

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

In the Matter of the Accusation Against:

**DARYL SCOTT WOLFE**  
1529 Golf Course Drive  
Windsor, CA 95492

**Pharmacist License No. RPH 46273**

Respondent.

Case No. 5825

OAH No. 2016081125

**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 January 19, 2017.

It is so ORDERED on December 20, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

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16  
17 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
18 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,  
19 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will  
20 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

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 Joshua A. Room, Supervising  
25 Deputy Attorney General.

26 2. Daryl Scott Wolfe (Respondent) is represented in this proceeding by attorney Michael  
27 J. Khouri, Esq., whose address is: 4040 Barranca Pkwy., Ste. 280, Irvine, CA 92604.

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 46273, issued to Respondent  
3 Daryl Scott Wolfe, is revoked. However, the revocation is stayed and Respondent is placed on  
4 probation for five (5) years on the following terms and conditions.

5 **1. Suspension**

6 As part of probation, respondent is suspended from the practice of pharmacy as of the  
7 effective date of this decision until such time as he is notified in writing by the board or its  
8 designee that the Pharmacists Recovery Program (PRP) has deemed him fit to practice pharmacy  
9 safely, and the board or its designee has approved said recommendation.

10 During suspension, respondent shall not enter any pharmacy area or any portion of the  
11 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of  
12 drugs licensed by the board, or any manufacturer, or any place where dangerous drugs and  
13 devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do  
14 any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or  
15 patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee  
16 of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous  
17 drugs and controlled substances. Respondent shall not engage in any activity that requires the  
18 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the  
19 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
20 designated representative for any entity licensed by the board.

21 Failure to comply with this suspension shall be considered a violation of probation.

22 **2. Tolling of Suspension**

23 During the suspension, respondent shall not leave California for any period exceeding ten  
24 (10) days, regardless of purpose (including vacation). Any such absence in excess of ten (10)  
25 days during the suspension shall be considered a violation of probation. Moreover, any absence  
26 from California during the suspension exceeding ten (10) days shall toll the suspension, i.e., the  
27 suspension shall be extended by one day for each day over ten (10) days. During any such period  
28 of tolling, respondent must nonetheless comply with all terms and conditions of probation.

1 Respondent must notify the board in writing within ten (10) days of departure, and must  
2 further notify the board in writing within ten (10) days of return. Failure to provide such  
3 notification(s) shall constitute a violation of probation. Upon such departure and return,  
4 respondent shall not resume the practice of pharmacy until notified by the board that the period of  
5 suspension has been satisfactorily completed.

6 **3. Pharmacists Recovery Program (PRP)**

7 Within thirty (30) days of the effective date of this decision, respondent shall contact the  
8 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,  
9 successfully participate in, and complete the treatment contract and any subsequent addendums as  
10 recommended and provided by the PRP and as approved by the board or its designee. The costs  
11 for PRP participation shall be borne by the respondent.

12 If respondent is currently enrolled in the PRP, said participation is now mandatory and as of  
13 the effective date of this decision is no longer considered a self-referral under Business and  
14 Professions Code section 4362(a)(2). Respondent shall successfully participate in and complete  
15 his current contract and any subsequent addendums with the PRP.

16 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not  
17 timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid  
18 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

19 Failure to timely contact or enroll in the PRP, or successfully participate in and complete  
20 the treatment contract and/or any addendums, shall be considered a violation of probation.

21 Probation shall be automatically extended until respondent successfully completes the PRP.  
22 Any person terminated from the PRP program shall be automatically suspended by the board.  
23 Respondent may not resume the practice of pharmacy until notified by the board in writing.

24 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a  
25 licensed practitioner as part of a documented medical treatment shall result in the automatic  
26 suspension of practice by respondent and shall be considered a violation of probation.

27 Respondent may not resume the practice of pharmacy until notified by the board in writing.

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1 During any such suspension, respondent shall not enter any pharmacy area or any portion of  
2 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor  
3 of drugs licensed by the board, or any manufacturer, or any place where dangerous drugs and  
4 devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do  
5 any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or  
6 patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee  
7 of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous  
8 drugs and controlled substances. Respondent shall not engage in any activity that requires the  
9 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the  
10 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
11 designated representative for any entity licensed by the board.

12 Failure to comply with any such suspension shall be considered a violation of probation.

13 **4. Prescription Coordination and Monitoring of Prescription Use**

14 Within thirty (30) days of the effective date of this decision, respondent shall submit to the  
15 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,  
16 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's  
17 history of drug use and who will coordinate and monitor any prescriptions for respondent for  
18 dangerous drugs, controlled substances or mood-altering drugs. The approved practitioner shall  
19 be provided with a copy of the board's Accusation and decision. A record of this notification  
20 must be provided to the board upon request. Respondent shall sign a release authorizing the  
21 practitioner to communicate with the board about respondent's treatment(s). The coordinating  
22 physician, nurse practitioner, physician assistant, or psychiatrist shall report to the board on a  
23 quarterly basis for the duration of probation regarding respondent's compliance with this  
24 condition. If any substances considered addictive have been prescribed, the report shall identify a  
25 program for the time limited use of any such substances. The board may require that the single  
26 coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in  
27 addictive medicine, or consult a specialist in addictive medicine.

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1           Should respondent, for any reason, cease supervision by the approved practitioner,  
2 respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment,  
3 submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist  
4 of respondent's choice to the board or its designee for its prior approval. Failure to timely submit  
5 the selected practitioner or replacement practitioner to the board for approval, or to ensure the  
6 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

7           If at any time an approved practitioner determines that respondent is unable to practice  
8 safely or independently as a pharmacist, the practitioner shall notify the board immediately by  
9 telephone and follow up by written letter within three (3) working days. Upon notification from  
10 the board or its designee of this determination, respondent shall be automatically suspended and  
11 shall not resume practice until notified by the board that practice may be resumed.

12           During any such suspension, respondent shall not enter any pharmacy area or any portion of  
13 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor  
14 of drugs licensed by the board, or any manufacturer, or any place where dangerous drugs and  
15 devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do  
16 any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or  
17 patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee  
18 of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous  
19 drugs and controlled substances. Respondent shall not engage in any activity that requires the  
20 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the  
21 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
22 designated representative for any entity licensed by the board.

23           Failure to comply with any such suspension shall be considered a violation of probation.

24           **5. Ethics Course**

25           Within sixty (60) days of the effective date of this decision, respondent shall enroll in a  
26 course in ethics, at respondent's expense, approved in advance by the board or its designee.  
27 Failure to initiate the course during the first year of probation, and complete it within the second  
28 year of probation, is a violation of probation.



1 The ethics course shall be in addition to, and shall not be credited toward, continuing  
2 education (CE) courses used for license renewal purposes

3 Respondent shall submit a certificate of completion to the board or its designee within five  
4 (5) days after completing the course.

5 **6. Obey All Laws**

6 Respondent shall obey all state and federal laws and regulations.

7 Respondent shall report any of the following occurrences to the board, in writing, within  
8 seventy-two (72) hours of such occurrence:

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

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

20 **7. Random Drug Screening**

21 Respondent, at his own expense, shall participate in random testing, including but not  
22 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug  
23 screening program as directed by the board or its designee. Respondent may be required to  
24 participate in testing for the entire probation and the frequency of testing will be determined by  
25 the board or its designee. At all times, respondent shall fully cooperate with the board or its  
26 designee, and shall, when directed, submit to such tests and samples for the detection of alcohol,  
27 narcotics, hypnotics, dangerous drugs or controlled substances as the board or its designee may  
28 direct. Failure to timely submit to testing as directed shall be considered a violation of probation.

1           Upon request of the board or its designee, respondent shall provide documentation from a  
2 licensed practitioner that the prescription for a detected drug was legitimately issued and is a  
3 necessary part of treatment of the respondent. Failure to timely provide such documentation shall  
4 be considered a violation of probation. Any confirmed positive test for alcohol or for any drug  
5 not lawfully prescribed by a licensed practitioner as part of a documented medical treatment shall  
6 be considered a violation of probation and shall result in the automatic suspension of practice by  
7 respondent. Respondent may not resume practice until notified by the board in writing.

8           During any such suspension, respondent shall not enter any pharmacy area or any portion of  
9 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor  
10 of drugs licensed by the board, or any manufacturer, or any place where dangerous drugs and  
11 devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do  
12 any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or  
13 patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee  
14 of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous  
15 drugs and controlled substances. Respondent shall not engage in any activity that requires the  
16 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the  
17 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
18 designated representative for any entity licensed by the board.

19           Failure to comply with any such suspension shall be considered a violation of probation.

20           **8. Abstain from Drugs and Alcohol Use**

21           Respondent shall completely abstain from the possession or use of alcohol, controlled  
22 substances, dangerous drugs or their associated paraphernalia except when the drugs are lawfully  
23 prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of  
24 the board or its designee, respondent shall provide documentation from the licensed practitioner  
25 that the prescription for the drug was legitimately issued and is a necessary part of the treatment  
26 of the respondent. Failure to timely provide such documentation shall be considered a violation  
27 of probation. Respondent shall ensure that he is not in the same physical location as individuals  
28 who are using illicit substances even if respondent is not personally ingesting the drugs.\

1 Any possession or use of alcohol, controlled substances, or their associated paraphernalia  
2 not supported by the documentation timely provided, and/or any physical proximity to persons  
3 using illicit substances, shall be considered a violation of probation.

4 **9. Reimbursement of Board Costs**

5 As a condition precedent to successful completion of probation, respondent shall pay to the  
6 board its costs of investigation and prosecution in the amount of \$7,203.00. Respondent shall be  
7 permitted to pay these costs in a payment plan approved by the board or its designee, so long as  
8 payment is completed no later than four (4) years after the effective date of this decision. There  
9 shall be no deviation from this schedule absent prior written approval by the board or its designee.  
10 Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

11 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to  
12 reimburse the board its costs of investigation and prosecution.

13 **10. Probation Monitoring Costs**

14 Respondent shall pay any costs associated with probation monitoring as determined by the  
15 board each and every year of probation. Such costs shall be payable to the board on a schedule as  
16 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
17 be considered a violation of probation.

18 **11. Status of License**

19 Respondent shall, at all times while on probation, maintain an active, current license with  
20 the board, including any period during which suspension or probation is tolled. Failure to  
21 maintain an active, current license shall be considered a violation of probation.

22 If respondent's license expires or is cancelled by operation of law or otherwise at any time  
23 during the period of probation, including any extensions thereof due to tolling or otherwise, upon  
24 renewal or reapplication respondent's license shall be subject to all terms and conditions of this  
25 probation not previously satisfied.

26 **12. Continuing Education**

27 Respondent shall provide evidence of efforts to maintain skill and knowledge as a  
28 pharmacist as directed by the board or its designee.

1           **13. No Ownership of Licensed Premises**

2           Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
3 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
4 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell  
5 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)  
6 days following the effective date of this decision and shall immediately thereafter provide written  
7 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide  
8 documentation thereof shall be considered a violation of probation.

9           **14. Report to the Board**

10          Respondent shall report to the board quarterly, on a schedule as directed by the board or its  
11 designee. The report shall be made either in person or in writing, as directed. Among other  
12 requirements, respondent shall state in each report under penalty of perjury whether there has  
13 been compliance with all the terms and conditions of probation. Failure to submit timely reports  
14 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency  
15 in submission of reports as directed may be added to the total period of probation. Moreover, if  
16 the final probation report is not made as directed, probation shall be automatically extended until  
17 such time as the final report is made and accepted by the board.

18          **15. Interview with the Board**

19          Upon receipt of reasonable prior notice, respondent shall appear in person for interviews  
20 with the board or its designee, at such intervals and locations as are determined by the board or its  
21 designee. Failure to appear for any scheduled interview without prior notification to board staff,  
22 or failure to appear for two (2) or more scheduled interviews with the board or its designee during  
23 the period of probation, shall be considered a violation of probation.

24          **16. Cooperate with Board Staff**

25          Respondent shall cooperate with the board's inspection program and with the board's  
26 monitoring and investigation of respondent's compliance with the terms and conditions of his  
27 probation. Failure to cooperate shall be considered a violation of probation.

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1           **17. Notification of a Change in Employment, Name, Address(es), or Telephone**

2           Respondent shall notify the board in writing within ten (10) days of any change of  
3 employment. Said notification shall include the reasons for leaving, the address of the new  
4 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
5 shall further notify the board in writing within ten (10) days of a change in name, residence  
6 address, mailing address, or phone number.

7           Failure to timely notify the board of any change in employer(s), name(s), address(es), or  
8 phone number(s) shall be considered a violation of probation.

9           **18. Employment Requirement; Tolling of Probation**

10          Except during periods of suspension, respondent shall, at all times while on probation, be  
11 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.  
12 Any month during which this minimum is not met shall toll the period of probation, i.e., the  
13 period of probation shall be extended by one month for each month during which this minimum is  
14 not met. During any such period of tolling of probation, respondent must nonetheless comply  
15 with all terms and conditions of probation.

16          Should respondent, regardless of residency, for any reason (including vacation) cease  
17 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,  
18 respondent must notify the board in writing within ten (10) days of the cessation of practice, and  
19 must further notify the board in writing within ten (10) days of the resumption of practice. Any  
20 failure to provide such notification(s) shall be considered a violation of probation.

21          It is a violation of probation for respondent's probation to remain tolled pursuant to the  
22 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
23 exceeding thirty-six (36) months.

24          "Cessation of practice" means any calendar month during which respondent is  
25 not practicing for at least forty (40) hours as a pharmacist, as defined by Business and  
26 Professions Code section 4000 et seq . "Resumption of practice" means any calendar  
27 month during which respondent is practicing for at least forty (40) hours as a  
28 pharmacist, as defined by Business and Professions Code section 4000 et seq.

19. **No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as Designated Representative-in-Charge, or Serving as a Consultant**

During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board nor serve as a consultant unless otherwise specified in this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

**20. Supervised Practice**

During the period of probation, respondent shall practice only under the supervision of a licensed pharmacist not on probation with the board. Upon and after the effective date of this decision, respondent shall not practice pharmacy and his license shall be automatically suspended until a supervisor is approved by the board or its designee. The supervision shall be, as required by the board or its designee, either:

Continuous – At least 75% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

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

Within thirty (30) days of the effective date of this decision, respondent shall have his supervisor submit notification to the board in writing stating that the supervisor has read the decision in case number 5825 and is familiar with the required level of supervision as determined by the board or its designee. It shall be the respondent's responsibility to ensure that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the board shall be considered a violation of probation.

If respondent changes employment, it shall be the respondent's responsibility to ensure that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Respondent shall have his new supervisor, within fifteen (15) days after employment commences, submit notification to the board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number 5825 and is familiar with the level of supervision as determined by the board.

1 Respondent shall not practice pharmacy and his license shall be automatically suspended  
2 until the board or its designee approves a new supervisor. Failure to cause the direct supervisor  
3 and the pharmacist-in-charge to submit timely acknowledgements to the board shall be  
4 considered a violation of probation.

5 Within ten (10) days of leaving employment, respondent shall notify the board in writing.

6 During any such suspension, respondent shall not enter any pharmacy area or any portion of  
7 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor  
8 of drugs licensed by the board, or any manufacturer, or any place where dangerous drugs and  
9 devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do  
10 any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or  
11 patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee  
12 of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous  
13 drugs and controlled substances. Respondent shall not engage in any activity that requires the  
14 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the  
15 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a  
16 designated representative for any entity licensed by the board.

17 Failure to comply with any such suspension shall be considered a violation of probation.

18 **21. Notice to Employers**

19 During the period of probation, respondent shall notify all present and prospective  
20 employers of the decision in case number 5825 and the terms, conditions and restrictions imposed  
21 on respondent by the decision, as follows:

22 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
23 respondent undertaking any new employment, respondent shall cause his direct supervisor,  
24 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
25 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
26 individual(s) has/have read the decision in case number 5825, and terms and conditions imposed  
27 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)  
28 submit timely acknowledgment(s) to the board.

1 If respondent works for or is employed by or through a pharmacy employment service,  
2 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity  
3 licensed by the board of the terms and conditions of the decision in case number 5824 in advance  
4 of the respondent commencing work at each licensed entity. A record of this notification must be  
5 provided to the board upon request.

6 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
7 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
8 service, respondent shall cause his direct supervisor with the pharmacy employment service to  
9 report to the board in writing acknowledging that he has read the decision in case number 5825  
10 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
11 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

12 Failure to timely notify present or prospective employer(s) or to cause the employer(s) to  
13 submit timely acknowledgments to the board shall be considered a violation of probation.

14 "Employment" within the meaning of this provision shall include any full-time,  
15 part-time, temporary, relief or pharmacy management service as a pharmacist or any  
16 position for which a pharmacist license is a requirement or criterion for employment,  
17 whether the respondent is an employee, independent contractor or volunteer.

## 18 **22. Criminal Probation/Parole Reports**

19 Respondent shall provide a copy of the conditions of any criminal probation/parole to the  
20 board, in writing, within ten (10) days of the effective date of this decision or within ten (10) days  
21 of the issuance or modification of those conditions, whichever is sooner.

22 Respondent shall provide the name of his probation/parole officer to the board, in writing,  
23 within ten (10) days after the effective date of this decision or within ten (10) days after that  
24 officer is designated or a replacement for that officer is designated, whichever is sooner.

25 Respondent shall provide a copy of all criminal probation/parole reports to the board within ten  
26 (10) days after respondent receives a copy of such a report. Failure to timely make any of the  
27 submissions required hereby shall be considered a violation of probation.

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**23. Violation of Probation**

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

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

**24. License Surrender While on Probation/Suspension**

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to the board within ten (10) days of notification by the board the surrender is accepted. Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

**25. Completion of Probation**

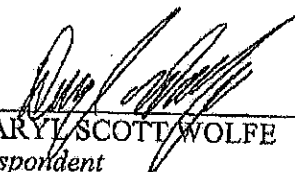
Upon written notice by the board or its designee indicating successful completion of probation, respondent's license will be fully restored.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Michael J. Khouri, Esq.. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 10-3-16

  
DARYL SCOTT WOLFE  
*Respondent*

I have read and fully discussed with Respondent Daryl Scott Wolfe the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: October 3, 2016

  
MICHAEL J. KHOURI, ESQ.  
*Attorney for Respondent*

ENDORSEMENT

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

Dated:

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
LINDA K. SCHNEIDER  
Senior Assistant Attorney General

JOSHUA A. ROOM  
Supervising Deputy Attorney General  
*Attorneys for Complainant*

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
3 discussed it with my attorney, Michael J. Khouri, Esq.. I understand the stipulation and the effect  
4 it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary  
5 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order  
6 of the Board of Pharmacy.

7  
8 DATED: \_\_\_\_\_

9 DARYL SCOTT WOLFE  
*Respondent*

10 I have read and fully discussed with Respondent Daryl Scott Wolfe the terms and  
11 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
12 I approve its form and content.

13  
14 DATED: \_\_\_\_\_

15 MICHAEL J. KHOURI, ESQ.  
*Attorney for Respondent*

16  
17 ENDORSEMENT

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

20 Dated: 10/4/2016

Respectfully submitted,

21 KAMALA D. HARRIS  
22 Attorney General of California  
23 LINDA K. SCHNEIDER  
Senior Assistant Attorney General

24   
25 JOSHUA A. ROOM  
26 Supervising Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**First Amended Accusation No. 5825**

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Senior Assistant Attorney General  
3 JOSHUA A. ROOM  
Supervising Deputy Attorney General  
4 State Bar No. 214663  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 703-1299  
6 Facsimile: (415) 703-5480  
Attorneys for Complainant  
7

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

12 In the Matter of the Accusation Against:

Case No. 5825

13 **DARYL SCOTT WOLFE**  
14 **1529 Golf Course Drive**  
15 **Windsor, CA 95492**

OAH No. 2016050553

**FIRST AMENDED ACCUSATION**

16 **Pharmacist License No. RPH 46273**

Respondent.

17 Complainant alleges:

18 PARTIES

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

22 2. On or about August 10, 1993, the Board issued Pharmacist License No. RPH 46273  
23 to Daryl Scott Wolfe (Respondent). The License was in full force and effect at all times relevant  
24 to the charges brought herein and will expire on October 31, 2016, 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 (Code) unless otherwise indicated.

///





1           16. The blood sample taken from Respondent incident to the February 11, 2016 arrest  
2 showed a positive result for the presence of **benzodiazepines**, a Schedule IV controlled substance  
3 and a central nervous system depressant.

4           17. On or about April 28, 2016, Respondent's employer (CVS Pharmacy) made an  
5 impaired pharmacist report to the Board of Pharmacy, noting that on or about March 23, 2016,  
6 Respondent reported to work as a pharmacist at a CVS Pharmacy location exhibiting symptoms  
7 consistent with drug impairment including: being unsteady on his feet, swaying back and forth,  
8 being unable to access the dispensing system on the computer for several minutes, slurring his  
9 speech, seeming confused, acting strangely, having glassy eyes, and being unable to answer  
10 simple questions. After his employer determined that he was unfit to work and called him a cab,  
11 Respondent dropped the same item multiple times on his way out to the parking lot, and stumbled  
12 and nearly fell when he was trying to retrieve the item.

13           18. On or about May 2, 2016, during an interview with a Board of Pharmacy Inspector,  
14 Respondent refused to answer any questions about his conduct or any drug consumption during or  
15 prior to his arrests on July 9, 2015, February 11, 2016, and February 20, 2016. He did say that he  
16 did not have any prescriptions for controlled substances before or subsequent to these arrests, and  
17 said that he was not taking any controlled substances. He said that he last received a prescription  
18 for controlled substances in September or October 2015, for **clonazepam**, but turned those over to  
19 a family member. Respondent admitted receiving monthly injections of Vivitrol, a medication  
20 indicated for treatment of alcohol dependence or for prevention of relapse to opioid dependence.  
21 But he insisted he had not consumed alcohol for over ten (10) years, contradicting an admission  
22 he made to the same Board of Pharmacy Inspector in August 2014 that he had begun drinking  
23 again in April 2014 due to family stress, including his own and family members' medical issues.

24           ///  
25           ///  
26           ///  
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28           ///



1 FIRST CAUSE FOR DISCIPLINE

2 (Acts Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)

3 19. Respondent is subject to discipline under section 4301(f) of the Code, in that  
4 Respondent, as described in paragraphs 15-18 above, engaged in one or more acts involving  
5 moral turpitude, dishonesty, fraud, or deceit.

6  
7 SECOND CAUSE FOR DISCIPLINE

8 (Self-Administration of Controlled Substance)

9 20. Respondent is subject to discipline under section 4301(h), (j) and/or (o) of the Code,  
10 and/or Health and Safety Code section 11170, in that Respondent, as described in paragraphs 15-  
11 18 above above, administered to himself, and/or conspired to self-administer, and/or assisted or  
12 abetted self-administration of, a controlled substance.

13  
14 THIRD CAUSE FOR DISCIPLINE

15 (Furnishing of Controlled Substance)

16 21. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section  
17 4059 of the Code, and/or Health and Safety Code section 11170, in that Respondent, as described  
18 in paragraphs 15-18 above, furnished to himself or another without a valid prescription, and/or  
19 conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.\

20  
21 FOURTH CAUSE FOR DISCIPLINE

22 (Possession of Controlled Substance(s))

23 22. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section  
24 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described  
25 in paragraphs 15-18 above, possessed, conspired to possess, and/or assisted in or abetted  
26 possession of, a controlled substance, without a prescription.

27 ///

28 ///

1 FIFTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

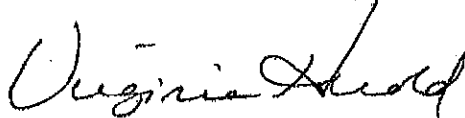
3 23. Respondent is subject to discipline under section 4301 of the Code in that  
4 Respondent, as described in paragraphs 15-22 above, engaged in unprofessional conduct.

5  
6 PRAYER

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

- 9 1. Revoking or suspending Pharmacist License Number RPH 46273, issued to Daryl  
10 Scott Wolfe (Respondent);
- 11 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
12 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 13 3. Taking such other and further action as is deemed necessary and proper.

14  
15 DATED: 9/29/16



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

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1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Senior Assistant Attorney General  
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7  
8 **BEFORE THE**  
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**DEPARTMENT OF CONSUMER AFFAIRS**  
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 5825

11 **DARYL SCOTT WOLFE**  
12 **1529 Golf Course Drive**  
13 **Windsor, CA 95492**

OAH No. 2016050553

**A C C U S A T I O N**

14 **Pharmacist License No. RPH 46273**

15 Respondent.

16 Complainant alleges:

17 PARTIES

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

20 2. On or about August 10, 1993, the Board issued Pharmacist License No. RPH 46273  
21 to Daryl Scott Wolfe (Respondent). The License was in full force and effect at all times relevant  
22 to the charges brought herein and will expire on October 31, 2016, unless renewed.

23 JURISDICTION

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

27 ///

1           4.     Section 4011 of the Code provides that the Board shall administer and enforce both  
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
3 Act [Health & Safety Code, § 11000 et seq.].

4           5.     Section 4300(a) of the Code provides that every license issued by the Board may be  
5 suspended or revoked.

6           6.     Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or  
7 suspension of a Board-issued license, the placement of a license on a retired status, or the  
8 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to  
9 commence or proceed with any investigation of, or action or disciplinary proceeding against, the  
10 licensee or to render a decision suspending or revoking the license.

11                                   STATUTORY AND REGULATORY PROVISIONS

12           7.     Section 4301 of the Code provides, in pertinent part, that the Board shall take action  
13 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but  
14 not be limited to, any of the following:

15           (i) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
16 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
17 whether the act is a felony or misdemeanor or not.

18           (h) The administering to oneself, of any controlled substance, or the use of any dangerous  
19 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
20 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
21 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
22 practice authorized by the license.

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

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



1           16. The blood sample taken from Respondent incident to the February 11, 2016 arrest  
2 showed a positive result for the presence of **benzodiazepines**, a Schedule IV controlled substance  
3 and a central nervous system depressant.

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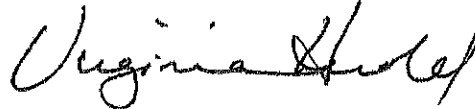
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14  
15 DATED: 7/15/16



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

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