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

11 In the Matter of the Accusation Against:

Case No. AC 3419

12 **EDRIC CHO**  
13 **15568 Keson Place**  
**Grass Valley, CA 95949**

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

14 **Pharmacist No. RPH 38333**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about March 19, 1984, the Board of Pharmacy issued Pharmacist Number RPH  
22 38333 to Edric Cho, ("Respondent"). The license was in full force and effect at all times relevant  
23 to the charges brought herein and will expire on June 30, 2011, unless renewed.

24 **JURISDICTION**

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

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1           4.    Section 4301 of the Code states:

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

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

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

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

15           "(k) The conviction of more than one misdemeanor or any felony involving the use,  
16 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any  
17 combination of those substances . . .

18           "(l) The conviction of a crime substantially related to the qualifications, functions, and  
19 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
20 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
21 substances or of a violation of the statutes of this state regulating controlled substances or  
22 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
23 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
24 The board may inquire into the circumstances surrounding the commission of the crime, in order  
25 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
26 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
27 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
28 a conviction following a plea of *nolo contendere* is deemed to be a conviction within the meaning

1 of this provision. The board may take action when the time for appeal has elapsed, or the  
2 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
3 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
4 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
5 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
6 indictment . . .

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

11 "(p) Actions or conduct that would have warranted denial of a license.

12 6. Section 480 states, in pertinent part:

13 "(a) A board may deny a license regulated by this code on the grounds that the  
14 applicant has one of the following: . . .

15 "(1) Been convicted of a crime. A conviction within the meaning of this section  
16 means a plea or verdict of guilty or a conviction following a plea of *nolo contendere*. . . .

17 "(2) Done any act involving dishonesty, fraud or deceit with the intent to  
18 substantially benefit himself or another, or substantially injure another; . . . , or

19 "(3) Done any act which if done by a licentiate of the business or profession in  
20 question, would be grounds for suspension or revocation of license. . . .

21 7. Section 4059(a) states:

22 "A person may not furnish any dangerous drug, except upon the prescription of a  
23 physician, dentist, podiatrist, optometrist, or veterinarian. A person may not furnish any  
24 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, or  
25 veterinarian. "

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1           8.       Section 4060 states, in pertinent part:

2           "No person shall possess any controlled substance, except that furnished to a  
3 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished  
4 pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse  
5 practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1."

6           9.       Section 4327 states:

7           "Any person, who, while on duty, sells, dispenses or compounds any drug while  
8 under the influence of any dangerous drug or alcoholic beverages shall be guilty of a  
9 misdemeanor."

10          10.       Health and Safety Code section 11170 states:

11          "No person shall prescribe, administer, or furnish a controlled substance for himself."

12          11.       Health and Safety Code section 11173(a) states:

13          "(a) No person shall obtain or attempt to obtain controlled substances, or procure  
14 or attempt to procure the administration of or prescription for controlled substances, (1) by fraud,  
15 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

16          12.       Health and Safety Code section 11350(a) states, in pertinent part:

17          "Except as otherwise provided in this division, every person who possesses (1)  
18 any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of  
19 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or  
20 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section  
21 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic  
22 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian  
23 licensed to practice in this State, shall be punished by imprisonment in the state prison."

24          13.       Health and Safety Code section 11377(a) states, in pertinent part:

25          "Except as authorized by law and as otherwise provided in subdivision (b) or  
26 Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the  
27 Business and Professions Code, every person who possesses any controlled substance which is  
28 (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in

1 subdivision (d) of Section] 1054, except paragraphs (13), (14), (15), and (20) of subdivision (d),  
2 (3) specified in paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2)  
3 or (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of Section  
4 11055, unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to  
5 practice in this state, shall be punished by imprisonment in a county jail for a period of not more  
6 than one year or in the state prison."

7 14. Health and Safety Code section 11550(a) states, in pertinent part:

8 "No person shall use, or be under the influence of any controlled substance ... , except  
9 when administered by or under the direction of a person licensed by the state to dispense,  
10 prescribe, or administer controlled substances."

11 15. California Code of Regulations, title 16, section 1770, states:

12 "For the purpose of denial, suspension, or revocation of a personal or facility  
13 license pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions  
14 Code, a crime or act shall be considered substantially related to the qualifications, functions or  
15 duties of a licensee or registrant if to a substantial degree it evidences present or potential  
16 unfitness of a licensee or registrant to perform the functions authorized by his license or  
17 registration in a manner consistent with the public health, safety, or welfare."

18 16. Section 4022 of the Code states:

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

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

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

25 5. Section 4077 of the Code states, in pertinent part, that except as provided in  
26 subdivisions (b) and (c) of this section, no person shall dispense any dangerous drug upon  
27 prescription except in a container correctly labeled with the information required by Section  
28 4076.

1 **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS USED**

2 6. "Hydrocodone" is a Schedule III controlled substance as designated by Health and  
3 Safety Code section 11056 (e) (4).

4 12. "Soma," a brand of carisoprodal, is a "dangerous drug" within the meaning of Code  
5 section 4022 in that it requires a prescription under Federal Law.

6 **COST RECOVERY**

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

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Conviction of Substantially Related Crimes)**

13 8. Respondent is subject to disciplinary action under Code section 4301, subsections (k)  
14 and (l), in that on or about August 28, 2008, in the criminal proceeding titled *People v. Edric*  
15 *Brian Cho*, (Placer County Superior Court, Case No. 62-78082A), Respondent pled *nolo*  
16 *contendere* to two felony counts of grand theft involving the drugs hydrocodone and carisoprodal  
17 in violation of Penal Code section 487(a), crimes substantially related to the qualifications,  
18 function and duties of a registered pharmacist, as follows:

19 a. During 2007, the pharmacy for the Target store located on Bell Road in Auburn  
20 discovered a loss of approximately 6000 hydrocodone tablets and initiated live in-store  
21 surveillance with hidden cameras.

22 b. On multiple occasions between January 30, 2008 and February 13, 2008, on camera,  
23 Respondent was seen stealing pharmaceuticals from his employer, generally several times a day,  
24 and either ingesting them while working as a pharmacist, or concealing the pills in his pocket.

25 c. On February 13, 2008, Respondent was observed by a Placer County Sheriff's  
26 Deputy on three separate occasions remove pills from a hydrocodone bottle and ingest them.  
27 Thereafter, Respondent was observed with droopy eyelids, slow and unsteady reactions and a dry  
28 mouth. Respondent was arrested and a search of his jacket revealed 28 hydrocodone pills and 18

1 1/2 carisoprodal pills free in his pocket. Respondent was transported to jail where a blood sample  
2 was obtained that was positive for hydrocodone, carisoprodal, and their metabolites.

3 d. Respondent admitted to taking the above pharmaceuticals from his employer without  
4 a prescription since December 2007 and self-administering at the rate of about 8 hydrocodone and  
5 4 to 6 carisoprodal per day, which was enough for him to feel slightly "buzzed."

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Unlawful Possession of Controlled Substances/Dangerous Drugs)**

8 9. Respondent is subject to disciplinary action pursuant to Code section 4301 (j), on  
9 the grounds of unprofessional conduct, in that he violated Code section 4060 and Health and  
10 Safety Code sections 11350, 11173(a), and 11377. Respondent obtained, and was in possession  
11 of, controlled substances and dangerous drugs without valid prescriptions, as follows:

12 a. On or about February 13, 2008, Respondent was in possession of the controlled  
13 substances and/or dangerous drugs, hydrocodone and carisoprodal, without valid prescriptions.  
14 Between December 2007 and February 13, 2008, Respondent obtained unknown quantities of  
15 hydrocodone and carisoprodal pills by stealing them from pharmacy inventory, as set forth above  
16 in paragraph 8.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Self-Administration of Controlled Substances/Dangerous Drugs)**

19 10. Respondent is subject to disciplinary action under Code section 4301 (h), on the  
20 grounds of unprofessional conduct, in that, Respondent administered controlled  
21 substances/dangerous drugs to himself to the extent or in a manner as to be dangerous or injurious  
22 to himself and the public, or to the extent that his use impaired his ability to conduct with safety  
23 to the public the practice of pharmacy as follows:

24 a. Between January 30, 2008 and February 13, 2008, after two weeks of surveillance,  
25 Respondent was seen stealing pharmaceuticals from his employer on multiple occasions,  
26 generally several times a day, and either ingesting them while working, or concealing the pills in  
27 his pocket, as set forth above in paragraph 8.

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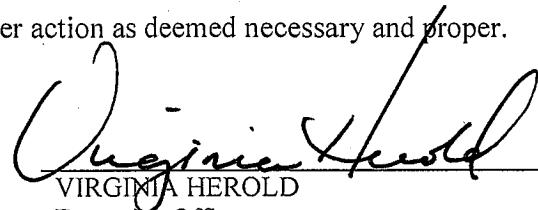


PRAYER

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

1. Revoking or suspending Pharmacist Number RPH 38333, issued to Edric Cho.
2. Ordering Edric Cho to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/28/09



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

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