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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 No. 5218

13 **FRANCIS KWOCK MING CHUNG**  
14 **30 Fanpalm**  
15 **Irvine, CA 92620**

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

16 **Pharmacist License No. RPH 35558**

17  
18 Respondent. \_\_\_\_\_  
19

20  
21 **FINDINGS OF FACT**

22 1. On or about September 19, 2014, Complainant Virginia K. Herold, in her official  
23 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,  
24 filed Accusation No. 5218 against Francis Kwock Ming Chung (Respondent) before the Board of  
25 Pharmacy. (Accusation attached as Exhibit A.)

26 2. On or about August 19, 1980, the Board of Pharmacy (Board) issued Pharmacist  
27 License No. RPH 35558 to Respondent. The Pharmacist License was in full force and effect at  
28 all times relevant to the charges brought in Accusation No. 5218 and expired on September 30,

1 2014. This lapse in licensure, however, pursuant to Business and Professions Code sections  
2 118(b) and 4300.1, does not deprive the Board of its authority to institute or continue disciplinary  
3 proceedings.

4 3. On or about September 26, 2014, Respondent was served by Certified and First Class  
5 Mail copies of the Accusation No. 5218, Statement to Respondent, Notice of Defense, Request  
6 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
7 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code  
8 section 4100, is required to be reported and maintained with the Board. Respondent's address of  
9 record was and is:

10 30 Fanpalm  
11 Irvine, CA 92620.

12 4. Service of the Accusation was effective as a matter of law under the provisions of  
13 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
14 124.

15 5. The aforementioned documents were not returned by the U.S. Postal Service.  
16 Respondent signed the return receipt for the documents transmitted via certified mail.

17 6. Government Code section 11506 states, in pertinent part:

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

23 7. Respondent failed to file a Notice of Defense within 15 days after service upon him  
24 of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No.  
25 5218.

26 8. California Government Code section 11520 states, in pertinent part:

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

1       9. Pursuant to its authority under Government Code section 11520, the Board finds  
2 Respondent is in default. The Board will take action without further hearing and, based on the  
3 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
4 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
5 file at the Board's offices regarding the allegations contained in Accusation No. 5218, finds that  
6 the charges and allegations in Accusation No. 5218, are separately and severally, found to be true  
7 and correct by clear and convincing evidence.

8       10. Taking official notice of its own internal records, pursuant to Business and  
9 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
10 and Enforcement is \$5,755.00 as of October 23, 2014.

#### 11                                   DETERMINATION OF ISSUES

12       1. Based on the foregoing findings of fact, Respondent Francis Kwock Ming Chung has  
13 subjected his Pharmacist License No. RPH 35558 to discipline.

14       2. The agency has jurisdiction to adjudicate this case by default.

15       3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacist License  
16 based upon the following violations alleged in the Accusation which are supported by the  
17 evidence contained in the Default Decision Evidence Packet in this case:

18       a. Respondent is subject to disciplinary action under Code section 4301(f), in that he  
19 committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

20       b. Respondent is subject to disciplinary action under Code section 4301(g), in that he  
21 knowingly made or signed certificates or other documents that falsely represented the existence or  
22 nonexistence of a state of facts.

23       c. Respondent is subject to disciplinary action under Code section 4301(o), for violating  
24 Code section 4323, in that he falsely represented himself to be a physician who could lawfully  
25 prescribe drugs in order to obtain drugs.

26       d. Respondent is subject to disciplinary action under Code section 4301 for  
27 unprofessional conduct in that he engaged in the activities described in the paragraphs above.  
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ORDER

IT IS SO ORDERED that Pharmacist License No. RPH 35558, heretofore issued to Respondent Francis Kwock Ming Chung, is revoked.

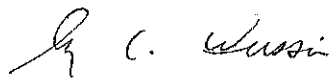
Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This decision shall become effective on December 22, 2014.

It is so ORDERED on November 21, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

  
STAN C. WEISSER  
Board President

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DOJ Matter ID:SD2014707434

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 DESIREE I. KELLOGG  
Deputy Attorney General  
4 State Bar No. 126461  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2996  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5218

12 **FRANCIS KWOCK MING CHUNG**  
13 **30 Fanpalm**  
14 **Irvine, CA 92620**

**ACCUSATION**

15 **Pharmacist License No. RPH 35558**

16 Respondent.

17  
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 19, 1980, the Board of Pharmacy issued Pharmacist License  
23 Number RPH 35558 to Francis Kwock Ming Chung (Respondent). The Pharmacist License was  
24 in full force and effect at all times relevant to the charges brought herein and will expire on  
25 September 30, 2014, unless renewed.  
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## JURISDICTION

3. 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.

4. 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.].

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

6. 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 PROVISIONS

7. Section 4323 of the Code states:-----

Every person, who in order to obtain any drug, falsely represents himself or herself to be a physician who can lawfully prescribe the drug, or falsely represents that he or she is acting on behalf of a person who can lawfully prescribe the 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.

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:

...

(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.

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

1  
2 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
3 abetting the violation of or conspiring to violate any provision or term of this  
4 chapter or of the applicable federal and state laws and regulations governing  
5 pharmacy, including regulations established by the board or by any other state or  
6 federal regulatory agency.

### 7 8 **COST RECOVERY**

9 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
10 administrative law judge to direct a licentiate found to have committed a violation or violations of  
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
12 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
13 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
14 included in a stipulated settlement.

### 15 **DRUG**

16 10. Zovirax, a brand name for Acyclovir, is a dangerous drug pursuant to Business and  
17 Professions Code section 4022.

### 18 **FACTUAL ALLEGATIONS**

19 11. At all times mentioned herein, Respondent was employed as a staff pharmacist in the  
20 oncology Ambulatory Care Clinic at Kaiser Permanente Pharmacy #019 located in Los Angeles,  
21 California.

22 12. On November 30, 2009, August 24, 2010 and February 25, 2011, Respondent  
23 prescribed Acyclovir 200 mg to himself utilizing the electronic prescribing software of Kaiser  
24 Permanente Pharmacy.

25 13. On July 12, 2002, December 4, 2002, June 10, 2003, September 17, 2003, January 28,  
26 2004, and June 1, 2004, Respondent forged prescriptions for Acyclovir 200 mg listing Dr. T.M. as  
27 the prescriber and D.C. as the patient.  
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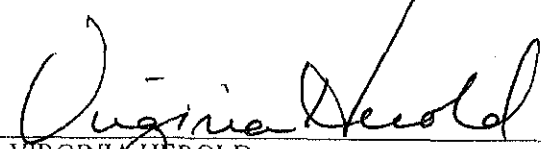
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1           2.     Ordering Francis Kwock Ming Chung to pay the Board of Pharmacy the reasonable  
2 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code  
3 section 125.3;

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

5  
6 DATED: \_\_\_\_\_

9/19/14

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

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