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

12 In the Matter of the Accusation Against:

Case No. 2583

13 JULIA DIANNE KONRAD-PIALA
737 W. Haverford Road
14 Ramona, CA 92065

OAH No.

15 Pharmacist License No. RPH 30458

**DEFAULT DECISION
AND ORDER**

16 Respondent.

[Gov. Code, §11520]

17
18 FINDINGS OF FACT

19 1. On or about November 1, 2002, Complainant Patricia F. Harris, in her
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
21 Affairs, filed Accusation No. 2583 against Julia Dianne Konrad-Piala (Respondent) before the
22 Board of Pharmacy.

23 2. On or about August 9, 1976, the Board of Pharmacy (Board) issued
24 Pharmacist License No. RPH 30458 to Respondent. The Pharmacist License was in full force
25 and effect at all times relevant to the charges brought herein and will expire on December 31,
26 2002, unless renewed.

27 3. On or about November 6, 2002, Kim Cooney, an employee of the
28 Department of Justice, served by Certified Mail a copy of the Accusation No. 2583, Statement to

1 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
2 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 737
3 W. Haverford Road, Ramona, CA 92065. The occupant of this address notified the Board that
4 Respondent Pila no longer resides at that address and provided a new address for respondent.
5 The accusation and all related documents were served on respondent at: 9956 Khaki Court, Unit
6 #4624, San Diego, CA 92129, via certified mail. Respondent signed the certified mail tag
7 indicating she received these documents on November 6, 2002. A copy of the Accusation, the
8 related documents, and Declaration of Service are attached as exhibit A, and are incorporated
9 herein by reference.

10 4. Service of the Accusation was effective as a matter of law under the
11 provisions of Government Code section 11505, subdivision (c).

12 5. Government Code section 11506 states, in pertinent part:

13 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts of the
15 accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of
16 respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

17 6. Respondent failed to file a Notice of Defense within 15 days after service
18 upon her of the Accusation, and therefore waived her right to a hearing on the merits of
19 Accusation No. 2583.

20 7. California Government Code section 11520 states, in pertinent part:

21 "(a) If the respondent either fails to file a notice of defense or to appear at the
22 hearing, the agency may take action based upon the respondent's express admissions or
23 upon other evidence and affidavits may be used as evidence without any notice to
24 respondent."

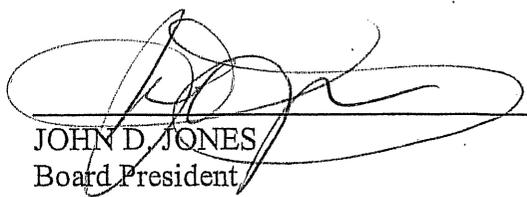
25 8. Pursuant to its authority under Government Code section 11520, the Board
26 finds Respondent is in default. The Board will take action without further hearing and, based on
27 Respondent's express admissions by way of default and the evidence before it, contained in
28 exhibit A finds that the allegations in Accusation No. 2583 are true.

1 within seven (7) days after service of the Decision on Respondent. The agency in its discretion
2 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the
3 statute.

4 This Decision shall become effective on February 26, 2003.

5 It is so ORDERED January 27, 2003

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8 BOARD OF PHARMACY
9 DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 By 
12 JOHN D. JONES
13 Board President

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10 **DEPARTMENT OF CONSUMER AFFAIRS**
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12 In the Matter of the Accusation Against:

Case No. 2583

13 JULIA DIANNE KONRAD-PIALA
737 W. Haverford Road
14 Ramona, CA 92065

A C C U S A T I O N

15 Pharmacist License No. RPH 30458

16 Respondent.
17

18 Complainant alleges:

19 PARTIES

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

23 2. On or about August 9, 1976, the Board of Pharmacy issued Pharmacist
24 License Number RPH 30458 to Julia Dianne Konrad-Piala (Respondent). The Pharmacist
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on December 31, 2002, unless renewed.

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JURISDICTION

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2 3. This Accusation is brought before the Board of Pharmacy (Board), under
3 the authority of the following sections of the Business and Professions Code (Code).

4 4. Section 4301 of the Code states:

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

9 ...

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

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

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

20 ...

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

23 ...

24 5. Section 4323 of the Code states:

25 Every person who, in order to obtain any drug, falsely represents himself
26 or herself to be a physician or other person who can lawfully prescribe the drug, or falsely
27 represents that, he or she is acting on behalf of a person who can lawfully prescribe the
28 drug, in a telephone or electronic communication with a pharmacist, shall be punished by
imprisonment in the county jail for not more than one year.

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6. Section 4324 of the Code states:

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

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

7. This accusation is also brought pursuant to the following code sections of the Health and Safety Code:

A. Code section 11157 states:

No person shall issue a prescription that is false or fictitious in any respect.

B. Code section 11173 states:

(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances,

(1) by fraud, deceit, misrepresentation, or subterfuge; or

(2) by the concealment of a material fact.

(b) No person shall make a false statement in any prescription, order, report, or record, required by this division.

(c) No person shall, for the purpose of obtaining controlled substances, falsely assume the title of, or represent himself to be, a manufacturer, wholesaler, pharmacist, physician, dentist, veterinarian, registered nurse, physician's assistant, or other authorized person.

(d) No person shall affix any false or forged label to a package or receptacle containing controlled substances.

C. Code section 11174 states:

No person shall, in connection with the prescribing, furnishing, administering, or dispensing of a controlled substance, give a false name or false address.

D. 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.

1 C. On or about April 19, 1995, respondent arrived at the pharmacy to pick
2 up the Lorcet prescription that she had illegally called in using patient B.E.'s name. The
3 prescription was no longer there as it had been picked up by patient B.E. Patient B.E. had
4 coincidentally gone to the same pharmacy to pick up a prescription written for her by her
5 treating physician. In the process, patient B.E. picked up both prescriptions.

6 D. On or about October 31, 1996, respondent spoke with the Medical
7 Board's Enforcement Division and admitted she had written unlawful prescriptions or
8 telephoned unlawful prescriptions to various pharmacies for Lorcet and Tylenol #3 for
9 friends and patients.

10 E. Sometime between January and March of 1997, respondent entered the
11 Medical Board's Diversion Program.

12 F. On or about June 2, 1999, respondent was terminated from the Medical
13 Board's Diversion Program for reasons other than successful completion of the program.

14 G. On or about July 7, 1999, respondent presented a prescription for 30
15 Norco tablets, with the signature C.A., M.D. as the prescribing physician, to a Rite-Aid
16 Pharmacy, located in Tigard, Oregon. The prescription bore the name of the VIP Family
17 Care facility in Lancaster, California. Dr. A. was, at that time, a VIP Family Care
18 physician. The handwriting appearing on the prescription was not Dr. A.'s. Respondent
19 was not a patient of Dr. A., was not a person for whom Dr. A. had written a prescription
20 for Norco or any other medication, and was not a person on whom Dr. A. had conducted
21 a physical examination.¹ The prescription was filled by the Rite-Aid pharmacist and
22 given to respondent.

23 H. On or about August 24, 1999, respondent took the July 7, 1999
24 prescription to be refilled at a Rite-Aid Pharmacy, located at 131 W. Main Street,
25 Ventura, California. The prescription was refilled and given to respondent.

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28 1. Dr. A is a pediatrician.

1 I. On or about July 3, August 3, August 13, and August 27, 1999,
2 respondent, or someone acting at respondent's direction, telephoned another Ventura,
3 California area Rite Aid Pharmacy. On each occasion, a prescription for Norco, a
4 Schedule III controlled substance similar to Vicodin, in the name of respondent's
5 husband, R.P. was ordered and filled.

6 J. On or about each occasion described in paragraph I above, respondent
7 or the person acting at respondent's direction represented herself as an employee of VIP
8 Family Care, located in Lancaster, California, and that the prescriptions were written by
9 D.C., M.D., then a VIP Family Care physician.

10 K. Respondent formerly worked as a physician at VIP Family Care, knew
11 both Drs. A and C, and was familiar with the manner in which prescriptions were
12 telephoned to pharmacies.

13 L. On or about each occasion described in subparagraph I, above, R.P.
14 was not a patient of Dr. C., was not a person for whom Dr. C. had written a prescription
15 for Norco or any other medication, and was not a person on whom Dr. C. had conducted a
16 physical examination.

17 M. On or about December 29, 1999, respondent, or someone acting at
18 respondent's direction, again telephoned the Ventura, California area Rite Aid Pharmacy
19 and, as before, ordered a Norco prescription for respondent's husband, R.P., using Dr.
20 C.'s name as the prescribing physician. E.S., a Rite Aid employee, took the telephone
21 order. Needing additional information relating to the prescription, E.S. telephoned VIP
22 Family Care to speak with Dr. C. At that time, E.S. was informed that R.P. was not one
23 of Dr. C.'s patients and that Dr. C. had not prescribed Norco or any other medication to
24 R.P. on this or any other occasion.

25 N. On or about that same day, respondent attempted, personally, to pick
26 up the Norco prescription at the Rite-Aid Pharmacy. E.S. told respondent that she, E.S.
27 had telephoned VIP Family Care to verify the prescription and was told that neither VIP
28 nor Dr. C had called in or authorized any prescriptions for R.P. Upset, respondent told

1 E.S. that VIP "obviously had made a mistake" and that Dr. C. "must have gotten too busy
2 because he didn't know what he was talking about." Respondent then left the pharmacy.

3 O. On or about June 16, June 24, and July 13, 1999, respondent wrote
4 prescriptions for Norco, 30 tablets, for B.G. At the time, B.G. was neither respondent's
5 patient nor a person on whom respondent had conducted a physical examination.
6 Respondent, who then was working as a pharmacist at the Rite-Aid Pharmacy, located in
7 Ojai, California, personally filled the prescriptions at the Rite-Aid pharmacy where she
8 worked. B.G. never received the prescriptions and was not aware of their existence until
9 she observed an empty Norco prescription bottle, bearing her name, at respondent's
10 home.²

11 P. On October 5, 1999, an accusation was filed against respondent by the
12 Medical Board alleging that respondent violated Business and Professions Code section
13 2354 in that she entered into the Medical Board's Diversion Program at a time when there
14 was a pending investigation concerning her misappropriation of controlled substances and
15 that thereafter she failed to complete the Diversion Program.

16 Q. In July of 2000, respondent entered into an Agreement In Lieu of
17 Discipline wherein she admitted the charges set forth in the Medical Board's accusation
18 and agreed that she had subjected her Physician and Surgeon's Certificate to disciplinary
19 action. She further agreed that in lieu of an actual disciplinary order she would
20 participate in and successfully complete the Division's Diversion Program for impaired
21 physicians.

22 R. On August 17, 2000, the Agreement in Lieu of Discipline was adopted
23 by the Medical Board.

24 S. In July of 2001, respondent was terminated from the Medical Board's
25 Diversion Program for failing to complete the program for the second time.

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28 2. At the time, respondent and B.G.'s father were living together with B.G.

1 T. On July 14, 2000, respondent signed an agreement to be evaluated for
2 participation in the Medical Board's Diversion Program. She agreed that if she complied
3 with the Diversion Program guidelines she would not be prosecuted for her controlled
4 substances problems, however, if she failed to successfully complete the program she
5 could be prosecuted administratively.

6 U. On November 5, 2001, the Medical Board adopted a Stipulated
7 Revocation of Respondent's Medical License.

8 SECOND CAUSE FOR DISCIPLINE

9 (Unprofessional Conduct)

10 10. Respondent Julia Konrad-Piala is further subject to disciplinary action
11 under section 4301 of the Business and Professions Code, in that she committed act(s) of
12 unprofessional conduct as more particularly alleged hereinafter:

13 A. Paragraphs 9A through and including paragraph 9U, above, are hereby
14 incorporated by reference and realleged as if fully set forth herein;

15 B. Respondent entered and failed to successfully complete the Medical
16 Board's Diversion Program on two occasions;

17 C. Respondent forged prescriptions for controlled substances for her own
18 use;

19 D. Respondent took 20 patient files from Family Medical Practice Group;

20 E. Respondent telephoned in a false prescription for 40 tablets of Lorcet
21 to a Thrifty Jr. Pharmacy for patient B.E. when B.E. was not her patient, nor had she
22 examined B.E.

23 F. Respondent admitted writing unlawful prescriptions or telephoning
24 unlawful prescriptions to various pharmacies for Lorcet and Tylenol #3 for friends and
25 patients;

26 G. On or about July 7, 1999, respondent presented a forged prescription
27 for 30 Norco tablets, with the signature C.A., M.D. as the prescribing physician, to a
28 Rite-Aid Pharmacy, located in Tigard, Oregon;

1 H. On or about August 24, 1999, respondent took the July 7, 1999
2 prescription to be refilled at a Rite-Aid Pharmacy, located at 131 W. Main Street,
3 Ventura, California;

4 I. On several occasions in 1999, respondent, or someone acting at
5 respondent's direction, fraudulently telephoned a Rite Aid Pharmacy, and ordered Norco,
6 in the name of respondent's husband, R.P. The prescriptions were fraudulently
7 misrepresented as being ordered by D.C., M.D. R.P. was not a patient of Dr. C.

8 J. On or about December 29, 1999, respondent, or someone acting at
9 respondent's direction, again telephoned a Rite Aid Pharmacy and, as before, fraudulently
10 ordered a Norco prescription for respondent's husband, R.P., using Dr. C.'s name as the
11 prescribing physician.

12 K. On or about June 16, June 24, and July 13, 1999, respondent wrote
13 fraudulent prescriptions for Norco, 30 tablets, for B.G., when B.G. was neither
14 respondent's patient nor a person on whom respondent had conducted a physical
15 examination.

16 L. Respondent, while working as a pharmacist at the Rite-Aid Pharmacy,
17 located in Ojai, California, personally filled fraudulent prescriptions for "B.G." at the
18 Rite-Aid pharmacy where she worked.

19 **THIRD CAUSE FOR DISCIPLINE**

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

21 11. Respondent Julia Konrad-Piala is further subject to disciplinary action
22 under section 4301(f) of the Business and Professions Code, in that she committed an any act(s)
23 involving moral turpitude, dishonesty, fraud, deceit, or corruption, as follows:

24 A. Paragraphs 9A through and including paragraph 9U, above, are hereby
25 incorporated by reference and realleged as if fully set forth herein.

26 B. Respondent forged prescriptions for controlled substances for her own
27 use;

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- 1 C. Respondent took 20 patient files from Family Medical Practice Group;
- 2 D. Respondent telephoned a false prescription for 40 tablets of Lorcet to a
- 3 Thrifty Jr. Pharmacy for patient B.E. when B.E. was not her patient, nor had she
- 4 examined B.E.
- 5 E. Respondent admitted writing unlawful prescriptions or telephoning
- 6 unlawful prescriptions to various pharmacies for Lorcet and Tylenol #3 for friends and
- 7 patients;
- 8 F. On or about July 7, 1999, respondent presented a forged prescription
- 9 for 30 Norco tablets, with the signature C.A., M.D. as the prescribing physician, to a
- 10 Rite-Aid Pharmacy, located in Tigard, Oregon;
- 11 G. On or about August 24, 1999, respondent took the July 7, 1999
- 12 prescription to be refilled at a Rite-Aid Pharmacy, located at 131 W. Main Street,
- 13 Ventura, California;
- 14 H. On several occasions in 1999, respondent, or someone acting at
- 15 respondent's direction, fraudulently telephoned a Rite Aid Pharmacy, and ordered Norco,
- 16 in the name of respondent's husband, R.P. The prescriptions were fraudulently
- 17 misrepresented as being ordered by D.C., M.D. R.P. was not a patient of Dr. C.
- 18 I. On or about December 29, 1999, respondent, or someone acting at
- 19 respondent's direction, again telephoned a Rite Aid Pharmacy and, as before, fraudulently
- 20 ordered a Norco prescription for respondent's husband, R.P., using Dr. C.'s name as the
- 21 prescribing physician.
- 22 J. On or about June 16, June 24, and July 13, 1999, respondent wrote
- 23 fraudulent prescriptions for Norco, 30 tablets, for B.G., when B.G. was neither
- 24 respondent's patient nor a person on whom respondent had conducted a physical
- 25 examination.
- 26 K. Respondent, while working as a pharmacist at the Rite-Aid Pharmacy,
- 27 located in Ojai, California, personally filled fraudulent prescriptions for "B.G." at the
- 28 Rite-Aid pharmacy where she worked.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Self-Administration of Controlled Substances)

3 12. Respondent Julia Konrad-Piala is further subject to disciplinary action
4 under section 4301(f) of the Business and Professions Code, in that she administered to herself a
5 controlled substance, or used dangerous drugs to the extent or in a manner as to be dangerous or
6 injurious to herself, to a person holding a license under this chapter, or to any other person or to
7 the public, or to the extent that said use impaired her ability to conduct with safety to the public
8 the practice of pharmacy, as more particularly alleged:

9 A. Paragraphs 9A through and including paragraph 9U, above, are hereby
10 incorporated by reference and realleged as if fully set forth herein.

11 B. Respondent misappropriated medical charts from a Medical facility
12 and used them to unlawfully obtain controlled substances for self-administration; and

13 C. Respondent illegally ordered controlled substances using a patient's
14 name where the patient actually picked up the controlled substance, presenting a risk of
15 danger to the patient.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 (Violation of State and Federal Statutes)

18 13. Respondent Julia Konrad-Piala is further subject to disciplinary action
19 under section 4301(j) of the Code in that she violated the statutes of this state or of the United
20 States regulating controlled substances and dangerous drugs, as more particularly alleged above
21 in paragraphs 9A through and including paragraph 9U.

22 **SIXTH CAUSE FOR DISCIPLINE**

23 (False Representations)

24 14. Respondent Julia Konrad-Piala is further subject to disciplinary action
25 under section 4323 of the Code in that she falsely represented herself to be a physician or other
26 person who could lawfully prescribe drugs, or falsely represented that, she was acting on behalf
27 of a person who could lawfully prescribe drugs, in a telephone or electronic communication with

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1 a pharmacist, as more particularly alleged above in paragraphs 9A through and including
2 paragraph 9U.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 (Forged Prescriptions)

5 15. Respondent Julia Konrad-Piala is further subject to disciplinary action
6 under section 4324 of the Code in that she signed the name of another, or of a fictitious person,
7 or falsely made, altered, forged, uttered, published, passed, or attempted to pass, as genuine, any
8 prescription, as more particularly alleged above in paragraphs 9A through and including
9 paragraph 9U.

10 **EIGHTH CAUSE FOR DISCIPLINE**

11 (Issuance of False Prescriptions)

12 16. Respondent Julia Konrad-Piala is further subject to disciplinary action
13 under section 11157 of the Health and Safety Code, in that she issued prescriptions that were
14 false or fictitious, as more particularly alleged above in paragraphs 9A through and including
15 paragraph 9U.

16 **NINTH CAUSE FOR DISCIPLINE**

17 (Obtained Controlled Substances by Fraud)

18 17. Respondent Julia Konrad-Piala is further subject to disciplinary action
19 under section 11173 of the Health and Safety Code, in that she obtained or attempted to obtain
20 controlled substances, by fraud, deceit, misrepresentation, or subterfuge; or by the concealment
21 of a material fact, or by making false statements in a prescription, or for the purpose of obtaining
22 controlled substances, falsely assumed the title of, or represented herself to be, an authorized
23 person, as more particularly alleged above in paragraphs 9A through and including paragraph
24 9U.

25 **TENTH CAUSE FOR DISCIPLINE**

26 (Obtained Controlled Substances by Fraud)

27 18. Respondent Julia Konrad-Piala is further subject to disciplinary action
28 under section 11174 of the Health and Safety Code, in that in connection with the prescribing,

1 furnishing, administering, or dispensing of a controlled substance, she also gave a false name or
2 false address, as more particularly alleged above in paragraphs 9A through and including
3 paragraph 9U.

4 PRAYER

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

7 A. Revoking or suspending Pharmacist License Number RPH 30458, issued
8 to Julia Dianne Konrad-Piala;

9 B. Ordering Julia Dianne Konrad-Piala to pay the Board of Pharmacy the
10 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
11 Professions Code section 125.3;

12 C. Taking such other and further action as deemed necessary and proper.

13 DATED: 10/18/02

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15 P. F. Harris
16 PATRICIA F. HARRIS
17 Executive Officer
18 Board of Pharmacy
19 Department of Consumer Affairs
20 State of California
21 Complainant
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