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

10 In the Matter of the Accusation Against:

Case No. 5043

11 **PHILIP VERNER OHLSON**  
12 **Sutter Delta Medical Center**  
13 **3901 Lone Tree Way**  
**Antioch, CA 94509**

**A C C U S A T I O N**

14 **Pharmacist License No. RPH 41078**

15 Respondent.

16  
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 17, 1987, the Board of Pharmacy issued Pharmacist License  
22 Number RPH 41078 to Philip Verner Ohlson (Respondent). The Pharmacist License was in full  
23 force and effect at all times relevant to the charges brought herein and will expire on November  
24 30, 2014, 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.

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4. Section 4300 of the Code states:

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

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

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

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

"(4) Revoking his or her license.

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

..."

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

5. Section 4300.1 of the Code states:

"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."

6. Section 4301 of the Code states:

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

...

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

...

"(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.

..."

7. Section 4022 of the Code states

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

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

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

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

8. Section 4060 of the Code states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified

1 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
2 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
3 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
4 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not  
5 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
6 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
7 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
8 labeled with the name and address of the supplier or producer.

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

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

16 10. Health and Safety Code section 11170 states: "No person shall prescribe, administer,  
17 or furnish a controlled substance for himself."

#### 18 DRUGS INVOLVED

19 11. Hydrocodone/Acetaminophen (Brand name: Norco) is a controlled substance pursuant  
20 to Health and Safety Code section 11056(e)(4) and a dangerous drug pursuant to Business and  
21 Professions Code section 4022.

22 12. Lorazapan (Brand name Ativan) is a controlled substance pursuant to Health and  
23 Safety Code section 11057(d)(16) and a dangerous drug pursuant to Business and Professions  
24 Code section 4022.

#### 25 FIRST CAUSE FOR DISCIPLINE

#### 26 (Dangerous Use of Drugs)

27 13. Respondent is subject to disciplinary action under section 4301 subsection (h) of the  
28 code in that Respondent self administered controlled substances and used dangerous drugs and

1 alcohol in a manner dangerous to himself and/or other. Respondent is an alcoholic. Between  
2 approximately 2000 and about April 2013 drank alcohol in a manner that was dangerous to  
3 himself or others. Respondent's drinking eventually led him to divert controlled substances,  
4 including but not limited to Lorazepam and Hydrocodone/Acetaminophen from his employer,  
5 Sutter Delta Medical Center. Respondent diverted the controlled substances between  
6 approximately April 2012 and April 2013. Respondent diverted the controlled substances by  
7 entering false information into the Pyxis medication dispensing device. Respondent used the  
8 controlled substances he diverted without a prescription.

9 SECOND CAUSE FOR DISCIPLINE

10 (Violation of Drug Laws)

11 14. Respondent is subject to disciplinary action under section 4301 subsection (j) of the  
12 code in that Respondent violated the drug laws of California. Respondent violated code section  
13 4060 and Health and Safety Code section 11170 by possessing and self administering controlled  
14 substances without a prescription. The circumstances described in paragraph 12, above.

15 THIRD CAUSE FOR DISCIPLINE

16 (Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

17 15. Respondent is subject to disciplinary action under section 4301 subsection (f) in that  
18 respondent committed acts involving moral turpitude, dishonesty, fraud and/or deceit. The  
19 circumstances are described in paragraph 12, above.

20 PRAYER

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

23 1. Revoking or suspending Pharmacist License Number RPH 41078, issued to Philip  
24 Verner Ohlson;

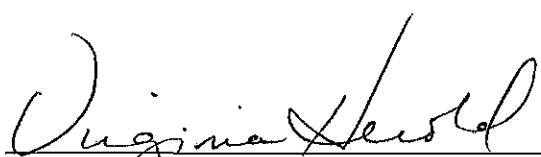
25 2. Ordering Philip Verner Ohlson to pay the Board of Pharmacy the reasonable costs of  
26 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
27 125.3;

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

DATED: 4/5/14



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

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