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5 **BEFORE THE**
6 **BOARD OF PHARMACY**
7 **DEPARTMENT OF CONSUMER AFFAIRS**
8 **STATE OF CALIFORNIA**

9 In the Matter of the Accusation Against:

Case No. 3534

10 **LISA ANN WRIGHT**
11 **PO Box 1292**
12 **Lake Arrowhead, CA 92352**
13 **Pharmacy Technician Registration No. TCH**
14 **39223**

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

Respondent.

15 FINDINGS OF FACT

16 1. On or about March 30, 2010, Complainant Virginia Herold, in her official capacity as
17 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
18 Accusation No. 3534 against Lisa Ann Wright (Respondent) before the Board of Pharmacy.

19 2. On or about November 16, 2001, the Board of Pharmacy (Board) issued Pharmacy
20 Technician Registration No. TCH 39223 to Respondent. The Pharmacy Technician Registration
21 was in full force and effect at all times relevant to the charges brought herein and will expire on
22 September 30, 2011, unless renewed.

23 3. On or about April 15, 2010, Lisa M. Robinson, an employee of the Department of
24 Justice, served by Certified and First Class Mail a copy of the Accusation No. 3534, Statement to
25 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
26 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:

27 PO Box 1292
28 Lake Arrowhead, CA 92352.

1 A copy of the Accusation is attached as exhibit A, and is incorporated herein by reference.

2 4. Service of the Accusation was effective as a matter of law under the provisions of
3 Government Code section 11505, subdivision (c).

4 5. Government Code section 11506 states, in pertinent part:

5 (c) The respondent shall be entitled to a hearing on the merits if the respondent
6 files a notice of defense, and the notice shall be deemed a specific denial of all parts
7 of the accusation not expressly admitted. Failure to file a notice of defense shall
8 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
9 may nevertheless grant a hearing.

10 6. Respondent failed to file a Notice of Defense within 15 days after service upon
11 her of the Accusation, and therefore waived her right to a hearing on the merits of Accusation No.
12 3534.

13 7. California Government Code section 11520 states, in pertinent part:

14 (a) If the respondent either fails to file a notice of defense or to appear at the
15 hearing, the agency may take action based upon the respondent's express admissions
16 or upon other evidence and affidavits may be used as evidence without any notice to
17 respondent.

18 8. Pursuant to its authority under Government Code section 11520, the Board finds
19 Respondent is in default. The Board will take action without further hearing and, based on the
20 evidence on file herein, finds that the allegations in Accusation No. 3534 are true.

21 9. The total cost for investigation and enforcement in connection with the Accusation
22 are \$8,658 as of May 17, 2010.

23 DETERMINATION OF ISSUES

24 1. Based on the foregoing findings of fact, Respondent Lisa Ann Wright has subjected
25 her Pharmacy Technician Registration No. TCH 39223 to discipline.

26 2. A copy of the Accusation is attached.

27 3. The agency has jurisdiction to adjudicate this case by default.

28 4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician
Registration based upon the following violations alleged in the Accusation:

a. Fraudulently Processing Prescriptions for Dangerous Drugs and Controlled
Substances-- (Business and Professions Code sec. section 4301, subdivisions (f) and (o).)

1 b. Knowing Misrepresentation of Material Facts on Prescription Order--(Business
2 and Professions Code sec. 4301, subdivisions (g) and (o), in conjunction with Health and Safety
3 Code sec. 11173, subdivisions (a) and (o).)

4 c. Violation of Pharmacy Laws- Unlawful Making, Forging or Passing False
5 Prescription Order--(Business and Professions Code sec. 4301, subdivisions (j) and (o) in
6 conjunction with section 4324.)

7 d. Violation of Pharmacy Laws- Furnishing Dangerous Drugs and Controlled
8 Substances without a Prescription--(Business and Professions Code sec. 4301, subdivisions (j)
9 and (o), in conjunction with sections 4059 subd. (a), 4051 subd. (a) and Health and Safety Code
10 section 11170.)

11 e. Violation of Pharmacy Laws- Unlawful Possession of Controlled Substances--
12 (4301, subd. (j) in conjunction with section 4060.)

13 f. Acts that Would Have Warranted Denial of a Registration/License--(Business
14 and Professions Code sec. 4301, subd. (p).)

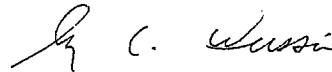
15 ORDER

16 IT IS SO ORDERED that Pharmacy Technician Registration No. TCH 39223, heretofore
17 issued to Respondent Lisa Ann Wright, is revoked.

18 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
19 written motion requesting that the Decision be vacated and stating the grounds relied on within
20 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
21 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

22 This Decision shall become effective on August 5, 2010.

23 It is so ORDERED July 6, 2010.

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26 STANLEY C. WEISSER, BOARD PRESIDENT
27 FOR THE BOARD OF PHARMACY
28 DEPARTMENT OF CONSUMER AFFAIRS

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DOJ docket number:LA2009604644

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Attachment:

Exhibit A: Accusation No.3534

Exhibit A
Accusation No. 3534

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

11 In the Matter of the Accusation Against:
12 **LISA ANN WRIGHT**
PO Box 1292
13 **Lake Arrowhead, CA 92352**
Pharmacy Technician Registration No. TCH
14 **39223**
15 Respondent.

Case No. 3534

A C C U S A T I O N

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about November 16, 2001, the Board of Pharmacy issued Pharmacy Technician
22 Registration Number TCH 39223 to Lisa Ann Wright (Respondent). The Pharmacy Technician
23 Registration was in full force and effect at all times relevant to the charges brought herein and
24 will expire on September 30, 2011, unless renewed.

25 **JURISDICTION**

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

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

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

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

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

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

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

17 "(1) Suspending judgment.

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

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

20 "(4) Revoking his or her license.

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

23 7. Section 4301 of the Code states:

24 "The board shall take action against any holder of a license who is guilty of unprofessional
25 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

26 Unprofessional conduct shall include, but is not limited to, any of the following:

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

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

6

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

9

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

27

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

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

6 8. Section 4022 of the Code states in pertinent part:

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

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

11

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

14 9. Section 4051 of the Code states:

15 "(a) Except as otherwise provided in this chapter, it is unlawful for any person to
16 manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to
17 dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she
18 is a pharmacist under this chapter.

19 "(b) Notwithstanding any other law, a pharmacist may authorize the initiation of a
20 prescription, pursuant to Section 4052, and otherwise provide clinical advice or information or
21 patient consultation if all of the following conditions are met:

22 "(1) The clinical advice or information or patient consultation is provided to a health care
23 professional or to a patient.

24 "(2) The pharmacist has access to prescription, patient profile, or other relevant medical
25 information for purposes of patient and clinical consultation and advice.

26 "(3) Access to the information described in paragraph (2) is secure from unauthorized
27 access and use."

28

1 10. Section 4059, subd. (a) of the Code states, in pertinent part, that a person may not
2 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,
3 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not
4 furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist,
5 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

6 11. Section 4060 of the Code provides in pertinent part: "No person shall possess any
7 controlled substance, except that furnished to a person upon the prescription of a physician,
8 dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified
9 nurse-midwife, . . . a nurse practitioner. . . , or a physician assistant. . ."

10 12. Section 4324 of the Code states:

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

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

18 13. Health and Safety Code section 11170, states: "No person shall prescribe, administer,
19 or furnish a controlled substance for himself."

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

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

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1 CONTROLLED SUBSTANCES

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

5 B. "Vicodin", "Norco", "Lortab" and "Lorcet" are brand names for Hydrocodone and
6 Acetaminophen, and are Schedule III controlled substances as designated by Health and Safety
7 Code section 11056(e) and classified as dangerous drugs pursuant to Business and Professions
8 Code section 4022.

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

12 D. "Tussionex Ext-Rel. Susp" is a brand name for Hydrocodone/Chlorpheniramine Ext
13 Release Susp and is a Schedule III controlled substance as defined in Health and Safety Code
14 section 11056, subd. (e)(6) and is categorized as a "dangerous drug" pursuant to section 4022 of
15 the Code.

16 E. "Phenergan/Codeine" is a brand name for "Promethazine/codeine syrup" and is a
17 Schedule IV controlled substance as defined in Health and Safety Code section 11058, subd.
18 (c)(1) and is categorized as a dangerous drug according to Business and Professions Code section
19 4022.

20 F. "Diazepam" is generic for the brand name Valium 10 mg. and is a benzodiazepine
21 derivative, a Schedule IV controlled substance as designated by Health and Safety Code section
22 11057(d)(8) and is categorized as a dangerous drug pursuant to section 4022 of the Code.

23 G. "Temazepam" is generic for Xanax, an anti-anxiety benzodiazepine, and is a
24 Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(24)
25 and is categorized as a dangerous drug pursuant to section 4022 of the Code.

26 H. "Lorazepam" is generic for Ativan, a Schedule IV controlled substance as defined in
27 Health and Safety Code section 11057, subdivision (d)(13), and is categorized as a dangerous
28 drug pursuant to section 4022 of the Code.

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

4 J. "Soma" is a brand name for Carisoprodol 350 mg. and is a dangerous drug pursuant
5 to section 4022 of the Code.

6 K. "Alprazolam" is generic for the brand name Xanax, a Schedule IV controlled
7 substance as designated by Health and Safety Code section 11057(d)(1) and is categorized as a
8 dangerous drug pursuant to section 4022 of the Code.

9 L. "Restoril" is a brand of Temazepam, a Schedule IV controlled substance
10 as designated by Health and Safety Code section 11057(d)(24), and is categorized as a dangerous
11 drug pursuant to section 4022 of the Code.

12 M. "Ambien CR 12.5 mg" is a brand of Zolpidem, a Schedule IV controlled substance
13 as designated by Health and Safety Code section 11057(d)(32), and is categorized as a dangerous
14 drug pursuant to section 4022 of the Code.

15 N. "Fiorinal with codeine" is a compound that currently consists of Butalbital, USP
16 50mg, Aspirin, USP 325mg, caffeine, USP 40mg and Codeine Phosphate, USP 30mg., a
17 Schedule III controlled substance as designated by Health and Safety Code section 11056.

18 FIRST CAUSE FOR DISCIPLINE

19 (Fraudulently Processing Prescriptions for Dangerous Drugs and Controlled Substances)

20 16. Respondent is subject to disciplinary action under section 4301, subdivisions (f) and
21 (o), in that she committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

22 The circumstances are as follows:

23 17. On multiple dates from March 2004 until February 2008, while employed at Lake
24 Arrowhead Village Pharmacy located at 28200 Hwy. 189 in Lake Arrowhead, CA and after her
25 employment termination in July 2006, Respondent fraudulently authorized and processed, and/or
26 conspired to fraudulently authorize and process multiple prescriptions for controlled substances
27 for herself, her husband Terry Wright, and her daughter, including approximately 12,240
28 hydrocodone-containing tablets; 4920 mls. (more than two (2) pints) Tussionex Ext-Rel. Susp;

1 2880 mls. (more than six (6) pints) Promethazine/codeine syrup; 2400 tablets of various
2 benzodiazapines (diazepam, lorazepam and temazepam); 900 tablets of Propoxyphene
3 Napsylate/acetaminophen; and 800 tablets of Carisoprodol. The circumstances are as follows:

4 18. Between October 2005 and March 2006, Respondent fraudulently authorized and
5 processed, and/or conspired to fraudulently authorize and process multiple prescriptions
6 ostensibly authorized by Dr. Kyi Kyi Win to her husband, Terry Wright, for the following
7 controlled substances or dangerous drugs: Diazepam 5mg; Diazepam 10mg; Temazepam 30mg;
8 Hydrocodone/APAP 7.5/750 mg.; Carisoprodol 350 mg.; and Valium 10mg.

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

14 20. Between January 2005 and February 2008, Respondent fraudulently authorized and
15 processed, and/or conspired to fraudulently authorize and process multiple prescriptions
16 ostensibly authorized by Dr. Kevin Herrick to Respondent, for the following controlled
17 substances or dangerous drugs: Vicodin ES; Tussionex Ext-Rel. Susp. 300 ml; Phenergan/
18 Codeine 240 ml; Norco 10/325 #200; Ativan 2mg #100; Vicoprofen #100; Vicodin ES #100;
19 Vicoprofen #200; Vicodin ES #80; Norco 10/325 #220; Fiorinal/Codeine no. 3 #60; Ambien
20 10mg #14; Xanax .5 mg #60; Darvocet N-100 #100; Ativan 1 mg #100; and Phentermine 30 mg
21 #30.

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

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SECOND CAUSE FOR DISCIPLINE

(Knowing Misrepresentation of Material Facts on Prescription Order)

22. Respondent is subject to disciplinary action under section 4301, subdivisions (g) and (o), in conjunction with Health and Safety Code sec. 11173, subdivisions (a) and (o) in that Respondent knowingly made or signed documents that falsely represented the existence of a state of facts that valid prescriptions had been issued by physicians to Respondent, her husband and her daughter, or conspired to do the foregoing acts. The circumstances are as alleged in the preceding paragraphs 17 through 21 that are incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Violation of Pharmacy Laws- Unlawful Making, Forging or Passing False Prescription Order)

23. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and (o) in conjunction with section 4324 in that Respondent obtained controlled substances through misrepresentation or subterfuge in that she signed the name of another, or of a fictitious person, or falsely made, altered, forged, uttered, published, passed or attempted to pass as genuine, prescriptions for drugs that were not valid prescriptions issued by physicians, or conspired to do the foregoing acts. The circumstances are as alleged in the preceding paragraphs 17 through 21 that are incorporated herein by reference.

FOURTH CAUSE FOR DISCIPLINE

(Violation of Pharmacy Laws- Furnishing Dangerous Drugs
and Controlled Substances without a Prescription)

24. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and (o), in conjunction with sections 4059 subd. (a), 4051 subd. (a) and Health and Safety Code section 11170, in that Respondent furnished dangerous drugs to herself and others without valid prescriptions from a physician or appropriate health care provider, or conspired to do the foregoing acts. The circumstances are as alleged in the preceding paragraphs 17 through 21 that are incorporated herein by reference.

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1 FIFTH CAUSE FOR DISCIPLINE

2 (Violation of Pharmacy Laws- Unlawful Possession of Controlled Substances)

3 25. Respondent is subject to disciplinary action under section 4301, subd. (j) in
4 conjunction with section 4060 in that Respondent possessed controlled substances and dangerous
5 drugs without valid prescriptions from a physician or appropriate health care provider. The
6 circumstances are as alleged in the preceding paragraphs 17 through 21 that are incorporated
7 herein by reference.

8 SIXTH CAUSE FOR DISCIPLINE

9 (Acts that Would Have Warranted Denial of a Registration/License)

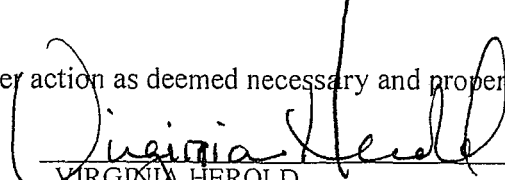
10 26. Respondent is subject to disciplinary action under section 4301, subd. (p) in that
11 Respondent committed acts that would have warranted denial of a pharmacy technician
12 registration. The circumstances are as alleged in the preceding paragraphs 17 through 21 that are
13 incorporated herein by reference.

14 PRAYER

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

- 17 1. Revoking or suspending Pharmacy Technician Registration Number TCH 39223,
18 issued to Lisa Ann Wright Lisa Ann Wright.
- 19 2. Ordering Lisa Ann Wright to pay the Board of Pharmacy the reasonable costs of the
20 investigation and enforcement of this case, pursuant to Business and Professions Code section
21 125.3;
- 22 3. Taking such other and further action as deemed necessary and proper.

23 DATED: 3/30/10


24 VIRGINIA HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

LA2009604644
accusation.rtf