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

11 In the Matter of the Accusation Against:

12 **JULIE SHU-HWA KUNG**  
535 Fairview Avenue  
13 Arcadia, CA 91007

14 Pharmacist License No. RPH 49994

15 Respondent.

Case No. 3410

**ACCUSATION**

16  
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about April 21, 1998, the Board of Pharmacy (Board) issued Pharmacist  
22 License No. RPH 49994 to Julie Shu-Hwa Kung (Respondent). The Pharmacist License was in  
23 full force and effect at all times relevant to the charges brought herein and will expire on  
24 September 30, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board, Department of Consumer Affairs, under  
27 the authority of the following laws. All section references are to the Business and Professions  
28 Code unless otherwise indicated.

STATUTORY PROVISIONS

1  
2       4.    Section 118, subdivision (b), provides that the suspension, expiration, surrender or  
3 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary  
4 action during the period within which the license may be renewed, restored, reissued or  
5 reinstated.

6       5.    Section 4022 [added by Stats.1996, c 890 (A.B. 2802), former § 4211], provides that  
7 a drug that can be lawfully dispensed only on prescription is a dangerous drug.

8       6.    Section 4059, subdivision (a), states, in pertinent part, that “[a] person may not  
9 furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist,  
10 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. . . .”

11       7.    Section 4063 states:

12        “No prescription for any dangerous drug or dangerous device may be refilled except upon  
13 authorization of the prescriber. The authorization may be given orally or at the time of giving the  
14 original prescription. No prescription for any dangerous drug that is a controlled substance may  
15 be designated refillable as needed.”

16       8.    Section 4300, subdivision (a), states that “[e]very license issued may be suspended or  
17 revoked.”

18       9.    Section 4301 states, in pertinent part:

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

22        . . . .

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

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

28        . . . .



1 **COST RECOVERY**

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

6 **DANGEROUS DRUGS**

7 15. Allopurinol is used for treating acute attacks of gout, erosive destructive gouty joint  
8 disease, uric acid deposits in tissues (tophi), gouty kidney disease, and uric acid stones. It is  
9 categorized as a dangerous drug pursuant to section 4022.

10 16. Atenolol is prescribed for patients with high blood pressure (hypertension) and is  
11 categorized as a dangerous drug pursuant to section 4022.

12 17. Cozaar, a brand name of losartan, is used for treating hypertension, left ventricular  
13 hypertrophy (increase in muscle) and diabetic nephropathy (kidney disease). It is categorized as a  
14 dangerous drug pursuant to section 4022.

15 18. Evista, a brand name for raloxifene, is prescribed for the prevention and treatment of  
16 osteoporosis in post-menopausal women, and is a dangerous drug within the meaning of  
17 section 4022.

18 19. Lipitor, a brand name for atorvastatin, is an oral drug that lowers the level of  
19 cholesterol in the blood. It is categorized as a dangerous drug pursuant to section 4022.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Falsified Prescriptions)**

22 20. Respondent is subject to disciplinary action under sections 4300 and 4301,  
23 subdivisions (g) and / or (o), for unprofessional conduct, in conjunction with section 4324,  
24 subdivision (a), in that in and between March 2006 and February 2008, Respondent falsified  
25 prescriptions to obtain dangerous drugs, to wit, 300 Evista 60mg, 550 total tablets of Lipitor  
26 10mg & 40mg, 100 Allopurinol 300mg, 200 Cozaar 25mg, and 200 Atenolol 50mg. The  
27 circumstances are as follows:

28 ///

1 a. In and between March 2006 and February 2008, while employed as a licensed  
2 pharmacist at Kaiser Permanente Pharmacy, Baldwin Park, California, using her scope of  
3 practice, Respondent obtained prescription medications for her parents use using her own name,  
4 medical record number and health insurance benefits.

5 b. Respondent produced false oral, telephone and / or transfer, prescription orders for  
6 herself, filled the prescriptions, and gave the medications to her parents for their use. Respondent  
7 issued the prescriptions to herself when she had no legitimate medical purpose for the  
8 medications.

9 c. Respondent dispensed (filled and refilled) prescriptions from providers who did not  
10 issued or authorize the prescriptions.

11 d. Respondent received prescription medications as follows:

Count	Medication	Rx No.	Date	M.D.	Oral Instrument
100	Allopurinol 300mg	192278396	7/14/2006	Chiu	Telephone Rx
100	Atenolol 50mg	154528045	3/19/2007	Chiu	Telephone Rx
100	Atenolol 50mg	154572486	10/11/2007	Chiu	Telephone Rx
100	Cozaar 25mg	154528044	3/19/2007	Chiu	Telephone Rx
100	Cozaar 25mg	154572485	10/11/2007	Chiu	Telephone Rx
100	Evista 60mg	192269007	3/11/2006	Chiu	Telephone Rx
100	Evista 60mg	154546749	6/14/2007	Chiu	Telephone Rx
100	Evista 60mg	154546749	2/28/2008	Chiu	Refill
100	Lipitor 20mg	192269681	3/20/2006	Chiu	Telephone Rx
100	Lipitor 20mg	192269681	9/12/2006	Chiu	Refill
100	Lipitor 20mg	192269681	9/14/2006	Chiu	Refill
50	Lipitor	291225179	1/30/2007	Chu	Telephone Rx
50	Lipitor 40mg	154529877	3/26/2007	Chu	Telephone Rx
50	Lipitor 40mg	154529877	6/14/2007	Chu	Refill
50	Lipitor 40mg	154529877	9/18/2007	Chu	Refill
50	Lipitor 40mg	154529877	1/22/2008	Chu	Refill

1 e. On or about May 14, 2008, based upon her own admissions, Respondent was  
2 terminated from her employment at Kaiser Permanente for filling prescriptions under her own  
3 name which were intended for her parents in order to take advantage of the health plan benefits  
4 for employees.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Knowingly Filled, Refilled and Dispensed Altered Prescriptions)**

7 21. Respondent is subject to disciplinary action under sections 4300 and 4301,  
8 subdivisions (j) and / or (o), on the grounds of unprofessional conduct, for violating section 4063  
9 and California Code of Regulations, title 16, section 1761, in that in and between March 2006 and  
10 February 2008, Respondent knowingly filled, refilled, and dispensed altered prescriptions for  
11 medications intended for her parents to her own name. Complainant refers to and by this  
12 reference incorporates the allegations set forth above in paragraphs 20, inclusive, as though set  
13 forth fully.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Furnishing Drugs Without Valid Prescriptions)**

16 22. Respondent is subject to disciplinary action under sections 4300 and 4301,  
17 subdivisions (j) and / or (o), on the grounds of unprofessional conduct, for violating section 4059,  
18 subdivision (a), in that in and between March 2006 and February 2008, Respondent furnished  
19 dangerous drugs without legitimate prescriptions. Complainant refers to and by this reference  
20 incorporates the allegations set forth above in paragraphs 20 and 21, inclusive, as though set forth  
21 fully.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)**

24 23. Respondent is subject to disciplinary action under sections 4300 and 4301,  
25 subdivision (f), on the grounds of unprofessional conduct, in that in and between March 2006 and  
26 February 2008, Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit,  
27 or corruption. Complainant refers to and by this reference incorporates the allegations set forth  
28 above in paragraphs 20 - 22, inclusive, as though set forth fully.

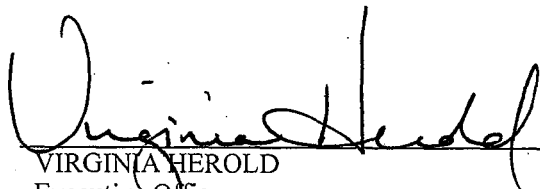
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**PRAYER**

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

1. Revoking or suspending Pharmacist License No. RPH 49994, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 1/25/10



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

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