12. Respondent Smith agrees that her license is subject to discipline and
23 hereby surrenders Pharmacy Technician License No. TCH 8245 for the Board's formal
24 acceptance.

25 13. Respondents understand that by signing this stipulation they enable the
26 Board to issue an order accepting the surrender of their licenses without further process.

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RESERVATION

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

CONTINGENCY

15. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or its counsel. By signing the stipulation, Respondents understand and agree that they may not withdraw their 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 Surrender 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.

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

17. 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 Order:

ORDER

IT IS HEREBY ORDERED that Pharmacy Permit No. PHY44780, issued to Respondent Fletcher Med Pharmacy, and Pharmacy Technician License No. TCH 8245, issued to LaShara Smith, are surrendered and accepted by the Board of Pharmacy.

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1 18. The surrender of Respondents' licenses and the acceptance of the
2 surrendered licenses by the Board shall constitute the imposition of discipline against
3 Respondents. This stipulation constitutes a record of the discipline and shall become a part of
4 Respondents' license history with the Board.

5 19. Respondents shall lose all rights and privileges as a Pharmacy and
6 Pharmacy Technician in California as of the effective date of the Board's Decision and Order.

7 20. Respondents shall cause to be delivered to the Board both their wall
8 license certificates and, if one was issued, pocket licenses on or before the effective date of the
9 Decision and Order.

10 21. If either Respondent ever applies for licensure or petitions for
11 reinstatement in the State of California, the Board shall treat the application as a new application
12 for licensure. Respondents must comply with all the laws, regulations and procedures for
13 licensure in effect at the time the application or petition is filed, and all of the charges and
14 allegations contained in Accusation No. 3123 shall be deemed to be true, correct and admitted
15 by Respondents when the Board determines whether to grant or deny the application or petition.

16 22. Respondent may not apply for any license, permit, or registration from the
17 board for three (3) years from the effective date of this decision

18 23. Should either Respondent ever apply or reapply for a new license or
19 certification, or petition for reinstatement of a license, by any other health care licensing agency
20 in the State of California, all of the charges and allegations contained in Accusation No. 3123
21 shall be deemed to be true, correct, and admitted by Respondents for the purpose of any
22 Statement of Issues or any other proceeding seeking to deny or restrict licensure.

23 24. Respondents shall pay the Board its costs of investigation and enforcement
24 in the amount of \$14,121.00 prior to issuance of a new or reinstated license.

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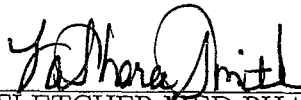
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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Shana Black. I understand the stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.


DATED: 12-5-08



FLETCHER MED PHARMACY
President and Authorized Agent
Respondent

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Shana Black. I understand the stipulation and the effect it will have on my Pharmacy Technician License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

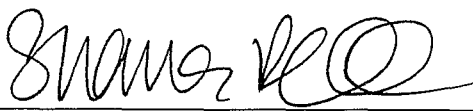
DATED: 12-5-08



LASHARA SMITH
Respondent

I have read and fully discussed with Respondent Fletcher Med Pharmacy and Respondent Smith the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 12-05-08



Shana Black, Esq.
Attorney for Respondents

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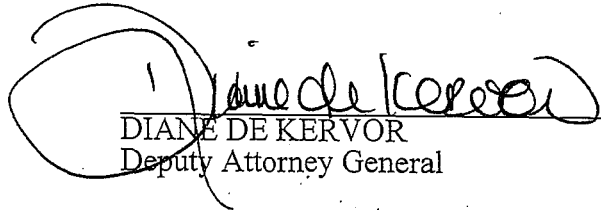
ENDORSEMENT

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

DATED: December 5, 2008.

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

JAMES M. LEDAKIS
Supervising Deputy Attorney General


DIANE DE KERVOR
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2007802873
fletcher after MSC surrender.wpd

Exhibit A
Accusation No. 3123

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
4 110 West "A" Street, Suite 1100
San Diego, CA 92101
5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: (619) 645-2611
Facsimile: (619) 645-2061
7 Attorneys for Complainant

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10 **DEPARTMENT OF CONSUMER AFFAIRS**
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WILLIAM MC CURINE, JR., VICE
PRESIDENT
YOLANDA PHILLIPS, SECRETARY
DAVID E. BELL, TREASURER
Pharmacy Permit No. PHY44780,

FIRST AMENDED ACCUSATION

17 and

18 **LASHARA SMITH**
19 1832 Madera Street
Lemon Grove, CA 91945
20 Pharmacy Technician No. TCH 8245

Respondents.

21
22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about August 17, 2000, the Board of Pharmacy issued Original
27 Pharmacy Permit Number PHY 44780 to Tychar Inc., Owner; Lashara C. Smith, President;
28 William Mc Curine, Jr., Vice President; Yolanda Phillips, Secretary; and David E. Bell,

1 Treasurer, to do business as Fletcher Med Pharmacy (Respondents). The Pharmacy License
2 expired on August 1, 2007 and has not been renewed.

3 3. On or about July 2, 1993, the Board of Pharmacy issued Pharmacy
4 Technician No. TCH 8245 to LaShara (Respondent Smith). The Pharmacy Technician license
5 will expire on May 31, 2009, unless renewed.

6 **JURISDICTION AND STATUTORY AUTHORITY**

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

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

13 6. Section 498 of the Code states:

14 A board may revoke, suspend, or otherwise restrict a license on the ground that
15 the licensee secured the license by fraud, deceit, or knowing misrepresentation of
a material fact or by knowingly omitting to state a material fact.

16 7. Section 4038 of the Code states:

17 (a) "Pharmacy technician" means an individual who assists a pharmacist in a
18 pharmacy in the performance of his or her pharmacy related duties, as specified in
Section 4115.

19 8. Section 4061 of the Code states:

20 (a) No manufacturer's sales representative shall distribute any dangerous drug or
21 dangerous device as a complimentary sample without the written request of a
physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
22 pursuant to Section 3640.7. However, a certified nurse-midwife who functions
pursuant to a standardized procedure or protocol described in Section 2746.51, a
23 nurse practitioner who functions pursuant to a standardized procedure described in
Section 2836.1, or protocol, a physician assistant who functions pursuant to a
24 protocol described in Section 3502.1, or a naturopathic doctor who functions
pursuant to a standardized procedure or protocol described in Section 3640.5, may
25 sign for the request and receipt of complimentary samples of a dangerous drug or
dangerous device that has been identified in the standardized procedure, protocol,
26 or practice agreement. Standardized procedures, protocols, and practice
agreements shall include specific approval by a physician. A review process,
27 consistent with the requirements of Section 2725, 3502.1, or 3640.5, of the
complimentary samples requested and received by a nurse practitioner, certified
28 nurse-midwife, physician assistant, or naturopathic doctor, shall be defined within
the standardized procedure, protocol, or practice agreement.

1 (b) Each written request shall contain the names and addresses of the supplier and
2 the requester, the name and quantity of the specific dangerous drug desired, the
3 name of the certified nurse-midwife, nurse practitioner, physician assistant, or
4 naturopathic doctor, if applicable, receiving the samples pursuant to this section,
5 the date of receipt, and the name and quantity of the dangerous drugs or dangerous
6 devices provided. These records shall be preserved by the supplier with the
7 records required by Section 4059.

8 9. Section 4081 of the Code states:

9 (a) All records of manufacture and of sale, acquisition, or disposition of dangerous
10 drugs or dangerous devices shall be at all times during business hours open to
11 inspection by authorized officers of the law, and shall be preserved for at least
12 three years from the date of making. A current inventory shall be kept by every
13 manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer,
14 physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution,
15 or establishment holding a currently valid and unrevoked certificate, license,
16 permit, registration, or exemption under Division 2 (commencing with Section
17 1200) of the Health and Safety Code or under Part 4 (commencing with Section
18 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock
19 of dangerous drugs or dangerous devices.

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

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

28 10. Section 4105 of the Code, in pertinent part states:

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

11. Section 4110 of the Code, in pertinent part states:

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

12. Section 4113 of the Code, in pertinent part states:

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

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1 (b) The pharmacist-in-charge shall be responsible for a pharmacy's compliance
2 with all state and federal laws and regulations pertaining to the practice of
pharmacy.

3 13. Section 4115 of the Code, in pertinent part states:

4 (a) A pharmacy technician may perform packaging, manipulative, repetitive, or
5 other nondiscretionary tasks, only while assisting, and while under the direct
supervision and control of a pharmacist.

6 (b) This section does not authorize the performance of any tasks specified in
7 subdivision (a) by a pharmacy technician without a pharmacist on duty.

8 (c) This section does not authorize a pharmacy technician to perform any act
9 requiring the exercise of professional judgment by a pharmacist.

10 14. Section 4116 of the Code states, in pertinent part:

11 (a) No person other than a pharmacist, an intern pharmacist, an authorized officer
12 of the law, or a person authorized to prescribe shall be permitted in that area,
13 place, or premises described in the license issued by the board wherein controlled
14 substances or dangerous drugs or dangerous devices are stored, possessed,
15 prepared, manufactured, derived, compounded, dispensed, or repackaged.
However, a pharmacist shall be responsible for any individual who enters the
pharmacy for the purposes of receiving consultation from the pharmacist or
performing clerical, inventory control, housekeeping, delivery, maintenance, or
similar functions relating to the pharmacy if the pharmacist remains present in the
pharmacy during all times as the authorized individual is present.

16 15. Section 4156 provides that a pharmacy corporation shall not do, or fail to
17 do, any act where doing or failing to do the act would constitute unprofessional conduct under
18 any statute or regulation. In the conduct of its practice, a pharmacy corporation shall observe and
19 be bound by the laws and regulations that apply to a person licensed under this chapter.

20 16. Section 4201 of the Code, in pertinent part states:

21 (f) Notwithstanding any other provision of law, the pharmacy license shall
22 authorize the holder to conduct a pharmacy. The license shall be renewed annually
and shall not be transferable.

23 17. Section 4202 of the Code provides that the Board may suspend or revoke a
24 license issued pursuant to this section on any ground specified in Section 4301.

25 18. 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 issued by mistake. Unprofessional conduct shall include, but
28 is not limited to, any of the following:

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

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

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

10 19. Section 4305 of the Code states, in pertinent part:

11 (a) Any person who has obtained a license to conduct a pharmacy, shall notify the
12 board within 30 days of the termination of employment of any pharmacist who
13 takes charge of, or acts as manager of the pharmacy. Failure to notify the board
14 within the 30-day period shall constitute grounds for disciplinary action.

15 (b) Any person who has obtained a license to conduct a pharmacy, who willfully
16 fails to notify the board of the termination of employment of any pharmacist who
17 takes charge of, or acts as manager of the pharmacy, and who continues to permit
18 the compounding or dispensing of prescriptions, or the furnishing of drugs or
19 poisons, in his or her pharmacy, except by a pharmacist, shall be subject to
20 summary suspension or revocation of his or her license to conduct a pharmacy.

21 20. Section 4328 of the Code states:

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

25 21. Section 4330 of the Code states, in pertinent part:

26 (a) Any person who has obtained a license to conduct a pharmacy, who fails to
27 place in charge of the pharmacy a pharmacist, or any person, who by himself or
28 herself, or by any other person, permits the compounding or dispensing of
prescriptions, or the furnishing of dangerous drugs, in his or her pharmacy, except
by a pharmacist, or as otherwise provided in this chapter, is guilty of a
misdemeanor.

22 22. Health and Safety Code section 11162.1 specifies the prescription form for
23 controlled substances.

24 23. Health and Safety Code section 11165 describes the Controlled Substance
25 Utilization Review and Evaluation System (CURES) for the electronic monitoring of the
26 prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances.

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1 It provides that for each prescription for a Schedule II, Schedule III, or Schedule IV controlled
2 substance, the dispensing pharmacy shall provide certain detailed information to the Department
3 of Justice on a weekly basis and in a format specified by the Department of Justice.

4 REGULATORY AUTHORITY

5 24. California Code of Regulations, title 16, section 1707.2, in pertinent part,
6 states:

7

8 (f) In every pharmacy subject to the provisions of Business and Professions Code
9 Section 4122, there shall be prominently posted in a place conspicuous to and
readable by prescription drug consumers the following notice:

10 "NOTICE TO CONSUMERS"

11 At your request, this pharmacy will provide its current retail price of any
12 prescription without obligation. You may request price information in person or
13 by telephone. Ask your pharmacist if a lower-cost generic drug is available to fill
14 your prescription. Prescription prices for the same drug vary from pharmacy to
15 pharmacy. One reason for differences in price is differences in services provided.
16 Before taking any prescription medicine, talk to your pharmacist; be sure you
know: What is the name of the medicine and what does it do? How and when do
I take it - and for how long? What if I miss a dose? What are the possible side
effects and what should I do if they occur? Will the new medicine work safely
with other medicines and herbal supplements I am taking? What foods, drinks or
activities should I avoid while taking this medicine? Ask your pharmacist if you
have additional questions.

17 25. California Code of Regulations, title 16, section 1709, states:

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

22 (b) Any transfer, in a single transaction or in a series of transactions, of 10 percent
23 or more of the beneficial interest in a business entity licensed by the board to a
24 person or entity who did not hold a beneficial interest at the time the original
permit was issued, shall require written notification to the board within 30 days.

25 (c) The following shall constitute a transfer of permit and require application for a
26 change of ownership: any transfer of a beneficial interest in a business entity
27 licensed by the board, in a single transaction or in a series of transactions, to any
person or entity, which transfer results in the transferee's holding 50% or more of
the beneficial interest in that license.

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1 26. California Code of Regulations, title 16, section 1714, states, in pertinent
2 part:

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

8 (e) The pharmacy owner, the building owner or manager, or a family member of a
9 pharmacist owner (but not more than one of the aforementioned) may possess a
10 key to the pharmacy that is maintained in a tamper evident container for the
11 purpose of 1) delivering the key to a pharmacist or 2) providing access in case of
12 emergency. An emergency would include fire, flood or earthquake. The signature
13 of the pharmacist-in-charge shall be present in such a way that the pharmacist may
14 readily determine whether the key has been removed from the container.

15 27. California Code of Regulations, title 16, section 1715(a)

16 (a) The pharmacist-in-charge of each pharmacy as defined under section 4029 or
17 section 4037 of the Business and Professions Code shall complete a
18 self-assessment of the pharmacy's compliance with federal and state pharmacy
19 law. The assessment shall be performed before July 1 of every odd-numbered
20 year. The primary purpose of the self-assessment is to promote compliance
21 through self-examination and education.

22 28. California Code of Regulations, title 16, section 1715.5, states, in pertinent
23 part:

24 The collection of information authorized by Health and Safety Code section
25 11165 shall be provided as follows:

26 (a) For each prescription for a Schedule II controlled substance, the dispensing
27 pharmacy shall provide the following information: the full name and address of
28 the patient; the gender and date of birth of the patient; the DEA (Drug
Enforcement Administration) number of the prescriber; the triplicate prescription
number; the pharmacy prescription number; the pharmacy license number; the
NDC (National Drug Code) number and the quantity of the controlled substance;
the ICD-9 (diagnosis code), if available; the date of issue of the prescription, the
date of dispensing of the prescription, and the state medical license number of any
prescriber using the DEA number of a government exempt facility.

29 29. California Code of Regulations, title 16, section 1717, in pertinent part
30 states :

31 (c) Promptly upon receipt of an orally transmitted prescription, the pharmacist
32 shall reduce it to writing, and initial it, and identify it as an orally transmitted
33 prescription. If the prescription is then dispensed by another pharmacist, the
34 dispensing pharmacist shall also initial the prescription to identify him or herself.

1 All orally transmitted prescriptions shall be received and transcribed by a
2 pharmacist prior to compounding, filling, dispensing, or furnishing.

3 Chart orders as defined in Section 4019 of the Business and Professions Code are
4 not subject to the provisions of this subsection.

5 30. California Code of Regulations, title 16, section 1718, states:

6 'Current Inventory' as used in Sections 4081 and 4332 of the Business and
7 Professions Code shall be considered to include complete accountability for all
8 dangerous drugs handled by every licensee enumerated in Sections 4081 and
9 4332.

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

13 31. California Code of Regulations, title 16, section 1793, provides:

14 'Pharmacy technician' means an individual who, under the direct supervision and
15 control of a pharmacist, performs packaging, manipulative, repetitive, or other
16 nondiscretionary tasks related to the processing of a prescription in a pharmacy,
17 but who does not perform duties restricted to a pharmacist under section 1793.1.

18 32. California Code of Regulations, title 16, section 1793, provides:

19 Only a pharmacist, or an intern pharmacist acting under the supervision of a
20 pharmacist, may:

21 (a) Receive a new prescription order orally from a prescriber or other person
22 authorized by law.

23 (b) Consult with a patient or his or her agent regarding a prescription, either prior
24 to or after dispensing, or regarding any medical information contained in a patient
25 medication record system or patient chart.

26 (c) Identify, evaluate and interpret a prescription.

27 (d) Interpret the clinical data in a patient medication record system or patient
28 chart.

(e) Consult with any prescriber, nurse or other health care professional or
authorized agent thereof.

(f) Supervise the packaging of drugs and check the packaging procedure and
product upon completion.

(g) Perform all functions which require professional judgment.

33. California Code of Regulations, title 16, section 1793.2, provides:

"Nondiscretionary tasks" as used in Business and Professions Code section 4115,
include:

- 1 (a) removing the drug or drugs from stock;
- 2 (b) counting, pouring, or mixing pharmaceuticals;
- 3 (c) placing the product into a container;
- 4 (d) affixing the label or labels to the container;
- 5 (e) packaging and repackaging.

6 34. California Code of Regulations, title 16, section 1793.7 provides:

7 (a) Except as otherwise provided in section 1793.8, any function performed by a
8 pharmacy technician in connection with the dispensing of a prescription, including
9 repackaging from bulk and storage of pharmaceuticals, must be verified and
10 documented in writing by a pharmacist. Except for the preparation of
11 prescriptions for an inpatient of a hospital and for an inmate of a correctional
12 facility, the pharmacist shall indicate verification of the prescription by initialing
13 the prescription label before the medication is provided to the patient.

14 (b) Pharmacy technicians must work under the direct supervision of a pharmacist
15 and in such a relationship that the supervising pharmacist is fully aware of all
16 activities involved in the preparation and dispensing of medications, including the
17 maintenance of appropriate records.

18 (d) Any pharmacy employing or using a pharmacy technician shall develop a job
19 description and written policies and procedures adequate to ensure compliance
20 with the provisions of Article 11 of this Chapter, and shall maintain, for at least
21 three years from the time of making, records adequate to establish compliance
22 with these sections and written policies and procedures.

23 (e) A pharmacist shall be responsible for all activities of pharmacy technicians to
24 ensure that all such activities are performed completely, safely and without risk of
25 harm to patients.

26 35. Code of Federal Regulations, title 21, section 1304.04 in pertinent part
27 states:

28 (h) Each registered pharmacy shall maintain the inventories and records of
controlled substances as follows:

(1) Inventories and records of all controlled substances listed in Schedules I and II
shall be maintained separately from all other records of the pharmacy, and
prescriptions for such substances shall be maintained in a separate prescription
file. . .

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1 36. Code of Federal Regulations, title 21, section 1305.05 in pertinent part
2 states:

3 (a) A registrant may authorize one or more individuals, whether or not located at
4 his or her registered location, to issue orders for Schedule I and II controlled
5 substances on the registrant's behalf by executing a power of attorney for each
6 such individual, if the power of attorney is retained in the files, with executed
Forms 222 where applicable, for the same period as any order bearing the
signature of the attorney. The power of attorney must be available for inspection
together with other order records.

7 DRUGS

8 37. Norco, a brand name for hydrocodone with acetaminophen
9 (hydrocodone/APAP), is a dangerous drug pursuant to section 4022, and a Schedule III
10 controlled substance as designated by Health and Safety Code section 11056.

11 COSTS

12 38. Section 125.3 provides, 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
14 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case.

16 CAUSES FOR DISCIPLINE

17 Causes for Discipline Against Fletcher Med Pharmacy

18 FIRST CAUSE FOR DISCIPLINE

19 (Failure to Maintain Secure Storage of Dangerous Drugs and Controlled Substances)

20 39. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
21 California Code of Regulations, title 16, section 1714(d) in that it failed to keep storage of
22 dangerous drugs and controlled substances secure by permitting non-pharmacists to maintain
23 keys to the pharmacy. The circumstances are as follows:

24 40. On or about June 28, 2007, J.B., a non-pharmacist employee, had a key to
25 the pharmacy on her key chain and reported to the investigator that she routinely opened and
26 closed the pharmacy for pharmacists.

27 41. Respondent Smith, also a non-pharmacist, also admitted that she
28 maintained a key to the pharmacy.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Separate Records of Schedule II Controlled Substances)**

3 42. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
4 Code of Federal Regulations, Title 21, section 1304.04(h)(1) in that on or about July 10, 2007, all
5 CII prescriptions at Fletcher Med Pharmacy were filed commingled with all of the other
6 prescriptions at the pharmacy, as opposed to in separate prescription files.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Failure to Post Notice to Consumer (NTC) Notice)**

9 43. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
10 California Code of Regulations, title 16, section 1707.2 (f) in that on or about July 10, 2007,
11 Fletcher Med Pharmacy failed to post a NTC in its pharmacy.

12 **FOURTH CAUSE FOR DISCIPLINE**

13 **(Failure to Develop and Maintain a Job Description
14 and Written Policy and Procedures for Pharmacy Technicians)**

15 44. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
16 California Code of Regulations, title 16, section 1793.7 (d) in that on or about July 10, 2007,
17 Fletcher Med Pharmacy did not produce or maintain a job description and written policies and
18 procedures for Pharmacy Technicians employed at the pharmacy.

19 **FIFTH CAUSE FOR DISCIPLINE**

20 **(Failure to Report Controlled Substance
21 Utilization and Evaluation System (CURES) Prescriptions Data)**

22 45. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
23 Health and Safety Code section 11165(d) and California Code of Regulations, Title 16, section
24 1715.5(a) in that on or about July 10, 2007, it was discovered that Fletcher Med Pharmacy had
25 neglected to submit Schedule CII-V prescription reports to the Department of Justice pursuant to
26 the CURES program on a regular basis since sometime in the year 2005. Such reports are
27 mandated to be submitted on a weekly basis.

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1 SIXTH CAUSE FOR DISCIPLINE

2 (Failure to Maintain Security of Dangerous Drugs and Devices in Pharmacy)

3 46. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
4 Code sections 4116(a) and 4328 in that it permitted non-pharmacists to perform pharmacist
5 duties thereby failing to maintain the security of dangerous drugs and devices at the pharmacy.
6 The circumstances are as follows:

7 47. On or about June 28, 2007, Fletcher Med Pharmacy permitted L.S., a non-
8 pharmacist, to perform pharmacist duties at the pharmacy for part of the day.

9 48. On or about June 28, 2007, Fletcher Med Pharmacy was open and
10 operating without a pharmacist on duty for the rest of the day.

11 SEVENTH CAUSE FOR DISCIPLINE

12 (Failure to Require Security Prescription for a Controlled Substance Prescription)

13 49. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
14 Health and Safety Code section 11162.1 in that on February 28, 2007, Fletcher Med Pharmacy
15 accepted and dispensed Rx # 675062 for #12 Percocet tablets, a CII medication, on a non-
16 security form.

17 EIGHTH CAUSE FOR DISCIPLINE

18 (Failure to Verify and Document Technician's Duties /Functions
19 and Initial Prescriptions Filled by Technicians)

20 50. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
21 Code section 4115(a) through (d) and California Code of Regulations, Title 16, section 1793.7(a)
22 and (b) in that numerous prescriptions in the Fletcher Med Pharmacy's prescription files did not
23 bear pharmacist initials verifying the prescription. The prescriptions appear to have been filled
24 by technicians, without the oversight of a pharmacist. Fletcher Med Pharmacy did not document
25 in writing the functions performed by the technicians in connection with the filing of these
26 prescriptions. The circumstances are as follows:

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1 51. On or about February 27, 2007 Fletcher Med Pharmacy issued new
2 prescription Rx #675046 which did not bear a pharmacist's initials on the label or in the
3 electronic system data verifying the technician's functions.

4 52. On or about March 1, 2007 Fletcher Med Pharmacy issued new
5 prescription Rx #675096 which did not bear a pharmacist's initials on the label or in the
6 electronic system data verifying the technician's functions.

7 53. On or about March 8, 2007 Fletcher Med Pharmacy issued new
8 prescription Rx #675230 which did not bear a pharmacist's initials on the label or in the
9 electronic system data verifying the technician's functions.

10 54. On or about March 9, 2007 Fletcher Med Pharmacy issued new
11 prescription Rx #675242 which did not bear a pharmacist's initials on the label or in the
12 electronic system data verifying the technician's functions.

13 **NINTH CAUSE FOR DISCIPLINE**

14 **(Failure to Complete Orally Transmitted Prescriptions)**

15 55. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
16 California Code of Regulations, Title 16, section 1717(c) in that numerous orally transmitted
17 prescriptions did not bear the initials of the recipient pharmacist and/or the date the prescription
18 was taken. The circumstances are as follows:

19 56. On or about February 27, 2007, Fletcher Med Pharmacy dispensed
20 prescription Rx #675045, an oral prescription, which did not bear the initials of the recipient
21 pharmacist and/or the date the prescription was taken.

22 57. On or about February 27, 2007, Fletcher Med Pharmacy dispensed
23 prescription Rx #675046, an oral prescription, which did not bear the initials of the recipient
24 pharmacist and/or the date the prescription was taken.

25 58. On or about March 1, 2007, Fletcher Med Pharmacy dispensed
26 prescription Rx #675096, an oral prescription, which did not bear the initials of the recipient
27 pharmacist and/or the date the prescription was taken.

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1 59. On or about March 8, 2007, Fletcher Med Pharmacy dispensed
2 prescription Rx #675230, an oral prescription, which did not bear the initials of the recipient
3 pharmacist and/or the date the prescription was taken.

4 60. On or about March 9, 2007, Fletcher Med Pharmacy dispensed
5 prescription Rx #675242, an oral prescription, which did not bear the initials of the recipient
6 pharmacist and/or the date the prescription was taken.

7 61. On or about March 13, 2007, Fletcher Med Pharmacy dispensed
8 prescription Rx #675282, an oral prescription, which did not bear the initials of the recipient
9 pharmacist and/or the date the prescription was taken.

10 62. On or about March 13, 2007, Fletcher Med Pharmacy dispensed
11 prescription Rx #675279, an oral prescription, which did not bear the initials of the recipient
12 pharmacist and/or the date the prescription was taken.

13 **TENTH CAUSE FOR DISCIPLINE**

14 **(Failure to Complete and File a Self-assessment Form)**

15 63. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
16 California Code of Regulations, Title 16, section 1715(a) in that the pharmacy did not file its Self
17 Assessment that was due on or before July 1, 2007. Although a Self Assessment is due before
18 July 1 of every odd numbered year, the last Self Assessment filed by Fletcher Med Pharmacy was
19 in 2003.

20 **ELEVENTH CAUSE FOR DISCIPLINE**

21 **(Failure to Authorize Individuals to Issue Orders for CII Controlled Substances)**

22 64. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
23 Code of Federal Regulations, Title 21, section 1305.05(a) and (d) in that individuals other than
24 Respondent Smith, the only Registrant with the DEA at the pharmacy, issued orders for CII
25 controlled substances. Pursuant to section 1305.05(a), no other individual at the pharmacy is
26 permitted to fill such orders without a Power of Attorney executed by the Respondent Smith, the
27 DEA Registrant, to them individually being maintained on file at the Pharmacy. The
28 circumstances are as follows:

1 65. On or about May 7, 2007, DEA 222 form number 65071755 was issued by
2 an individual other than Respondent Respondent Smith. No Power of Attorney was on file
3 permitting another individual to issue orders for CII controlled substances.

4 66. On or about June 4, 2007, DEA 222 form number 6591741 was issued by
5 an individual other than Respondent Smith. No Power of Attorney was on file permitting
6 another individual to issue orders for CII controlled substances.

7 **TWELFTH CAUSE FOR DISCIPLINE**

8 **(Failure to Notify Board of Dissociation of Pharmacist in Charge)**

9 67. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
10 Code section 4305(a) in that it failed to notify the Board within thirty days of the disassociation
11 that its Pharmacist in Charge (Respondent Edington), who disassociated from that position at the
12 pharmacy on July 1, 2005.

13 **THIRTEENTH CAUSE FOR DISCIPLINE**

14 **(Failure to Designate a Pharmacist in Charge)**

15 68.. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
16 Code sections 4113(a) and 4330(a) in that it failed to designate a new Pharmacist in Charge, and
17 notify the Board of the identity of same, after its previous Pharmacist in Charge (Respondent
18 Edington) terminated his employment at the pharmacy on July 1, 2005.

19 **FOURTEENTH CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct: Obtaining License by Providing False Documents to the Board)**

21 69. Respondent Fletcher Med Pharmacy is subject to disciplinary action for
22 unprofessional conduct pursuant to Code sections 4156 and 4301(g) in that on or about August 1,
23 2006, the pharmacy renewed its pharmacy license by providing the Board with the forged
24 signature of its previous Pharmacist in Charge (Respondent Edington) on the renewal document.

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FIFTEENTH CAUSE FOR DISCIPLINE

(Operating a Pharmacy Without a License)

70. Respondent Fletcher Med Pharmacy is subject to disciplinary action under Code sections 4110(a) and 4201(f) in that it continued to operate after its license expired on August 1, 2007, and without a valid renewal from the Board.

SIXTEENTH CAUSE FOR DISCIPLINE

(Failure to Maintain Accurate Records of Acquisition and Disposition)

71. Respondent Fletcher Med Pharmacy is subject to disciplinary action under Code section 4081 in that the pharmacy did not keep accurate acquisition records for dangerous drugs for the three years required by the statute. The circumstances are as follows:

72. On or about June 11, 2007, the pharmacy ordered Oxycodone/APAP 10/650 on DEA 222 form 6501742, but the pharmacy did not have the record on file for this drug acquisition.

73. An audit of the pharmacy's purchasing invoices revealed that the pharmacy failed to maintain 26 purchasing invoices between July 28, 2005 and July 10, 2007.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Failure to Retain Records of Acquisition on the Premises In a Retrievable Form)

74. Respondent Fletcher Med Pharmacy is subject to disciplinary action under Code section 4105(a) and unprofessional conduct under Code section 4301(o) in that the pharmacy did not retain the required records of its drug acquisitions on the licensed premises in a readily retrievable form.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Failure to Maintain an Inventory of Controlled Substances and 98,804 Tablets Missing)

75. Respondent Fletcher Med Pharmacy is subject to disciplinary action under Code section 4081, California Code of Regulations, title 16, section 1718, and unprofessional

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1 conduct under Code section 4301(o), in that the pharmacy did not maintain a current inventory of
2 dangerous drugs available for inspection including complete accountability for each drug. The
3 circumstances are as follows:

4 76. An audit of the pharmacy's acquisition and disposition records from July
5 28, 2005 to July 10, 2007, revealed no complete accounting of dangerous drugs and 98,804
6 tablets of generic Norco 10/325 mg unaccounted for, plus an overage of 152 tablets of generic
7 Norco 5/325 mg.

8 **NINETEENTH CAUSE FOR DISCIPLINE**

9 **(Possession of Samples of Dangerous Drugs)**

10 77. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
11 Code section 4061, and unprofessional conduct under Code section 4301(o), in that the pharmacy
12 possessed samples of drugs which may not be obtained except by the documented request of a
13 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor. The
14 circumstances are as follows: The July 10, 2007 inspection revealed 71 sample drugs at the
15 pharmacy.

16 **TWENTIETH CAUSE FOR DISCIPLINE**

17 **(Subverting the Board's Investigation)**

18 78. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
19 Code section 4301(q) for subverting the Board's investigation. From July 10, 2007 to the
20 conclusion of the investigation, Respondent delayed submitting requested records and then
21 submitted incomplete records to the Board. The circumstances are as follows: California license
22 number for pharmacists who worked at the pharmacy were never provided; work schedules and
23 payroll records for the pharmacists which would have helped to identify them were incomplete,
24 and daily prescription logs were not provided.

25 **TWENTY FIRST CAUSE FOR DISCIPLINE**

26 **(Failure to Submit the Change of Corporation Shareholders to the Board)**

27 79. Respondent Fletcher Med Pharmacy is subject to disciplinary action under
28 California Code of Regulations, Title 16, section 1709(b), in that the pharmacy failed to notify

1 the Board of the change of stock shareholders and corporate shares. The circumstances are as
2 follows: The Pharmacy License was issued showing the following stock shareholders and
3 corporate shares: Respondent LaShara Smith (70%), Respondent Yolanda Phillips (10%),
4 Respondent David Bell (10%), and William McCurine (10%). However, in January of 2007,
5 Tychar Corporation's corporate officers and corporate shares changed to Respondent LaShara
6 Smith (60%), Respondent Yolanda Phillips (20%), Jackie Bell (15%), Respondent David Bell
7 (5%). William McCurine was no longer associated with the pharmacy. No notification of the
8 transfer of beneficial ownership of 10% or more was submitted to the Board within 30 days of
9 the transfer.

10 **Causes for Discipline Against LaShara Smith**

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Failure to Notify the Board of the Termination of the Pharmacist in Charge)**

13 80. Respondent LaShara Smith, President and Majority Shareholder of Tychar
14 Corporation and Pharmacy Technician, is subject to disciplinary action under Code section
15 4305(a), and unprofessional conduct under Code section 4301(o), in that she willfully failed to
16 notify the board of the termination of employment of John Edington, the Pharmacist in Charge,
17 who left the employment of the Pharmacy in July of 2005.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Owner and Manager of a Pharmacy that Operated Without
20 a Pharmacist in Charge or Without any Pharmacist on the Premises,
Resulting in the Loss of 98,804 Tablets of a Controlled Substance)**

21 81. Respondent LaShara Smith, President and Majority Shareholder of Tychar
22 Corporation and Pharmacy Technician, is subject to disciplinary action under Code sections
23 4038, 4305(b), 4115, 4116 (a), and California Code of Regulations, title 16, sections 1793,
24 1793.1, 1793.2, and 1793.7 as well as unprofessional conduct under Code section 4301(o), in
25 that after the Pharmacist in Charge left the pharmacy in 2005, Respondent continued to operate
26 the pharmacy and managed the pharmacy without a licensed Pharmacist in Charge and
27 sometimes without a licensed pharmacist present, permitting the compounding or dispensing of
28 prescriptions, and the furnishing of drugs, in the pharmacy she owned and managed. An audit of

1 the pharmacy's acquisition and disposition records from the time that the Pharmacist in Charge
2 left the pharmacy, July of 2005, to July of 2007 revealed no complete accounting of dangerous
3 drugs and 98,804 tablets of generic Norco 10/325 mg entirely missing.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct- Obtaining License by
6 Providing False Documentation to the Board)**

7 82. Respondent LaShara Smith is subject to disciplinary action under Code
8 sections 498 and 4301(g) in that she forged the signature of the previous Pharmacist in Charge
9 (Respondent Edington) on the pharmacy's renewal document and then submitted that falsified
10 document to the Board on or about August 1, 2005 to renew Fletcher Park Pharmacy's license.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Subverting the Board's Investigation)**

13 83. Respondent LaShara Smith is subject to disciplinary action under Code
14 section 4301(q) when she subverted the Board's investigation. The circumstances are as follows:

15 84. Respondent ignored the Board investigator's requests for information, and
16 then did not provide accurate information regarding L.S., a non-pharmacist, who acted as a
17 pharmacist at Fletcher Med Pharmacy on a regular basis from 2006 up to an including June 28,
18 2007.

19 85. Between July of 2007 and the pharmacy's conclusion of business in
20 October of 2007, respondent submitted incomplete and inaccurate records in response to the
21 Board's investigation requests. She failed to provide daily prescription logs, specific information
22 regarding the license numbers of pharmacists who worked at the pharmacy, work schedules for
23 pharmacists who worked at the pharmacy from July of 2005 to July of 2007, and complete
24 acquisition and disposition records for purposes of conducting a controlled substance audit.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Failure to Submit the Change of Corporation Shareholders to the Board)**

27 86. Respondent LaShara Smith is subject to disciplinary action under
28 California Code of Regulations, Title 16, section 1709(b), in that, although she was the major

1 stockholder of Tychar Corporation, she failed to notify the Board of the change of stock
2 shareholders and corporate shares. The circumstances are as follows: The Pharmacy License was
3 issued showing the following stock shareholders and corporate shares: Respondent LaShara
4 Smith (70%), Respondent Yolanda Phillips (10%), Respondent David Bell (10%), and William
5 McCurine (10%). However, in January of 2007, Tychar Corporation's corporate officers and
6 corporate shares changed to Respondent LaShara Smith (60%), Respondent Yolanda Phillips
7 (20%), Jackie Bell (15%), Respondent David Bell (5%). William McCurine was no longer
8 associated with the pharmacy. No notification of the transfer of beneficial ownership of 10% or
9 more was submitted to the Board within 30 days of the transfer.

10 **PRAYER**

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

- 13 1. Revoking or suspending Pharmacy Permit No. PHY44780, issued to
14 Fletcher Med Pharmacy; Tychar Corporation, Owner; Lashara C. Smith, President; William Mc
15 Curine, Jr., Vice President; Yolanda Phillips, Secretary; David E. Bell, Treasurer.
- 16 2. Revoking or suspending Pharmacy Technician No. TCH 8245, issued to
17 LaShara Smith.
- 18 4. Ordering Fletcher Med Pharmacy, Tychar Corporation, Owner, Lashara C.
19 Smith, President, William Mc Curine, Jr., Vice President, Yolanda Phillips, Secretary, David E.
20 Bell, Treasurer; and LaShara Smith and to pay the Board of Pharmacy the reasonable costs of the
21 investigation and enforcement of this case, pursuant to Business and Professions Code section
22 125.3;
- 23 5. Taking such other and further action as deemed necessary and proper.

24 DATED: November 26, 2008

25 Virginia Herold, Deputy Attorney General, for
26 VIRGINIA HEROLD
27 Executive Officer
28 Board of Pharmacy
California Department of Consumer Affairs
Complainant