

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Attorney General
3 CRISTINA FELIX
Deputy Attorney General
4 State Bar No. 195663
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Sacramento, CA 94244-2550
6 Telephone: (213) 269-6321
Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 5891

FIRST AMENDED ACCUSATION

13 **MEDHAT HELMY BAKR**

14 11993 Shosone Ave.
Granada Hills, CA 91344

15 Pharmacist License No. RPH 43645

16 Respondent.

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18 Complainant alleges:

19
20 **PARTIES**

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

24 2. On or about August 1, 1990, the Board of Pharmacy issued Pharmacist License
25 Number RPH 43645 to Medhat Helmy Bakr (Respondent). The Pharmacist License was in full
26 force and effect at all times relevant to the charges brought herein and will expire on July 31,
27 2020, unless renewed.

28 ///

JURISDICTION

1
2 3. This First Amended Accusation is brought before the Board of Pharmacy (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code unless otherwise indicated.

5 4. Section 4300 of the Code provides in pertinent part, that every license issued by the
6 Boards is subject to discipline, including suspension or revocation.

7 5. Section 4300.1 of the Code provides:

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

13 6. Section 4301 of the Code states in pertinent part:

14 "The board shall take action against any holder of a license who is guilty of unprofessional
15 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is
16 not limited to, any of the following:

17 . . .

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

21 (g) Knowingly making or signing any certificate or other document that falsely
22 represents the existence or nonexistence of a state of facts.

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

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

1 7. Section 4022 of the Code states:

2 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self-use in
3 humans or animals, and includes the following:

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

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

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

11 8. Section 4059 of the Code states, in pertinent part,

12 (a) A person may not furnish any dangerous drug except upon the prescription of a
13 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
14 3640.7. A person may not furnish any dangerous device, except upon the prescription of a
15 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
16 3640.7.

17 ...”

18 9. Section 4060 of the Code states:

19 “A person shall not possess any controlled substance, except that furnished to a person
20 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
21 doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
22 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a
23 physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5,
24 or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the
25 possession of any controlled substance by a manufacturer, wholesaler, third-party logistics
26 provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
27 naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock
28 in containers correctly labeled with the name and address of the supplier or producer.

1 This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician
2 assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.”

3 10. Section 4324 of the Code states:

4 “(a) Every person who signs the name of another, or of a fictitious person, or falsely
5 makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription
6 for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment
7 in the state prison, or by imprisonment in the county jail for not more than one year.

8 (b) Every person who has in his or her possession any drugs secured by a forged
9 prescription shall be punished by imprisonment in the state prison, or by imprisonment in the
10 county jail for not more than one year.”

11 **REGULATORY PROVISIONS**

12 11. California Code of Regulations, title 16, section 1716 states:

13 “Pharmacists shall not deviate from the requirements of a prescription except upon the prior
14 consent of the prescriber or to select the drug product in accordance with Section 4073 of the
15 Business and Professions Code . . .”

16 12. California Code of Regulations, title 16, section 1761 states:

17 “(a) No pharmacist shall compound or dispense any prescription which contains any
18 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any
19 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
20 validate the prescription.”

21 **COST RECOVERY**

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

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DRUGS

14. "Norco," a brand of hydrocodone bitartrate and acetaminophen, is a Schedule III controlled substance as designated by Health and Safety Code section 11056 (e)(4).

15. "Ultram," a trade name for tramadol hydrochloride, is a dangerous drug within the meaning of Business and Professions Code section 4022, in that it requires a prescription under federal law.

16. "Motrin 800 m,g" a trade name for ibuprofen, is a dangerous drug within the meaning of Business and Professions Code section 4022, in that it requires a prescription under federal law.

17. "Warfarin," is an anticoagulant used to prevent heart attacks, strokes, and blood clots.

FACTS- NORCO PRESCRIPTIONS

18. On or about June 6, 2013, Respondent contacted Physician Assistant R.'s¹ office to obtain a refill of prescription number RX 1096113 issued to Respondent's son for Norco. Physician Assistant R. would not authorize the refill and instead instructed his staff to provide a prescription for Motrin. Rather than fill the prescription for Motrin, Respondent altered prescription number RX 1096113 to add refills, increase the amount of tablets from 40 to 60, and generated prescription number RX 1098609 without authorization. Respondent then proceeded to refill Norco for his son on two separate occasions pursuant to the altered prescription.

19. On June 5, 2013, Respondent filled prescription number RX 1098436 for Tramadol in the amount of 100 tablets despite the fact that the prescription only allowed 50 tablets to be dispensed.

20. On June 6, 2013, Respondent filled prescription number RX 1098611 in the amount of 120 tablets of ibuprofen 800 mg despite the fact that the prescription only allowed 40 tablets to be dispensed.

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¹ Initials are used for purposes of privacy. The name will be provided upon receipt of a Request for Discovery.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Forged Prescriptions)**

3 21. Respondent is subject to disciplinary action under sections 4324 and 4301
4 subdivisions (f), (g), and (j), in that between June 5 to June 17, 2013, he altered four prescriptions
5 which he proceeded to fill as more specifically set forth above in paragraphs 18 through 20.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Furnishing Controlled Substances and**

8 **Dangerous Drugs Without a Valid Prescription)**

9 22. Respondent is subject to disciplinary action under section 4059, in that he furnished a
10 controlled substance, Norco, and other dangerous drugs without valid prescriptions, as more
11 specifically set forth above in paragraphs 18 through 20.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Illegally Obtained or Possessed Controlled Substances and Dangerous Drugs)**

14 23. Respondent is subject to disciplinary action under section 4060, in that he obtained
15 and/or possessed a controlled substance, Norco, without valid prescriptions, as more specifically
16 set forth above in paragraphs 18 through 20.

17 **FACTS - WARFARIN PRESCRIPTION**

18 24. On March 24, 2015, while working at CVS Pharmacy located at Porter Ranch,
19 Respondent dispensed an erroneous and uncertain prescription for Warfarin 5 mg. Patient RC's
20 prescriber had prescribed RC warfarin with erroneous directions to take 1/12 tablet every other
21 day alternating with 1 tablet every other day, instead of 1 ½ tablets every other day alternating
22 with 1 tablet every other day. Respondent dispensed the medication with directions to take ½ a
23 tablet by mouth every other day, alternating with 1 tablet every other day.

24 25. Respondent did not call the prescriber to verify the directions of the prescription prior
25 to filling the prescription.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Filling of Erroneous or Uncertain Prescriptions)**

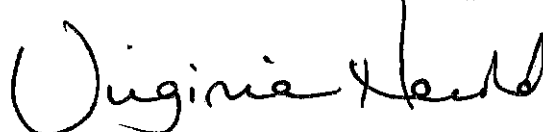
3 26. Respondent is subject to disciplinary action under section under sections 4300 and
4 4301, subdivision (o), for unprofessional conduct, for violating California Code of Regulations,
5 title 16, sections 1716 and 1761, subdivision (a), in that Respondent deviated from the
6 requirements of a prescription, filled and dispensed a prescription which was uncertain and
7 ambiguous and/or had erroneous directions, and failed to contact the prescriber for clarification
8 prior to filling the prescription, as more specifically set forth above in paragraphs 24 and 25.

9 **PRAYER**

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

- 12 1. Revoking or suspending Pharmacist License Number RPH 43645, issued to Medhat
- 13 Helmy Bakr;
- 14 2. Ordering Medhat Helmy Bakr to pay the Board of Pharmacy the reasonable costs of
- 15 the investigation and enforcement of this case, pursuant to section 125.3; and,
- 16 3. Taking such other and further action as deemed necessary and proper.

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18 DATED: 8/27/18



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

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22 LA2016601667
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1 XAVIER BECERRA
Attorney General of California
2 LINDA K. SCHNEIDER
Senior Assistant Attorney General
3 THOMAS RINALDI
Supervising Deputy Attorney General
4 State Bar No. 206911
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Sacramento, CA 94244-2550
6 Telephone: (213) 897-2541
Facsimile: (213) 897-2804
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10 **BOARD OF PHARMACY**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

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14 **MEDHAT HELMY BAKR**
11993 Shosone Ave.
Granada Hills, CA 91344

ACCUSATION

15 Pharmacist License No. RPH 43645

16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 1, 1990, the Board of Pharmacy issued Pharmacist License
23 Number RPH 43645 to Medhat Helmy Bakr (Respondent). The Pharmacist License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on July 31,
25 2018, unless renewed.

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1 JURISDICTION

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7 5. Section 4300.1 of the Code provides:

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

13 6. Section 4301 of the Code states in pertinent part:

14 "The board shall take action against any holder of a license who is guilty of unprofessional
15 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is
16 not limited to, any of the following:

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

20 "(g) Knowingly making or signing any certificate or other document that falsely represents
21 the existence or nonexistence of a state of facts.

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

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.

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1 7. Section 4022 of the Code states:

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

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

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

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

11 8. Section 4059 of the Code states, in pertinent part; that a person may not furnish any
12 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
13 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
14 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,
15 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

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

19 9. Section 4060 of the Code states:

20 "A person shall not 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 nurse-
23 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician
24 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
25 pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the
26 possession of any controlled substance by a manufacturer, wholesaler, third-party logistics
27 provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian,
28

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

3 This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician
4 assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.”

5 10. Section 4324 of the Code states:

6 "(a) Every person who signs the name of another, or of a fictitious person, or falsely
7 makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for
8 any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in
9 the state prison, or by imprisonment in the county jail for not more than one year.

10 "(b) Every person who has in his or her possession any drugs secured by a forged
11 prescription shall be punished by imprisonment in the state prison, or by imprisonment in the
12 county jail for not more than one year."

13 COST RECOVERY

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

18 DRUGS

19 12. "Norco", a brand of hydrocodone bitartrate and acetaminophen, is a Schedule III
20 controlled substance as designated by Health and Safety Code section 11056 (e)(4).

21 13. "Ultram", a trade name for tramadol hydrochloride, is a dangerous drug within the
22 meaning of Business and Professions Code section 4022, in that it requires a prescription under
23 federal law.

24 14. "Motrin 800 mg", a trade name for ibuprofen, is a dangerous drug within the meaning
25 of Business and Professions Code section 4022, in that it requires a prescription under federal
26 law.

27 ///

28 ///

1 **FACTUAL BACKGROUND**

2 15. On or about June 6, 2013, Respondent contacted Physician Assistant R.'s¹ office to
3 obtain a refill of prescription number RX 1096113 issued to Respondent's son for Norco.
4 Physician Assistant R. would not authorize the refill and instead instructed his staff to provide a
5 prescription for Motrin. Rather than fill the prescription for Motrin, Respondent altered
6 prescription number RX 1096113 to add refills, increase the amount of tablets from 40 to 60, and
7 generated prescription number RX 1098609 without authorization. Respondent then proceeded to
8 refill Norco for his son on two separate occasions pursuant to the altered prescription.

9 16. On June 5, 2013, Respondent filled prescription number RX 1098436 for Tramadol in
10 the amount of 100 tablets despite the fact that the prescription only allowed 50 tablets to be
11 dispensed.

12 17. On June 6, 2013, Respondent filled prescription number RX 1098611 in the amount
13 of 120 tablets of ibuprofen 800 mg despite the fact that the prescription only allowed 40 tablets to
14 be dispensed.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(Forged Prescriptions)**

17 18. Respondent is subject to disciplinary action under sections 4324 and 4301
18 subdivisions (f), (g), and (j), in that between June 5 to June 17, 2013, he altered four prescriptions
19 which he proceeded to fill as more specifically set forth above in paragraph 15.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Furnishing Controlled Substances and
22 Dangerous Drugs Without a Valid Prescription)**

23 19. Respondent is subject to disciplinary action under section 4059, in that he furnished a
24 controlled substance, Norco, and other dangerous drugs without valid prescriptions, as more
25 specifically set forth above in paragraphs 15 through 17.

26
27 ¹ Initials are used for purposes of privacy. The name will be provided upon receipt of a
28 Request for Discovery.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Illegally Obtained or Possessed Controlled Substances and Dangerous Drugs)**

3 20. Respondent is subject to disciplinary action under section 4060, in that he obtained
4 and/or possessed a controlled substance, Norco, without valid prescriptions, as more specifically
5 set forth above in paragraphs 15 through 17.

6 **PRAYER**

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

- 9 1. Revoking or suspending Pharmacist License Number RPH 43645, issued to Medhat
10 Helmy Bakr;
- 11 2. Ordering Medhat Helmy Bakr to pay the Board of Pharmacy the reasonable costs of
12 the investigation and enforcement of this case, pursuant to section 125.3; and,
- 13 3. Taking such other and further action as deemed necessary and proper.

14
15 DATED: _____

7/21/17

Virginia Herold

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

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