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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. 3571

11 **MICHAEL ALEXANDER GLEN**
12 691 Hilma Drive
Eureka, CA 95503
13 **Pharmacist License No. RPH 51983**

A C C U S A T I O N

14 Respondent.

15
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 September 5, 2000, the Board of Pharmacy issued Pharmacist License
21 Number RPH 51983 to Michael Alexander Glen (Respondent). The Pharmacist License was in
22 full force and effect at all times relevant to the charges brought herein and will expire on October
23 31, 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.

1 4. Section 4300 of the Code states:

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

3 ..."

4 5. Section 4301 of the Code states:

5 "The board shall take action against any holder of a license who is guilty of unprofessional
6 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

7 Unprofessional conduct shall include, but is not limited to, any of the following:

8 ...

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

12 ...

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

18 ...

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

21 6. Section 4022 of the Code states

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

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

26 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
27 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
28 in with the designation of the practitioner licensed to use or order use of the device.

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

3 7. Section 4060 of the Code states:

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

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

18 8. Health and Safety Code Section 11350(a) states:

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

26 9. Section 125.3 of the Code states, in pertinent part, that the Board may request the
27 administrative law judge to direct a licentiate found to have committed a violation or violations of
28

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 DRUGS INVOLVED

4 10. Hydrocodone/APAP (including brand names Vicodin and Norco) is a schedule III
5 controlled substance pursuant to Health and Safety Code section 11056(e)(4) and a dangerous
6 drug pursuant to Business of Professions Code § 4022.

7 11. Diazepam is a schedule IV controlled substance pursuant to Health and Safety Code
8 Section 11057(d)(9) and a dangerous drug pursuant to Business of Professions Code § 4022.

9 12. Zolpidem is a schedule IV controlled substance pursuant to Health and Safety Code
10 Section 11057(d)(32) and a dangerous drug pursuant to Business of Professions Code § 4022.

11 13. Meperidine is a schedule II controlled substance pursuant to Health and Safety Code
12 Section 11055(c)(17) and a dangerous drug pursuant to Business of Professions Code § 4022.

13 14. Morphine is a schedule II controlled substance pursuant to Health and Safety Code
14 Section 11055(b)(1)(M) and a dangerous drug pursuant to Business of Professions Code § 4022.

15 15. Oxycodone (including brand names Oxycontin and Percocet) is a schedule II
16 controlled substance pursuant to Health and Safety Code Section 11055(b)(1)(N) and a dangerous
17 drug pursuant to Business of Professions Code § 4022.

18 16. Cocaine is a schedule II controlled substance pursuant to Health and Safety Code
19 Section 11055(b)(2)(6) and a dangerous drug pursuant to Business of Professions Code § 4022.

20 17. Hydromorphone is a schedule II controlled substance pursuant to Health and Safety
21 Code Section 11055(b)(1)(K) and a dangerous drug pursuant to Business of Professions Code §
22 4022.

23 18. Fentanyl is a schedule II controlled substance pursuant to Health and Safety Code
24 Section 11055(c)(8) and a dangerous drug pursuant to Business of Professions Code § 4022.

25 FACTUAL BACKGROUND

26 19. From about mid 2006 until July 21, 2008, Respondent stole Vicodin, Norco,
27 Diazepam, Fentanyl, Hydromorphone, Cocaine, Oxycodone, Morphine, Meperidine, Zolpidem
28 and Percocet from his employer Mad River Community Hospital. Respondent stole these drugs

1 for personal use. Respondent used these drugs. Respondent did not have a prescription for these
2 drugs.

3 FIRST CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct-Moral Turpitude, Dishonesty, Fraud, and/or Deceit)

5 20. Respondent is subject to disciplinary action under section 4301 (f) of the code in that
6 Respondent committed acts of moral turpitude, dishonesty, and/or deceit. The circumstances are
7 described in paragraph 19, above.

8 SECOND CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct-Drug Use)

10 21. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
11 Respondent used controlled substances and dangerous drugs without a prescription. Respondent
12 used controlled substances and dangerous to an extent that dangerous or injurious to himself. The
13 circumstances are described in paragraph 19, above.

14 THIRD CAUSE FOR DISCIPLINE

15 (Unprofessional Conduct- Violation of Drug Laws)

16 22. Respondent is subject to disciplinary action under section 4301(j) of the Code in that
17 Respondent violated Business and Professions Code § 4060 and Health Safety Code §11350
18 (both state statutes regulating controlled substances and dangerous drugs) by possessing
19 controlled substances and dangerous drugs without a prescription. The circumstances are
20 described in paragraph 19, above.

21 PRAYER

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

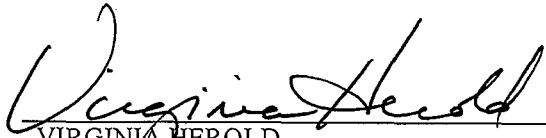
24 1. Revoking or suspending Pharmacist License Number RPH 51983, issued to Michael
25 Alexander Glen.

26 2. Ordering Michael Alexander Glen to pay the Board of Pharmacy the reasonable costs
27 of the investigation and enforcement of this case, pursuant to Business and Professions Code
28 section 125.3;

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

DATED: 6/3/10



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

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