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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. 3139

13 **CITY OF ANGELS MEDICAL CENTER**
14 **PHARMACY**
1711 W. Temple Street
Los Angeles, CA 90026
Hospital Pharmacy Permit No. HSP 43766

A C C U S A T I O N

15 and

16 **TERENCE W.P. LOK**
2172 Bennington Court
17 Thousand Oaks, CA 91360
Pharmacist License No. RPH 48193
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19 Respondents.
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21 Complainant alleges:

22 **PARTIES**

- 23 1. Virginia Herold (Complainant) brings this Accusation solely in her official
24 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 25 2. On or about January 20, 1999, the Board of Pharmacy (Board) issued
26 Hospital Pharmacy Permit Number HSP 43766 to Respondent City of Angels Medical Center
27 Pharmacy ("Respondent Pharmacy"). The Hospital Pharmacy Permit was in full force and effect
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1 at all times relevant to the charges brought herein, and will expire on January 1, 2009, unless renewed

2 3. On or about August 14, 1995, the Board of Pharmacy issued Pharmacist
3 License Number RPH 48193 to Respondent Terence W.P. Lok ("Respondent Lok"). His
4 Pharmacist License was in full force and effect at all times relevant to the charges brought herein,
5 and will expire on July 31, 2009, unless renewed.

6 4. Respondent Terence W.P. Lok and Respondent City of Angels Medical
7 Center Pharmacy will be referred to collectively as Respondents.

8 JURISDICTION

9 5. This Accusation is brought before the Board under the authority of the
10 following laws. All section references are to the Business and Professions Code ("Code") unless
11 otherwise indicated.

12 STATUTORY PROVISIONS

13 6. Code section 118, subdivision (b) provides that the suspension, expiration,
14 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with
15 a disciplinary action during the period within which the license may be renewed, restored,
16 reissued or reinstated.

17 7. Section 4022 of the Code states:

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

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

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

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

25 8. Section 4059.5 of the Code, subdivision (a) states:

26 Except as otherwise provided in this chapter, dangerous drugs or
27 dangerous devices may only be ordered by an entity licensed by the board and
shall be delivered to the licensed premises and signed for and received by a
28 pharmacist. Where a licensee is permitted to operate through a designated
representative, the designated representative may sign for and receive the delivery.

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9. Section 4081 of the Code states:

(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every . . . pharmacy, . . . or establishment holding a currently valid and unrevoked . . . license. . . [or] permit . . . who maintains a stock of dangerous drugs or dangerous devices.

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

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10. Section 4113 of the Code, subdivision (b) states:

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

11. Section 4127.1 of the Code, subdivision (a) states:

A pharmacy shall not compound injectable sterile drug products in this state unless the pharmacy has obtained a license from the board pursuant to this section. . . .

12. Section 4300 of the Code provides that every license may be disciplined by the Board.

13. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of unprofessional conduct Unprofessional conduct shall include, but is not limited to, any of the following:

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

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

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CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

14. Hydrocodone is a semi-synthetic opioid narcotic pain reliever. When mixed with acetaminophen, it is marketed under a number of trade names, including Vicodin and Norco. Hydrocodone with Acetaminophen is a Schedule III controlled substance, as designated by Health and Safety Code section 11056(e)(4), and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

15. Valium is a brand name for the anti-anxiety drug known as diazepam. Diazepam is a Schedule IV controlled substance, as designated by Health and Safety Code section 11057, and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

REGULATORY PROVISIONS

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

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

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COST RECOVERY

17. Code Section 125.3 provides, in relevant part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Permitting Non-Pharmacists to Sign for Controlled Substances)

18. Respondent Lok is subject to disciplinary action under Code section 4113, subdivision (b), and section 4301, subdivisions (j) and (o), in conjunction with Code section 4059.5, subdivision (a), because non-pharmacists working on the premises of Respondent Pharmacy signed for the receipt of controlled substances while Respondent Lok was the pharmacist-in-charge.

1 19. The specific underlying factual circumstances occurred between
2 approximately August 2005 and approximately May 2006, when non-pharmacists working on the
3 premises of Respondent Pharmacy signed for the delivery of controlled substances on
4 approximately 26 occasions for a total of approximately 115,300 tablets of controlled substances.
5 The controlled substances included Norco and Valium.

6 **SECOND CAUSE FOR DISCIPLINE**

7 *(Pharmacist-in-Charge Failing to Comply with Requirements for
8 Adequate Acquisition and Disposition Records)*

9 20. Respondent Lok is subject to disciplinary action under Code section 4113,
10 subdivision (b), and Code section 4301, subdivisions (j) and (o), in conjunction with Code
11 section 4081, and California Code of Regulations, title 16, section 1718, for failing to maintain
12 adequate records documenting the acquisition and disposition of controlled substances. As
13 pharmacist-in-charge, Respondent Lok failed to maintain enough acquisition and disposition
14 records to indicate the location of 115,300 tablets of controlled substances. Between
15 approximately August 2005 and approximately May 2006, approximately 115,300 tablets of
16 controlled substances were received on the premises of Respondent Pharmacy, and then
17 disappeared, never arriving at their proper storage location. The acquisition and disposition
18 records were inadequate to locate the missing drugs.

19 **THIRD CAUSE FOR DISCIPLINE**

20 *(Unlicensed Sterile Compounding)*

21 21. Respondent Lok is subject to disciplinary action under Code section 4113,
22 subdivision (b), section 4127.1, subdivision (a), and section 4301, subdivision (o), because
23 unlicensed sterile compounding of drugs occurred on the premises of Respondent Pharmacy
24 while Respondent Lok was the pharmacist-in-charge. A Board inspection on November 16,
25 2006, revealed that unlicensed sterile compounding was taking place on the premises of
26 Respondent Pharmacy.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 *(Permitting Non-Pharmacists to Sign for Controlled Substances)*

3 22. Respondent Pharmacy is subject to disciplinary action under Code sections
4 4059.5, subdivision (a), and 4301, subdivision (o), in that Respondent Pharmacy permitted non-
5 pharmacists to sign for controlled substances, as set forth above in paragraphs 18-21.
6 Complainant refers to and incorporates all the allegations set forth in paragraphs 18-21, as though
7 set forth fully.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 *(Unlicensed Sterile Compounding)*

10 23. Respondent Pharmacy is subject to disciplinary action under Code sections
11 4127.1, and 4301, subdivision (o), in that the unlicensed sterile compounding of drugs occurred
12 on the premises of Respondent Pharmacy, as set forth above in paragraph 21. Complainant now
13 refers to and incorporates all of the allegations in paragraph 21, as though set forth fully.

14 **SIXTH CAUSE FOR DISCIPLINE**

15 *(Failure to Maintain Adequate Records Regarding the*
16 *Acquisition and Disposition of Dangerous Drugs)*

17 24. Respondent Pharmacy is subject to disciplinary action under Code section
18 4081, subdivision (b), section 4301, subdivision (o), and California Code of Regulations, title 16,
19 section 1718, for failing to maintain adequate records regarding the acquisition and disposition of
20 dangerous drugs, as set forth above in paragraph 20. Complainant refers to and incorporates all
21 of the allegations of paragraph 20, as though set forth fully.

22 **PRAYER**

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

25 1. Revoking or suspending Hospital Pharmacy Permit Number HSP 43766,
26 issued to Respondent Pharmacy;

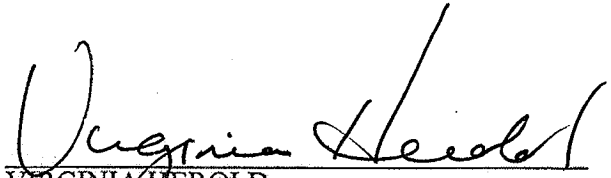
27 2. Revoking or suspending Pharmacist License Number RPH 48193, issued
28 to Respondent Lok;

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

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

DATED: 11/17/08



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