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8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against:	Case No. 4654	
12	GARY ALLEN BARTEE 517 Avalon Court NE		
13	Albany, Oregon 97322	ACCUSATION	
14	Pharmacist License No. RPH 43085		
15	Respondent.		
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17			
18	Complainant alleges:		
19	PARTIES		
20	1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity		
21 22	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs. 2. On or about March 1, 1990, the Board of Pharmacy issued Pharmacist License No.		
23	2. On or about March 1, 1990, the Board of Pharmacy issued Pharmacist License No. RPH 43085 to Gary Allen Bartee (Respondent). The Pharmacist License was in full force and		
24	effect at all times relevant to the charges brought herein and will expire on May 31, 2015, unless		
25	renewed.		
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JURISDICTION

- 3. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.
 - 4. Section 4300 of the Code states, in pertinent part::
 - "(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 4300.1 of the Code states that "the expiration, cancellation, forfeiture, or suspension of a aboard-issued license by operation of law, or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

. . . ? ?

6. Section 4301 of the Code states, in pertinent part:

"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:

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.

7. Section 125.3 of the Code provides, 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

8. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Out of State Discipline)

9. Respondent is subject to disciplinary action under Code section 4301(n) for unprofessional conduct because on or about August 25, 2009, while licensed as a pharmacist by the Oregon Board of Pharmacy, Respondent 's Oregon license No. 11137 was disciplined by the Oregon Board of Pharmacy. Respondent's license was suspended for three months, five years probation was imposed and a fine of \$1,000.00 was assessed pursuant to a Notice of Proposed Disciplinary Action; Answer Required" and a "Consent Order", copies of which are attached hereto as Exhibit A collectively and incorporated by reference. The circumstances were that from on or about November 2007 through March 2009, while Respondent was employed as a

1	pharmacist at Wal-Mart Pharmacy 10-1775 in Lebanon, Oregon, Respondent wrote, dispensed	
2	and fraudulently billed insurance for multiple unauthorized prescriptions for Respondent and	
3	members of his family.in violation of the Oregon laws identified in Exhibit A.	
4	<u>PRAYER</u>	
5	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
6	and that following the hearing, the Board of Pharmacy issue a decision:	
7	1. Revoking or suspending Pharmacist License No. RPH 43085, issued to Gary Allen	
8	Bartee;	
9	2. Ordering Gary Allen Bartee to pay the Board of Pharmacy the reasonable costs of th	
10	investigation and enforcement of this case, pursuant to Business and Professions Code section	
11	125.3; and	
12	3. Taking such other and further action as deemed necessary and proper.	
13	DATED: 10/23/13 (ingine Herd)	
14	WRGINIA MEROLD Executive Officer	
15	Board of Pharmacy Department of Consumer Affairs	
16	State of California Complainant	
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