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6	Facsimile: (213) 897-2804 Attorneys for Complainant
7	BEFORE THE
. 8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
. 9	STATE OF CALIFORNIA
10	
11	In the Matter of the Accusation Against: Case No. 4568
12	JOHN EDWARD GILLESPIE 18333 Hatteras Street, #110
13	Tarzana, CA 91356 A C C U S A T I O N
14	Pharmacist License No. RPH 25025
15	Respondent.
16	
17	Complainant alleges:
18	PARTIES
19	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21	2. On or about July 18, 1967, the Board of Pharmacy issued Pharmacist License
22	Number RPH 25025 to John Edward Gillespie (Respondent). The Pharmacist License expired on
23	July 31, 2012, and has not been renewed.
24 [.]	JURISDICTION
25	3. This Accusation is brought before the Board, under the authority of the following
26	laws. All section references are to the Business and Professions Code unless otherwise indicated.
27	///
28	///
V	
	1 Accusation

- 4. Section 118, subdivision (b), of the Code provides that the suspension or expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
- 5. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.
 - 6. 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:

(j) The violation of any of the statutes of this 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."

- 7. Section 4113 of the Code, subdivision (b) states:
- "(b) The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy."
 - 8. Section 4306.5 of the Code, subdivision (a) states:
- "(a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board."

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9. 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.

FIRST CAUSE FOR DISCIPLINE

(Filling of Erroneous Order)

- 10. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivisions (j) and (o), and 4113, subdivision (b) of the Code, on the grounds of unprofessional conduct, for violating section 4306.5, subdivision (a) in that on or about August 4, 2009, while Respondent was employed as the Pharmicist-in-Charge of Gemmel San Antonio Pharmacy, located in Upland, California, he incorrectly filed an order that resulted in patient harm. The circumstances are as follows:
- 11. On or about August 4, 2009, San Antonio Surgical Center provided order "RX#6182485" for filling to Gemmel San Antonio Pharmacy. The order was for acetic acid 5% as a stock solution for its surgical center. Respondent erroneously compounded the solution for San Antonio Surgical Center in that he filled the order with acetic acid 100% instead of acetic acid 5%.
- 12. On or about April 23, 2010, Patient M.E. was undergoing a surgical procedure that required 5% acetic acid. As a result of Respondent's error, Patient M.E. suffered chemical burns to her vaginal area that caused her to have complaints of inability to engage in relationships, fear of future pregnancy issues, and discomfort from sexual intercourse, as well as loss of work for one month. Patient M.E. filed a claim which resulted in a settlement against Respondent and the pharmacy.

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 25025, issued to John Edward Gillespie;

1	2. Ordering John Edward Gillespie to pay the Board of Pharmacy the reasonable costs
	of the investigation and enforcement of this case, pursuant to Business and Professions Code
3	section 125.3;
	3. Taking such other and further action as deemed necessary and proper.
4	5. Taking such other and further action as deemed necessary and proper.
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7	DATED: 9/6/12 Iverner Herde
8	VIRGINIA/HEROLD Executive Officer
9	Board of Pharmacy Department of Consumer Affairs
10	State of California Complainant
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