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

11 In the Matter of the Accusation Against:

Case No. 4818

12 **AMY K. BROWN**
13 **33750 SE Terra Circle**
14 **Corvallis, OR 97333**

A C C U S A T I O N

15 **Pharmacist License No. RPH 43131**

16 Respondent.

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 March 7, 1990, the Board of Pharmacy issued Pharmacist License
22 Number RPH 43131 to Amy K. Brown (Respondent). The Pharmacist License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on December 31,
24 2013, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.].

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

6 6. Section 4300.1 of the Code states:

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

11 **STATUTORY PROVISIONS & REGULATORY PROVISIONS**

12 7. Section 4022 of the Code states:

13 "Dangerous drug" or "dangerous device" means any drug or device unsafe
14 for self-use in humans or animals, and includes the following:

15 (a) Any drug that bears the legend: "Caution: federal law prohibits
16 dispensing without prescription," "Rx only," or words of similar import.

17 (b) Any device that bears the statement: "Caution: federal law restricts this
18 device to sale by or on the order of a _____," "Rx only," or words of similar import,
19 the blank to be filled in with the designation of the practitioner licensed to use or
20 order use of the device.

21 (c) Any other drug or device that by federal or state law can be lawfully
22 dispensed only on prescription or furnished pursuant to Section 4006.

23 8. Section 4060 of the Code provides that no person shall possess a controlled substance
24 except that furnished to a person upon a valid prescription.

25 9. Section 4301 of the Code states:

26 The board shall take action against any holder of a license who is guilty of
27 unprofessional conduct or whose license has been procured by fraud or
28 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
is not limited to, any of the following:

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

7

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

10

11 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
12 abetting the violation of or conspiring to violate any provision or term of this
13 chapter or of the applicable federal and state laws and regulations governing
14 pharmacy, including regulations established by the board or by any other state or
15 federal regulatory agency.

16

17 (p) Actions or conduct that would have warranted denial of a license.

18

19 10. Section 4327 of the Code states:

20 Any person who, while on duty, sells, dispenses or compounds any drug
21 while under the influence of any dangerous drug or alcoholic beverages shall be
22 guilty of a misdemeanor.

23 11. Health and Safety Code section 11170 states:

24 No person shall prescribe, administer, or furnish a controlled substance for
25 himself.

26 COST RECOVERY

27 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
28 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.

1 **DRUGS**

2 13. Marijuana is a Schedule I controlled substance pursuant to Health and Safety Code
3 section 11054, subdivision (d).

4 **FACTUAL ALLEGATIONS**

5 14. Respondent was employed as a pharmacist at Kaiser Permanente Pharmacy located in
6 Huntington Beach, California, from approximately 1989 to May 2012. On or about February 12
7 or 13, 2012, while at work, Respondent gave her pharmacy technician money to purchase a
8 cannabis brownie for her. Respondent's pharmacy technician had a medical marijuana card and
9 agreed to use her card to purchase the brownie for Respondent.

10 15. On February 17, 2012, Respondent was scheduled to close the pharmacy. On
11 February 17, 2012, the pharmacy technician gave Respondent the cannabis brownie in the parking
12 lot at Kaiser Permanente Pharmacy. Respondent then ingested a portion of the brownie during
13 her lunch break. Respondent returned to work as a pharmacist at Kaiser Permanente Pharmacy.
14 Approximately 30 minutes after returning from her lunch break, Respondent complained that she
15 was not feeling well. The pharmacy technician observed that Respondent appeared physically
16 unstable and delirious. The pharmacy technician also observed that Respondent held onto the
17 prescription counter with both hands in order to keep upright. Respondent felt light headed and
18 went into the break room, where she reported to the pharmacy technician that she felt terrible
19 because of the brownie. Respondent then determined that she could not continue working, found
20 work coverage, left Kaiser Permanente Pharmacy, and drove home.

21 16. On or about May 15, 2012, Respondent resigned from her position at Kaiser
22 Permanente Pharmacy in lieu of termination because of the incident.

23 **FIRST CAUSE FOR DISCIPLINE**

24 (Unlawful Possession of a Controlled Substance)

25 17. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
26 (o) for violation of Business and Professions Code section 4060 for possessing a controlled
27 substance without a prescription, in that Respondent possessed a cannabis brownie on February
28

1 17, 2012 without a medical doctor's order/recommendation, as set forth in paragraphs 14-16,
2 which are incorporated herein by reference.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Functioning as a Pharmacist While Under the Influence of a Controlled Substance)

5 18. Respondent is subject to disciplinary action under section 4301, subdivision (h) and
6 section 4301, subdivisions (o) and (j), for violation of Business Professions Code section 4327, in
7 that on February 17, 2012, Respondent worked as a pharmacist at Kaiser Permanente Pharmacy
8 while she was under the influence of controlled substances to the extent that it impaired her
9 ability to practice safely, as set forth in paragraphs 14-16, which are incorporated herein by
10 reference.

11 **THIRD CAUSE FOR DISCIPLINE**

12 (Unlawful Administration of a Controlled Substance)

13 19. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
14 (o) for violation of Health and Safety Code section 11170 for unlawful administration of a
15 controlled substance, in that Respondent administered to herself a cannabis brownie on February
16 17, 2012 without a medical doctor's order/recommendation, as set forth in paragraphs 14-16,
17 which are incorporated herein by reference.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Acts or Conduct that Warrant Denial of a License)

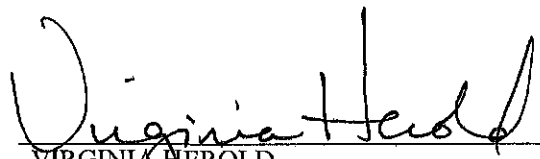
20 20. Respondent is subject to disciplinary action under section 4301, subdivisions (h) for
21 actions or conduct that would have warranted denial of a license, in that Respondent purchased
22 and administered to herself a cannabis brownie on February 17, 2012 without a medical doctor's
23 order/recommendation, while at work as a pharmacist, as set forth in paragraphs 14-16, which are
24 incorporated herein by reference.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
27 and that following the hearing, the Board of Pharmacy issue a decision:
28

- 1 1. Revoking or suspending Pharmacist License Number RPH 43131, issued to Amy K.
2 Brown;
3 2. Ordering Amy K. Brown to pay the Board of Pharmacy the reasonable costs of the
4 investigation and enforcement of this case, pursuant to Business and Professions Code section
5 125.3;
6 3. Taking such other and further action as deemed necessary and proper.

9 DATED: 8/14/13

8 
10 VIRGINIA HEROLD
11 Executive Officer
12 Board of Pharmacy
13 Department of Consumer Affairs
14 State of California
15 *Complainant*

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