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6	BEFORE THE	
7	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS	
8	STATE OF CALIFOR	NIA
9	In the Matter of the First Amended Accusation Against:	Case No. 4142
10	JOSHUA COX	DEFAULT DECISION AND
11	5100 Mule Skinner Road Placerville, CA 95667	ORDER
12	Pharmacist License No. RPH 51774	[Gov. Code, §11520]
13	Respondent.	
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15	FINDINGS OF FACT	
16	1. On or about September 21, 2011, Complainant Virginia Herold, in her official	
17	capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,	
18	filed Accusation No. 4142 against Joshua Cox (Respondent) before the Board of Pharmacy. On	
19	or about March 2, 2012, Complainant Virginia Herold, in her official capacity as the Executive	
20	Officer of the Board of Pharmacy, Department of Consume	er Affairs, filed First Amended
21	Accusation No. 4142 against Joshua Cox (Respondent) before the Board of Pharmacy. (First	
22	Amended Accusation No. 4142 attached as Exhibit A.)	
23	2. On or about August 29, 2000, the Board of Pha	armacy (Board) issued Pharmacist
24	License No. RPH 51774 to Respondent. The Pharmacist L	icense was in full force and effect at
25	all times relevant to the charges brought in First Amended	Accusation No. 4142 and expired on
26	May 31, 2012.	
27	3. On or about March 8, 2012, Respondent was se	erved by First Class Mail copies of the
28	First Amended Accusation No. 4142, Statement to Respondent, Notice of Defense, Request for	
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		DEFAULT DECISION AND ORDER

1.	Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) a	
2	Respondent's address of record which, pursuant to Business and Professions Code section 4100,	
3	is required to be reported and maintained with the Board, which was and is:	
4	Joshua Cox	
5	5100 Mule Skinner Road Placerville, CA 95667.	
6	4. Service of the First Amended Accusation No. 4142 was effective as a matter of law	
7	under the provisions of Government Code section 11505, subdivision (c) and/or Business &	
8	Professions Code section 124.	
- 9	5. Government Code section 11506 states, in pertinent part:	
10	(c) The respondent shall be entitled to a hearing on the merits if the respondent	
11	files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall	
12	constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing.	
13	6. Respondent failed to file a Notice of Defense within 15 days after service upon him	
14	of the First Amended Accusation, and therefore waived his right to a hearing on the merits of	
15	First Amended Accusation No. 4142.	
16	7. California Government Code section 11520 states, in pertinent part:	
17	(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions	
18	or upon other evidence and affidavits may be used as evidence without any notice to	
19	respondent.	
20	8. Pursuant to its authority under Government Code section 11520, the Board finds	
21	Respondent is in default. The Board will take action without further hearing and, based on the	
22	relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as	
23	taking official notice of all the investigatory reports, exhibits and statements contained therein on	
24	file at the Board's offices regarding the allegations contained in Interim Suspension Order No.	
25	4142, finds that the charges and allegations in Interim Suspension Order No. 4142, are separately	
26	and severally, found to be true and correct by clear and convincing evidence.	
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9, Taking official notice of its own internal records, pursuant to Business and 1 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation 2 and Enforcement is \$17,807.50 as of October 26, 2012. 3 DETERMINATION OF ISSUES 4 1. Based on the foregoing findings of fact, Respondent Joshua Cox has subjected his 5 Pharmacist License No. RPH 51774 to discipline. 6 2, The agency has jurisdiction to adjudicate this case by default. 7 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacist License 8 based upon the following violations alleged in the First Amended Accusation which are supported 9 by the evidence contained in the Default Decision Evidence Packet in this case: 10 Respondent is subject to disciplinary action under section 4301 subdivision (f) in that a. 11 he engaged in unprofessional conduct. The circumstances are that on or about May 16, 12 2011 and May 18, 2011, and at various times from February through May of 2011, 13 Respondent used his position as a float pharmacist employed at several Rite Aid 14 pharmacies to steal Hydrocodone 10/325 from his employer. He was observed on 15 videotape taking the drugs on May 16 and 18, 2011. His theft has caused a financial loss to 16 Rite Aid in the amount of \$943.78, the value of the drugs stolen. 17 Respondent is subject to disciplinary action under section 4301 subdivision (h) in that b. 18 he engaged in acts of unprofessional conduct. The circumstances are that from a date 19 unknown and continuing until through July of 2011, Respondent administered to himself a 20controlled substance, Hydrocodone 10/325, obtained without the use of a prescription, in 21 amounts dangerous to himself. Respondent has admitted to having misused painkillers for 22 2 1/2 to 3 years. He has admitted to recently taking 60 to 90 pills a day, and sometimes 23 taking them while he is at work, thereby creating a danger to himself and others. 24 c. Respondent is subject to disciplinary action under section 4301 subdivision (j), in 25 conjunction with Health and Safety Code sections 11350, 11170, and 11173 subdivision 26 (a), in that he has engaged in acts of unprofessional conduct in that Respondent violated 27 111 28 3

Health and Safety Code sections regulating controlled substances and dangerous drugs. The circumstances are as follows:

i Respondent violated Health and Safety Code section 11350 in that from approximately February 2011 to July 2011, he possessed a Schedule III controlled substance, Hydrocodone 10/325, without the benefit of a written prescription. In addition, on or about May 21, 2011, Respondent possessed Phentermine, Lunesta, Clonazepam, and Xanax, Schedule IV drugs, without the benefit of a written prescription.

ii. Respondent violated Health and Safety Code section 11170 in that from approximately February 2011 to July, 2011, he administered a Schedule III controlled substance, Hydrocodone 10/325, to himself without the benefit of a written prescription.

iii. Respondent has violated Health and Safety Code section 11173(a) in that on or about May 16 through 18, 2011, he obtained a Schedule III controlled substance,Hydrocodone 10/325, from his employer through the use of subterfuge and deceit.

d. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
(o), as this section interacts with Code section 4327 as follows. Between approximately
October, 2010 and May of 2011, Respondent illegally consumed and was under the
influence of hydrocodone and other controlled substances while he was on duty as a
pharmacist, and while he was involved with the preparation, compounding, dispensing, and
sale of prescriptions and providing patient care to the public as a licensed pharmacist.

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1	ORDER	
2	IT IS SO ORDERED that Pharmacist License No. RPH 51774, heretofore issued to	
3	Respondent Joshua Cox, is revoked.	
4	Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a	
5	written motion requesting that the Decision be vacated and stating the grounds relied on within	
6	seven (7) days after service of the Decision on Respondent. The agency in its discretion may	
7	vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.	
8	This Decision shall become effective on January 4, 2013.	
9	It is so ORDERED ON December 5, 2012	
10	BOARD OF PHARMACY	
11	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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13	La C. Wussi	
14	By <u>STANLEY C. WEISSER</u>	
15	Board President	
16		
17	10777230.DOC DOJ Matter ID:SA2011101749	
18	Attachment:	
19	Exhibit A: First Amended Accusation	
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	DEFAULT DECISION AND ORDER	

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## Exhibit A

First Amended Accusation

1	KAMALA D. HARRIS	
2	Attorney General of California JANICE K. LACHMAN	
3	Supervising Deputy Attorney General LORRIE M. YOST	
	Deputy Attorney General	
4	State Bar No. 119088 1300 I Street, Suite 125	
5	P.O. Box 944255	
6	Sacramento, CA 94244-2550 Telephone: (916) 445-2271 Facsimile: (916) 327-8643	
7	Facsimile: (916) 327-8643 Attorneys for Complainant	
, 8	BEFORE THE	
ĺ	BOARD OF PHARMACY	
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
10		
11	In the Matter of the Accusation Against:	
12	JOSHUA COX Case No. 4142	
13	5100 Mule Skinner Road	
14	Placerville, CA 95667 Pharmacist License No. RPH 51774	
15	Respondent. FIRST AMENDED ACCUSATION	
	Respondent. FIRST AMENDED ACCUSATION	
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18	Complainant alleges:	
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20	PARTIES	
21	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity	
ĺ	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.	
22	2. On or about August 29, 2000, the Board of Pharmacy issued Pharmacist License	
23	Number RPH 51774 to Joshua Cox (Respondent). The Pharmacist License was in full force and	
24	effect at all times relevant to the charges brought herein and will expire on May 31, 2012, unless	
25	renewed.	
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	1 Accusation	
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2	JURISDICTION	
3	3. This Accusation is brought before the Board of Pharmacy (Board), Department of	
4	Consumer Affairs, under the authority of the following laws. All section references are to the	
5	Business and Professions Code unless otherwise indicated.	
6	4. Section 4300 of the Code states in pertinent part that every license issued may be	
7	suspended or revoked.	
8	5. Section 118, subdivision (b), of the Code provides that the suspension, expiration,	
9	surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a	
10	disciplinary action during the period within which the license may be renewed, restored, reissued	
11	or reinstated.	
12	STATUTORY REFERENCES	
13	6. Section 4301 of the Code states in pertinent part:	
14	"The board shall take action against any holder of a license who is guilty of unprofessional	
15	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.	
16	Unprofessional conduct shall include, but is not limited to, any of the following:	
17		
18	"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or	
19	corruption, whether the act is committed in the course of relations as a licensee or otherwise, and	
20	whether the act is a felony or misdemeanor or not.	
21	•••••	
22	"(h) The administering to oneself, of any controlled substance, or the use of any dangerous	
23	drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to	
24	oneself, to a person holding a license under this chapter, or to any other person or to the public, or	
25	to the extent that the use impairs the ability of the person to conduct with safety to the public the	
26	practice authorized by the license.	
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Accusation

"(j) The violation of any of the statutes of this state, or any other state, or of the United 1 States regulating controlled substances and dangerous drugs." 2 3 7. Section 4022 of the Code states: 4 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in 5 humans or animals, and includes the following: б Any drug that bears the legend: "Caution: federal law prohibits dispensing without (a) 7 prescription," "Rx only," or words of similar import. 8 Any device that bears the statement: "Caution: federal law restricts this device to sale (b)9 by or on the order of a ," "Rx only," or words of similar import, the blank to be filled in with the 10 designation of the practitioner licensed to use or order use of the device. 11 Any other drug or device that by federal or state law can be lawfully dispensed only (c)12 on prescription or furnished pursuant to Section 4006. 13 Section 4327 of the Code states that any person who, while on duty as a pharmicist, 8. 14 sells, dispenses or compounds any drug while under the influence of any dangerous drug or 15 alcoholic beverage shall be guilty of a misdemeanor. 16 COST RECOVERY 17 Section 125.3 of the Code provides, in pertinent part, that the Board may request the 9. 18 administrative law judge to direct a licentiate found to have committed a violation or violations of 19 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and 20enforcement of the case. 21 CONTROLLED SUBSTANCES 22 Hydrocodone 10/325, also known by the brand name 'Norco', is a mix of 10 mgs. of 10. 23 hydrocodone and 325 mgs. of acetaminophen used as a painkiller. It is designated by Health and 24 Safety Code section 11056 subdivision (e)(4) as a Schedule III controlled substance and is a 25 dangerous drug pursuant to Code section 4022. 26 Phentermine is designated by Health and Safety Code section 11057(f)(4) as a 2711. Schedule IV controlled substance, and is a dangerous drug pursuant to Code section 4022.

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1	12. Lunesta is designated by Health and Safety Code section 11057(d)(32) as a Schedule	
2	IV controlled substance and is a dangerous drug pursuant to Code section 4022.	
3	13. Clonazepam is designated by Health and Safety Code Section 11057(d)(7) as a	
4	Schedule IV controlled substance and is a dangerous drug pursuant to Code section 4022.	
5	14. Xanax is designated by Health and Safety Code Section 11057(d)(1) as a Section IV	
6	controlled substance and is a dangerous drug pursuant to Code section 4022.	
7	FIRST CAUSE FOR DISCIPLINE	
8	(Acts of Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)	
9	15. Respondent is subject to disciplinary action under section 4301 subdivision (f) in that	
10	he engaged in unprofessional conduct. The circumstances are as follows:	
11	16. On or about May 16, 2011 and May 18, 2011, and at various times from February	
12	through May of 2011, Respondent used his position as a float pharmacist employed at several	
13	Rite Aid pharmacies to enable him to steal Hydrocodone 10/325 from his employer. He was	
14	observed on videotape taking the drugs on May 16 and 18, 2011. His theft has caused a financial	
15	loss to Rite Aid in the amount of \$943.78, the value of the drugs stolen.	
16	SECOND CAUSE FOR DISCIPLINE	
17	(Administering To Oneself A Controlled Substance, Or The Use Of Any Dangerous Drug To The	
18	Extent Or In A Manner As To Be Dangerous Or Injurious)	
19	17. Respondent is subject to disciplinary action under section 4301 subdivision (h) in that	
20	he engaged in acts of unprofessional conduct. The circumstances are as follows:	
21	18. Commencing on a date unknown and continuing until through July of 2011,	
22	Respondent has administered to himself a controlled substance, Hydrocodone 10/325, obtained	
23	without the use of a prescription, in amounts dangerous to himself. Respondent has admitted to	
24	having misused painkillers for 2 1/2 to 3 years. He has admitted to recently taking 60 to 90 pills a	
25	day, and sometimes taking them while he is at work, thereby creating a danger to himself and	
26	others.	
27	THIRD CAUSE FOR DISCIPLINE	
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1	(Violation Of Any Of The Statutes Of This State, Of Any Other State, Or Of The United States	
2	Regulating Controlled Substances And Dangerous Drugs.)	
3	19. Respondent is subject to disciplinary action under section 4301 subdivision (j), in	
4	conjunction with Health and Safety Code sections 11350, 11170, and 11173 subdivision (a), in	
5	that he has engaged in acts of unprofessional conduct. The circumstances are as follows:	
6	20. Respondent has violated the following Health and Safety Code sections regulating	
7	controlled substances and dangerous drugs:	
8	a) Respondent has violated Health and Safety Code section 11350 in that from	
9	approximately February 2011 to July 2011, he possessed a Schedule III controlled	
10	substance, Hydrocodone 10/325, without the benefit of a written prescription. In	
11	addition, on or about May 21, 2011, Respondent possessed Phentermine, Lunesta,	
12	Clonazepam, and Xanax, Schedule IV drugs, without the benefit of a written	
13	prescription.	
14	b) Respondent has violated Health and Safety Code section 11170 in that from	
15	approximately February 2011 to July, 2011, he administered a Schedule III controlled	
16	substance, Hydrocodone 10/325, to himself without the benefit of a written prescription.	
17	c) Respondent has violated Health and Safety Code section 11173(a) in that on or about	
18	May 16 through 18, 2011, he obtained a Schedule III controlled substance,	
19	Hydrocodone 10/325, from his employer through the use of subterfuge and deceit.	
20	FOURTH CAUSE FOR DISCIPLINE	
21	(Performing the Duties of a Pharmacist While Under the Influence of a Dangerous Drug)	
22	21. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and	
23	(o), as this section interacts with Code section 4327 as follows. Between approximately October,	
24	2010 and May of 2011, Respondent illegally consumed and was under the influence of	
25	hydrocodone and other controlled substances while he was on duty as a pharmacist, and while he	
26	was involved with the preparation, compounding, dispensing, and sale of prescriptions and	
27	providing patient care to the public as a licensed pharmacist.	
28	PRAYER	
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Accusation

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, 1 and that following the hearing, the Board of Pharmacy issue a decision: 2 1. Revoking or suspending Pharmacist License Number RPH 51774, issued to Joshua 3 Cox; 4 2. Ordering Joshua Cox to pay the Board of Pharmacy the reasonable costs of the 5 investigation and enforcement of this case, pursuant to Business and Professions Code section 6 125.3; 7 Taking such other and further action as deemed necessary and proper. 3. 8 9 10 11 DATED: 12 VIRGIŃI Executive Officer 13 Board of Pharmacy Department of Consumer Affairs 14 State of California Complainant 15 16 SA2011101749 10730625.doc 17 18 19 20 21<sup>•</sup> 22 23 24 25 26 27 28 6