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7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation and  
11 Petition to Revoke Probation Against:

Case No. 3699

12 **ROBERT THOMAS HALL**  
13 **3636 Trinity Street**  
**Eureka, California 95501**

**ACCUSATION AND PETITION TO**  
**REVOKE PROBATION**

14 **Pharmacist License No. RPH 32860**

15 Respondent.

16 Complainant alleges:

17 PARTIES

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

21 2. On or about August 7, 1979, the Board of Pharmacy issued Pharmacist License No.  
22 RPH 32860 to Robert Thomas Hall (Respondent). The Pharmacist License was in effect at all  
23 times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

24 3. In a prior disciplinary action entitled "In the Matter of Accusation Against Robert  
25 Thomas Hall," Case No. 2989, the Board of Pharmacy, issued a decision, effective February 13,  
26 2008, in which Respondent's Pharmacist License was revoked. However, revocation was stayed  
27 and the License was placed on probation for a period of five (5) years with certain terms and  
28 conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.



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

5 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous  
6 drug or dangerous device except upon the prescription of an authorized prescriber.

7 10. Section 4060 of the Code, in pertinent part, prohibits possession of any controlled  
8 substance, except that furnished upon the prescription of an authorized prescriber.

9 11. Section 4063 of the Code provides, in pertinent part, that no prescription for a  
10 dangerous drug may be refilled except upon authorization of the prescriber.

11 12. Health and Safety Code section 11158 provides, in pertinent part, that except under  
12 certain conditions, no controlled substance classified in Schedule III, IV, or V may be dispensed  
13 without a prescription meeting the requirements of Health & Safety Code, § 11500 et seq.

14 13. Health and Safety Code section 11171 provides that no person shall prescribe,  
15 administer, or furnish a controlled substance except under the conditions and in the manner  
16 provided by the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

17 14. Health and Safety Code section 11173, subdivision (a), provides that no person shall  
18 obtain or attempt to obtain controlled substances, or procure or attempt to procure the  
19 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,  
20 or subterfuge; or (2) by the concealment of a material fact.

21 15. Health and Safety Code section 11200, subdivision (b), provides that no prescription  
22 for a Schedule III or IV controlled substance may be refilled more than five times and in an  
23 amount, for all refills of that prescription taken together, exceeding a 120-day supply.

24 16. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess  
25 any narcotic drug listed in Schedules III-V, absent a valid prescription.

26 17. Health and Safety Code section 11352, in pertinent part, makes it unlawful to sell,  
27 transport, furnish, administer, or give away, any controlled substance classified in Schedule III,  
28 IV, or V which is a narcotic drug, unless upon written prescription of a authorized prescriber.

1 18. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
2 administrative law judge to direct a licentiate found to have committed a violation of the licensing  
3 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

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5 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

6 19. Section 4021 of the Code states:

7 “Controlled substance’ means any substance listed in Chapter 2 (commencing with Section  
8 11053) of Division 10 of the Health and Safety Code.”

9 20. Section 4022 of the Code states, in pertinent part:

10 “Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,  
11 except veterinary drugs that are labeled as such, and includes the following:

12 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without  
13 prescription,’ ‘Rx only,’ or words of similar import.

14 ...

15 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
16 prescription or furnished pursuant to Section 4006.”

17 21. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are brand names for compounds of  
18 varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled  
19 substance as designated by Health and Safety Code section 11056(e)(4) and a dangerous drug as  
20 designated by Business and Professions Code section 4022. These varying compounds are also  
21 known generically as **Hydrocodone with APAP**. These are narcotic drugs.

22 22. **Combivent** is a brand name for a compound of **albuterol** and **ipratropium**, and is a  
23 dangerous drug as designated by Business and Professions Code section 4022. It is an inhalant  
24 typically used to relax muscles in the airways and increase air flow to the lungs.

25 23. **Soma** is a brand name for **carisoprodol**, a dangerous drug as designated by Business  
26 and Professions Code section 4022. It is a muscle relaxant.

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FACTUAL BACKGROUND

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2       24. Between in or about March 2009 and June 2009, Respondent was employed as a  
3 pharmacist at a Walgreens Pharmacy (PHY 45722) in Eureka, California.

4       25. On or about March 16, 2009, Respondent accessed the Walgreens computer system to  
5 alter the directions and/or instructions for a prescription for **Norco** written for his wife. He added  
6 an "as directed" direction/instruction, and added authorizations for five (5) refills where none had  
7 been authorized by the prescription. The effect of these changes included that:

8       a. Whereas the prescription as written would have been filled for sixty (60) tablets of  
9 **Norco** on only one occasion, it was actually filled at Walgreens on six (6) occasions, each time  
10 for sixty (60) tablets, for a total number dispensed of 360 tablets: the dates of dispensing were  
11 March 16, 2009, April 3, 2009, April 14, 2009, April 26, 2009, May 7, 2009, and May 18, 2009;

12       b. Whereas the prescription as written called for Respondent's wife to take up to two (2)  
13 tablets per day, such that the number of tablets prescribed (60) was intended as a 30-day supply,  
14 Respondent's alteration(s) made it possible to refill the prescription every 15 days, and to acquire  
15 a total of 360 tablets, more than a 120-day supply according to the prescriber instructions;

16       c. Whereas the prescription as written would have resulted in only one fill and thus only  
17 one claim to insurance or other payor, the prescription as filled resulted in six such fills/claims;

18       26. On each occasion that the altered prescription or unauthorized refills were furnished,  
19 Respondent transported/delivered the **Norco** from the Walgreens Pharmacy to his wife.

20       27. On or about January 13, 2009, Respondent accessed the Walgreens computer system  
21 to alter the directions and/or instructions for a prescription for **Combivent** written for his wife.  
22 He added directions that enabled the prescription to be filled for two (2) (inhalant) vials per fill,  
23 rather than the one (1) vial that had been prescribed, with the effect that the furnished quantity  
24 was doubled, and the claim to insurance or other payor was also increased.

25       28. On or about June 25, 2009, Respondent signed a written statement for Walgreens in  
26 which he admitted to altering his wife's prescription(s) and/or directions for use for **Soma**. On or  
27 about December 2, 2009, Respondent signed a written statement for Board Inspector(s) in which  
28 he said that this prior admission was false and denied any misconduct with regard to **Soma**.



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FIFTH CAUSE FOR DISCIPLINE

(Unlawful Refills of Prescriptions)

33. Respondent is subject to discipline under sections 4301(j) and/or (o) of the Code, in that Respondent, as described in paragraphs 24 to 28 above, furnished/dispensed to himself or to others, attempted or assisted or abetted furnishing or dispensing of, or conspired to dispense or furnish, without valid authorization(s), refill(s) of controlled substances and/or dangerous drugs, in violation of section 4063 of the Code.

SIXTH CAUSE FOR DISCIPLINE

(Dispensing/Administering/Furnishing Pursuant to Invalid Prescription(s))

34. Respondent is subject to discipline under section 4301 (j) and/or (o) of the Code, in that Respondent, as described in paragraphs 24 to 28 above, dispensed/administered/furnished, attempted or assisted or abetted dispensing/administering/furnishing, or conspired to dispense/administer/furnish, controlled substance prescriptions not meeting requirements of the Uniform Controlled Substances Act, in violation of Health and Safety Code section(s) 11158 and/or 11171.

SEVENTH CAUSE FOR DISCIPLINE

(False or Fraudulent Procurement of Controlled Substance(s)/Prescription(s))

35. Respondent is subject to discipline under section 4301 (j) and/or (o) of the Code, in that Respondent, as described in paragraphs 24 to 28 above, obtained/attempted to obtain and/or assisted in or abetted and/or conspired to obtain controlled substances, procured/attempted to procure, assisted in or abetted, and/or conspired to procure administration of or prescriptions for controlled substances, by fraud, deceit, subterfuge misrepresentation, or concealment of fact, in violation of Health and Safety Code section 11173, subdivision (a).

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1 EIGHTH CAUSE FOR DISCIPLINE

2 (Excessive Refill(s) of Controlled Substance(s)/Prescription(s))

3 36. Respondent is subject to discipline under section 4301 (j) and/or (o) of the Code, in  
4 that Respondent, as described in paragraphs 24 to 28 above, refilled prescription(s) for Schedule  
5 III or IV controlled substances more than five times or in excess of a 120-day supply, attempted  
6 or assisted or abetted refilling such prescription(s) more than five times or in excess of a 120-day  
7 supply, and/or conspired to refill such prescription(s) more than five times or in excess of a 120-  
8 day supply, in violation of Health and Safety Code section 11200.

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10 TENTH CAUSE FOR DISCIPLINE

11 (Unprofessional Conduct)

12 37. Respondent is subject to disciplinary action under section 4301 of the Code in that  
13 Respondent, by way of the conduct described in paragraphs 24-36 above, engaged in  
14 "unprofessional conduct" not becoming the profession of pharmacy.

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17 CAUSE TO REVOKE PROBATION

18 (Failure to Obey All Laws)

19 38. Respondent's probation is subject to revocation pursuant to its terms and/or pursuant  
20 to section 4300(d) of the Code and/or California Code of Regulations, title 16, section 1773(a)(1),  
21 in that at all times after the effective date (February 13, 2008) of the Decision and Order imposing  
22 probation on Respondent's Pharmacist License, Term and Condition 1 of that Order required:

23 **1. Obey All Laws.** Respondent shall obey all state and federal laws and  
24 regulations substantially related to or governing the practice of pharmacy. . . .

25 39. As described in paragraphs 24-36 above, Respondent failed to obey all laws.

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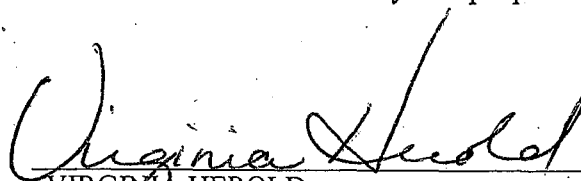
PRAYER

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 License No. RPH 32860, issued to Robert Thomas Hall (Respondent);
2. Revoking the probation granted in Case No. 2989 and imposing the disciplinary order that was stayed, thereby revoking Pharmacist License No. RPH 32860, issued to Respondent;
3. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
4. Taking such other and further action as is deemed necessary and proper.

DATED: \_\_\_\_\_

7/1/10



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

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