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Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **AMERISOURCEBERGEN DRUG CO. AND AMERISOURCEBERGEN CORP., DBA AMERISOURCEBERGEN** **24903 Avenue Kearny** **Valencia, CA 91355** **Wholesaler Permit No. WLS 4142** **RONALD A. GREEN** **24903 Avenue Kearney** **Valencia, CA 91355** **Designated Representative License No. EXC 14703** **AMERISOURCEBERGEN DRUG CORPORATION, AMERISOURCEBERGEN SERVICES CORPORATION AND AMERISOURCEBERGEN CORPORATION, DBA AMERISOURCEBERGEN** **1851 California Avenue** **Corona, CA 92881** **Wholesaler Permit No. WLS 4140** **WILLIAM A. WILSON** **1851 California Avenue** **Corona, CA 91355** **Designated Representative License No. EXC 21145**	Case No. 4982 **SECOND AMENDED ACCUSATION**

JOHN C. STAVICH
1851 California Avenue
Corona, CA 91355

Designated Representative License No. EXC 17437

Respondents.

Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this Second Amended Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about April 4, 2003, the Board of Pharmacy issued Wholesaler Permit Number WLS 4142 to AmerisourceBergen Drug Co. and AmerisourceBergen Corp., doing business as AmerisourceBergen (Respondent AmerisourceBergen, Valencia). The Wholesaler Permit was in full force and effect at all times relevant to the charges brought herein and will expire on April 1, 2019, unless renewed.

3. On or about March 27, 2003, the Board of Pharmacy issued Wholesaler Permit Number WLS 4140 to AmerisourceBergen Drug Corporation, AmerisourceBergen Services Corporation and AmerisourceBergen Corporation, doing business as AmerisourceBergen (Respondent AmerisourceBergen, Corona). The Wholesaler Permit was in full force and effect at all times relevant to the charges brought herein and will expire on March 1, 2019, unless renewed.

4. On or about December 31, 1998, the Board of Pharmacy issued Designated Representative License Number EXC 14703 to Ronald A. Green (Respondent Ronald Green). The Designated Representative License was in full force and effect at all times relevant to the charges brought herein, expired on December 1, 2016 and was canceled on April 21, 2017.

5. On or about March 22, 2011, the Board of Pharmacy issued Designated Representative License Number EXC 21145 to William A. Wilson (Respondent William Wilson). The Designated Representative License was in full force and effect at all times relevant to the charges brought herein, expired on March 1, 2013 and was cancelled on July 21, 2013.

6. On or about April 27, 2004, the Board of Pharmacy issued Designated Representative License Number EXC 17437 to John C. Stavich (Respondent John Stavich). The Designated Representative License was in full force and effect at all times relevant to the charges brought herein and will expire on April 1, 2019, unless renewed.

JURISDICTION

7. This Second Amended 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 (Code) unless otherwise indicated.

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

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

10. Section 4300.1 of the Code states:

> The expiration, cancellation, forfeiture, or suspension of a board-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.

STATUTORY AND REGULATORY PROVISIONS

11. 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:
>
> . . .
>
> (e) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be considered in determining whether the furnishing of controlled substances is clearly excessive shall include, but not be limited to, the amount of controlled substances furnished, the previous ordering pattern of the customer (including size and frequency of orders), the type and size of the customer, and where and to whom the customer distributes its product.
>
> . . .

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

...

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

...

12. Section 4053, subdivision (a) of the Code states:

Notwithstanding Section 4051, the board may issue a license as a designated representative to provide sufficient and qualified supervision in a wholesaler or veterinary food-animal drug retailer. The designated representative shall protect the public health and safety in the handling, storage, and shipment of dangerous drugs and dangerous devices in the wholesaler or veterinary food-animal drug retailer.

13. Health and Safety Code section 11153.5, subdivision (a) states:

(a) No wholesaler or manufacturer, or agent or employee of a wholesaler or manufacturer, shall furnish controlled substances for other than legitimate medical purpose.

(b) Anyone who violates this section knowingly, or having a conscious disregard for the fact, that the controlled substances are for other than a legitimate medical purpose shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by fine not exceeding twenty thousand dollars ($20,000), or by both that fine and imprisonment.

(c) Factors to be considered in determining whether a wholesaler or manufacturer, or agent or employee of a wholesaler or manufacturer, furnished controlled substances knowing or having a conscious disregard for the fact that the controlled substances are for other than legitimate medical purpose shall include, but not be limited to, whether the use of controlled substances was for purposes of increasing athletic ability or performance, the amount of controlled substances furnished, the previous ordering pattern of the customer (including size and frequency of orders), the type and size of the customer, and where and to whom the customer distributes the product.

14. Title 21, Code of Federal Regulations, section 1301.74, subdivision (b) states:

The registrant shall design and operate a system to disclose to the registrant suspicious orders of controlled substances. The registrant shall inform the Field Division Office of the Administration in his area of suspicious orders when discovered by the registrant. Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern and orders of unusual frequency.

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COST RECOVERY

15. 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.

DRUGS

16. Dilaudid is the brand name for hydromorphine, a Schedule II controlled substance pursuant to Health and Safety Code section 11054(b)(J) and a dangerous drug pursuant to Business and Professions Code section 4022.

17. Norco 10mg is the brand name for hydrocodone10mg/APAP 325mg, a Schedule III controlled substance pursuant to Health and Safety Code section 11056(e)(5) and a dangerous drug pursuant to Business and Professions Code section 4022.

18. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11054(b)(N) and a dangerous drug pursuant to Business and Professions Code section 4022.

19. Phenergan with Codeine is the brand name for promethazine with codeine, a Schedule V controlled substance pursuant to Health and Safety Code section 111058(c)(1) and is a dangerous drug pursuant to Business and Professions Code section 4022.

20. Soma is the brand name for carisoprodol, a Schedule IV controlled substance pursuant to 21 Code of Federal Regulations 1308.14(c)(6) and is a dangerous drug pursuant to Business and Professions Code section 4022.

21. Xanax is the brand name for alprazolam, a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(d)(1) and a dangerous drug pursuant to Business and Professions Code section 4022.

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FACTUAL ALLEGATIONS

22. From March 20, 2003 through December 1, 2016, Respondent Ronald Green was the Designated Representative-in-Charge of Respondent AmerisourceBergen at its premises in Valencia, California. From January 19, 2011 through January 30, 2013, Respondent William Wilson was the Designated Representative-in-Charge of Respondent AmerisourceBergen at its premises in Corona, California. From January 30, 2013 through April 17, 2016, Respondent John Stavich was the Designated Representative-in-Charge of Respondent AmerisourceBergen at its premises in Corona, California.

23. From January 1, 2012 to April 2, 2013, Respondents AmerisourceBergen, Corona, William Wilson and/or John Stavich sold or furnished 30,000 tablets of alprazolam 2mg (60 bottles of 500 tablets), 82,900 tablets of oxycodone 30mg (829 bottles of 100 tablets), 52,000 tablets of Norco or hydrocodone/APAP 10 mg/325 (102 bottles of 500 tablets and 1 bottle of 1000 tablets) and 17,300 tablets of Dilaudid or hydromorphone 4mg (173 bottles of 100 tablets) to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy.

24. From January 31, 2013 to December 3, 2013, Respondents AmerisourceBergen, Corona and John Stavich sold or furnished 43,800 tablets of alprazolam 2mg (3 bottles of 100 tablets and 87 bottles of 500 tablets), 29,000 tablets of oxycodone 30mg (290 bottles of 100 tablets), 95,300 tablets of hydrocodone/APAP 10mg/325 (73 bottles of 100 tablets, 32 bottles of 500 tablets and 72 bottles of 1000 tablets), and 181,920ml of promethazine with codeine syrup (379 bottles of 480mls each) to Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park Pharmacy.

25. From January 10, 2010 to October 2012, Respondents AmerisourceBergen, Valencia and Ronald Green sold or furnished to LDWPC Inc., doing business as Garfield Prescription Pharmacy the following dangerous drugs during the following time periods: (1) from February 1, 2010 to October 31, 2012, 710,919 mls of promethazine with codeine (1503 bottles of 473mls); (2) from January 11, 2010 to July 2, 2012, 135,100 tablets of alprazolam 2mg (6 bottles of 500 tablets each and 1,310 bottles of 100 tablets each); from February 17, 2010 to December 12, 2012, 119,000 tablets of hydrocodone/APAP 10mg/325mg (238 bottles of 500 tablets each); from

January 25, 2010 to August 22, 2011, 125,100 tablets of hydrocodone/APAP 10mg/500mg; and from April 7, 2010 to August 9, 2011, 60,000 tablets of carisoprodol 350mg (57 bottles of 1,000 tablets each).

26. From September 2014 to March 2015, Respondents AmerisourceBergen, Valencia and Ronald Green sold or furnished 45,500 alprazolam 2mg tablets and 122,500 hydrocodone/acetaminophen 10/325mg tablets to Century Discount Pharmacy, Inc. with disregard for the pharmacy's previous ordering pattern. Specifically, Respondents AmerisourceBergen, Valencia and Ronald Green sold the pharmacy 500 alprazolam 2mg tablets in June 2014 and sales trended upward to 13,500 tablets in January 2015. Similarly, Respondent AmerisourceBergen, Valencia and Ronald Green sold 1,000 hydrocodone/acetaminophen 10/325mg in June 2014 and sales trended upward to 31,000 tablets in February 2015.

27. Respondents implemented a Diversion Control Program and Order Monitoring Program designed to track their furnishing of controlled substances to pharmacies (hereinafter monitoring program.)

28. Although Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy had appeared on Respondent AmerisourceBergen, Corona's Compliance Manager's "over threshold report," Respondents AmerisourceBergen, Corona, William Wilson and/or John Stavich did not reject all controlled substance orders from Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy and continued to furnish controlled substances to that pharmacy. Additionally, in July 2013 through September 2013, Respondent AmerisourceBergen, Corona investigated orders and attempted purchases of controlled substances from Gee's Healthcare Pharmacy Inc., doing business as Yorba Park Pharmacy but continued to furnish controlled substances to that pharmacy.

29. Similarly, although LDWPC Inc., doing business as Garfield Prescription Pharmacy appeared on AmerisourceBergen, Valencia and Ronald Green's "over threshold report" and/or deviated from LDWPC In., doing business as Garfield Prescription Pharmacy's controlled substance order patterns, Respondents AmerisourceBergen, Valencia and Ronald Green did not reject all controlled substance orders from LDWPC Inc., doing business as Garfield Prescription

Pharmacy and continued to furnish controlled substances to that pharmacy.

30. Similarly, although Century Discount Pharmacy, Inc. appeared on AmerisourceBergen, Valencia and Ronald Green's "over threshold report" and/or deviated from Century Discount Pharmacy, Inc.'s controlled substance order patterns, Respondents AmerisourceBergen, Valencia and Ronald Green did not reject all controlled substance orders from Century Discount Pharmacy, Inc. and continued to furnish controlled substances to that pharmacy.

31. Respondents did not notify the Drug Enforcement Administration and the Board of all of Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy's and Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park Pharmacy's and LDWPC Inc., doing business as Garfield Prescription Pharmacy's and Century Discount Pharmacy, Inc.'s suspicious orders for controlled substances.

FIRST CAUSE FOR DISCIPLINE

(Failure to Comply with Corresponding Responsibility to Furnish Controlled Substances for Legitimate Medical Purpose)

32. Respondents are subject to disciplinary action under Code section 4301, subdivision (j), for violating Health and Safety Code section 11153.5, subdivision (a), in that they failed to comply with their corresponding responsibility to ensure that controlled substances were furnished for a legitimate medical purpose when Respondents furnished controlled substances to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy and Yorba Park Pharmacy and/or LDWPC Inc., doing business as Garfield Prescription Pharmacy and/or Century Discount Pharmacy, Inc., even though "red flags" were present, as set forth in paragraphs 22 through 31 above, which are incorporated herein by reference.

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SECOND CAUSE FOR DISCIPLINE

(Failure to Report Suspicious Drug Orders to Drug Enforcement Administration)

33. Respondents are subject to disciplinary action under Code section 4301, subdivision (o), for violating title 21, Code of Federal Regulations, section 1301.74, subdivision (b), in that they failed to report suspicious orders to the Drug Enforcement Administration, as set forth in paragraphs 22 through 31 above, which are incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Clearly Excessive Furnishing of Controlled Substances)

34. Respondents are subject to disciplinary action under Code section 4301, subdivision (e), for the clearly excessive furnishing of controlled substances in violation of subdivision (a) of section 11153.5 of the Health & Safety Code, as set forth in paragraphs 22 through 31 above, which are incorporated herein by reference.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

35. Respondents are subject to disciplinary action under Code section 4301 for unprofessional conduct in that they engaged in the activities described in paragraphs 22 through 31 above, which are incorporated herein by reference.

DISCIPLINARY CONSIDERATIONS

36. To determine the degree of discipline, if any, to be imposed on Respondents, Complainant alleges:

a. On January 6, 2010, the Board issued Citation number CI 2007 34718 against Respondent AmerisourceBergen, Valencia for violating Business and Professions Code section 4081 and title 16, California Code of Regulations, section 1718. The Board issued a fine which Respondent paid.

b. On February 16, 2011, the Board issued Citation number CI 2010 47346 to Respondent AmerisourceBergen, Valencia for violating Business and Professions Code section 4059.5, subdivision (a). The Board issued a fine which Respondent paid.

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c. On October 25, 2013, the Board issued Citation number CI 2012 54944 to Respondent AmerisourceBergen, Corona for violating California Code of Regulations, title 16, section 1783, subdivision (d). The Board issued a fine which Respondent paid.

PRAYER

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

1. Revoking or suspending Wholesaler Permit Number WLS 4142, issued to AmerisourceBergen Drug Co. and AmerisourceBergen Corp., doing business as AmerisourceBergen;

2. Revoking or suspending Wholesaler Permit Number WLS 4140, issued to AmerisourceBergen Drug Corporation, AmerisourceBergen Services Corporation and AmerisourceBergen Corporation, doing business as AmerisourceBergen;

3. Revoking or suspending Designated Representative License Number EXC 14703, issued to Ronald A. Green;

4. Revoking or suspending Designated Representative License Number EXC 21145, issued to William A. Wilson;

5. Revoking or suspending Designated Representative License Number EXC 17437, issued to John C. Stavich;

6. Ordering AmerisourceBergen Drug Co. and AmerisourceBergen Corp., doing business as AmerisourceBergen, AmerisourceBergen Drug Corporation, AmerisourceBergen Services Corporation and AmerisourceBergen Corporation, doing business as AmerisourceBergen, Ronald A. Green, William A. Wilson and John C. Savich 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

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

DATED: 10/31/18

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

DOJ Matter ID: SD2013706223
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Attorneys for Complainant

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **AMERISOURCEBERGEN DRUG CO. AND AMERISOURCEBERGEN CORP., DBA AMERISOURCEBERGEN** **24903 Avenue Kearny** **Valencia, CA 91355** **Wholesaler Permit No. WLS 4142** **RONALD A. GREEN** **24903 Avenue Kearney** **Valencia, CA 91355** **Designated Representative License No. EXC 14703** **AMERISOURCEBERGEN DRUG CORPORATION, AMERISOURCEBERGEN SERVICES CORPORATION AND AMERISOURCEBERGEN CORPORATION, DBA AMERISOURCEBERGEN** **1851 California Avenue** **Corona, CA 92881** **Wholesaler Permit No. WLS 4140** **William A. Wilson** **1851 California Avenue** **Corona, CA 91355** **Designated Representative License No. EXC 21145**	Case No. 4982 **FIRST AMENDED ACCUSATION**

JOHN C. STAVICH
1851 California Avenue
Corona, CA 91355

Designated Representative License No. EXC 17437

Respondents.

Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about April 4, 2003, the Board of Pharmacy issued Wholesaler Permit Number WLS 4142 to AmerisourceBergen Drug Co. and AmerisourceBergen Corp., doing business as AmerisourceBergen (Respondent AmerisourceBergen, Valencia). The Wholesaler Permit was in full force and effect at all times relevant to the charges brought herein and will expire on April 1, 2015, unless renewed.

3. On or about March 27, 2003, the Board of Pharmacy issued Wholesaler Permit Number WLS 4140 to AmerisourceBergen Drug Corporation, AmerisourceBergen Services Corporation and AmerisourceBergen Corporation, doing business as AmerisourceBergen (Respondent AmerisourceBergen, Corona). The Wholesaler Permit was in full force and effect at all times relevant to the charges brought herein and will expire on March 1, 2015, unless renewed.

4. On or about December 31, 1998, the Board of Pharmacy issued Designated Representative License Number EXC 14703 to Ronald A. Green (Respondent Ronald Green). The Designated Representative License was in full force and effect at all times relevant to the charges brought herein and will expire on December 1, 2015, unless renewed.

5. On or about March 22, 2011, the Board of Pharmacy issued Designated Representative License Number EXC 21145 to William A. Wilson (Respondent William Wilson).

The Designated Representative License was in full force and effect at all times relevant to the charges brought herein, expired on March 1, 2013 and was cancelled on July 21, 2013.

6. On or about April 27, 2004, the Board of Pharmacy issued Designated Representative License Number EXC 17437 to John C. Stavich (Respondent John Stavich). The Designated Representative License was in full force and effect at all times relevant to the charges brought herein and will expire on April 1, 2015, unless renewed.

JURISDICTION

7. This First Amended 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.

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

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

10. Section 4300.1 of the Code states:

> The expiration, cancellation, forfeiture, or suspension of a board-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.

STATUTORY AND REGULATORY PROVISIONS

11. 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:
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> . . .
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> (e) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be considered in determining whether the furnishing of controlled substances is clearly excessive shall include, but not be limited to, the amount of controlled substances furnished, the previous ordering pattern of the customer (including size and frequency

of orders), the type and size of the customer, and where and to whom the customer distributes its product.

. . .

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

. . .

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

. . .

12. Section 4053(a) of the Code states:

Notwithstanding Section 4051, the board may issue a license as a designated representative to provide sufficient and qualified supervision in a wholesaler or veterinary food-animal drug retailer. The designated representative shall protect the public health and safety in the handling, storage, and shipment of dangerous drugs and dangerous devices in the wholesaler or veterinary food-animal drug retailer.

13. Health and Safety Code section 11153.5(a) states:

(a) No wholesaler or manufacturer, or agent or employee of a wholesaler or manufacturer, shall furnish controlled substances for other than legitimate medical purpose.

(b) Anyone who violates this section knowingly, or having a conscious disregard for the fact, that the controlled substances are for other than a legitimate medical purpose shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by fine not exceeding twenty thousand dollars ($20,000), or by both that fine and imprisonment.

(c) Factors to be considered in determining whether a wholesaler or manufacturer, or agent or employee of a wholesaler or manufacturer, furnished controlled substances knowing or having a conscious disregard for the fact that the controlled substances are for other than legitimate medical purpose shall include, but not be limited to, whether the use of controlled substances was for purposes of increasing athletic ability or performance, the amount of controlled substances furnished, the previous ordering pattern of the customer (including size and frequency of orders), the type and size of the customer, and where and to whom the customer distributes the product.

14. Title 21, Code of Federal Regulations, section 1301.74(b) states:

The registrant shall design and operate a system to disclose to the registrant suspicious orders of controlled substances. The registrant shall inform the Field Division Office of the Administration in his area of suspicious orders when discovered by the registrant. Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern and orders of unusual frequency.

COST RECOVERY

15. 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.

DRUGS

16. Dilaudid is the brand name for hydromorphine, a Schedule II controlled substance pursuant to Health and Safety Code section 11054(b)(J) and a dangerous drug pursuant to Business and Professions Code section 4022.

17. Norco 10mg is the brand name for hydrocodone10mg/APAP 325mg, a Schedule III controlled substance pursuant to Health and Safety Code section 11056(e)(5) and a dangerous drug pursuant to Business and Professions Code section 4022.

18. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11054(b)(N) and a dangerous drug pursuant to Business and Professions Code section 4022.

19. Phenergan with Codeine is the brand name for promethazine with codeine, a Schedule V controlled substance pursuant to Health and Safety Code section 111058(c)(1) and is a dangerous drug pursuant to Business and Professions Code section 4022.

20. Soma is the brand name for carisoprodol, a Schedule IV controlled substance pursuant to 21 Code of Federal Regulations 1308.14(c)(6) and is a dangerous drug pursuant to Business and Professions Code section 4022.

21. Xanax is the brand name for alprazolam, a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(d)(1) and a dangerous drug pursuant to Business and Professions Code section 4022.

FACTUAL ALLEGATIONS

22. From March 20, 2003 through the present, Respondent Ronald Green has been the Designated Representative-in-Charge of Respondent AmerisourceBergen at its premises in Valencia, California. From January 19, 2011 through January 30, 2013, Respondent William

Wilson was the Designated Representative-in-Charge of Respondent AmerisourceBergen at its premises in Corona, California. From January 30, 2013 through the present, Respondent John Stavich has been the Designated Representative-in-Charge of Respondent AmerisourceBergen at its premises in Corona, California.

23. From January 1, 2012 to April 2, 2013, Respondents AmerisourceBergen, Corona, William Wilson and/or John Stavich furnished 30,000 tablets of alprazolam 2mg (60 bottles of 500 tablets), 82,900 tablets of oxycodone 30mg (829 bottles of 100 tablets), 52,000 tablets of Norco or hydrocodone/APAP 10 mg/325 (102 bottles of 500 tablets and 1 bottle of 1000 tablets) and 17,300 tablets of Dilaudid or hydromorphone 4mg (173 bottles of 100 tablets) to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy.

24. From January 31, 2013 to December 3, 2013, Respondents AmerisourceBergen, Corona and John Stavich furnished 43,800 tablets of alprazolam 2mg (3 bottles of 100 tablets and 87 bottles of 500 tablets), 29,000 tablets of oxycodone 30mg (290 bottles of 100 tablets), 95,300 tablets of hydrocodone/APAP 10mg/325 (73 bottles of 100 tablets, 32 bottles of 500 tablets and 72 bottles of 1000 tablets), and 181,920ml of promethazine with codeine syrup (379 bottles of 480mls each) to Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park Pharmacy.

25. From January 10, 2010 to October 2012, Respondents AmerisourceBergen, Valencia and Ronald Green sold or furnished to LDWPC Inc., doing business as Garfield Prescription Pharmacy the following dangerous drugs during the following time periods: (1) from February 1, 2010 to October 31, 2012, 710,919 mls of promethazine with codeine (1503 bottles of 473mls); (2) from January 11, 2010 to July 2, 2012, 135,100 tablets of alprazolam 2mg (6 bottles of 500 tablets each and 1,310 bottles of 100 tablets each); from February 17, 2010 to December 12, 2012, 119,000 tablets of hydrocodone/APAP 10mg/325mg (238 bottles of 500 tablets each); from January 25, 2010 to August 22, 2011, 125,100 tablets of hydrocodone/APAP 10mg/500mg; and from April 7, 2010 to August 9, 2011, 60,000 tablets of carisoprodol 350mg (57 bottles of 1,000 tablets each).

26. Respondents implemented a Diversion Control Program and Order Monitoring Program designed to track their furnishing of controlled substances to pharmacies (hereinafter monitoring program.)

27. Although Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy had appeared on Respondent AmerisourceBergen, Corona's Compliance Manager's "over threshold report," Respondents AmerisourceBergen, Corona, William Wilson and/or John Stavich did not reject all controlled substance orders from Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy and continued to furnish controlled substances to that pharmacy. Additionally, in July 2013 through September 2013, Respondent AmerisourceBergen, Corona investigated orders and attempted purchases of controlled substances from Gee's Healthcare Pharmacy Inc., doing business as Yorba Park Pharmacy but continued to furnish controlled substances to that pharmacy.

28. Similarly, although LDWPC Inc., doing business as Garfield Prescription Pharmacy appeared on AmerisourceBergen, Valencia and Ronald Green's "over threshold report" and/or deviated from LDWPC In., doing business as Garfield Prescription Pharmacy's controlled substance order patterns, Respondents AmerisourceBergen, Valencia and Ronald Green did not reject all controlled substance orders from LDWPC Inc., doing business as Garfield Prescription Pharmacy

29. Respondents did not notify the Drug Enforcement Administration and the Board of all of Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy's and Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park Pharmacy's and LDWPC Inc., doing business as Garfield Prescription Pharmacy's suspicious orders for controlled substances.

FIRST CAUSE FOR DISCIPLINE

(Failure to Comply with Corresponding Responsibility to Furnish Controlled Substances for Legitimate Medical Purpose)

30. Respondents are subject to disciplinary action under Code section 4301(j), for violating Health and Safety Code section 11153.5(a), in that they failed to comply with their corresponding responsibility to ensure that controlled substances were furnished for a legitimate

medical purpose when Respondents furnished controlled substances to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy and Yorba Park Pharmacy and/or LDWPC Inc., doing business as Garfield Prescription Pharmacy even though "red flags" were present, as set forth in paragraphs 22 through 29 above, which are incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

(Failure to Report Suspicious Drug Orders to Drug Enforcement Administration)

31. Respondents are subject to disciplinary action under Code section 4301(o), for violating title 21, Code of Federal Regulations, section 1301.74(b), in that they failed to report suspicious orders to the Drug Enforcement Administration, as set forth in paragraphs 22 through 29 above, which are incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Clearly Excessive Furnishing of Controlled Substances)

32. Respondents are subject to disciplinary action under Code section 4301(e), for the clearly excessive furnishing of controlled substances in violation of subdivision (a) of section 11153.5 of the Health & Safety Code, as set forth in paragraphs 22 through 29 above, which are incorporated herein by reference.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

33. Respondents are subject to disciplinary action under Code section 4301 for unprofessional conduct in that they engaged in the activities described in paragraphs 22 through 99 above, which are incorporated herein by reference.

DISCIPLINARY CONSIDERATIONS

34. To determine the degree of discipline, if any, to be imposed on Respondents, Complainant alleges:

a. On January 6, 2010, the Board issued Citation number CI 2007 34718 against Respondent AmerisourceBergen, Valencia for violating Business and Professions Code section

4081 and title 16, California Code of Regulations, section 1718. The Board issued a fine which Respondent paid.

b. On February 16, 2011, the Board issued Citation number CI 2010 47346 to Respondent AmerisourceBergen, Valencia for violating Business and Professions Code section 4059.5(a). The Board issued a fine which Respondent paid.

c. On October 25, 2013, the Board issued Citation number CI 2012 54944 to Respondent AmerisourceBergen, Corona for violating California Code of Regulations, title 16, section 1783(d). The Board issued a fine which Respondent paid.

PRAYER

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

1. Revoking or suspending Wholesaler Permit Number WLS 4142, issued to AmerisourceBergen Drug Co. and AmerisourceBergen Corp., doing business as AmerisourceBergen;

2. Revoking or suspending Wholesaler Permit Number WLS 4140, issued to AmerisourceBergen Drug Corporation, AmerisourceBergen Services Corporation and AmerisourceBergen Corporation, doing business as AmerisourceBergen;

3. Revoking or suspending Designated Representative License Number EXC 14703, issued to Ronald A. Green;

4. Revoking or suspending Designated Representative License Number EXC 21145, issued to William A. Wilson;

5. Revoking or suspending Designated Representative License Number EXC 17437, issued to John C. Stavich;

6. Ordering AmerisourceBergen Drug Co. and AmerisourceBergen Corp., doing business as AmerisourceBergen, AmerisourceBergen Drug Corporation, AmerisourceBergen Services Corporation and AmerisourceBergen Corporation, doing business as AmerisourceBergen, Ronald A. Green, William A. Wilson and John C. Savich 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;

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

DATED: 3/24/15

Virginia Herold

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

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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against: **AMERISOURCEBERGEN DRUG CO. AND AMERISOURCEBERGEN CORP., DBA AMERISOURCEBERGEN** **24903 Avenue Kearny** **Valencia, CA 91355** **Wholesaler Permit No. WLS 4142** **RONALD A. GREEN** **24903 Avenue Kearney** **Valencia, CA 91355** **Designated Representative License No. EXC 14703** Respondents.	Case No. 4982 **ACCUSATION**

Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about April 4, 2003, the Board of Pharmacy issued Wholesaler Permit Number WLS 4142 to AmerisourceBergen Drug Co. and AmerisourceBergen Corp., doing business as

AmerisourceBergen (Respondent AmerisourceBergen). The Wholesaler Permit was in full force and effect at all times relevant to the charges brought herein and will expire on April 1, 2015, unless renewed.

3. On or about December 31, 1998, the Board of Pharmacy issued Designated Representative License Number EXC 14703 to Ronald A. Green (Respondent Ronald Green). The Designated Representative License was in full force and effect at all times relevant to the charges brought herein and will expire on December 1, 2014, unless renewed.

JURISDICTION

4. 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.

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

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

7. Section 4300.1 of the Code states:

> The expiration, cancellation, forfeiture, or suspension of a board-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.

STATUTORY AND REGULATORY PROVISIONS

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

...

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

...

9. Section 4053(a) of the Code states:

Notwithstanding Section 4051, the board may issue a license as a designated representative to provide sufficient and qualified supervision in a wholesaler or veterinary food-animal drug retailer. The designated representative shall protect the public health and safety in the handling, storage, and shipment of dangerous drugs and dangerous devices in the wholesaler or veterinary food-animal drug retailer.

10. Health and Safety Code section 11153.5(a) states:

(a) No wholesaler or manufacturer, or agent or employee of a wholesaler or manufacturer, shall furnish controlled substances for other than legitimate medical purpose.

(b) Anyone who violates this section knowingly, or having a conscious disregard for the fact, that the controlled substances are for other than a legitimate medical purpose shall be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding one year, or by fine not exceeding twenty thousand dollars ($20,000), or by both that fine and imprisonment.

(c) Factors to be considered in determining whether a wholesaler or manufacturer, or agent or employee of a wholesaler or manufacturer, furnished controlled substances knowing or having a conscious disregard for the fact that the controlled substances are for other than legitimate medical purpose shall include, but not be limited to, whether the use of controlled substances was for purposes of increasing athletic ability or performance, the amount of controlled substances furnished, the previous ordering pattern of the customer (including size and frequency of orders), the type and size of the customer, and where and to whom the customer distributes the product.

11. Title 21, Code of Federal Regulations, section 1301.74(b) states:

The registrant shall design and operate a system to disclose to the registrant suspicious orders of controlled substances. The registrant shall inform the Field Division Office of the Administration in his area of suspicious orders when discovered by the registrant. Suspicious orders include orders of unusual size, orders deviating substantially from a normal pattern and orders of unusual frequency.

COST RECOVERY

12. 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.

DRUGS

13. Dilaudid is the brand name for hydromorphine, a Schedule II controlled substance pursuant to Health and Safety Code section 11054(b)(J) and a dangerous drug pursuant to Business and Professions Code section 4022.

14. Norco is the brand name for hydrocodone/APAP, a Schedule III controlled substance pursuant to Health and Safety Code section 11056(e)(5) and a dangerous drug pursuant to Business and Professions Code section 4022.

15. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11054(b)(N) and a dangerous drug pursuant to Business and Professions Code section 4022.

16. Xanax is the brand name for alprazolam, a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(d)(1) and a dangerous drug pursuant to Business and Professions Code section 4022.

FACTUAL ALLEGATIONS

17. From March 20, 2003 through the present, Respondent Ronald Green has been the designated Representative-in-Charge of Respondent AmerisourceBergen at its premises in Valencia, California.

18. From January 1, 2012 to April 2, 2013, Respondents furnished 30,000 tablets of alprazolam 2mg (60 bottles of 500 tablets), 82,900 tablets of oxycodone 30mg (829 bottles of 100 tablets), 52,000 tablets of Norco or hydrocodone/APAP 10 mg/325 (102 bottles of 500 tablets and 1 bottle of 1000 tablets) and 17,300 tablets of Dilaudid or hydromorphone 4mg (173 bottles of 100 tablets) to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy.

19. Respondents implemented an Order Monitoring Program designed to track their furnishing of controlled substances to pharmacies. Although Gee's Healthcare Pharmacy Inc., doing business as Cabrillo Park Pharmacy had appeared on Respondent AmerisourceBergen's

Compliance Manager's "over threshold report" several times, Respondents did not reject controlled substance orders from Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy. Moreover, Respondents did not notify the Drug Enforcement Administration and the Board of Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy's suspicious orders for controlled substances.

FIRST CAUSE FOR DISCIPLINE

(Failure to Comply with Corresponding Responsibility to Furnish Controlled Substances for Legitimate Medical Purpose)

20. Respondents are subject to disciplinary action under Code section 4301(j), for violating Health and Safety Code section 11153.5(a), in that they failed to comply with their corresponding responsibility to ensure that controlled substances were furnished for a legitimate medical purpose when Respondents furnished controlled substances to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy even though "red flags" were present, as set forth in paragraphs 17 through 19 above, which are incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

(Failure to Report Suspicious Drug Orders to Drug Enforcement Administration)

21. Respondents are subject to disciplinary action under Code section 4301(o), for violating title 21, Code of Federal Regulations, section 1301.74(b), in that they failed to report suspicious orders to the Drug Enforcement Administration, as set forth in paragraphs 17 through 19 above, which are incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

22. Respondents are subject to disciplinary action under Code section 4301 for unprofessional conduct in that they engaged in the activities described in paragraphs 17 through 19 above, which are incorporated herein by reference.

DISCIPLINARY CONSIDERATIONS

23. To determine the degree of discipline, if any, to be imposed on Respondents, Complainant alleges:

a. On January 6, 2010, the Board issued Citation number CI 2007 34718 against Respondent AmerisourceBergen for violating Business and Professions Code section 4081 and title 16, California Code of Regulations, section 1718.

b. On February 16, 2011, the Board issued Citation number CI 2010 47346 to Respondent AmerisourceBergen for violating Business and Professions Code section 4059.5(a). The Board issued a fine which Respondent paid.

PRAYER

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

1. Revoking or suspending Wholesaler Permit Number WLS 4142, issued to AmerisourceBergen Drug Co. and AmerisourceBergen Corp., doing business as AmerisourceBergen;

2. Revoking or suspending Designated Representative License Number EXC 14703, issued to Ronald A. Green;

3. Ordering AmerisourceBergen Drug Co. and AmerisourceBergen Corp., doing business as AmerisourceBergen and Ronald A. Green 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;

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

DATED: 10/4/14

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

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