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

12 In the Matter of the Accusation Against:

Case No. 4106

13 **RANDALL DOANE JAYNE**

P.O. Box 2915

14 Mammoth Lakes, CA 9546

A C C U S A T I O N

15 Pharmacist License No. RPH 38586

16 Respondent.
17

18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about June 12, 1984, the Board of Pharmacy issued Pharmacist License
23 Number RPH 38586 to Randall Doane Jayne (Respondent). The Pharmacist License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on July 31,
25 2012, unless renewed.

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1 **JURISDICTION**

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

5 **STATUTORY AND REGULATORY PROVISIONS**

6 4. Section 475 (a) provides in relevant part: "Notwithstanding any other provisions
7 of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

8 4) Commission of any act which, if done by a licentiate of the business or profession
9 in question, would be grounds for suspension or revocation of license."

10 5. Section 480(a)(3)(A) provides in pertinent part the Board may deny a license to
11 anyone who performs an act or acts which if done by a licentiate would be grounds for suspension
12 or revocation of the license.

13 6. Section 4300 provides in relevant part:

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

15 7. Section 4301 provides in relevant part:

16 "The board shall take action against any holder of a license who is guilty of
17 unprofessional conduct. Unprofessional conduct shall include, but not be limited to, any of the
18 following:

19 (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
20 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
21 whether the act is a felony or misdemeanor.

22 (h) The administering to oneself, of any controlled substance

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

26 o) Violating or attempting to violate, directly or indirectly, or
27 assisting in or abetting the violation of or conspiring to violate
28 any provision or term of this chapter or of the applicable federal

1 and state laws and regulations governing pharmacy, including
2 regulations established by the board or by any other state or federal
3 regulatory agency.

4 p) Actions or conduct that would have warranted denial of a license.”

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6 **COST RECOVERY**

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

11 **FACTUAL BACKGROUND**

12 9. Respondent was employed as a pharmacist for Mammoth Hospital for approximately
13 one and one-half years prior to the time of his termination in December 2010. Respondent was
14 the pharmacist-in-charge from July 4, 2010 to December 2010. At all relevant times, Respondent
15 did not possess a lawful prescription for Norco.

16 10. While employed as a pharmacist at Mammoth Hospital, Respondent ordered the
17 narcotic drug Norco, comprised of 10 mgs of hydrocodone and .325 mgs of acetaminophen, a
18 Schedule III controlled substance under California Health and Safety Code section 11056(e)(4).
19 Respondent ordered Norco in one hundred count bottles on May 21, 2010, June 30, 2010, July 28,
20 2010, August 11, 2010, September 27, 2010, October 20, 2010 and November 17, 2010.
21 Respondent took possession of the Norco when delivered to the hospital and then diverted all
22 bottles of Norco and the contents for his personal use. Respondent admitted on February 15,
23 2011 that he ordered the Norco and diverted it for his personal use.

24 **FIRST CAUSE FOR DISCIPLINE**

25 (Unprofessional Conduct)

26 11. Respondent's license is subject to disciplinary action under section 4301(f) in that
27 respondent committed unprofessional conduct by engaging in acts involving moral turpitude,
28 fraud, deceit or corruption.

1 12. Paragraphs 9 and 10 are incorporated herein as though set forth at length.
2 Respondent used his position as a pharmacist at Mammoth Hospital and his pharmacist's license
3 to obtain through fraud, deceit, and dishonesty eight (8) one hundred (100) count bottles of
4 Norco for personal use without a lawful prescription. By engaging in this conduct, Respondent
5 committed unprofessional conduct within the meaning of section 4801(f).

6 **SECOND CAUSE FOR DISCIPLINE**
7 (Self-Administration of a Controlled Substance)

8 13. Respondent's license is subject to disciplinary action under section 4301(h) in that
9 Respondent committed unprofessional conduct by self-administering a controlled substance
10 without a lawful prescription.

11 14. Paragraphs 9 and 10 are incorporated herein as though set forth at length.
12 Respondent admitted he self-administered a controlled substance without a lawful prescription
13 for an unknown duration but including May 2010 through December 2010. By engaging in this
14 conduct, Respondent committed unprofessional conduct within the meaning of section 4301(h).

15 **THIRD CAUSE FOR DISCIPLINE**
16 (Unlawful Possession of Controlled Substances)

17 15. Respondent's license is subject to disciplinary action under sections 4301 (j) and
18 (o) in that Respondent committed unprofessional conduct by violating state statutes for
19 possession of controlled substances and dangerous drugs

20 16. Paragraphs 9 and 10 are incorporated herein as though set forth at length.
21 Respondent utilized his position as a pharmacist and his pharmacist license to obtain controlled
22 substances and dangerous drugs in violation of Business and Professions Code section 4060,
23 Health and Safety Code section 11350(a) and Health and Safety Code section 11173(a).
24 Respondent committed unprofessional conduct within the meaning of sections 4301 (j) and (o).

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1 **FOURTH CAUSE FOR DISCIPLINE**
2 (Actions That Warrant Denial of License)

3 17. Respondent's license is subject to disciplinary action under sections 475(a)(3),
4 480(a)(3) and 4301 (p) in that Respondent committed acts which if done by a licensee would
5 warrant denial of a license.

6 18. Paragraphs 9 through 16 are incorporated herein as though set forth at length.
7 Respondent committed acts that would warrant denial of a license including but not limited to
8 obtaining controlled substances without a lawful prescription, violating state statutes by
9 possessing controlled substances and dangerous drugs without a lawful prescription and self-
10 administered controlled substances all of which are grounds to deny a license.

11 **PRAYER**

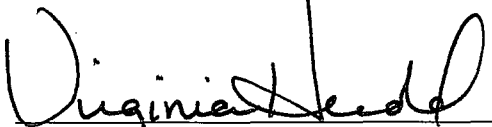
12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

14 1. Revoking or suspending Pharmacist License Number RPH 38586, issued to
15 Randall Doane Jayne.

16 2. Ordering Randall Doane Jayne to pay the Board of Pharmacy the reasonable costs
17 of the investigation and enforcement of this case, pursuant to Business and Professions Code
18 section 125.3;

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

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21 DATED: 9/1/11


22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant
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