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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. 3568

13 **BRUCE EDWARD CLARK**  
749 West Escalon  
14 **Fresno, CA. 93704**  
15 **Original Pharmacist License No. RPH 30899**

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

Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about July 20, 1977, the Board of Pharmacy issued Original Pharmacist  
21 License Number RPH 30899 to Bruce Edward Clark (Respondent). The Original Pharmacist  
22 License was in full force and effect at all times relevant to the charges brought herein and will  
23 expire on March 31, 2010, 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 4060 of the Code states:

2           "No person shall possess any controlled substance, except that furnished to a person upon  
3 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
4 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
5 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
6 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
7 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
8 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not  
9 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
10 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
11 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
12 labeled with the name and address of the supplier or producer.

13           "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a  
14 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and  
15 devices."

16           5.     Section 4300 of the Code states"

17           "(a) Every license may be suspended or revoked."

18           6.     Section 4301 of the Code states:

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

22           ...

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

26           ...

27           "(h) The administering to oneself, of any controlled substance, or the use of any dangerous  
28 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to

1 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
2 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
3 practice authorized by the license.

4 ...

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

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

10 ...

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

15 ...

16 7. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
17 administrative law judge to direct a licentiate found to have committed a violation or violations of  
18 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
19 enforcement of the case.

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

#### 24 **FIRST CAUSE FOR DISCIPLINE**

#### 25 **(MORAL TURPITUDE, DISHONESTY, FRAUD OR DECEIT)**

26 9. Respondent is subject to disciplinary action under section 4301 (f) in that Respondent  
27 between approximately August 2007 and October of 2008, all the exact dates which are unknown,  
28 took an estimated 3,505 tablets of alprazolam, a schedule IV controlled substance from

1 Walgreens while employed as a registered pharmacist by deceitfully and untruthfully using  
2 fraudulent patient and physician names on fraudulent prescriptions he created to conceal the fact  
3 of his diversion of controlled substances in violation of Health and Safety Code Section 11173(a).

4 **SECOND CAUSE FOR DISCIPLINE**  
5 **(CONTROLLED SUBSTANCE VIOLATION)**

6 10. Respondent is subject to disciplinary action under section 4303(j),(o) in that  
7 Respondent between approximately August 2007 and October of 2008 possessed without a valid  
8 prescription a controlled substance in violation of section 4060 and Health and Safety Code  
9 section 11377(a), to wit: 3,505 tablets of alprazolam, a schedule IV controlled substance which  
10 he diverted from Walgreens.

11 **THIRD CAUSE FOR DISCIPLINE**  
12 **(UNLAWFUL SELF-ADMINISTRATION OF A CONTROLLED SUBSTANCE)**

13 11. Respondent is subject to disciplinary action under section 4301(h) in that between  
14 approximately August 2007 and October of 2008 respondent by his own admission administered  
15 to himself a controlled substance in violation of Health and Safety code section 11170, to wit:  
16 alprazolam a schedule IV controlled substance.

17 **PRAYER**

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

20 1. Revoking or suspending Original Pharmacist License Number RPH 30899, issued to  
21 BRUCE EDWARD CLARK.

22 2. Ordering BRUCE EDWARD CLARK to pay the Board of Pharmacy the reasonable  
23 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
24 Code section 125.3;

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26 ///

27 ///

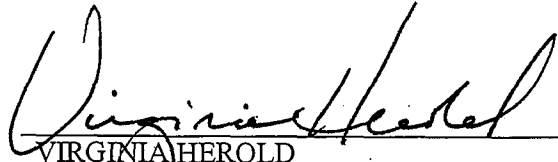
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3. Taking such other and further action as deemed necessary and proper.

DATED:

3/30/10



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

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