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

11 In the Matter of the Accusation Against:

Case No. 4600

12 **YUMON KWOCK**
13 **P.O. Box 351**
Arcata, CA 95518

A C C U S A T I O N

14 **Pharmacist License No. RPH 28573**

15 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Virginia K. Herold (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Officer of the California State Board of Pharmacy.

23 2. On or about October 24, 1973, the Board of Pharmacy (Board) issued Pharmacist
24 License Number RPH 28573 to Yumon Kwock (Respondent). The Pharmacist License was in
25 full force and effect at all times relevant to the charges brought herein and will expire on May 31,
26 2014, unless renewed.

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1 JURISDICTION

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

5 4. Section 4300(a) of the Code provides that every license issued by the Board may be
6 suspended or revoked.

7 5. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or
8 suspension of a board-issued license by operation of law or by order or decision of the board or a
9 court of law, the placement of a license on a retired status, or the voluntary surrender of a license
10 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any
11 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision
12 suspending or revoking the license.

13 6. Section 4301 of the Code states provides, in pertinent part, that the board shall take
14 action against any holder of a license who is guilty of "unprofessional conduct," defined to
15 include but not limited to, any of the following:

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

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

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

26 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
27 of a licensee under this chapter.

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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 if this chapter or the applicable federal
3 and state laws and regulations governing pharmacy, including regulation established by the board
4 or by any other state or federal regulatory agency.

5 7. California Code of Regulations, title 16, section 1770, states:

6 "For the purpose of denial, suspension, or revocation of a personal or facility license
7 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
8 crime or act shall be considered substantially related to the qualifications, functions or duties of a
9 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
10 licensee or registrant to perform the functions authorized by his license or registration in a manner
11 consistent with the public health, safety, or welfare."

12 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
13 revoke a license on the ground that the licensee has been convicted of a crime substantially
14 related to the qualifications, functions, or duties of the business or profession for which the
15 license was issued.

16 9. Section 4059 of the Code prohibits furnishing of any dangerous drug or dangerous
17 device except upon the prescription of an authorized prescriber.

18 10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any
19 controlled substances, except that furnished upon a valid prescription/drug order.

20 11. Health and Safety Code section 11170 provides that no person shall prescribe,
21 administer, or furnish a controlled substance for himself.

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

26 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
27 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
28 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

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FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Conviction of Substantially Related Crime)

21. Respondent is subject to disciplinary action under section 4301(l) and section 490 of the Code, by reference to California Code or Regulations, title 16, section 1770, for the conviction of a substantially related crime, in that on or about November 13, 2012, in the Humboldt County Superior Court criminal case entitled *People v. Kwock*, Case No. CR1201784 Respondent was convicted of violating Penal Code section 488 (theft)(a misdemeanor). The circumstances are as follows:

a. Beginning in or about September 2011, for approximately eight (8) months and ceasing in or about April 2012, Respondent, an employee of a Rite Aid Pharmacy in Fortuna, California, and who worked as a pharmacist-in-charge, took without prescription and for his own personal use and ingestion, various drugs from his place of employment.

b. The drugs taken by Respondent include controlled substances Norco, Vicodin and Hydrocodone and Tylenol/Codeine.

c. Respondent was sentenced as follows: Two (2) years probation, a court fine of \$480, and one (1) day jail time.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Acts of Dishonesty)

22. Respondent is subject to disciplinary action under section 4301(f) in that, as described above in paragraph 21, Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Dangerous or Injurious Use of Controlled Substance)

23. Respondent is subject to disciplinary action under section 4301(h) in that, as described above in paragraph 21, Respondent used controlled substances in a manner dangerous or injurious to himself, or any other person or the public, or to the extent that the use impaired the ability of the person to conduct with safety to the public the practice authorized by the license.

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FOURTH CAUSE FOR DISCIPLINE

(Self-Administration of Controlled Substance and/or Alcohol)

24. Respondent is subject to discipline under section 4301(h) of the Code, and/or 4301(j) and/or (o) of the Code and Health and Safety Code section 11170, in that Respondent, as described in paragraph 21, administered a controlled substance to himself.

FIFTH CAUSE FOR DISCIPLINE

(Furnishing of Controlled Substance)

25. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4059 of the Code, and/or Health and Safety Code section 11170 in that Respondent, as described in paragraph 21 above, furnished to himself or another without a valid prescription, and/or conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.

SIXTH CAUSE FOR DISCIPLINE

(Possession of Controlled Substance)

26. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described in paragraph 21 above, possessed, conspired to possess, and/or assisted in or abetted possession of, a controlled substance, without a prescription.

SEVENTH CAUSE FOR DISCIPLINE

(Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

27. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs 21 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

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EIGHTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Furnishing Without Prescription)

28. Respondent is subject to disciplinary action under section 4301(j) in that Respondent, as described above in paragraph 21, furnished to himself or another without a valid prescription, and/or conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance.

NINTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

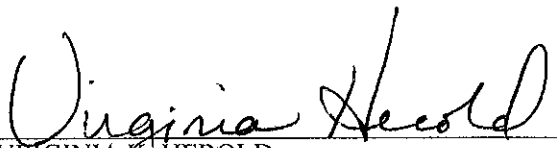
29. Respondent is subject to disciplinary action under section 4301, in that Respondent, as described above in paragraph 21, engaged in unprofessional conduct.

PRAYER

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

1. Revoking or suspending Pharmacist License Number RPH 28573, issued to Yumon Kwock
2. Ordering Yumon Kwock to pay the Board 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: 5/8/14


 VIRGINIA K. HEROLD
 Executive Officer
 California State Board of Pharmacy
 State of California
 Complainant

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