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

11 In the Matter of the Petition to Revoke
12 Probation Against,

Case No. 4746

13 **ERIC DUANE OZIMY**
14 **3455 Oak Grove Circle**
Stockton, CA 95209

PETITION TO REVOKE PROBATION

15 **Pharmacist License No. RPH 36956**

16 Respondent.

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18 Complainant alleges:

19 PARTIES

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

23 2. On or about August 16, 1982, the Board of Pharmacy issued Pharmacist License
24 Number RPH 36956 (License) to Eric Duane Ozimy (Respondent). The License will expire on
25 February 28, 2014, unless renewed.
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1 (e) The proceedings under this article shall be conducted in accordance with
2 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
3 Government Code, and the board shall have all the powers granted therein. The
4 action shall be final, except that the propriety of the action is subject to review by
5 the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

6 6. California Code of Regulations, title 16, section 1773, states that a pharmacist who is
7 serving a period of probation shall comply with the conditions of his or her probation as ordered
8 by the Board in an administrative action or by stipulation the parties.

9 FIRST CAUSE TO REVOKE PROBATION

10 (Failure to Submit Reports)

11 7. At all times after the effective date of Respondent's probation, Condition 2 stated:

12 **Report to the Board**

13 Respondent shall report to the Board quarterly, on a schedule as directed by
14 the Board or its designee. The report shall be made either in person or in writing, as
15 directed. Among other requirements, Respondent shall state in each report under
16 penalty of perjury whether there has been compliance with all the terms and
17 conditions of probation. Failure to submit timely reports in a form as directed shall
18 be considered a violation of probation. Any period(s) of delinquency in submission
19 of reports as directed may be added to the total period of probation. Moreover, if
20 the final probation report is not made as directed, probation shall be automatically
21 extended until such time as the final report is made and accepted by the Board.

22 8. Respondent's probation is subject to revocation because he failed to comply with
23 Probation Condition 2, referenced above. The facts and circumstances regarding this violation
24 are as follows: Respondent failed to submit quarterly reports. As of the filing of the instant
25 Petition, no quarterly reports have been received from Respondent.

26 SECOND CAUSE TO REVOKE PROBATION

27 (Failure to Pay Costs)

28 9. At all times after the effective date of Respondent's probation, Condition 8 stated:

Reimbursement of Board Costs

As a condition precedent to successful completion of probation, Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$999.50. This amount is the unpaid balance of the costs of investigation and prosecution ordered in Case No. 3298. Respondent shall make said payments in a payment plan to be approved by the Board or its designee.

There shall be no deviation from this schedule absent prior written approval by the Board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board its costs of investigation and prosecution.

1 10. Respondent's probation is subject to revocation because he failed to comply with
2 Probation Condition 8, referenced above. The facts and circumstances regarding this violation
3 are as follows: Respondent has failed to pay any costs. Since the effective date of his Probation,
4 Respondent has provided no payments to the Board for cost recovery.

5 THIRD CAUSE TO REVOKE PROBATION

6 (Failure to Complete Pharmacist Recovery Program)

7 11. At all times after the effective date of Respondent's probation, Condition 16 and 17
8 stated:

9 **Pharmacists Recovery Program (PRP)**

10 Within thirty (30) days of the effective date of this decision, Respondent shall
11 contact the Pharmacists Recovery Program (PRP) for evaluation, and shall
12 immediately thereafter enroll, successfully participate in, and complete the
13 treatment contract and any subsequent addendums as recommended and provided
14 by the PRP and as approved by the Board or its designee. The costs for PRP
15 participation shall be borne by the Respondent.

16 If Respondent is currently enrolled in the PRP, said participation is now
17 mandatory and as of the effective date of this decision is no longer considered a
18 self-referral under Business and Professions Code section 4362(c)(2). Respondent
19 shall successfully participate in and complete his current contract and any
20 subsequent addendums with the PRP.

21 Failure to timely contact or enroll in the PRP, or successfully participate in
22 and complete the treatment contract and/or any addendums, shall be considered a
23 violation of probation.

24 Probation shall be automatically extended until Respondent successfully
25 completes the PRP. Any person terminated from the PRP program shall be
26 automatically suspended by the Board. Respondent may not resume the practice of
27 pharmacy until notified by the Board in writing.

28 Any confirmed positive test for alcohol or for any drug not lawfully
prescribed by a licensed practitioner as part of a documented medical treatment
shall result in the automatic suspension of practice by Respondent and shall be
considered a violation of probation. Respondent may not resume the practice of
pharmacy until notified by the Board in writing.

During suspension, Respondent shall not enter any pharmacy area or any
portion of the licensed premises of a wholesaler, veterinary food-animal drug
retailer or any other distributor of drugs which is licensed by the Board, or any
manufacturer, or where dangerous drugs and devices or controlled substances are
maintained. Respondent shall not practice pharmacy nor do any act involving drug
selection, selection of stock, manufacturing, compounding, dispensing or patient
consultation; nor shall Respondent manage, administer, or be a consultant to any
licensee of the Board, or have access to or control the ordering, manufacturing or
dispensing of dangerous drugs and controlled substances. Respondent shall not
resume practice until notified by the Board.

During suspension, Respondent shall not engage in any activity that requires
the professional judgment of a pharmacist. Respondent shall not direct or control
any aspect of the practice of pharmacy. Respondent shall not perform the duties of a
pharmacy technician or a designated representative for any entity licensed by the
Board.

1 Subject to the above restrictions, Respondent may continue to own or hold an
2 interest in any licensed premises in which he holds an interest at the time this
decision becomes effective unless otherwise specified in this order.

3 Failure to comply with this suspension shall be considered a violation of
4 probation.

5 Respondent shall pay administrative fees as invoiced by the PRP or its
6 designee. Fees not timely paid to the PRP shall constitute a violation for probation.
7 The Board will collect unpaid administrative fees as part of the annual probation
8 monitoring costs if not submitted to the PRP.

6 **Random Drug Screening**

7 Respondent, at his own expense, shall participate in random testing, including
8 but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle
9 testing, or other drug screening program as directed by the Board or its designee.
10 Respondent may be required to participate in testing for the entire probation period
11 and the frequency of testing will be determined by the Board or its designee. At all
12 times, Respondent shall fully cooperate with the Board or its designee, and shall,
13 when directed, submit to such tests and samples for the detection of alcohol,
14 narcotics, hypnotics, dangerous drugs or other controlled substances as the Board or
15 its designee may direct. Failure to timely submit to testing as directed shall be
16 considered a violation of probation. Upon request of the Board or its designee,
17 Respondent shall provide documentation from a licensed practitioner that the
18 prescription for a detected drug was legitimately issued and is a necessary part of
19 the treatment of the Respondent. Failure to timely provide such documentation
20 shall be considered a violation of probation. Any confirmed positive test for
21 alcohol or for any drug not lawfully prescribed by a licensed practitioner as part of
22 a documented medical treatment shall be considered a violation of probation and
23 shall result in the automatic suspension of practice of pharmacy by Respondent.
24 Respondent may not resume the practice of pharmacy until notified by the Board in
25 writing.

26 During suspension, Respondent shall not enter any pharmacy area or any
27 portion of the licensed premises of a wholesaler, veterinary food-animal drug
28 retailer or any other distributor of drugs which is licensed by the Board, or any
manufacturer, or where dangerous drugs and devices or controlled substances are
maintained. Respondent shall not practice pharmacy nor do any act involving drug
selection, selection of stock, manufacturing, compounding, dispensing or patient
consultation; nor shall Respondent manage, administer, or be a consultant to any
licensee of the Board, or have access to or control the ordering, manufacturing or
dispensing of dangerous drugs and controlled substances. Respondent shall not
resume practice until notified by the Board.

29 During suspension, Respondent shall not engage in any activity that requires
30 the professional judgment of a pharmacist. Respondent shall not direct or control
31 any aspect of the practice of pharmacy. Respondent shall not perform the duties of a
32 pharmacy technician or a designated representative for any entity licensed by the
33 Board.

34 Subject to the above restrictions, Respondent may continue to own or hold an
35 interest in any licensed premises in which he holds an interest at the time this
36 decision becomes effective unless otherwise specified in this order.

37 Failure to comply with this suspension shall be considered a violation of
38 probation.

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1 12. Respondent's probation is subject to revocation because he failed to comply with
2 Probation Condition 16 and 17, referenced above. The facts and circumstances regarding this
3 violation are as follows: Respondent enrolled in the Pharmacist Recovery Program, but was
4 terminated from the Program and deemed a public risk.

5 FOURTH CAUSE TO REVOKE PROBATION

6 (Failed to Establish a Prescription Coordinator)

7 13. At all times after the effective date of Respondent's probation, Condition 19 stated:

8 **Prescription Coordination and Monitoring of Prescription Use**

9 Within thirty (30) days of the effective date of this decision, Respondent shall
10 submit to the Board, for its prior approval, the name and qualifications of a single
11 physician, nurse practitioner, physician assistant, or psychiatrist of Respondent's
12 choice, who shall be aware of the Respondent's history with the use of alcohol,
13 controlled substances, and/or dangerous drugs and who will coordinate and monitor
14 any prescriptions for Respondent for dangerous drugs, controlled substances or
15 mood-altering drugs. The approved practitioner shall be provided with a copy of
16 the Board's Accusation/Petition to Revoke Probation and decision. A record of this
17 notification must be provided to the Board upon request. Respondent shall sign a
18 release authorizing the practitioner to communicate with the Board about
19 Respondent's treatment(s). The coordinating physician, nurse practitioner,
20 physician assistant, or psychiatrist shall report to the Board on a quarterly basis for
21 the duration of probation regarding Respondent's compliance with this condition. If
22 any substances considered addictive have been prescribed, the report shall identify a
23 program for the time limited use of any such substances. The Board may require
24 that the single coordinating physician, nurse practitioner, physician assistant or
25 psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive
26 medicine. Should Respondent, for any reason, cease supervision by the approved
27 practitioner, Respondent shall notify the Board immediately and, within thirty (30)
28 days of ceasing treatment, submit the name of a replacement physician, nurse
practitioner, physician assistant, or psychiatrist of Respondent's choice to the Board
or its designee for its prior approval. Failure to timely submit the selected
practitioner or replacement practitioner to the Board for approval, or to ensure the
required reporting thereby on the quarterly reports, shall be considered a violation
of probation.

 If at any time an approved practitioner determines that Respondent is unable
to practice safely or independently as a pharmacist, the practitioner shall notify the
Board immediately by telephone and follow up by written letter within three (3)
working days. Upon notification from the Board or its designee of this
determination, Respondent shall be automatically suspended and shall not resume
practice until notified by the Board that practice may be resumed.

 During suspension, Respondent shall not enter any pharmacy area or any
portion of the licensed premises of a wholesaler, veterinary food-animal drug
retailer or any other distributor of drugs which is licensed by the Board, or any
manufacturer, or where dangerous drugs and devices or controlled substances are
maintained. Respondent shall not practice pharmacy nor do any act involving drug
selection, selection of stock, manufacturing, compounding, dispensing or patient
consultation; nor shall Respondent manage, administer, or be a consultant to any
licensee of the Board, or have access to or control the ordering, manufacturing or
dispensing of dangerous drugs and controlled substances. Respondent shall not

1 resume practice until notified by the Board.

2 During suspension, Respondent shall not engage in any activity that requires
3 the professional judgment of a pharmacist. Respondent shall not direct or control
4 any aspect of the practice of pharmacy. Respondent shall not perform the duties of
5 a pharmacy technician or a designated representative for any entity licensed by the
6 Board.

7 Subject to the above restrictions, Respondent may continue to own or hold an
8 interest in any licensed premises in which he holds an interest at the time this
9 decision becomes effective unless otherwise specified in this order.

10 Failure to comply with this suspension shall be considered a violation of
11 probation.

12 14. Respondent's probation is subject to revocation because he failed to comply with
13 Probation Condition 19, referenced above. The facts and circumstances regarding this violation
14 are as follows: Respondent failed to submit any practitioner to the Board for approval as a
15 prescription coordinator and/or monitor.

16 FIFTH CAUSE TO REVOKE PROBATION

17 (Community Service Program)

18 15. At all times after the effective date of Respondent's probation, Condition 20 stated:

19 **Community Services Program**

20 Within sixty (60) days of the effective date of this decision, Respondent shall
21 submit to the Board or its designee, for prior approval, a community service
22 program in which Respondent shall provide free health-care related services on a
23 regular basis to a community or charitable facility or agency for at least two
24 hundred-fifty (250) hours during the period of probation. Within thirty (30) days of
25 Board approval thereof, Respondent shall submit documentation to the Board
26 demonstrating commencement of the community service program. A record of this
27 notification must be provided to the Board upon request. Respondent shall report
28 on progress with the community service program in the quarterly reports. Failure to
timely submit, commence, or comply with the program shall be considered a
violation of probation.

16. Respondent's probation is subject to revocation because he failed to comply with
Probation Condition 20, referenced above. The facts and circumstances regarding this violation
are as follows: Respondent failed to submit a community service program for Board approval.
Respondent also has failed to commence any volunteer hours.

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1 SIXTH CAUSE TO REVOKE PROBATION

2 (Failure to Complete Ethics Course)

3 17. At all times after the effective date of Respondent's probation, Condition 23 stated:

4 **Ethics Course**

5 Within sixty (60) calendar days of the effective date of this decision,
6 Respondent shall enroll in a course in ethics, at Respondent's expense, approved in
7 advance by the Board or its designee. Failure to initiate the course during the first
8 year of probation, and complete it within the second year of probation, is a violation
9 of probation.

10 Respondent shall submit a certificate of completion to the Board or its
11 designee within five days after completing the course.

12 18. Respondent's probation is subject to revocation because he failed to comply with
13 Probation Condition 23, referenced above. The facts and circumstances regarding this violation
14 are as follows: Respondent failed to enroll in or complete a Board-approved ethics course within
15 60 days of the effective date of the Probation.

16 DISCIPLINE CONSIDERATIONS

17 19. To determine the degree of discipline, if any, to be imposed on Respondent,
18 Complainant alleges that on or about November 6, 1986, in a prior disciplinary action entitled In
19 the Matter of the Accusation Against Eric Duane Ozimy before the Board of Pharmacy, in Case
20 No. 1298, Respondent's License was revoked, the revocation stayed, and placed on probation for
21 a period of two years. That decision is now final and is incorporated by reference as if fully set
22 forth.

23 20. To determine the degree of discipline, if any, to be imposed on Respondent,
24 Complainant alleges that on or about August 11, 1988, in a prior disciplinary action entitled In the
25 Matter of the Accusation and Petition to Revoke Probation Against Eric Duane Ozimy before the
26 Board of Pharmacy, in Case No. 1408, Respondent's License was revoked, the revocation stayed,
27 and placed on probation for a period of five years. Respondent was also suspended from the
28 practice of pharmacy for one year. Respondent's return to practice was contingent upon the
approval of the Board and the successful completion of the Pharmacist Recovery Program. That
decision is now final and is incorporated by reference as if fully set forth.

1 21. To determine the degree of discipline, if any, to be imposed on Respondent,
2 Complainant alleges that on or about November 18, 2010, in a prior disciplinary action entitled In
3 the Matter of the Accusation Against Eric Duane Ozimy before the Board of Pharmacy, in Case
4 No. 3298, Respondent's License was revoked, the revocation stayed, and placed on probation for
5 a period of five years. That decision is now final and is incorporated by reference as if fully set
6 forth.

7 PRAYER

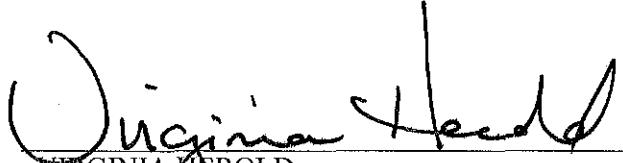
8 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
9 and that following the hearing, the Board of Pharmacy issue a decision:

10 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 4103
11 and imposing the disciplinary order that was stayed thereby revoking Pharmacist License No.
12 RPH 36956 issued to Eric Duane Ozimy;

13 2. Taking such other and further action as deemed necessary and proper.

14
15 DATED: _____

10/24/13



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

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