

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

In the Matter of the Accusation Against:

Case No. 5115

GEORGE DENNIS PECK
1457 Vancil
Fortuna, CA 95540

Pharmacy License No. RPH 28543

Respondent.

DECISION AND ORDER

Pursuant to the Board of Pharmacy's action on September 30, 2015, the attached Stipulated Surrender of License and Order was adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on November 9, 2015.

It is so ORDERED on October 9, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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Attorney General of California
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case Number 5115

13 **GEORGE DENNIS PECK**
14 **1457 Vancil**
15 **Fortuna, California 95540**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 **Pharmacist License Number RPH 28543,**

Respondent.

17 IT IS STIPULATED AND AGREED by and between the parties to the above-entitled
18 proceedings that the following matters are true:

19 **PARTIES**

20 1. Complainant Virginia Herold is the Executive Officer of the Board of Pharmacy
21 (Board), Department of Consumer Affairs. She brought this action solely in her official capacity
22 and is represented in this matter by Kamala.D. Harris, Attorney General of the State of California,
23 and by Gregory Tuss, Deputy Attorney General.

24 2. Respondent George Dennis Peck is representing himself in this proceeding and has
25 chosen not to exercise his right to be represented by counsel.

26 3. On or about July 31, 1973, the Board of Pharmacy issued Pharmacist License
27 Number RPH 28543 to respondent. This pharmacist license was in full force and effect at all
28 times relevant to the charges brought in Accusation Number 5115. It expired on February 28,

1 2014, and has not been renewed.

2 **JURISDICTION**

3 4. Accusation Number 5115 was filed before the Board and is currently pending
4 against respondent. The accusation and all other statutorily required documents were properly
5 served on respondent on December 3, 2014. A copy of Accusation Number 5115 is attached as
6 exhibit 1 and incorporated by reference.

7 **ADVISEMENT AND WAIVERS**

8 5. Respondent has carefully read, and understands the charges and allegations in
9 Accusation Number 5115. Respondent also has carefully read, and understands the effects of this
10 Stipulated Surrender of License and Order.

11 6. Respondent is fully aware of his legal rights in this matter, including the right to a
12 hearing on the charges and allegations in the accusation, the right to be represented by counsel at
13 his own expense, the right to confront and cross-examine the witnesses against him, the right to
14 present evidence and to testify on his own behalf, the right to the issuance of subpoenas to compel
15 the attendance of witnesses and the production of documents, the right to reconsideration and
16 court review of an adverse decision, and all other rights accorded by the California
17 Administrative Procedure Act and other applicable laws.

18 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
19 every right set forth above.

20 **CULPABILITY**

21 8. Respondent admits the truth of each and every charge and allegation in Accusation
22 Number 5115, agrees that cause exists for discipline, and surrenders his Pharmacist License
23 Number RPH 28543 for the Board's formal acceptance.

24 9. Respondent understands that by signing this stipulation he enables the Board to
25 issue an order accepting the surrender of his pharmacist license without further process.

26 **CONTINGENCY**

27 10. This stipulation shall be subject to approval by the Board. Respondent
28 understands and agrees that counsel for complainant and the staff of the Board may communicate

1 directly with the Board regarding this stipulation and surrender, without notice to or participation
2 by respondent. By signing the stipulation, respondent understands and agrees that he may not
3 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
4 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
5 Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
6 paragraph; it shall be inadmissible in any legal action between the parties; and the Board shall not
7 be disqualified from further action by having considered this matter.

8 11. The parties understand and agree that Portable Document Format (PDF) and
9 facsimile copies of this Stipulated Surrender of License and Order, including PDF and facsimile
10 signatures, shall have the same force and effect as the originals.

11 12. This Stipulated Surrender of License and Order is intended by the parties to be an
12 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
13 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
14 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
15 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
16 executed by an authorized representative of each of the parties.

17 13. In consideration of the foregoing admissions and stipulations, the parties agree that
18 the Board may, without further notice or formal proceeding, issue and enter the following Order:

19 **ORDER**

20 IT IS ORDERED that Pharmacist License Number RPH 28543 issued to respondent
21 George Dennis Peck is surrendered and accepted by the Board of Pharmacy.

22 1. The surrender of respondent's pharmacist license and the acceptance of the
23 surrendered license by the Board shall constitute the imposition of discipline against respondent.
24 This stipulation constitutes a record of the discipline and shall become a part of respondent's
25 license history with the Board.

26 2. Respondent shall lose all rights and privileges as a pharmacist in California as of
27 the effective date of the Board's Decision and Order.

28 3. Respondent shall cause to be delivered to the Board his pocket license and, if one

1 was issued, his wall certificate on or before the effective date of the Decision and Order.

2 4. If respondent ever files an application for licensure or a petition for reinstatement
3 in the State of California, the Board shall treat it as a new application for licensure.

4 5. Respondent may not apply for any license, permit, or registration from the Board
5 for three (3) years from the effective date of this decision. Respondent stipulates that should he
6 apply for any license from the Board on or after the effective date of this decision, all allegations
7 set forth in the accusation shall be deemed to be true, correct, and admitted by respondent when
8 the Board determines whether to grant or deny the application. Respondent shall satisfy all
9 requirements applicable to that license as of the date the application is submitted to the Board,
10 including, but not limited to taking and passing the California Pharmacist Licensure Examination
11 prior to the issuance of a new license. Respondent is required to report this surrender as
12 disciplinary action.

13 6. Respondent shall pay the agency its costs of investigation and enforcement in the
14 amount of \$3312.00 prior to issuance of a new or reinstated license.

15 7. If respondent should ever apply or reapply for a new license or certification, or
16 petition for reinstatement of a license, by any other health care licensing agency in the State of
17 California, all of the charges and allegations contained in Accusation Number 5115 shall be
18 deemed to be true, correct, and admitted by respondent for the purpose of any statement of issues
19 or any other proceeding seeking to deny or restrict licensure.

20 ACCEPTANCE

21 I have carefully read the Stipulated Surrender of License and Order. I understand the
22 stipulation and the effect it will have on my pharmacist license. I enter into this Stipulated
23 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
24 by the Decision and Order of the Board of Pharmacy.

25
26 DATED: 12/16/2014 George Dennis Peck
27 GEORGE DENNIS PECK
28 Respondent

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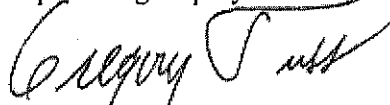
ENDORSEMENT

This Stipulated Surrender of License and Order is respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: December 19, 2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General



GREGORY TUSS
Deputy Attorney General
Attorneys for Complainant

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Stip.doc

Exhibit 1

Accusation Number 5115

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Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 GREGORY TUSS
Deputy Attorney General
4 State Bar Number 200659
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13 **GEORGE DENNIS PECK**
147 Vancil
Fortuna, California 95540

A C C U S A T I O N

15 **Pharmacist License Number RPH 28543,**

Respondent.

16
17
18 Complainant Virginia Herold alleges:

19 **PARTIES**

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

22 2. On or about July 31, 1973, the Board issued Pharmacist License Number RPH
23 28543 to respondent George Dennis Peck. This pharmacist license was in full force and effect at
24 all times relevant to the charges brought in this accusation. It expired on February 28, 2014, and
25 has not been renewed.

26 **JURISDICTION**

27 3. This accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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4. Section 4011 states:

"The board shall administer and enforce this chapter and the Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code)."

5. Section 4300 states in part:

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

6. Section 4300.1 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."

7. Section 4304 states:

"The board may deny, revoke, or suspend any license issued pursuant to Section 4161 for any violation of this chapter or for any violation of Part 5 (commencing with Section 109875) of Division 104 of the Health and Safety Code."

STATUTORY PROVISIONS

8. Section 4060 states in part:

"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 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either Section 4052.1 or 4052.2."

9. Section 4301 states in 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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“(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, of 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 by any other state or federal regulatory agency.”

10. Health and Safety Code section 11170 states:

“No person shall prescribe, administer, or furnish a controlled substance for himself.”

COST RECOVERY

11. Section 125.3 states in part:

“(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceedings, the administrative law judge may 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

1 12. Hydrocodone is a Schedule III controlled substance under Health and Safety Code
2 section 11056, subdivision (e)(4), and a dangerous drug under Business and Professions Code
3 section 4022. It is used in the treatment of pain.

4 13. Hydromet is a combination of Hydrocodone and Homatropine. Homatropine is a
5 drug that works against Hydrocodone to prevent an overdose of this medication. Hydromet is
6 used to treat cough and usually is dispensed as a syrup.

7 14. Phentermine is a Schedule IV controlled substance under Health and Safety Code
8 section 11057, subdivision (f)(4), and a dangerous drug under Business and Professions Code
9 section 4022. It is a psychostimulant drug with pharmacology similar to amphetamine and used
10 as an appetite suppressant.

11 FACTUAL BACKGROUND

12 15. Respondent was the pharmacist in charge at Palco Pharmacy in Scotia, California.

13 16. On April 23, 2013, respondent was seen in the pharmacy after store hours. A
14 computer audit of the pharmacy's drug inventory showed that the amount of Phentermine 30mg
15 held by the pharmacy had been changed after store hours on April 23, 2013. The audit showed
16 that the amount of Phentermine 30mg held by the pharmacy had been changed after store hours
17 on other dates as well. In total, 261 capsules of the drug were missing.

18 17. When confronted, respondent admitted to the pharmacy manager that he had
19 "screwed up."

20 18. An expanded audit found that the pharmacy was missing other drugs, including
21 2846 tablets of Hydrocodone/APAP 10/325 and 2321ml of Hydromet syrup.

22 19. Respondent submitted a written statement to the Board which included the
23 following:

24 "I used hydrocodone and phentermine from 11/2012 till 5/2013, and made adjustments in
25 inventory during this time. In thinking back I knew it was just a matter of time before I would be
26 detected, but I still could not admit I couldn't handle my problem.

27 ...

28 "... I admit to making changes in phentermine and hydromet and some of the

1 hydrocodone, but not near the quantity of hydrocodone missing. I have never taken any drugs to
2 be sold to others; they were only for personal use. I deeply regret this activity [and] I will never
3 be able to forgive my conduct during this time.”

4 **CAUSES FOR DISCIPLINE**

5 **FIRST CAUSE FOR DISCIPLINE**
6 **Unprofessional Conduct – Act of Moral Turpitude,**
7 **Dishonesty, Fraud, Deceit, or Corruption**
8 **Business and Professions Code section 4301, subdivision (f)**

9 20. The allegations of paragraphs 15-19 are realleged and incorporated by reference as
10 if fully set forth.

11 21. Respondent has subjected his pharmacist license to discipline for the
12 unprofessional conduct of committing an act of moral turpitude, dishonesty, fraud, deceit, or
13 corruption (Bus. & Prof. Code, § 4301, subd. (f)). Respondent modified pharmacy inventory
14 documents to steal Hydrocodone, Hydromet, and Phentermine.

15 **SECOND CAUSE FOR DISCIPLINE**
16 **Unprofessional Conduct – Possession of Controlled Substance**
17 **Business and Professions Code sections 4060 and 4301, subdivisions (j) and (o)**

18 22. The allegations of paragraphs 15-19 are realleged and incorporated by reference as
19 if fully set forth.

20 23. Respondent has subjected his pharmacist license to discipline for the
21 unprofessional conduct of possession of a controlled substance (Bus. & Prof. Code, §§ 4060,
22 4301, subs. (j) & (o)). Respondent possessed Hydrocodone, Hydromet, and Phentermine
23 without a prescription or any authorization from the pharmacy.

24 **THIRD CAUSE FOR DISCIPLINE**
25 **Unprofessional Conduct – Self-Administration of a Controlled Substance**
26 **Business and Professions Code section 4301, subdivision (h)**

27 24. The allegations of paragraphs 15-19 are realleged and incorporated by reference as
28 if fully set forth.

29 25. Respondent has subjected his pharmacist license to discipline for the
30 unprofessional conduct of self-administration of a controlled substance (Bus. & Prof. Code,
31 § 4301, subd. (h)). Respondent modified pharmacy inventory documents to steal Hydrocodone,

1 Hydromet, and Phentermine, and use them without a prescription or any authorization.

2 **FOURTH CAUSE FOR DISCIPLINE**
3 **Unprofessional Conduct – Self-Administration of a Controlled Substance**
4 **Business and Professions Code section 4301, subdivision (j);**
5 **Health & Safety Code section 11170**

6 26. The allegations of paragraphs 15-19 are realleged and incorporated by reference as
7 if fully set forth.

8 27. Respondent has subjected his pharmacist license to discipline for the
9 unprofessional conduct of self-administration of a controlled substance (Bus. & Prof. Code,
10 § 4301, subd. (j); Health & Saf. Code, § 11170). Respondent modified pharmacy inventory
11 documents to steal Hydrocodone, Hydromet, and Phentermine, and use them without a
12 prescription or any authorization.

13 **PRAYER**

14 WHEREFORE, complainant requests that a hearing be held on the matters alleged in this
15 accusation, and that following the hearing, the Board of Pharmacy issues a decision:

16 1. Revoking or suspending Pharmacist License Number RPH 28543 issued to George
17 Dennis Peck;

18 2. Ordering George Dennis Peck to pay the Board of Pharmacy the reasonable costs
19 of the investigation and enforcement of this case under to Business and Professions Code section
20 125.3; and

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

22 DATED: 11/14/14

Virginia Herold
23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 *Complainant*

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