

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

In the Matter of the Accusation Against:

BRETT QUENTIN WOLFF
1919 Manhattan Ave. # 4
East Palo Alto, CA 94303

Case No. 5572

Pharmacist License No. RPH 72470

and

WALGREENS PHARMACY #02126
1414 El Camino Real
San Carlos, CA 94070

Case No. 5928

OAH No. 2017110022

Pharmacy License No. PHY 52845

Respondents.

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 pertaining to Respondent Walgreens Pharmacy #02126 only in this matter.

This Decision shall become effective at 5:00 p.m. on June 7, 2018.

It is so ORDERED on May 8, 2018.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 XAVIER BECERRA
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 JOSHUA A. ROOM
Supervising Deputy Attorney General
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

11 **BRETT QUENTIN WOLFF**
12 **1919 Manhattan Ave. # 4**
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Case No. 5572

13 **Pharmacist License No. RPH 72470**

14 **and**

15 **WALGREENS PHARMACY #02126**
16 **1414 El Camino Real**
San Carlos, CA 94070

Case No. 5928

OAH No. 2017110022

17 **Original Pharmacy Permit No. PHY 52845**

18 Respondents.

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT WALGREENS
PHARMACY #02126 ONLY

20 In the interest of a prompt and speedy settlement of this matter, consistent with the public
21 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs
22 (Board), the parties hereby agree to the following Stipulated Settlement and Disciplinary Order,
23 which will be submitted to the Board for approval and adoption as the final disposition of the
24 Accusation in Case Nos. 5572 and 5928 solely with respect to Respondent Walgreens Pharmacy
25 #02126. It does not apply to Respondent Brett Quentin Wolff.

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1 PARTIES

2 1. Virginia Herold (Complainant), Executive Officer, Board of Pharmacy, brought this
3 action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney
4 General of the State of California, by Joshua A. Room, Supervising Deputy Attorney General.

5 2. Respondent Walgreens Pharmacy # 02126 (Respondent) is represented in this
6 proceeding by attorney Sweta H. Patel, whose address is: Klein, Hockel, Iezza & Patel P.C., 455
7 Market St, Suite 1480, San Francisco, CA 94105-2442.

8 3. On or about December 31, 2014, the Board of Pharmacy issued Original Pharmacy
9 Permit Number PHY 52845 to Walgreens Corporation dba Walgreens #02126 at 1414 El Camino
10 Real, San Carlos, CA 94070 (Respondent). The Permit was in full force and effect at all times
11 relevant to the charges brought herein, and will expire on December 1, 2018, unless renewed.

12 JURISDICTION

13 4. The Accusation in Case Nos. 5572 and 5928 was filed before the Board, and is
14 currently pending against Respondent. The Accusation and all other required documents were
15 served on Respondent on February 6, 2017. Respondent timely filed its Notice of Defense. A
16 copy of Accusation No. 5572 and 5928 is made exhibit A and incorporated herein by reference.

17 ADVISEMENT AND WAIVERS

18 5. Respondent has carefully read, fully discussed with counsel, and understands the
19 charges in Accusation No. 5572 and 5928. Respondent has also carefully read, fully discussed
20 with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

27 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
28 every right set forth above.

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CULPABILITY

8. Respondent understands and agrees that the charges and allegations in Accusation No. 5572 and 5928, if proven at a hearing, constitute cause for imposing discipline on its license. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and a basis for discipline. Respondent hereby gives up its right to contest those charges. Respondent agrees that its license is subject to discipline and agrees to be bound by the probationary terms set forth in the Disciplinary Order below.

CIRCUMSTANCES IN MITIGATION

9. Respondent has never been the subject of any prior disciplinary action. It is agreeing to a settlement at an early stage in the proceedings.

RESERVATION

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

CONTINGENCY

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

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

1 **2. Report to the Board**

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

10 **3. Interview with the Board**

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

16 **4. Cooperate with Board Staff**

17 Respondent shall cooperate with the board's inspection program and with the board's
18 monitoring and investigation of respondent's compliance with the terms and conditions of its
19 probation. Failure to cooperate shall be considered a violation of probation.

20 **5. Reimbursement of Board Costs**

21 As a condition precedent to successful completion of probation, respondent shall pay to the
22 board costs of investigation and prosecution in the amount of \$5,200.00. Respondent shall be
23 permitted to make payments on a plan approved by the Board or its designee that calls for the first
24 payment to be made within thirty (30) days of the effective date of this decision and calls for
25 payment to be made in full within one (1) year of the effective date. There shall be no deviation
26 from the approved schedule absent prior written approval by the Board or its designee. Failure to
27 pay by deadline(s) as directed shall be considered a violation of probation. Filing of bankruptcy
28 by respondent shall not relieve respondent of its responsibility to reimburse the board its costs.

1 **6. Probation Monitoring Costs**

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

6 **7. Community Services Program**

7 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
8 board or its designee, for prior approval, a community service program in which respondent shall
9 provide free health-care related items or services to the local community either directly or through
10 a community or charitable facility or agency. The community service program may include, but
11 need not be limited to: drug take-back programs; provision of sharps disposal containers; free or
12 reduced-cost immunizations; on-site education and counseling activities at nursing homes,
13 residential care facilities, hospitals or community centers; and/or other similar health-care related
14 items or services, with a total value of \$20,000.00, including the value of materials and labor
15 provided. The community service program shall begin no later than ninety (90) days from the
16 effective date and shall be completed prior to the end of the probation period.

17 Within thirty (30) days of Board or designee approval thereof, respondent shall submit
18 documentation to the Board demonstrating commencement of the community service program.
19 Respondent shall report on progress with the community service program in the quarterly reports.

20 Failure to timely submit, secure approval, commence, or comply with the community
21 service program shall be considered a violation of probation

22 **8. Status of License**

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

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

4 **9. License Surrender While on Probation/Suspension**

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

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

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

23 Respondent may not apply for any new licensure from the board for three (3) years from the
24 effective date of the surrender. Respondent shall meet all requirements applicable to the license
25 sought as of the date the application for that license is submitted to the board.

26 Respondent further stipulates that it shall reimburse the board for its costs of investigation
27 and prosecution prior to the acceptance of the surrender.

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1 **10. Notice to Employees**

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

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

15 **11. Owners and Officers: Knowledge of the Law**

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

23 **12. Posted Notice of Probation**

24 Respondent shall prominently post a probation notice provided by the board in a place
25 conspicuous and readable to the public. The notice shall remain posted during the entire period of
26 probation. Respondent shall not, directly or indirectly, engage in any conduct or any statement
27 which is intended to mislead or is likely to have the effect of misleading any patient, customer,
28 member of the public, or other person(s) as to the nature of and reason for the probation.

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

2 **13. Violation of Probation**

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

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

13 **14. Completion of Probation**

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

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ACCEPTANCE

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19 I am authorized to sign for Respondent. I have carefully read the above Stipulated
20 Settlement and Disciplinary Order and have fully discussed it with my attorney, Sweta H. Patel. I
21 understand the stipulation and the effect it will have on the Original Pharmacy Permit issued to
22 Walgreens #02126. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
23 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board.

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DATED: 2/15/2018

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RINA SHAH, Divisional V.P., Pharmacy Operations,
Walgreens Corporation, for
WALGREENS PHARMACY # 02126
Respondent

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

DATED: February 16, 2018



SWETA H. PATEL
Klein, Hockel, Iezza & Patel P.C.
Attorneys for Respondent

ENDORSEMENT

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

Dated: 3/12/18

Respectfully submitted,
XAVIER BECERRA
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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Exhibit A

Accusation No. 5572 and 5928

1 KATHLEEN A. KENEALY
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2 LINDA K. SCHNEIDER
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

11 **BRETT QUENTIN WOLFF**
12 **1919 Manhattan Ave. # 4**
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Case No. 5572

13 **Pharmacist License No. RPH 72470**

14 **and**

15 **WALGREENS PHARMACY #02126**
16 **1414 El Camino Real**
San Carlos, CA 94070

Case No. 5928

17 **Original Pharmacy Permit No. PHY 52845**

A C C U S A T I O N

18 Respondents.

19 Complainant alleges:

20 PARTIES

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

23 2. On or about March 19, 2015, the Board of Pharmacy issued Pharmacist License
24 Number RPH 72470 to Brett Quentin Wolff (Respondent Wolff). The Pharmacist License was in
25 full force and effect at all times relevant to the charges brought herein. It expired on or about
26 October 31, 2016, and has not been renewed. On or about September 8, 2015, Respondent Wolff
27 was prohibited from practicing as a pharmacist pending the outcome of criminal proceedings in
28 *People v. Brett Quentin Wolff*, Case No. B1580229 in Santa Clara County Superior Court.

1 3. On or about December 31, 2014, the Board of Pharmacy issued Original Pharmacy
2 Permit Number PHY 52845 to Walgreens Corporation dba Walgreens #02126 at 1414 El Camino
3 Real, San Carlos, CA 94070 (Respondent Walgreens #02126). The Pharmacy Permit was in full
4 force and effect at all times relevant to the charges brought herein, and will expire on December 1,
5 2017, unless renewed. Board of Pharmacy records reflect that Catherine Lai-Hung Lo, holder of
6 Pharmacist License No. RPH 50192, has served as Pharmacist in Charge (PIC) for Respondent
7 Walgreens #02126 since on or about December 26, 2014.

8 JURISDICTION

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

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

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

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

22 STATUTORY AND REGULATORY PROVISIONS

23 8. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
24 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but
25 not be limited to, any of the following:

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

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

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

8 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
9 of a licensee under this chapter. . . .

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

14 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
15 drug or dangerous device except upon the prescription of an authorized prescriber.

16 10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
17 controlled substance, except that furnished upon a valid prescription/drug order.

18 11. Health and Safety Code section 11170 provides that no person shall prescribe,
19 administer, or furnish a controlled substance for himself or herself.

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

24 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
25 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
26 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

27 14. Health and Safety Code section 11351, in pertinent part, makes it unlawful to possess
28 for sale or purchase for sale any narcotic controlled substance in Schedules II-IV.

1 15. Health and Safety Code section 11352, in pertinent part, makes it transport, import,
2 sell, furnish, administer, or give away, or offer to transport, import, sell, furnish, administer, or
3 give away, any controlled substance listed in Schedule II (Health and Safety Code section 11055),
4 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

5 16. Health and Safety Code section 11377, in pertinent part, makes it unlawful to possess
6 any non-narcotic drug in Schedules III-V, absent a valid prescription.

7 17. Section 4081 of the Code provides, in pertinent part, that every pharmacy shall keep a
8 current inventory of all dangerous drugs and dangerous devices, and that the owner, officer, and
9 partner of a pharmacy shall be jointly responsible with the pharmacist in charge for maintaining
10 the inventory of dangerous drugs and dangerous devices.

11 18. Section 4113, subdivision (c) of the Code states:

12 “The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state
13 and federal laws and regulations pertaining to the practice of pharmacy.”

14 19. California Code of Regulations, title 16, section 1714, subdivision (b) provides that
15 each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so
16 that drugs are safely and properly prepared, maintained, secured and distributed.

17 20. California Code of Regulations, title 16, section 1718, defines “current inventory” as
18 used in sections 4081 and 4332 to include complete accountability for all dangerous drugs
19 handled by every licensee enumerated in sections 4081 and 4332. It further requires that the
20 controlled substances inventories required by the Title 21, Code of Federal Regulations, section
21 1304, shall be available for inspection upon request for at least 3 years.

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

23 “For the purpose of denial, suspension, or revocation of a personal or facility license
24 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
25 crime or act shall be considered substantially related to the qualifications, functions or duties of a
26 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
27 licensee or registrant to perform the functions authorized by her license or registration in a manner
28 consistent with the public health, safety, or welfare.”

1 22. Title 21, Code of Federal Regulations, section 1304.11, subdivision (c) requires that
2 any registrant of the DEA take a new inventory of all stocks of controlled substances on hand at
3 least every two years, on any date within two years of the previous biennial inventory date.

4 COST RECOVERY

5 23. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licentiate found to have committed a violation of the licensing
7 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

8 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

9 24. Section 4021 of the Code states:

10 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
11 11053) of Division 10 of the Health and Safety Code.”

12 25. Section 4022 of the Code states, in pertinent part:

13 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
14 except veterinary drugs that are labeled as such, and includes the following:

15 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
16 prescription,’ ‘Rx only,’ or words of similar import.

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

19 26. **Adderall** and **Dexedrine** are brand names for amphetamine and dextroamphetamine
20 sulfate, a Schedule II controlled substance as designated by Health and Safety Code section
21 11055(d)(1) and a dangerous drug as designated by Business and Professions Code section 4022.
22 These are stimulant drugs that may be prescribed for treatment of ADHD.

23 27. **Vyvanse** is a brand name for lisdexamfetamine, a Schedule II controlled substance as
24 designated by Health and Safety Code section 11055(d)(1) and a dangerous drug as designated by
25 Business and Professions Code section 4022. This is a stimulant drug.

26 28. **Focalin XR** is a brand name for dexmethylphenidate, a Schedule II controlled
27 substance as designated by Health and Safety Code section 11055(d)(1) and a dangerous drug as
28 designated by Business and Professions Code section 4022. This is a stimulant drug.

1 29. **Concerta** and **Ritalin** are brand names for methylphenidate, a Schedule II controlled
2 substance as designated by Health and Safety Code section 11055(d)(1) and a dangerous drug as
3 designated by Business and Professions Code section 4022. This is a stimulant drug.

4 30. **OxyContin** and **Roxicodone** are brand names for oxycodone hydrochloride, a
5 Schedule II controlled substance as designated by Health and Safety Code section 11055(b) and a
6 dangerous drug as designated by Business and Professions Code section 4022. It is a narcotic.

7 31. **Endocet**, **Percocet**, and **Roxicet** are among the brand names for compounds of
8 varying dosages of acetaminophen (aka APAP) and oxycodone, a Schedule II controlled
9 substance as designated by Health and Safety Code section 11055(b)(1)(n) and a dangerous drug
10 as designated by Business and Professions Code section 4022. These are narcotic drugs.

11 32. **Dilaudid** is a brand name for hydromorphone hydrochloride, a Schedule II controlled
12 substance as designated by Health and Safety Code section 11055(b) and a dangerous drug as
13 designated by Business and Professions Code section 4022. It is a narcotic.

14 33. **Roxanol** is a brand name for morphine sulfate, a Schedule II controlled substance as
15 designated by Health and Safety Code section 11055(b) and a dangerous drug as designated by
16 Business and Professions Code section 4022. It is a narcotic.

17 34. **Duragesic** is a brand name for fentanyl, a Schedule II controlled substance as
18 designated by Health and Safety Code section 11055(c) and a dangerous drug as designated by
19 Business and Professions Code section 4022. It is a narcotic.

20 35. **Norco**, **Vicodin**, **Vicodin ES**, **Lortab**, and **Lorcet** are among the brand names for
21 compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III
22 controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous
23 drug as designated by Business and Professions Code section 4022. The varying compounds are
24 also known generically as **Hydrocodone with APAP**. These are all narcotic drugs. Products like
25 these that combine **hydrocodone** with non-controlled substances are also called **hydrocodone**
26 **combination products**. Effective October 6, 2014, **hydrocodone combination productions**
27 were switched at the federal level from Schedule III (21 C.F.R. § 1308.13(e)(1)(iii) and (iv)) to
28 Schedule II (21 C.F.R. § 1308.12(b)(1)). This includes **Hydrocodone with APAP** drugs.

1 b. On or about July 7, 2015, Respondent Wolff was terminated by Walgreens. On
2 that same date, Mountain View Police responded to a theft report by Walgreens, and interviewed
3 Respondent Wolff, who admitted to having stolen and self-administered **oxycodone** tablets from
4 the Walgreens #13948 on several occasions. Respondent Wolff admitted to stealing four (4)
5 bottles (100 tablets each) of **oxycodone 30mg** during the first week of June 2015, and admitted to
6 stealing a further two (2) bottles (100 tablets each) of **oxycodone 30mg** on July 6, 2015. He also
7 admitted to self-administering the **oxycodone**, and admitted that he had not been diagnosed with
8 any condition(s) warranting this medication, and had been issued no prescriptions for its use.

9 c. Respondent Wolff initially denied selling any of the stolen drugs, but police
10 investigation uncovered evidence of sales of some of the drugs by Respondent Wolff, including
11 text messages exchanged with a buyer. Respondent Wolff subsequently admitted to selling two
12 hundred (200) tablets of **oxycodone 30mg** in June 2015 for about \$1,500.00.

13 d. A subsequent police search of Respondent Wolff's vehicle (in the parking lot of
14 a Walgreens Pharmacy location in Cupertino, CA) discovered:

- 15 • One (1) bottle of **oxycodone 30mg** containing ninety-four (94) blue tablets;
- 16 • One (1) sealed bottle of **oxycodone 30mg** containing one hundred (100) tablets;
- 17 • One prescription bottle containing eleven (11) **Viagra 100mg** tablets;
- 18 • Two (2) gold/brown capsules of **Adderall XR 30mg**;
- 19 • Eleven (11) blue/red capsules of **Vyvanse 70mg**;
- 20 • One (1) bottle of **oxycodone 30mg** containing sixty-four (64) pink tablets that
21 were subsequently identified as **lisinopril 5mg** tablets;
- 22 • One (1) bottle of **oxycodone 15mg** containing eighty-three (83) green tablets;
- 23 • One (1) bottle of **oxycodone 30mg** containing fifty-eight (58) blue tablets;
- 24 • Four (4) empty **oxycodone 30mg** (100 tablet) bottles; and
- 25 • One (1) empty **oxycodone 20mg** (100 tablet) bottle.

26 e. On or about August 11, 2015, Walgreens Pharmacy #13948 reported an audit
27 covering the period from June 10, 2014 to July 13, 2015, which indicated a loss of seven hundred
28 and thirty-nine (739) tablets of **oxycodone 30mg** and two (2) tablets of **oxycodone 5mg**.

1 f. The audit by Walgreens Pharmacy #13948 did not report any losses of the other
2 strengths of **oxycodone**, or the other drugs, discovered in Respondent Wolff's car.

3 g. On or about August 26, 2015, Board of Pharmacy investigative staff reviewed
4 data from the Controlled Substance Utilization Review and Evaluation System (CURES) database
5 regarding controlled substance prescriptions dispensed to Respondent Wolff for the time period
6 from January 1, 2013 to August 26, 2015. The report showed a total of only four (4) prescriptions
7 dispensed to Respondent Wolff during that time, and none for any Schedule II controlled
8 substances or for any of the medications discovered by police in Respondent Wolff's car.

9 41. The Board of Pharmacy commenced investigations of Walgreens Pharmacy locations
10 at which Respondent Wolff had worked as a floater intern pharmacist or pharmacist. Among the
11 locations investigated was Respondent Walgreens #02126. That investigation commenced in or
12 about November 2015. As part of this investigation, Respondent Walgreens #02126 was asked to
13 perform an audit of controlled substance inventories. Respondent Walgreens #02126 reported an
14 audit of controlled substance inventories for the period June 2014 to November 2015.

15 42. In or about December 2015, Respondent Walgreens #02126 also reported two other
16 causes of significant losses of Schedule II drugs during the period in and between June 2014 and
17 November 2014: (1) employee pilferage by another employee in or about November 2014; and
18 (2) an armed robbery at the pharmacy in or about November 2014. But Respondent Walgreens
19 #02126 was not able to explain all of its significant losses of Schedule II controlled substances.

20 43. Subsequent audits of controlled substance inventories at Respondent Walgreens
21 #02126 revealed the following discrepancies/losses and variances in total inventory for each drug:

22 Drug Name and Strength	Quantity Loss	% Variance
23 Adderall 20mg	10	5 %
24 Adderall XR 25mg	21	1.9 %
25 d-amphetamine salt combo XR 10mg	17	0.6 %
26 d-amphetamine salt combo XR 15mg	51	2.2 %
27 d-amphetamine salt combo XR 20mg	76	0.54 %

	Drug Name and Strength	Quantity Loss	% Variance
1			
2	d-amphetamine salt combo XR 30mg	127	2.1 %
3	d-amphetamine salt combo 15mg	575	26.1 %
4	d-amphetamine salt combo 30mg	45	0.37 %
5	dextroamphetamine 10mg	616	5.7 %
6	dextroamphetamine ER 5mg	30	15 %
7	dextroamphetamine 5mg	21	1 %
8	fentanyl 100mcg/hr patch	18	9.2 %
9	fentanyl 25mcg/hr patch	15	2.4 %
10	Focalin XR 10mg	37	4.6 %
11	Focalin XR 15mg	13	13 %
12	Focalin XR 20mg	50	5.6 %
13	hydrocodone / acetaminophen 10-325mg	3,226	1.8 %
14	hydrocodone / acetaminophen 7.5-325mg	964	2.8 %
15	hydromorphone 3mg rectal suppository	229	100 %
16	methylphenidate 10mg	25	0.2 %
17	methylphenidate er 10mg	100	16.7 %
18	methylphenidate er 54mg	295	7 %
19	oxycodone ir 5mg	285	0.7%
20	oxycodone ir 10mg	135	1.5 %
21	oxycodone ir 20mg	33	2.8 %
22	oxycodone ir 30mg	625	1.7 %
23	oxycodone / acetaminophen 10-325mg	490	1.2 %
24	oxycodone / acetaminophen 5-325mg	501	7.4 %
25	Oxycontin 10mg	172	2.9 %
26	Vyvanse 50mg	13	0.3 %
27	Vyvanse 70mg	34	0.7 %
28			

1 **CAUSES FOR DISCIPLINE AGAINST RESPONDENT WOLFF**

2 FIRST CAUSE FOR DISCIPLINE

3 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

4 44. Respondent Wolff is subject to discipline under section 4301(f) of the Code, in that
5 Respondent, as described in paragraphs 38-40 above, committed acts involving moral turpitude,
6 dishonesty, fraud, deceit, or corruption.

7
8 SECOND CAUSE FOR DISCIPLINE

9 (Furnishing of Controlled Substance(s))

10 45. Respondent Wolff is subject to discipline under section 4301(j) and/or (o) and/or
11 section 4059 of the Code, and/or Health and Safety Code section 11170, in that Respondent, as
12 described in paragraphs 38-40 above, furnished to himself or another without a valid prescription,
13 and/or conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.

14
15 THIRD CAUSE FOR DISCIPLINE

16 (Possession of Controlled Substance(s))

17 46. Respondent Wolff is subject to discipline under section 4301(j) and/or (o) and/or
18 section 4060 of the Code, and/or Health and Safety Code section 11350 and/or 11377, in that
19 Respondent, as described in paragraphs 38-40 above, possessed, conspired to possess, and/or
20 assisted in or abetted possession of, a controlled substance, without a valid prescription.

21
22 FOURTH CAUSE FOR DISCIPLINE

23 (Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

24 47. Respondent Wolff is subject to discipline under section 4301(j) and/or (o) of the
25 Code, and/or Health and Safety Code section 11173(a), in that Respondent, as described in
26 paragraphs 38-40 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining
27 of a controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Conviction of Substantially Related Crime(s))

3 48. Respondent Wolff is subject to disciplinary action under Code section 4301,
4 subsection (1), in that on or about February 16, 2016, he was convicted of violating Penal Code
5 section 484-487(a) (Grand Theft of Personal Property of a Value > \$950.00), a felony and Health
6 and Safety Code section 11352 (Transportation, Sale, Distribution of Controlled Substance –
7 **oxycodone**), a felony, both of which are crimes substantially related to the qualifications,
8 functions, and duties of his license. The circumstances are as follows:

9 49. On or about July 9, 2015, based on the conduct described above in paragraphs 38-40,
10 Respondent was charged by Felony Complaint, in a criminal case titled *People v. Brett Quentin*
11 *Wolff*, Case No. B1580229 in Santa Clara Superior Court, with violating (1) Penal Code section
12 484-487(a) (Grand Theft of Personal Property of a Value > \$950.00), a felony; (2) Health and
13 Safety Code section 11351 (Possession for Sale or Purchase for Sale of Controlled Substance –
14 **oxycodone**), a felony; and (3) Health and Safety Code section 11352 (Transportation, Sale,
15 Distribution of Controlled Substance – **oxycodone**), a felony. On or about February 16, 2016,
16 Respondent pleaded *nolo contendere* and was convicted of counts (1) and (3). Count (2) was
17 dismissed. On or about March 24, 2016, imposition of sentence was suspended and Respondent
18 was placed on formal criminal probation for three (3) years, on terms and conditions including six
19 (6) months in county jail (176 days CTS), an order to stay away from any Walgreens Pharmacy
20 (except for purposes of securing necessary medication), search conditions, abstention from drug
21 or alcohol use, substance abuse treatment, psychological counseling, and fines and fees.

22
23 SIXTH CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct)

25 50. Respondent Wolff is subject to discipline under section 4301 of the Code in that
26 Respondent, as described in paragraphs 38-40 above, engaged in unprofessional conduct.

27 ///

28 ///

1 **CAUSES FOR DISCIPLINE AGAINST RESPONDENT WALGREENS #02126**

2 SEVENTH CAUSE FOR DISCIPLINE

3 (Failure to Maintain Pharmacy Security)

4 51. Respondent Walgreens #02126 is subject to discipline under section 4301(j) and/or
5 (o), and/or section 4113(c), of the Code, in combination with California Code of Regulations, title
6 16, section 1714(b), in that, as described in paragraphs 41-43 above, Respondent violated statutes
7 regulating controlled substances or dangerous drugs, and/or directly or indirectly violated,
8 attempted to violate, and/or assisted in or abetted violation of, laws or regulations governing the
9 practice of pharmacy, by failing to maintain pharmacy facilities, space, fixtures, and equipment so
10 that drugs were safely and properly prepared, maintained, secured and distributed.

11
12 EIGHTH CAUSE FOR DISCIPLINE

13 (Failure to Maintain Accurate and Secure Controlled Substances Inventory)

14 52. Respondent Walgreens #02126 is subject to discipline under section 4301(j) and/or
15 (o) and/or section 4113(c) of the Code, in combination with section 4081 of the Code, California
16 Code of Regulations, title 16, section 1718, and/or 21 CFR section(s) 1304.11, in that, as
17 described in paragraphs 41-43 above, Respondent violated statutes regulating controlled
18 substances or dangerous drugs, and/or directly or indirectly violated, attempted to violate, and/or
19 assisted in or abetted violation of, laws or regulations governing the practice of pharmacy, by acts
20 including failing to maintain an accurate and secure inventory of all controlled substances.

21
22 PRAYER

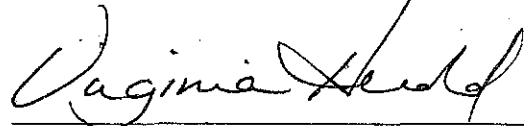
23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
24 and that following the hearing, the Board of Pharmacy issue a decision:

- 25 1. Revoking or suspending Pharmacist License Number RPH 72470, issued to Brett
26 Quentin Wolff (Respondent Wolff);
- 27 2. Revoking or suspending Original Pharmacy Permit Number PHY 52845, issued to
28 Walgreens Corporation dba Walgreens #02126 (Respondent Walgreens #02126);

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

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

4
5 DATED: 1/30/17



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

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