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

11 In the Matter of the Accusation Against:

Case No. 3431

12 **PETER CHU**
13 **25 Pollena**
14 **Irvine, CA 92602 .**

A C C U S A T I O N

15 **Pharmacist License No. RPH 48836**

16 Respondent.

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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 August 14, 1996, the Board of Pharmacy issued Pharmacist License
24 Number RPH 48836 to Peter Chu (Respondent). The Pharmacist License was in full force and
25 effect at all times relevant to the charges brought herein and will expire on November 30, 2009,
26 unless renewed.

JURISDICTION

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

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

5. Section 4300 of the Code states:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

6. Section 4301 of the Code states:

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

(a) Gross immorality.

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of

1 relations as a licensee or otherwise, and whether the act is a felony or
2 misdemeanor or not.

3 (g) Knowingly making or signing any certificate or other document that
4 falsely represents the existence or nonexistence of a state of facts.

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

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26 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
27 revoke a license on the ground that the licensee has been convicted of a crime substantially
28 related to the qualifications, functions, or duties of the business or profession for which the
license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted
by a board within the department pursuant to law to deny an application for a
license or to suspend or revoke a license or otherwise take disciplinary action
against a person who holds a license, upon the ground that the applicant or the
licensee has been convicted of a crime substantially related to the qualifications,
functions, and duties of the licensee in question, the record of conviction of the
crime shall be conclusive evidence of the fact that the conviction occurred, but
only of that fact, and the board may inquire into the circumstances surrounding
the commission of the crime in order to fix the degree of discipline or to
determine if the conviction is substantially related to the qualifications,
functions, and duties of the licensee in question.

1 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,'
2 and 'registration.'

3 9. Section 482 of the Code states:

4 Each board under the provisions of this code shall develop criteria to
5 evaluate the rehabilitation of a person when:

6 (a) Considering the denial of a license by the board under Section 480; or

7 (b) Considering suspension or revocation of a license under Section 490.

8 Each board shall take into account all competent evidence of rehabilitation
9 furnished by the applicant or licensee.

10 10. Section 810 of the Code states:

11 (a) It shall constitute unprofessional conduct and grounds for disciplinary
12 action, including suspension or revocation of a license or certificate, for a health
13 care professional to do any of the following in connection with his or her
14 professional activities:

15 (1) Knowingly present or cause to be presented any false or fraudulent
16 claim for the payment of a loss under a contract of insurance.

17 (2) Knowingly prepare, make, or subscribe any writing, with intent to
18 present or use the same, or to allow it to be presented or used in support of any
19 false or fraudulent claim.

20 (b) It shall constitute cause for revocation or suspension of a license or
21 certificate for a health care professional to engage in any conduct prohibited
22 under Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal
23 Code.

24 (4) Nothing in this subdivision shall preclude a board from suspending or
25 revoking a license or certificate pursuant to any other provision of law.

26 (5) "Board," as used in this subdivision, means the Dental Board of
27 California, the Medical Board of California, the Board of Psychology, the State
28 Board of Optometry, the California State Board of Pharmacy, the Osteopathic
29 Medical Board of California, and the State Board of Chiropractic Examiners.

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

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

9 12. California Code of Regulations, title 16, section 1769, states, in pertinent part:

10 (b) When considering the suspension or revocation of a facility or a
11 personal license on the ground that the licensee or the registrant has been
12 convicted of a crime, the board, in evaluating the rehabilitation of such person
13 and his present eligibility for a license will consider the following criteria:

14 (1) Nature and severity of the act(s) or offense(s).

15 (2) Total criminal record.

16 (3) The time that has elapsed since commission of the act(s) or offense(s).

17 (4) Whether the licensee has complied with all terms of parole, probation,
18 restitution or any other sanctions lawfully imposed against the licensee.

19 (5) Evidence, if any, of rehabilitation submitted by the licensee.

20 COST RECOVERY

21 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
22 administrative law judge to direct a licentiate found to have committed a violation or violations of
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
24 enforcement of the case.

25 FACTS

26 14. On June 20, 2006, Respondent attended a scheduled appointment at the Alhambra
27 Health Group located at 108 South First Street in Alhambra California, and met with a woman
28 whom he believed was the office administrator for the facility. During the meeting, Respondent
filled out numerous documents, with the intent to defraud his automobile insurance company, in
order to fabricate a fraudulent medical and treatment file for Alhambra Health Group.

1 Respondent knowingly signed twenty-two separate fraudulent medical records that falsely stated
2 he had previously received medical treatment at Alhambra Health Group on twenty-two separate
3 occasions between the dates of April 19 and June 9, 2006, including the following: April 19,
4 April 20, April 21, April 22, April 24, April 26, April 28, may 1, May 3, May 5, May 8, May 10,
5 May 12, May 15, May 17, May 22, May 24, May 26, May 29, June 1, June 5, and June 9, 2009.

6 15. In fact, June 20, 2006, was the first and only time Respondent had ever been to the
7 Alhambra Health Group and he never received any medical treatments there. The "office
8 administrator" told Respondent that the fabricated medical records would generate \$2,530 in
9 fabricated medical treatment charges, as requested by Respondent's attorney to be used to
10 substantiate Respondent's fraudulent automobile insurance claim. During the meeting,
11 Respondent acknowledged that he could get in a lot of trouble for signing the fraudulent
12 documents.

13 16. The person Respondent believed was the office administrator for Alhambra Medical
14 Group was, in fact, an undercover investigator for the Los Angeles District Attorney's Office.
15 Respondent's entire meeting was captured on video-tape as part of a two year undercover
16 operation conducted by the District Attorney's Auto Insurance Task Force working in
17 collaboration with the California Department of Insurance and the California Highway Patrol.

18 17. Respondent's fraudulent medical records were promptly provided to his attorney and
19 presented to his automobile insurance company, State Farm, with Respondent's insurance claim
20 for, among other things, compensation and reimbursement for the medical treatment that
21 Respondent allegedly received at Alhambra Medical Group. Based in part upon State Farm's
22 reliance upon Respondent's fraudulent medical records and bills for \$2,530.00 in medical
23 treatment from Alhambra Medical Group, State Farm paid Respondent approximately \$5,500.00
24 in payment for his insurance claim for bodily injuries. Respondent cashed the check from State
25 Farm.

26 18. As a result of his fraudulent conduct, Respondent was arrested on January 4, 2007,
27 for violation of Penal Code sections 550, subdivision (a) (1) (false insurance claim) and
28

1 550, subdivision (a) (5) (creating document with intent for it to be used to support fraudulent
2 insurance claim).

3 19. On January 9, 2009, in a Los Angeles County Superior Court case entitled *People of*
4 *the State of California v. Peter Chu, et al.*, Case No. BA320335, Respondent was convicted on
5 his plea of no lo contendere of violating Business and Professions Code sections 6152,
6 subdivision (a) (1) (acting as a capper for an attorney).

7 20. As a result of Respondent's conviction, the court sentenced Respondent to serve three
8 years on summary probation, pay restitution to State Farm insurance company in the amount of
9 \$2750, pay fine and fees, and perform 320 hours of community service. Respondent's criminal
10 probation is scheduled to be completed on January 9, 2012.

11 FIRST CAUSE FOR DISCIPLINE

12 (Unprofessional Conduct – Gross Morality)

13 21. Respondent's pharmacist license is subject to disciplinary action under Code section
14 4301, subdivision (a) in that Respondent engaged in conduct involving gross immorality when he
15 signed twenty-two separate false medical records, with the intent to defraud his automobile
16 insurance company, which falsely stated he had received medical/chiropractic services from
17 Alhambra Medical Group when Respondent had not received any of said services. Respondent
18 then submitted said fraudulent medical records to his automobile insurance company in support of
19 his claim for compensation for bodily injuries and medical treatment. Further, Respondent
20 cashed a check that he received from his insurance company in payment of his fraudulent
21 insurance claim, as described above in paragraphs 14 through 17, which are incorporated herein
22 by reference.

23 SECOND CAUSE FOR DISCIPLINE

24 (Unprofessional Conduct – Dishonesty)

25 22. Respondent's pharmacist license is subject to disciplinary action under Code section
26 4301, subdivision (f) in that Respondent engaged in conduct involving moral turpitude,
27 dishonesty, fraud, deceit, or corruption when he signed twenty-two separate false medical
28 records, with the intent to defraud his automobile insurance company, which falsely stated he had

1 received medical/chiropractic services from Alhambra Medical Group when Respondent had not
2 received any of said services. Respondent then submitted said fraudulent medical records to his
3 automobile insurance company in support of his claim for compensation for bodily injuries and
4 medical treatment. Further, Respondent cashed a check that he received from his insurance
5 company in payment of his fraudulent insurance claim, as described above in paragraphs 14
6 through 17, which are incorporated herein by reference.

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THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Signed False Documents)

23. Respondent's pharmacist license is subject to disciplinary action under Code section 4301, subdivision (g) in that Respondent knowingly signed documents that falsely represented the existence of a state of facts when Respondent signed twenty-two separate false medical records, with the intent to defraud his automobile insurance company, that falsely stated he had received medical/chiropractic services from Alhambra Medical Group when Respondent had not received any of said services. Respondent then submitted said fraudulent medical records to his automobile insurance company in support of his signed insurance claim for compensation for bodily injuries and medical treatment, as described above in paragraphs 14 through 17, which are incorporated herein by reference.

FOURTH CAUSE FOR DISCIPLINE

(Prepare and Present False Insurance Claim)

24. Respondent's pharmacist license is subject to disciplinary action under Code sections 810, subdivisions (a) (1), (a) (2), and (b) in that Respondent submitted medical records, that he knew were false and he had fraudulently created, to his automobile insurance company in support of his insurance claim for compensation for bodily injuries and medical treatment. Further, Respondent cashed a check that he received from his insurance company in payment of his fraudulent insurance claim, as described above in paragraphs 14 through 17, which are incorporated herein by reference.

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FIFTH CAUSE FOR DISCIPLINE

(January 9, 2009, Conviction for Acting as a Capper for Attorney on June 16, 2006)

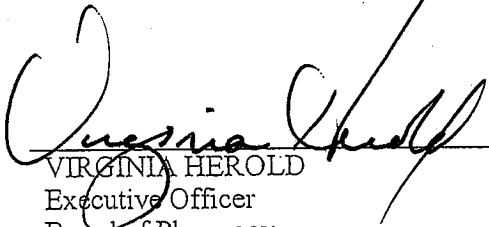
25. Respondent's pharmacist license is subject to disciplinary action under Code sections 490 and 4301, subdivision (1) in that on January 9, 2009, Respondent was convicted of violating Business and Professions Code section 6152 (a) (1) (Acting as Capper for Attorney), a crime substantially related to the qualifications, functions and duties of a pharmacist, as described above in paragraphs 14 through 20 which are incorporated herein by reference.

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 License Number RPH 48836, issued to Peter Chu.
2. Ordering Peter Chu 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: 10/27/09


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