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

12 In the Matter of the Accusation Against:

Case No. 4967

13 **PATRICK BYRON RENFRO**
14 **4905 Rushmore Dr.**
15 **Bakersfield, CA 93312**

A C C U S A T I O N

16 **Pharmacist License No. RPH 36594**

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 August 20, 1981, the Board of Pharmacy issued Pharmacist License
22 Number RPH 36594 to Patrick Byron Renfro ("Respondent"). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on July 31,
24 2015, 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 4300.1 of the Code states:

2 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
3 operation of law or by order or decision of the board or a court of law, the placement of a license
4 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
5 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
6 proceeding against, the licensee or to render a decision suspending or revoking the license."

7 5. Section 4300 of the Code states, in pertinent part:

8 "(a) Every license issued may be suspended or revoked.

9 "(b) The board shall discipline the holder of any license issued by the board, whose default
10 has been entered or whose case has been heard by the board and found guilty, by any of the
11 following methods:

12 "(1) Suspending judgment.

13 "(2) Placing him or her upon probation.

14 "(3) Suspending his or her right to practice for a period not exceeding one year.

15 "(4) Revoking his or her license.

16 "(5) Taking any other action in relation to disciplining him or her as the board in its
17 discretion may deem proper. . . ."

18 STATUTES

19 6. Section 4060 of the Code states:

20 "No person shall possess any controlled substance, except that furnished to a person upon
21 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
22 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
23 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
24 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
25 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
26 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
27 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
28 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified

1 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
2 labeled with the name and address of the supplier or producer.

3 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
4 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
5 devices."

6 7. Section 4301 of the Code states:

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

10

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

14

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

20

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

23

24 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
25 violation of or conspiring to violate any provision or term of this chapter or of the applicable
26 federal and state laws and regulations governing pharmacy, including regulations established by
27 the board or by any other state or federal regulatory agency. . . ."

28 8. Code section 4342 states:

1 (a) The board may institute any action or actions as may be provided by law and that, in its
2 discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not
3 conform to the standard and tests as to quality and strength, provided in the latest edition of the
4 United States Pharmacopoeia or the National Formulary, or that violate any provision of the
5 Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division
6 104 of the Health and Safety Code).

7 (b) Any knowing or willful violation of any regulation adopted pursuant to Section 4006
8 shall be subject to punishment in the same manner as is provided in Sections 4336 and 4321."

9 9. Health and Safety Code section 11170 states, "[n]o person shall prescribe, administer,
10 or furnish a controlled substance for himself."

11 10. Health and Safety Code section 11350, subdivision (a) states:

12 (a) Except as otherwise provided in this division, every person who possesses (1) any
13 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of
14 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
15 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
16 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
17 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
18 licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of
19 Section 1170 of the Penal Code."

20 **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

21 11. Carisoprodol, a generic name for Soma, is a Schedule IV controlled substance
22 pursuant to 21 Code of Federal Register section 1308.14, subdivision (c)(5) and is dangerous drug
23 pursuant to Business and Professions Code section 4022.

24 12. Gabapentin is a dangerous drug pursuant to Business and Professions Code section
25 4022.

26 13. Hydrocodone/acetaminophen, a generic name for Vicodin and Norco, is a Schedule III
27 controlled substance pursuant to Health and Safety Code section 11056(e)(4) and is a dangerous
28 drug pursuant to Business and Professions Code section 4022.

1 14. Morphine is a Schedule II controlled substance pursuant to Health and Safety Code
2 section 11055, subdivision (b)(1)(L) and is a dangerous drug pursuant to Business and Professions
3 Code section 4022.

4 **COST RECOVERY**

5 15. Section 125.3 of the Code states, in pertinent part, that the Board may request the
6 administrative law judge to direct a licentiate found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Unlawful Possession of Controlled Substances)**

11 16. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
12 in conjunction with Code section 4060, on the grounds of unprofessional conduct in that between
13 approximately January 2012 and September 2012, Respondent, who was a pharmacist at a Target
14 store in Bakersfield, CA, violated the Pharmacy Law by unlawfully possessing 810 Norco pills,
15 540 Carisoprodol pills, and 270 Gabapentin pills. Respondent obtained the pills by dispensing
16 them while working as a pharmacist at Target, putting the pills in containers, concealing the
17 containers in his clothes, and then leaving the Target store without paying for the medications and
18 without having prescriptions for them. The total loss to Target was approximately \$1,459.99.

19 **SECOND CAUSE FOR DISCIPLINE**

20 **(Dangerous Use of Controlled Substances and Dangerous Drugs)**

21 17. Respondent is subject to disciplinary action under Code section 4301, subdivision (h)
22 on the grounds of unprofessional conduct in that between approximately January 2012 and
23 September 2012, Respondent, who was a pharmacist at a Target store in Bakersfield, self-
24 administered and used controlled substances and dangerous drugs to wit, 810 fraudulently
25 obtained Norco pills, 540 fraudulently obtained Carisoprodol pills, and 270 fraudulently obtained
26 Gabapentin pills; in a manner dangerous or injurious to himself or the public, or to the extent that
27 his use impaired his ability to conduct with safety to the public the practice authorized by his
28 license.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Violating Drug Statutes)**

3 18. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
4 in conjunction with Health and Safety Code sections 11350, subdivision (a) and 11170, on the
5 grounds of unprofessional conduct in that between approximately January 2012 and September
6 2012, Respondent, who was a pharmacist at a Target store in Bakersfield, violated California
7 rules regulating controlled substances when he unlawfully possessed and unlawfully administered
8 to himself a controlled substance, to wit, 810 Norco pills.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(Dishonest Acts)**

11 19. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)
12 on the grounds of unprofessional conduct in that Respondent committed dishonest acts.
13 Complainant incorporates by reference Paragraph 16, as though fully set forth herein.

14 **DISCIPLINE CONSIDERATIONS**

15 20. To determine the degree of discipline, if any, to be imposed on Respondent,
16 Complainant alleges that on or about April 20, 2010, in a prior action, the Board of Pharmacy
17 issued Citation Number CI 2009 44188 against Respondent in the amount of \$2,000 for violating
18 Business and Professions Code section 4342, subdivision (b) [pharmaceutical preparations not in
19 conformity with standards and tests as to quality and strength]. The facts and circumstances
20 underlying the Citation were that on June 16, 2009 and June 20, 2009, while working as a staff
21 pharmacist at Bakersfield Memorial Hospital, Respondent compounded 20 bags of Morphine
22 50mg/ml IV drip which were substandard and lacking strength. That Citation is now final and is
23 incorporated by reference as if fully set forth.

24 **PRAYER**

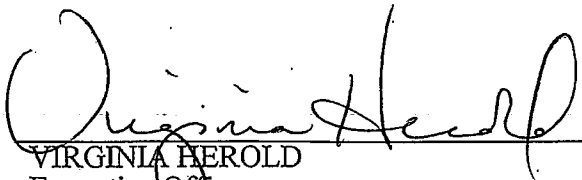
25 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
26 and that following the hearing, the Board of Pharmacy issue a decision:

27 1. Revoking or suspending Pharmacist License Number RPH 36594, issued to Patrick
28 Byron Renfro;

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2. Ordering Patrick Byron Renfro to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

3. Taking such other and further action as deemed necessary and proper.

DATED: 3/24/14 

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

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