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

10 In the Matter of the Accusation Against:

Case No. 3182

11 **WILLIAM CHARLES ZIMMERMAN**
12 15437 Stratford Drive
San Jose, CA 95124

ACCUSATION

13 Pharmacist License No. RPh 37352

14 Respondent.

15
16 Complainant alleges:

17 **PARTIES**

- 18 1. Virginia K. Herold (Complainant) brings this Accusation solely in her
19 official capacity as the Executive Officer of the Board of Pharmacy.
20 2. On or about October 31, 1983, the Board of Pharmacy issued Pharmacist
21 License Number RPh 37352 to William Charles Zimmerman (Respondent). The Pharmacist
22 License was in full force and effect at all times relevant to the charges brought herein and will
23 expire on October 31, 2009, unless renewed.

24 **JURISDICTION**

- 25 3. This Accusation is brought before the Board of Pharmacy (Board), under
26 the authority of the following laws. All section references are to the Business and Professions
27 Code (Code) unless otherwise indicated.
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1 4. Section 118(b) of the Code states, in relevant part, that the suspension,
2 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
3 proceed with a disciplinary action during the period within which the license may be renewed,
4 restored, reissued or reinstated.

5 5. Section 4402(a) of the Code states that any pharmacist license that is not
6 renewed within three years following its expiration may not be renewed, restored, or reinstated
7 and shall be canceled by operation of law at the end of the three-year period.

8 6. Section 4300 (a) of the Code states that every license issued may be
9 suspended or revoked.

10 7. Section 4301 of the Code states:

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

15 "(a) Gross immorality.

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

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

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

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"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

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"(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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8. Section 4059(a) of the Code states, in relevant part, that a person may not furnish any dangerous drug, except with the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Diversion of Controlled Substance/Dangerous Drug)**

3 14. Respondent is subject to disciplinary action under section 4301(f) of the
4 Code in that in or about March, 2007, while on duty as the Pharmacist In Charge (PIC) at Coram
5 Healthcare in Hayward, California (Coram), Respondent committed an act involving moral
6 turpitude, dishonesty, fraud, deceit, or corruption by diverting an unknown quantity of
7 Hydromorphone, a controlled substance, from Coram, as follows:

8 a. Respondent removed a 1cc syringe from Coram supplies, removed the
9 wrapper from the syringe, and threw the wrapper in the garbage. Respondent removed a
10 Hydromorphone vial, which was kept in a plastic bag, from a cabinet containing controlled
11 substances. Respondent put the needle into the Hydromorphone vial and drew the
12 Hydromorphone from the vial. Respondent made a motion consistent with placing his hand in
13 his pocket. Respondent left the room for approximately ten (10) minutes and, when he returned,
14 he disposed of the syringe in the "sharps" container.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Diversion of Controlled Substance/Dangerous Drug)**

17 15. Respondent is subject to disciplinary action under section 4301(f) of the
18 Code in that on or about May 23, 2007, while on duty as the PIC at Coram, Respondent
19 committed an act involving moral turpitude, dishonesty, fraud, deceit, or corruption by diverting
20 an unknown quantity of Hydromorphone, a controlled substance, from Coram, as follows:

21 a. Respondent removed a Hydromorphone vial from the "white and blue
22 steri-cycle" container, which contained outdated drugs and vials for disposal. Respondent put the
23 Hydromorphone vial into his pocket and removed a 1cc syringe from Coram supplies.
24 Respondent went to the men's restroom. After Respondent returned from the restroom, he put
25 the Hydromorphone vial in the steri-cycle and put the syringe in the sharps container.
26 Respondent appeared disoriented, had a loss of balance, had slow speech, and collapsed for five
27 (5) seconds on a table.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Furnish a Controlled Substance)**

3 16. Respondent is subject to disciplinary action under sections 4301(j) and/or
4 (o) of the Code for the violation of section 4059(a) of the Code in that Respondent unlawfully
5 furnished Hydromorphone, a controlled substance, to himself without a prescription, as set forth
6 in paragraphs 14 and 15, above

7 **FOURTH CAUSE FOR DISCIPLINE**

8 **(Possession of Controlled Substance)**

9 17. Respondent is subject to disciplinary action under sections 4301(j) and/or
10 (o) of the Code for the violation of section 4060 of the Code in that Respondent unlawfully
11 possessed Hydromorphone, a controlled substance, as set forth in paragraphs 14 and 15, above.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(Use of Controlled Substance)**

14 18. Respondent is subject to disciplinary action under section 4301(h) of the
15 Code, in that Respondent used Hydromorphone, a controlled substance, to the extent or in a
16 manner as to be dangerous or injurious to oneself, to a person holding a license under this
17 chapter, or to any other person or to the public, or to the extent that the use impairs the ability of
18 the person to conduct with safety to the public the practice authorized by the license, as set forth
19 in paragraphs 14 and 15, above.

20 **SIXTH CAUSE FOR DISCIPLINE**

21 **(Under the Influence of Dangerous Drugs While on Duty)**

22 19. Respondent is subject to disciplinary action under sections 4301(j) and/or
23 (o) of the Code for the violation of section 4327 of the Code in that Respondent, while on duty
24 as the PIC at Coram, was under the influence of Hydromorphone, a dangerous drug, as set forth
25 in paragraphs 14 and 15, above.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Substantially Related Conviction)**

3 20. Respondent is subject to disciplinary action under section 4301(l) of the
4 Code in that he was convicted of a crime which is substantially related to the qualifications,
5 functions and duties of a pharmacist as follows:

6 a. On or about July 12, 2006, in a criminal proceeding entitled People of the
7 State of California vs. William Charles Zimmerman, Superior Court of California, County of
8 Santa Clara, Case Number CC629870, Respondent was convicted by a plea of nolo contendere of
9 violating Penal Code section 415 (fighting in public), a misdemeanor.

10 b. The underlying circumstances are that on or about May 7, 2006,
11 Respondent struck his seventeen (17) year old son in the face at least five (5) times, which caused
12 his son to feel "dazed." Respondent choked his son three (3) times, which caused his son to have
13 pain in his neck and trouble breathing. Respondent's son sustained a cut on his upper lip, his lip
14 was swollen, and his lip had a small amount of blood. Respondent's son also complained of sore
15 knees and elbows from falling on the ground during the assault. The sheriff's officer confiscated
16 nine (9) rifles and five (5) handguns from Respondent's home.

17 c. Respondent was sentenced to three (3) years probation, ten (10) weeks of
18 anger management, and forty (40) hours of volunteer work. Respondent was also ordered to not
19 own or possess any deadly weapons.

20 **EIGHTH CAUSE FOR DISCIPLINE**

21 **(Gross Immorality)**

22 21. Respondent is subject to disciplinary action under section 4301(a) of the
23 Code in that he committed conduct which amounts to gross immorality, as set forth in paragraph
24 20, above.

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1 **OTHER MATTERS**

2 22. On or about May 7, 2006, Respondent told his daughter that he was
3 considering killing himself with one of his guns. Respondent further told the sheriff's officer that
4 he was feeling depressed because of recent deaths in the family and that he needed psychiatric
5 help.

6 **PRAYER**

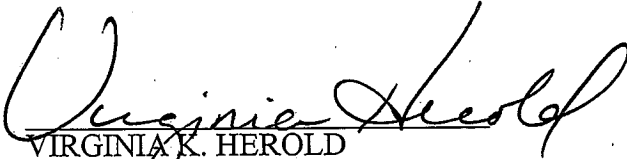
7 WHEREFORE, Complainant requests that a hearing be held on the matters herein
8 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

9 1. Revoking or suspending Pharmacist License Number RPh 37352, issued to
10 William Charles Zimmerman;

11 2. Ordering William Charles Zimmerman to pay the Board of Pharmacy the
12 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
13 Professions Code section 125.3;

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

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16 DATED: 10/14/08

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19 VIRGINIA K. HEROLD
20 Executive Officer
21 Board of Pharmacy
22 State of California
23 Complainant
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