

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

In the Matter of the Accusation Against:

**WALGREENS #5372
16108 Foothill Blvd.
Fontana, CA 92335-3356**

**Pharmacy Permit No. PHY 44289
Pharmacy Permit No. PHY 52711**

Respondent.

Case No. 5550

OAH No. 2016040898

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on March 1, 2017.

It is so ORDERED on January 30, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
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7

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

11 In the Matter of the Accusation Against:
12 **WALGREENS #5372**
16108 Foothill Blvd.
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13 Pharmacy Permit No. PHY 44289
14 Pharmacy Permit No. PHY 52711

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15
16 Respondent.

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18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
23 (Board). She brought this action solely in her official capacity and is represented in this matter by
24 Kamala D. Harris, Attorney General of the State of California, by Vinodhini R. Keller, Deputy
25 Attorney General.

26 2. Respondent Walgreens #5372 (Respondent) is represented in this proceeding by
27 attorney Sweta Patel, whose address is: Kelly, Hockel & Klein, 44 Montgomery Street
28 Suite 1500, San Francisco, CA 94104.

1 3. On or about July 30, 1999, the Board issued Pharmacy Permit No. PHY 44289 to
2 Walgreens #5372 (Respondent). The Pharmacy Permit expired on December 31, 2014 and the
3 registration was cancelled on February 3, 2015. Respondent was issued License Number PHY
4 52711 on December 31, 2014 with an expiration date of December 1, 2016, unless renewed.

5 JURISDICTION

6 4. Accusation No. 5550 was filed before the Board, and is currently pending against
7 Respondent. The Accusation and all other statutorily required documents were properly served
8 on Respondent on March 10, 2016. Respondent timely filed its Notice of Defense contesting the
9 Accusation.

10 5. A copy of Accusation No. 5550 is attached as exhibit A and incorporated herein by
11 reference.

12 ADVISEMENT AND WAIVERS

13 6. Respondent has carefully read, fully discussed with counsel, and understands the
14 charges and allegations in Accusation No. 5550. Respondent has also carefully read, fully
15 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
16 Order.

17 7. Respondent is fully aware of its legal rights in this matter, including the right to a
18 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
19 the witnesses against them; the right to present evidence and to testify on its own behalf; the right
20 to the issuance of subpoenas to compel the attendance of witnesses and the production of
21 documents; the right to reconsideration and court review of an adverse decision; and all other
22 rights accorded by the California Administrative Procedure Act and other applicable laws.

23 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 CULPABILITY

26 9. For the purpose of resolving the Accusation without the expense and uncertainty of
27 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
28

1 basis for the charges in Accusation No. 5550, and that Respondent hereby gives up her right to
2 contest those charges.

3 10. Respondent agrees that its Pharmacy Permit is subject to discipline and they agree to
4 be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

5 CONTINGENCY

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

15 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
16 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
17 signatures thereto, shall have the same force and effect as the originals.

18 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
19 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
20 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
21 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
22 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
23 writing executed by an authorized representative of each of the parties.

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

27 DISCIPLINARY ORDER

28 IT IS HEREBY ORDERED that Pharmacy Permit Nos. PHY 44289 and PHY 52711 issued

1 to Respondent Walgreens #5372 are revoked. However, the revocation is stayed and Respondent
2 is placed on probation for three (3) years on the following terms and conditions.

3 **1. Obey All Laws**

4 Respondent owner shall obey all state and federal laws and regulations.

5 Respondent owner shall report any of the following occurrences to the Board, in writing,
6 within seventy-two (72) hours of such occurrence:

- 7 an arrest or issuance of a criminal complaint for violation of any provision of the
8 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
9 substances laws
- 10 a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
11 criminal complaint, information or indictment
- 12 a conviction of any crime
- 13 discipline, citation, or other administrative action filed by any state or federal agency
14 which involves Respondent's license or which is related to the practice of pharmacy
15 or the manufacturing, obtaining, handling or distributing, billing, or charging for any
16 drug, device or controlled substance.

17 Failure to timely report any such occurrence shall be considered a violation of probation.

18 **2. Report to the Board**

19 Respondent owner shall report to the Board quarterly, on a schedule as directed by the
20 Board or its designee. The report shall be made either in person or in writing, as directed.
21 Among other requirements, Respondent owner shall state in each report under penalty of perjury
22 whether there has been compliance with all the terms and conditions of probation. Failure to
23 submit timely reports in a form as directed shall be considered a violation of probation. Any
24 period(s) of delinquency in submission of reports as directed may be added to the total period of
25 probation. Moreover, if the final probation report is not made as directed, probation shall be
26 automatically extended until such time as the final report is made and accepted by the Board.

27 **3. Interview with the Board**

28 Upon receipt of reasonable prior notice, Respondent owner or its designee shall appear in

1 person for interviews with the Board or its designee, at such intervals and locations as are
2 determined by the Board or its designee. Failure to appear for any scheduled interview without
3 prior notification to Board staff, or failure to appear for two (2) or more scheduled interviews
4 with the Board or its designee during the period of probation, shall be considered a violation of
5 probation.

6 **4. Cooperate with Board Staff**

7 Respondent owner or its designee shall cooperate with the Board's inspection program and
8 with the Board's monitoring and investigation of Respondent's compliance with the terms and
9 conditions of their probation. Failure to cooperate shall be considered a violation of probation.

10 **5. Reimbursement of Board Costs**

11 As a condition precedent to successful completion of probation, Respondent owner shall
12 pay to the Board its costs of investigation and prosecution in the amount of \$9,585.00 on a
13 payment plan approved by the Board. There shall be no deviation from this schedule absent prior
14 written approval by the Board or its designee. Failure to pay costs by the deadline(s) as directed
15 shall be considered a violation of probation.

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

18 **6. Probation Monitoring Costs**

19 Respondent owner shall pay any costs associated with probation monitoring as determined
20 by the Board each and every year of probation. Such costs shall be payable to the Board on a
21 schedule as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as
22 directed shall be considered a violation of probation.

23 **7. Status of License**

24 Respondent owner shall, at all times while on probation, maintain current licensure with the
25 Board. If Respondent owner submits an application to the Board, and the application is approved,
26 for a change of location, change of permit or change of ownership, the Board shall retain
27 continuing jurisdiction over the license, and the Respondent shall remain on probation as
28 determined by the Board. Failure to maintain current licensure shall be considered a violation of

1 probation.

2 If Respondent owner's license expires or is cancelled by operation of law or otherwise at
3 any time during the period of probation, including any extensions thereof or otherwise, upon
4 renewal or reapplication Respondent owner's license shall be subject to all terms and conditions
5 of this probation not previously satisfied.

6 **8. License Surrender While on Probation**

7 Following the effective date of this decision, should Respondent owner discontinue
8 business, Respondent owner may tender the premises license to the Board for surrender. The
9 Board or its designee shall have the discretion whether to grant the request for surrender or take
10 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of
11 the license, Respondent will no longer be subject to the terms and conditions of probation.

12 Upon acceptance of the surrender, Respondent owner shall relinquish the premises wall and
13 renewal license to the Board within ten (10) days of notification by the Board that the surrender is
14 accepted. Respondent owner shall further submit a completed Discontinuance of Business form
15 according to Board guidelines and shall notify the Board of the records inventory transfer.

16 Respondent owner shall also, by the effective date of this decision, arrange for the
17 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written
18 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that
19 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating
20 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five
21 days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a copy
22 of the written notice to the Board. For the purposes of this provision, "ongoing patients" means
23 those patients for whom the pharmacy has on file a prescription with one or more refills
24 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)
25 days.

26 Respondent owner may not apply for any new licensure from the Board for three (3) years
27 from the effective date of the surrender. Respondent owner shall meet all requirements applicable
28 to the license sought as of the date the application for that license is submitted to the Board.

1 Respondent owner further stipulates that he or she shall reimburse the Board for its costs of
2 investigation and prosecution prior to the acceptance of the surrender.

3 **9. Notice to Employees**

4 Respondent owner shall, upon or before the effective date of this decision, ensure that all
5 employees involved in permit operations are made aware of all the terms and conditions of
6 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.
7 If the notice required by this provision is posted, it shall be posted in a prominent place and shall
8 remain posted throughout the probation period. Respondent owner shall ensure that any
9 employees hired or used after the effective date of this decision are made aware of the terms and
10 conditions of probation by posting a notice, circulating a notice, or both. Additionally,
11 Respondent owner shall submit written notification to the Board, within fifteen (15) days of the
12 effective date of this decision, that this term has been satisfied. Failure to submit such
13 notification to the Board shall be considered a violation of probation.

14 "Employees" as used in this provision includes all full-time, part-time, volunteer,
15 temporary and relief employees and independent contractors employed or hired at any time
16 during probation.

17 **10. Owners and Officers: Knowledge of the Law**

18 Respondent shall provide, within thirty (30) days after the effective date of this decision,
19 signed and dated statements from its owners, including any owner or holder of ten percent (10%)
20 or more of the interest in Respondent or Respondent's stock, and any officer or any District
21 Manager or Health Care Supervisor authorized by Respondent, stating under penalty of perjury
22 that said individuals have read and are familiar with state and federal laws and regulations
23 governing the practice of pharmacy. The failure to timely provide said statements under penalty
24 of perjury shall be considered a violation of probation.

25 **11. Posted Notice of Probation**

26 Respondent owner shall prominently post a probation notice provided by the Board in a
27 place conspicuous and readable to the public. The probation notice shall remain posted during
28 the entire period of probation.

1 Respondent owner shall not, directly or indirectly, engage in any conduct or make any
2 statement which is intended to mislead or is likely to have the effect of misleading any patient,
3 customer, member of the public, or other person(s) as to the nature of and reason for the probation
4 of the licensed entity.

5 Failure to post such notice shall be considered a violation of probation.

6 12. Violation of Probation

7 If a Respondent owner has not complied with any term or condition of probation, the Board
8 shall have continuing jurisdiction over Respondent license, and probation shall be automatically
9 extended until all terms and conditions have been satisfied or the Board has taken other action as
10 deemed appropriate to treat the failure to comply as a violation of probation, to terminate
11 probation, and to impose the penalty that was stayed.

12 If Respondent owner violates probation in any respect, the Board, after giving Respondent
13 owner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary
14 order that was stayed. If a petition to revoke probation or an accusation is filed against
15 Respondent during probation, the Board shall have continuing jurisdiction and the period of
16 probation shall be automatically extended until the petition to revoke probation or accusation is
17 heard and decided.

18 13. Completion of Probation

19 Upon written notice by the Board or its designee indicating successful completion of
20 probation, Respondent license will be fully restored.

21 14. Community Services Program

22 Within sixty (60) days of the effective date of this decision, Respondent owner shall submit
23 to the Board or its designee, for prior approval, a community service program in which
24 Respondent shall provide free health-care related services to the community in the amount of
25 \$20,000 in drug take back or vaccinations.

26 Within thirty (30) days of Board approval thereof, Respondent owner shall submit
27 documentation to the Board demonstrating commencement of the community service program.
28 Respondent owner shall report on progress with the community service program in the quarterly

1 reports.

2 Failure to timely submit, commence, or comply with the program shall be considered a
3 violation of probation.

4 **15. Separate File of Records**

5 Respondent owner shall maintain and make available for inspection a separate file of all
6 records pertaining to the acquisition or disposition of all controlled substances. Failure to
7 maintain such file or make it available for inspection shall be considered a violation of probation.

8 **ACCEPTANCE**

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
10 discussed it with my attorney, Sweta Patel. I understand the stipulation and the effect it will have
11 on my Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order
12 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
13 Board of Pharmacy.

14
15 DATED: 10/12/16



WALGREENS #5372
Respondent

16
17
18 I have read and fully discussed with Respondent Walgreens #5372 the terms and conditions
19 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
20 its form and content.

21 DATED: 10/12/16



SWETA PATEL
Attorney for Respondent

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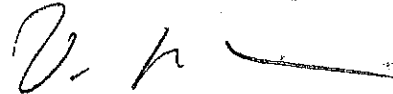
ENDORSEMENT

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

Dated: 10/12/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General



VINODHINI R. KELLER
Deputy Attorney General
Attorneys for Complainant

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Stipulated Settlement Disciplinary Order (W)_2.doc

Exhibit A

Accusation No. 5550

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9 **DEPARTMENT OF CONSUMER AFFAIRS**
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10 In the Matter of the Accusation Against:

Case No. 5550

11 **WALGREENS #5372**
12 **16108 Foothill Blvd.**
13 **Fontana, CA 92335-3356**

ACCUSATION

14 **Pharmacy Permit No. PHY 44289**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about July 30, 1999, the Board of Pharmacy issued Original Permit Number
22 PHY 44289 to Walgreens #5372 (Respondent) and the address of record is 16108 Foothill
23 Boulevard, Fontana, CA 92335. The Pharmacy Permit expired on December 31, 2014 and the
24 registration was cancelled on February 13, 2015. Respondent was issued License Number PHY
25 52711 on December 31, 2014 with an expiration date of December 1, 2016, unless renewed.

26 ///

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28 ///

JURISDICTION

1
2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

5 4. Section 4300 of the Code states in relevant part:

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

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

10 (1) Suspending judgment.

11 (2) Placing him or her upon probation.

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

13 (4) Revoking his or her license.

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

16 * * *

17 (e) The proceedings under this article shall be conducted in accordance with Chapter 5
18 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
19 shall have all the powers granted therein. The action shall be final, except that the propriety of the
20 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
21 Procedure."

22 5. Section 4301 of the Code states in relevant part:

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

26 * * *

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

1 * * *

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

6 6. Section 4022 of the Code states:

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

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

16 7. Section 4081 of the Code states in relevant part:

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

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

1 8. Section 4105 of the Code states in relevant part:

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

5 (b) The licensee may remove the original records or documentation from the licensed
6 premises on a temporary basis for license-related purposes. However, a duplicate set of those
7 records or other documentation shall be retained on the licensed premises.

8 (c) The records required by this section shall be retained on the licensed premises for a
9 period of three years from the date of making.

10 (d) (1) Any records that are maintained electronically shall be maintained so that the
11 pharmacist-in-charge, or the pharmacist on duty if the pharmacist-in-charge is not on duty, shall,
12 at all times during which the licensed premises are open for business, be able to produce a
13 hardcopy and electronic copy of all records of acquisition or disposition or other drug or
14 dispensing-related records maintained electronically.

15 * * *

16 (f) When requested by an authorized officer of the law or by an authorized representative
17 of the board, the owner, corporate officer, or manager of an entity licensed by the board shall
18 provide the board with the requested records within three business days of the time the request
19 was made. The entity may request in writing an extension of this timeframe for a period not to
20 exceed 14 calendar days from the date the records were requested. A request for an extension of
21 time is subject to the approval of the board. An extension shall be deemed approved if the board
22 fails to deny the extension request within two business days of the time the extension request was
23 made directly to the board.”

24 9. California Code of Regulations, title 16, section 1718, states:

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

28

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

3 10. California Code of Regulations, title 16, section 1714, subdivision (b) provides in
4 pertinent part:

5 "(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and
6 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.
7 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice
8 of pharmacy."

9 **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

10 11. Norco (generic – Acetaminophen and Hydrocodone) is a dangerous drug as defined
11 by section 4022 and is classified as a Schedule III controlled substance as listed in the Health and
12 Safety Code section 11056, subdivision (e).

13 **COST RECOVERY**

14 12. Section 125.3 of the Code states, in pertinent part, that the Board may request the
15 administrative law judge to direct a licentiate found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
18 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
19 included in a stipulated settlement.

20 **STATEMENT OF FACTS**

21 13. On or about December 26, 2012, Respondent submitted a Report of Theft of Loss of
22 Controlled Substances to the Board. The Board opened an investigation and learned that 45,708
23 tablets of Norco were unaccounted for.

24 14. Respondent conducted a lengthy internal investigation into the drug loss. On or about
25 December 2011, Respondent found discrepancies comparing purchasing and dispensing records
26 for several medications. Respondent started to inventory delivered medications manually and
27 when there was any discrepancy, the schedule of pharmacists and pharmacy staff members was
28 reviewed to identify the suspect.

1 15. Respondent discovered that Norco would be stolen once a week during their weekly
2 shipments. Respondent contacted the wholesaler and requested that the Norco being delivered on
3 October 26, 2012, be labeled to specifically identify the Norco containers.

4 16. On December 26, 2012, Respondent witnessed pharmacy technician, Felipe
5 Villalobos stealing tablets of Norco from the marked box during the delivery. This incident was
6 recorded on Respondent's surveillance cameras.

7 17. According to Villalobos he stole approximately 500 to 1,000 tablets of Norco each
8 week while he was employed by Respondent. Pharmacist-In-Charge (PIC), Aurora Young
9 confirmed that Villalobos had been terminated for his actions.

10 18. Prior to opening its case against Respondent, the Board opened an investigation
11 against Villalobos. A default decision and order against Villalobos' pharmacy technician license
12 became effective on June 12, 2015.

13 19. The Board requested Respondent's audit results several times. However, as of
14 February 5, 2015, Respondent did not submit their final audit results. Therefore, the Board
15 conducted its own audit based on the documents sent by Respondent's Pharmacy Affairs
16 Coordinator, Farrah Ansari. The Board's audit period from June 9, 2011 to December 26, 2012
17 revealed that 45,708 tablets of Norco were unaccounted for during this time period.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Failure To Maintain Dangerous Drugs In A Safe And Secure Manner)**

20 20. Respondents are subject to disciplinary action under section 4301, subdivision (j) and
21 (o) for violation of California Code of Regulations, title 16, sections 1714, subdivisions (b) for
22 failure to secure the prescription department and provide effective control to prevent theft and/or
23 diversion of substantial amounts of controlled substances and dangerous drugs between June 9,
24 2011 to December 26, 2012. Complainant refers to and by this reference incorporates allegations
25 of paragraphs 13 through 19 above as though fully set forth.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Complete and Accurate Records for Controlled Substances)**

3 21. Respondent is subject to disciplinary action under section 4300 for unprofessional
4 conduct as defined in section 4301, subdivisions (j) and (o), in conjunction with sections 4081,
5 subdivision (a) and 4105, and California Code of Regulations, title 16, Section 1718 for failure to
6 maintain a complete and accurate record for all controlled substances/dangerous drugs received,
7 sold, or otherwise disposed of by them. The Board's audit comparing acquisition and disposition
8 records from June 9, 2011 to December 26, 2012, revealed that Respondent was unable to account
9 for 45,708 tablets of Norco. Complainant refers to and by this reference incorporates allegations
10 of paragraphs 13 through 20 above as though fully set forth.

11 **DISCIPLINE CONSIDERATIONS**

12 22. To determine the degree of discipline, if any, to be imposed on Respondent,
13 Complainant alleges that on or about February 12, 2014, in a prior action, the Board of Pharmacy
14 issued Citation Number CI 2012 56220 and found that Respondent was not in compliance with
15 California Code of Regulations, title 16, section 1716, which states that the pharmacist shall not
16 deviate from a prescription without the authorization of the prescriber. The circumstances
17 underlying the Citation is that on October 15, 2012, a prescription for tramadol was filled with
18 trazodone instead, and the patient ingested the incorrect medications. That Citation is now final
19 and is incorporated by reference as if fully set forth.

20 **PRAYER**

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

23 1. Revoking or suspending Pharmacy Permit Number PHY 44289, issued to Walgreens
24 #5372;

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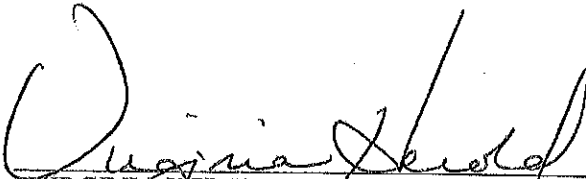
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2. Ordering Walgreens to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED:

2/27/16



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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