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

11 In the Matter of the Accusation Against:

Case No. 3186

12 JOHN HAROLD ARNOLD
13 P.O. Box 1058
Mammoth Lakes, CA 93546
14 208 Mill Street
Mammoth Lakes, CA 93546

A C C U S A T I O N

15 Original Pharmacist License No. RPH 29852

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (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 15, 1975, the Board of Pharmacy issued Original
24 Pharmacist License Number RPH 29852 to John Harold Arnold (Respondent). The Original
25 Pharmacist License was in full force and effect at all times relevant to the charges brought herein
26 and will expire on September 30, 2009, 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 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:

"(d) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153 of the Health and Safety Code.

"(i) Except as otherwise authorized by law, knowingly selling, furnishing, giving away, or administering or offering to sell, furnish, give away, or administer any controlled substance to an addict.

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

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee. . ."

5. Code section 4113(b) states that a "pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy."

6. Section 125.3 of the Code provides 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.

DRUGS

7. The following are dangerous drugs as defined by Code section 4022 in that they require a prescription under federal law:

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1 a. "Hydrocodone" is a Schedule III controlled substance as
2 designated by Health and Safety Code section 11056(e)(4). Norco is a brand name
3 pharmaceutical that contains hydrocodone, and is an opioid analgesic medication used for pain
4 relief.

5 b. "Oxycodone" is a Schedule II controlled substance as designated
6 by Health and Safety Code section 11055(b)(1)(N) and a dangerous drug pursuant to Code
7 section 4022, and is an opioid analgesic medication used for pain relief.

8 c. "Alprazolam," also known under the brand name Xanax, is a
9 Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(1),
10 and is a drug of the benzodiazepine class used to treat anxiety and panic attacks.

11 **STATEMENT OF FACTS**

12 8. At all times indicated, Respondent was the Pharmacist-in-charge of the
13 Mammoth Lakes, CA Rite Aid Pharmacy (Store # 05842). Respondent was a friend of patient
14 RB and had obtained his home mortgage through RB, who was a mortgage broker. Respondent
15 furnished thousands of prescribed controlled substances to RB, although Respondent was aware
16 that RB was addicted to these controlled substances, RB's insurance refused to pay for the
17 controlled substances and paid cash, Respondent knew that the medications being prescribed to
18 RB were excessive, yet, Respondent would continue to fill prescriptions, would increase the
19 amount prescribed to RB, and would fill other prescriptions by another doctor for these
20 controlled substances for RB. On or about September 29, 2005, another pharmacist working in
21 the local area (Vons) informed Respondent that RB was being over prescribed pain medication.

22 9. In September of 2005, Respondent furnished 430 Norco or its generic
23 form hydrocodone/APAP to patient RB, which according to the Rite Aid Customer History
24 Report was a 94 day supply of hydrocodone. During this time another pharmacist furnished an
25 additional 23 day supply of 90 Norco tablets to patient RB for a total of 520 hydrocodone tablets,
26 which is a 117 day supply. On September 14, 2005, Respondent furnished a 10 day supply of
27 Alprazolam (30 tablets/ 2 mg) to patient RB, two days after another pharmacist furnished a 30
28 day supply of Alprazolam (60 tablets/ 2 mg) to RB.

1 10. In October of 2005, Respondent furnished 280 Norco tablets to patient
2 RB, which according to the Rite Aid Customer History Report was a 63 day supply of
3 hydrocodone.

4 11. In November of 2005, Respondent furnished 270 Norco tablets to patient
5 RB, and another pharmacist at the same pharmacy furnished an additional 100 Norco tablets to
6 patient RB, for a total of 370 Norco tablets that equals a 46 day supply according to the Rite Aid
7 Customer History Report. Two other pharmacies (Via Lido Drugs and Sav On) also furnished
8 an additional 180 Norco tablets to patient RB, for a total of 550 Norco tablets to this patient. In
9 addition, Respondent furnished a 20 day supply of 60 tablets of Oxycodone to patient RB, 17
10 days after RB had earlier received a 20 day supply of Oxycodone from the same pharmacy where
11 Respondent worked. During this period, Respondent also furnished a 60 day supply of
12 Alprazolam (60 tablets/ 2 mg) to RB and another pharmacist at the same pharmacy furnished an
13 additional 30 tablets of Alprazolam to RB, for a total of 90 tablets that equals a 90 day supply.

14 12. In December 2005, Respondent furnished 100 Norco tablets to patient RB,
15 and another pharmacist at the same pharmacy furnished 190 Norco tablets to patient RB, for a
16 total of 290 Norco tablets that equals a 71 day supply according to the Rite Aid Customer
17 History Report. Two other pharmacies (Via Lido Drugs and Sav On) also furnished an
18 additional 190 Norco tablets or its generic form hydrocodone/APAP to patient RB, for a total of
19 480 hydrocodone tablets to RB in December 2005.

20 13. In January 2006, Respondent furnished 500 Norco tablets to patient RB,
21 400 of which were over a 10 day period, and another pharmacist at the same pharmacy furnished
22 100 Norco tablets to patient RB, for a total of 600 Norco tablets that equals a 140 day supply
23 according to the Rite Aid Customer History Report. Respondent also furnished a 45 day supply
24 of 90 tablets of Alprazolam to RB over a 17 day period in January 2006.

25 14. On February 6, 2006, Respondent furnished a 15 day supply of 30 tablets
26 of Alprazolam to RB, which was just seven (7) days after Respondent had furnished a 15 day
27 supply of 30 tablets of Alprazolam to RB.

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1 15. In March 2006, Respondent furnished a 60 day supply of 120 tablets of
2 Alprazolam to RB.

3 16. In May 2006, Respondent and other pharmacists at the Mammoth Lakes
4 Rite Aid furnished 170 tablets of Norco or its generic form hydrocodone/APAP and 150 tablets
5 of Alprazolam to RB.

6 17. In June 2006, Respondent and other pharmacists at the Mammoth Lakes
7 Rite Aid furnished 150 tablets of Norco and 120 tablets of Alprazolam to RB.

8 18. In July 2006, Respondent and other pharmacists at the Mammoth Lakes
9 Rite Aid furnished 260 tablets of Norco, which represents a 45 day supply according to the Rite
10 Aid Customer History Report, and 150 tablets of Alprazolam to RB.

11 19. In August 2006, Respondent and other pharmacists at the Mammoth Lakes
12 Rite Aid furnished approximately 355 tablets of Norco, which represents a 67 day supply
13 according to the Rite Aid Customer History Report, and approximately 150 tablets of
14 Alprazolam, which represents a 70 day supply to patient RB.

15 20. In September 2006, Respondent and other pharmacists at the Mammoth
16 Lakes Rite Aid furnished 400 tablets of Norco, which represents a 59 day supply according to
17 the Rite Aid Customer History Report, and 180 tablets of Alprazolam, 120 of which were
18 furnished 4 days apart, which represents a total 60 day supply to patient RB according to the Rite
19 Aid Customer History Report. In addition, another pharmacy (Vons) furnished 10 Norco and 15
20 Oxycotin tablets to patient RB in September 2006..

21 21. In October 2006, Respondent furnished 400 tablets of Norco, 300 of
22 which were furnished 11 days apart, and a 60 day supply of 180 tablets of Alprazolam to patient
23 RB.

24 22. In November 2006, Respondent and other pharmacists at the Mammoth
25 Lakes Rite Aid furnished 465 tablets of Norco, which represents a 52 day supply according to
26 the Rite Aid Customer History Report, and 90 tablets of Alprazolam, which represents a 35 day
27 supply to patient RB according to the Rite Aid Customer History Report. In addition, another
28 pharmacy (Vons) furnished 5 Norco tablets to patient RB.

PRAYER

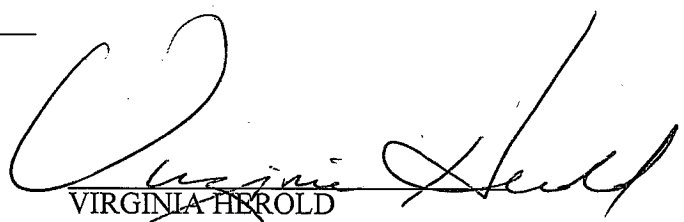
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

A. Revoking or suspending Original Pharmacist License Number RPH 29852, issued to John Harold Arnold John Harold Arnold.

B. Ordering John Harold Arnold to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 6/15/09



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

SA2008302954

Revised Accusation.wpd