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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **WARREN CHRISTOPHER LLOYD** **103 Ravenna Dr., #4** **Long Beach, CA 90803** **Pharmacist License No. RPH 41161** Respondent.	Case No. 3596 **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 (Board), Department of Consumer Affairs.

2. On or about September 26, 1987, the Board issued Pharmacist License Number RPH 41161 to Warren Christopher Lloyd (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

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4. 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.

....

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

5. 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:

....

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

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or

to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

....

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

....

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

6. Section 4060 of the Code states:

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

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

7. Health and Safety Code section 11350, subdivision (a), states:

"Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of

Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in the state prison."

8. Health and Safety Code section 11170 states:

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

9. Health and Safety Code section 11173, subdivision (a), states:

"No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge."

COST RECOVERY

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

CONTROLLED SUBSTANCES AND DANGEROUS DRUGS

11. Norco is the brand name for Hydrocodone w/ Acetaminophen 10/325mg, and is a controlled substance pursuant to Health and Safety Code section 11056, and a dangerous drug pursuant to Business and Professions Code section 4022.

12. Lortab is the brand name for Hydrocodone w/ Acetaminophen 10/5000mg, and is a controlled substance pursuant to Health and Safety Code section 11056, and a dangerous drug pursuant to Business and Professions Code section 4022.

13. Vicodin ES is the brand name for Hydrocodone w/ Acetaminophen, and is a controlled substance pursuant to Health and Safety Code section 11056, and a dangerous drug pursuant to Business and Professions Code section 4022.

14. Hycodan Syrup is the brand name for Hydrocodone w/ Homatropine, and is a controlled substance pursuant to Health and Safety Code section 11056, and a dangerous drug pursuant to Business and Professions Code section 4022.

15. Vicodin is the brand name for Hydrocodone w/ Acetaminophen 5/500mg, and is a controlled substance pursuant to Health and Safety Code section 11056, and a dangerous drug pursuant to Business and Professions Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Use of Controlled Substances)

16. Respondent is subject to disciplinary action under Code sections 4300 and 4301, subdivision (j), on the grounds of unprofessional conduct, in conjunction with Health and Safety Code section 11170, in that on or about July 28, 2008, while working at Ralphs Store #250 (located at 20137 Pioneer Blvd., Lakewood, California), Respondent was discovered stealing and ingesting Vicodin ES. Respondent was witnessed taking two (2) tablets of Vicodin ES, which he stole from the pharmacy. Further, Respondent admitted to taking "Vicodin" from Ralphs Store #250 for approximately one year in or between August 2007 and July 2008 for his personal use. Respondent estimated that he took and used approximately 300 tablets over the course of the year, and/or, fifteen (15) tablets of "Vicodin" per week between August 2007 and July 2008.

SECOND CAUSE FOR DISCIPLINE

(Possession of Controlled Substance without Prescription)

17. Respondent is subject to disciplinary action under Code sections 4300 and 4301, subdivisions (j) and (o), on the grounds of unprofessional conduct, in that Respondent possessed a controlled substance without a prescription in violation of Code section 4060 and Health and Safety Code section 11350, subdivision (a).

a. Specifically, on or about July 28, 2008, Respondent stole Vicodin ES from Ralphs Store #250, and was found to have eleven (11) tablets of Vicodin ES on his person. Respondent was also witnessed ingesting two tablets of Vicodin ES.

b. Respondent possessed Vicodin, including Vicodin, Vicodin ES, Norco and Lortab, which he stole from Ralphs Store #250 for his personal use in or between August 2007 and July

2008, as more fully discussed in paragraph 16 above, which is herein incorporated by reference as set forth in whole.

c. Respondent did not have prescriptions for the controlled substances and dangerous drugs.

THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud or Deceit)

18. Respondent is subject to disciplinary action under Code sections 4300 and 4301, subdivision (f), in conjunction with Health and Safety Code section 11173, subdivision (a), on the grounds of unprofessional conduct, in that Respondent committed dishonesty, fraud or deceit, by stealing controlled substances and dangerous drugs from his place of employment, as more fully discussed in paragraphs 16 and 17, above, which are herein incorporated by reference as set forth in whole.

FOURTH CAUSE FOR DISCIPLINE

(Impaired Ability to Practice Safely)

19. Respondent is subject to disciplinary action under Code sections 4300 and 4301, subdivision (h), on the grounds of unprofessional conduct, in that Respondent used a controlled substance and dangerous drug while on duty as a pharmacist. Specifically, on or about July 28, 2008, Respondent was witnessed ingesting Vicodin ES while on duty as a pharmacist at Ralphs Store #250. Respondent did not have a prescription for the Vicodin ES. Paragraphs 16 through 18 are incorporated by reference as set forth in whole.

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 41161, issued to Warren Christopher Lloyd;

2. Ordering Warren Christopher Lloyd 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: 4/14/10

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

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