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of the State of California ARTHUR D. TAGGART		
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Attorneys for Complainant		
BEFORE THE		
BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
STATE OF CAL	IFORNIA	
In the Matter of the Accusation Against:	Case No. 3186	
P.O. Box 1058 ACCUSATION		
Complainant alleges:		
PARTIES		
1. Virginia Herold (Complainant) brings this Accusation solely in her		
official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer		
Affairs.		
2. On or about August 15, 1975,	the Board of Pharmacy issued Original	
Pharmacist License Number RPH 29852 to John Harold Arnold (Respondent). The Original		
Pharmacist License was in full force and effect at all times relevant to the charges brought herein		
and will expire on September 30, 2009, unless renewed.		
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	 of the State of California ARTHUR D. TAGGART Supervising Deputy Attorney General JEFFREY M. PHILLIPS, State Bar No. 154990 Deputy Attorney General 1300 I Street, Suite 125 P.O. Box 944255 Sacramento, CA 94244-2550 Telephone: (916) 327-8643 Attorneys for Complainant BEFORE T BOARD OF PH DEPARTMENT OF CON STATE OF CAL In the Matter of the Accusation Against: JOHN HAROLD ARNOLD P.O. Box 1058 Mammoth Lakes, CA 93546 Original Pharmacist License No. RPH 29852 Complainant alleges: Complainant alleges: Complainant alleges: 2. On or about August 15, 1975, Pharmacist License Number RPH 29852 to John Ha Pharmacist License was in full force and effect at al and will expire on September 30, 2009, unless renew // 	

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1	3. 7	JURISDICTION This Accusation is brought before the Board of Pharmacy (Board),	
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3	Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.		
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5		Section 4301 of the Code states: "The board shall take action against any	
6	holder of a license who is guilty of unprofessional conduct or whose license has been procured		
7	by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is		
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9 10	s	The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153 of the Health and Safety Code.	
11	"(i) H	Except as otherwise authorized by law, knowingly	
12	·	selling, furnishing, giving away, or administering or offering to sell, furnish, give away, or administer any controlled substance to an addict.	
13 14	⁻ T	The violation of any of the statutes of this state or of the United States regulating controlled substances and langerous drugs.	
15 16	t	The conviction of a crime substantially related to he qualifications, functions, and duties of a icensee"	
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18		Code section 4113(b) states that a "pharmacist-in-charge shall be	
19	responsible for a pharmacy's compliance with all state and federal laws and regulations		
20	pertaining to the practice of pharmacy."		
21	· 6. S	Section 125.3 of the Code provides that the Board may request the	
22	administrative law judge to direct a licentiate found to have committed a violation or violations		
23	of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and		
24	enforcement of the case.		
25		DRUGS	
26	7. The following are dangerous drugs as defined by Code section 4022 in		
27	that they require a prescription under federal law:		
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a. "Hydrocodone" is a Schedule III controlled substance as
 designated by Health and Safety Code section 11056(e)(4). Norco is a brand name
 pharmaceutical that contains hydrocodone, and is an opioid analgesic medication used for pain
 relief.

b. "Oxycodone" is a Schedule II controlled substance as designated
by Health and Safety Code section 11055(b)(1)(N) and a dangerous drug pursuant to Code
section 4022, and is an opioid analgesic medication used for pain relief.

c. "Alprazolam," also known under the brand name Xanax, is a
Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(1),
and is a drug of the benzodiazepine class used to treat anxiety and panic attacks.

STATEMENT OF FACTS

8. At all times indicated, Respondent was the Pharmacist-in-charge of the 12 Mammoth Lakes, CA Rite Aid Pharmacy (Store # 05842). Respondent was a friend of patient 13 RB and had obtained his home mortgage through RB, who was a mortgage broker. Respondent 14 furnished thousands of prescribed controlled substances to RB, although Respondent was aware 15 that RB was addicted to these controlled substances, RB's insurance refused to pay for the 16 controlled substances and paid cash, Respondent knew that the medications being prescribed to 17 RB were excessive, yet, Respondent would continue to fill prescriptions, would increase the 18 amount prescribed to RB, and would fill other prescriptions by another doctor for these 19 controlled substances for RB. On or about September 29, 2005, another pharmacist working in 20 the local area (Vons) informed Respondent that RB was being over prescribed pain medication. 21 9. In September of 2005, Respondent furnished 430 Norco or its generic 22 form hydrocodone/APAP to patient RB, which according to the Rite Aid Customer History 23 Report was a 94 day supply of hydrocodone. During this time another pharmacist furnished an 24 additional 23 day supply of 90 Norco tablets to patient RB for a total of 520 hydrocodone tablets, 25 which is a 117 day supply. On September 14, 2005, Respondent furnished a 10 day supply of 26

27 Alprazolam (30 tablets/ 2 mg) to patient RB, two days after another pharmacist furnished a 30

day supply of Alprazolam (60 tablets/ 2 mg) to RB.

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10. In October of 2005, Respondent furnished 280 Norco tablets to patient RB, which according to the Rite Aid Customer History Report was a 63 day supply of hydrocodone.

11. In November of 2005, Respondent furnished 270 Norco tablets to patient 4 RB, and another pharmacist at the same pharmacy furnished and additional 100 Norco tablets to 5 patient RB, for a total of 370 Norco tablets that equals a 46 day supply according to the Rite Aid 6 Customer History Report. Two other pharmacies (Via Lido Drugs and Sav On) also furnished 7 an additional 180 Norco tablets to patient RB, for a total of 550 Norco tablets to this patient. In 8 addition, Respondent furnished a 20 day supply of 60 tablets of Oxycodone to patient RB, 17 9 days after RB had earlier received a 20 day supply of Oxycodone from the same pharmacy where 10 Respondent worked. During this period, Respondent also furnished a 60 day supply of 11 Alprazolam (60 tablets/ 2 mg) to RB and another pharmacist at the same pharmacy furnished an 12 additional 30 tablets of Alprazolam to RB, for a total of 90 tablets that equals a 90 day supply. 13

14 12. In December 2005, Respondent furnished 100 Norco tablets to patient RB,
and another pharmacist at the same pharmacy furnished 190 Norco tablets to patient RB, for a
total of 290 Norco tablets that equals a 71 day supply according to the Rite Aid Customer
History Report. Two other pharmacies (Via Lido Drugs and Sav On) also furnished an
additional 190 Norco tablets or its generic form hydrocodone/APAP to patient RB, for a total of
480 hydrocodone tablets to RB in December 2005.

In January 2006, Respondent furnished 500 Norco tablets to patient RB,
In January 2006, Respondent furnished 500 Norco tablets to patient RB,
400 of which were over a 10 day period, and another pharmacist at the same pharmacy furnished
100 Norco tablets to patient RB, for a total of 600 Norco tablets that equals a 140 day supply
according to the Rite Aid Customer History Report. Respondent also furnished a 45 day supply
of 90 tablets of Alprazolam to RB over a 17 day period in January 2006.

25 14. On February 6, 2006, Respondent furnished a 15 day supply of 30 tablets
26 of Alprazolam to RB, which was just seven (7) days after Respondent had furnished a 15 day
27 supply of 30 tablets of Alprazolam to RB.

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115.In March 2006, Respondent furnished a 60 day supply of 120 tablets of2Alprazolam to RB.

3 16. In May 2006, Respondent and other pharmacists at the Mammoth Lakes
4 Rite Aid furnished 170 tablets of Norco or its generic form hydrocodone/APAP and 150 tablets
5 of Alprazolam to RB.

6 17. In June 2006, Respondent and other pharmacists at the Mammoth Lakes
7 Rite Aid furnished 150 tablets of Norco and 120 tablets of Alprazolam to RB.

8 18. In July 2006, Respondent and other pharmacists at the Mammoth Lakes
9 Rite Aid furnished 260 tablets of Norco, which represents a 45 day supply according to the Rite
10 Aid Customer History Report, and 150 tablets of Alprazolam to RB.

11 19. In August 2006, Respondent and other pharmacists at the Mammoth Lakes
 12 Rite Aid furnished approximately 355 tablets of Norco, which represents a 67 day supply
 13 according to the Rite Aid Customer History Report, and approximately 150 tablets of
 14 Alprazolam, which represents a 70 day supply to patient RB.

15 20. In September 2006, Respondent and other pharmacists at the Mammoth
16 Lakes Rite Aid furnished 400 tablets of Norco, which represents a 59 day supply according to
17 the Rite Aid Customer History Report, and 180 tablets of Alprazolam, 120 of which were
18 furnished 4 days apart, which represents a total 60 day supply to patient RB according to the Rite
19 Aid Customer History Report. In addition, another pharmacy (Vons) furnished 10 Norco and 15
20 Oxycotin tablets to patient RB in September 2006..

21 21. In October 2006, Respondent furnished 400 tablets of Norco, 300 of
which were furnished 11 days apart, and a 60 day supply of 180 tablets of Alprazolam to patient
RB.

24 22. In November 2006, Respondent and other pharmacists at the Mammoth
Lakes Rite Aid furnished 465 tablets of Norco, which represents a 52 day supply according to
the Rite Aid Customer History Report, and 90 tablets of Alprazolam, which represents a 35 day
supply to patient RB according to the Rite Aid Customer History Report. In addition, another
pharmacy (Vons) furnished 5 Norco tablets to patient RB.

FIRST CAUSE FOR DISCIPLINE

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(Criminal Conviction)

2 23. Respondent is subject to disciplinary action under Code section 4301, 3 subdivisions (j) and (l), in that Respondent has been convicted of the following crime that is 4 substantially related to the qualifications, functions, and duties of a pharmacist, as follows: 5 On or about November 7, 2007, in the Superior Court of a. 6 California, County of Mono, in the matter entitled People vs. John Arnold (Super. Ct., Mono 7 Cty., 2007, Case No. MFE072123), Respondent was convicted by the court following his guilty 8 plea to a violation of Health and Safety Code section 11153 (illegally dispensing controlled 9 substances), a felony. The circumstances of the crime are that between September 2005 and 10 January 2007, Respondent unlawfully and knowingly dispensed a controlled substance, 11 Norco/Oxycontin/hydrocodone, for which there was no legitimate medical purpose at the time 12 dispensed and dispensed those controlled substances to an addict or habitual user in violation of 13 Health and Safety Code section 11153. 14 SECOND CAUSE FOR DISCIPLINE 15 (Unprofessional Conduct - Clearly Excessive Furnishing of Controlled Substances) 16 Respondent is subject to disciplinary action under Code section 4301, 24. 17 subdivision (d), in that he clearly furnished excessive controlled substances in violation of 18 Health and Safety Code section 11153, as follows: Between September 2005 and January 2007, 19 Respondent unlawfully and knowingly dispensed controlled substances (Alprazolam, Norco and 20 Hydrocodone/APAP) to patient RB, for which there was no legitimate medical purpose at the 21 time dispensed and dispensed those controlled substances to an addict or habitual user in 22 violation of Health and Safety Code section 11153, as alleged in paragraphs numbers 8 through 23 23. Respondent failed to review the data contained in the California prescription-monitoring 24 program: the Controlled Substance Utilization Review and Evaluation System ("CURES") in 25 order to prevent the inappropriate, improper, or illegal use of Schedule II to IV controlled 26 substances by patient RB. 27 // 28

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Furnishing Controlled Substances to an Addict)

25. Respondent is subject to disciplinary action under Code section 4301, 3 subdivision (i), in that he clearly dispensed excessibe furnishings of controlled substances in 4 violation of Health and Safety Code section 11153, as follows: Between September 2005 and 5 January 2007, Respondent unlawfully and knowingly dispensed controlled substances 6 (Alprazolam, Norco and Hydrocodone/APAP) to patient RB, for which there was no legitimate 7 medical purpose at the time dispensed and dispensed those controlled substances to an addict or 8 habitual user in violation of Health and Safety Code section 11153, as alleged in paragraphs 9 numbers 8 through 23. Respondent failed to review the data contained in the California 10 prescription-monitoring program: the Controlled Substance Utilization Review and Evaluation 11 System ("CURES") in order to prevent the inappropriate, improper, or illegal use of Schedule II 12 to IV controlled substances by patient RB. 13

DISCIPLINE CONSIDERATIONS

15 26. To determine the degree of discipline, if any, to be imposed on
Respondent, Complainant alleges that on or about April 12, 2008, in a prior action, the Board of
Pharmacy issued Citation Number CI 2007 35264 and ordered Respondent to pay a fine in the
amount of \$1,500.00. That Citation is now final and is incorporated by reference as if fully set
forth and attached hereto as Exhibit A. Respondent has not paid the fine that was due on April
12, 2008, a violation of Title 16, California Code of Regulations section 1775.1(d).

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PRAYER 1 WHEREFORE, Complainant requests that a hearing be held on the matters herein 2 alleged, and that following the hearing, the Board of Pharmacy issue a decision: 3 Revoking or suspending Original Pharmacist License Number RPH A. 4 29852, issued to John Harold Arnold John Harold Arnold. 5 B. Ordering John Harold Arnold to pay the Board of Pharmacy the 6 reasonable costs of the investigation and enforcement of this case, pursuant to Business and 7 Professions Code section 125.3; 8 C. Taking such other and further action as deemed necessary and proper. 9 10 6/15/09 DATED: 11 12 13 VIRGINIA HI 14 Executive Officer Board of Pharmacy 15 Department of Consumer Affairs State of California 16 Complainant 17 18 19 SA2008302954 20 Revised Accusation.wpd 21 22 23 24 25 26 27 28