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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:

Case No. 3626

12 **WONG & BRAGDON PHARMACY, INC. dba**
13 **PATTERSON FAMILY PHARMACY**
47 South Del Puerto Avenue
Patterson, CA 95363
14 **Original Pharmacy No. PHY 47152**
WILLIAM THOMAS BRAGDON JR.
15 **Original Pharmacist License Number 52585**
JOHN F. WONG Original Pharmacist License
16 **Number 52583**

A C C U S A T I O N

17 Respondents

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about May 27, 2005, the Board of Pharmacy issued Original Pharmacy Permit
24 No. PHY 47152 to WONG & BRAGDON PHARMACY, INC. dba PATTERSON FAMILY
25 PHARMACY (Respondent PATTERSON). The Original Pharmacy Permit was in full force and
26 effect at all times relevant to the charges brought herein and will expire on May 1, 2010, unless
27 renewed.

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3. On or about August 30, 2001, the Board of Pharmacy issued Original Pharmacist License Number 52585 to WILLIAM THOMAS BRAGDON JR. (Respondent BRAGDON) The Original Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2010, unless renewed.

4. On or about October 31, 2001, the Board of Pharmacy issued Original Pharmacist License Number 52583 to JOHN F. WONG (Respondent WONG). The Original Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2011 unless renewed.

JURISDICTION

5. 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.

6. Section 4300 of the Code states:

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

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

1 "(1) Medical or psychiatric evaluation.
2 "(2) Continuing medical or psychiatric treatment.
3 "(3) Restriction of type or circumstances of practice.
4 "(4) Continuing participation in a board-approved rehabilitation program.
5 "(5) Abstention from the use of alcohol or drugs.
6 "(6) Random fluid testing for alcohol or drugs.
7 "(7) Compliance with laws and regulations governing the practice of pharmacy.
8 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
9 certificate of licensure for any violation of the terms and conditions of probation. Upon
10 satisfactory completion of probation, the board shall convert the probationary certificate to a
11 regular certificate, free of conditions.
12 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
13 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
14 shall have all the powers granted therein. The action shall be final, except that the propriety of
15 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
16 Civil Procedure."
17 7. Section 4301 of the Code states:
18 "The board shall take action against any holder of a license who is guilty of unprofessional
19 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
20 Unprofessional conduct shall include, but is not limited to, any of the following:
21 ...
22 "(j) The violation of any of the statutes of this state, or any other state, or of the United
23 States regulating controlled substances and dangerous drugs.
24 ...
25 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
26 violation of or conspiring to violate any provision or term of this chapter or of the applicable
27 federal and state laws and regulations governing pharmacy, including regulations established by
28 the board or by any other state or federal regulatory agency.

1 ...
2 8. Section 4067 states;

3 “(a) No person or entity shall dispense or furnish, or cause to be dispensed or furnished,
4 dangerous drugs or dangerous devices. As defined in section 4022, on the internet for delivery to
5 any person in this state without a prescription issued pursuant to a good faith prior examination of
6 a human or animal for whom the prescription is meant if the person knew or reasonably should
7 have known that the prescription was not issued pursuant to a good faith examination of a human
8 or animal, or if the person or entity did not act in accordance with Section 1861 of Title 16 of the
9 California Code of Regulations.

10 (b) Notwithstanding any other provision of law, a violation of this action may subject the
11 person or entity that has committed the violation to either a fine of up to twenty-five thousand
12 dollars (\$25,000) per occurrence pursuant to a citation issued by the board or a civil penalty of
13 twenty-five thousand dollars (\$25,000) per occurrence.

14 ...
15 (e) For the purpose of this section, “good faith prior examination” includes the requirements
16 for a physician and surgeon in Section 2242 and the requirements for a veterinarian in Section
17 2032.1 of Title 16 of the California Code of Regulations.”

18 9. Section 125.3 of the Code states, in pertinent part, that the Board may request the
19 administrative law judge to direct a licensee found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case.

22 10. Section 118, subdivision (b), of the Code provides that the
23 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of
24 jurisdiction to proceed with a disciplinary action during the period within which the license may
25 be renewed, restored, reissued or reinstated.

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1 FIRST CAUSE FOR DISCIPLINE

2 (VIOLATION OF STATUTE)

3 11. Respondent BRAGDON is subject to disciplinary action under section 4301 (j) in that
4 Respondent BRAGDON between December 14, 2006 and June 13, 2007 furnished 237 controlled
5 substance prescriptions to California residents pursuant to prescription issued via the Internet
6 which were without a good faith prior exam in violation of section 4067.

7 SECOND CAUSE FOR DISCIPLINE

8 (VIOLATION OF STATUTE)

9 12. Respondent BRAGDON is subject to disciplinary action under section 4301(j) in that
10 Respondent BRAGDON between December 14, 2006 and June 13, 2007 was Pharmacist in
11 Charge when an unidentified pharmacist while working at Patterson Family Pharmacy furnished
12 125 controlled substance prescriptions on documents that were not initialed by the dispensing
13 pharmacist to California residents pursuant to prescriptions issued via the Internet which were
14 without good faith prior exam in violation of section 4067.

15 THIRD CAUSE FOR DISCIPLINE

16 (VIOLATION OF STATUTE)

17 13. Respondent BRAGDON is subject to disciplinary action under section 4301(j) in that
18 Respondent BRAGDON between December 14, 2006 and June 13, 2007 was Pharmacist in
19 Charge when an unidentified pharmacist while working at Patterson Family Pharmacy furnished
20 111 controlled substance prescription with illegible dispensing pharmacist's initials on the
21 prescription document to California residents pursuant to prescription issued via the Internet
22 which were without a prior good faith exam in violation of section 4067.

23 FOURTH CAUSE FOR DISCIPLINE

24 (VIOLATION OF REGULATION)

25 14. Respondent BRAGDON is subject to disciplinary action under section 4301(o) in that
26 respondent BRAGDON between December 14, 2006 and June 13, 2007 was Pharmacist in
27 Charge when an unknown pharmacist furnished 125 controlled substance prescriptions to

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1 California residents on documents that were not initialed by the dispensing pharmacist in
2 violations of California Code of Regulations, section 1717, subdivision(b)(1).

3 FIFTH CAUSE OF DISCIPLINE

4 (VIOLATION OF STATUTE)

5 15. Respondent BRAGDON is subject to disciplinary action under section 4301(j) in that
6 Respondent BRAGDON between December 14, 2006 and June 13, 2007 was Pharmacist in
7 Charge when Patterson Family Pharmacy failed to report dispensing 65 Schedule II controlled
8 substance prescriptions, 461 Schedule III controlled substance prescriptions, and 176 Schedule IV
9 controlled prescriptions to Controlled Substance Review and Evaluation System (CURES) in
10 violation of Health and Safety Code section 11165, subdivision (d).

11 SIXTH CAUSE FOR DISCIPLINE

12 (VIOLATION OF STATUTE)

13 16. Respondent WONG is subject to disciplinary action under section 4301(j) in that
14 Respondent WONG between December 14, 2006 and June 13, 2007 furnished 339 controlled
15 substance prescriptions to California residents pursuant to prescription issued via the Internet
16 which were without a good faith prior exam in violation of section 4067.

17 SEVENTH CAUSE FOR DISCIPLINE

18 (VIOLATION OF STATUTE)

19 17. Respondent PATTERSON is subject to disciplinary action under section 4301 (j) in
20 that Respondent PATTERSON between December 14, 2006 and June 13, 2007 furnished 812
21 controlled substance prescriptions to California residents pursuant to prescription issued via the
22 Internet which were without a good faith prior exam in violation of section 4067.

23 EIGHTH CAUSE OF DISCIPLINE

24 (VIOLATION OF STATUTE OR REGULATION)

25 18. Respondent PATTERSON is subject to disciplinary action of section 4301(o) in that
26 Respondent PATTERSON between December 14, 2006 and June 13, 2007

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1 furnished 125 controlled substance prescriptions to California residents on documents that were
2 not initialed by the dispensing pharmacist in violation of California Code of Regulations, section
3 1717, subdivision (b)(1).

4 NINTH CAUSE OF DISCIPLINE
5 (VIOLATION OF STATUTE)

6 19. Respondent PATTERSON is subject to disciplinary action under section 4301(j) in
7 that Respondent PATTERSON between December 14, 2006 and June 13, 2007 failed to report
8 dispensing 65 Schedule II controlled substance prescriptions; 461 Schedule III controlled
9 substance prescriptions, and 176 Schedule IV controlled prescriptions to Controlled Substance
10 Review and Evaluation System (CURES) in violation of Health and Safety Code section 11165,
11 subdivision (d).

12 PRAYER

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

15 1. Revoking or suspending Original Pharmacy Number PHY 47152, issued to WONG &
16 BRAGDON PHARMACY, INC. dba PATTERSON FAMILY PHARMACY.

17 2. Revoking or suspending Original Pharmacist License Number 52585, issued to
18 WILLIAM THOMAS BRAGDON JR.

19 3. Revoking or suspending Original Pharmacist License Number 52583, issued to
20 JOHN F. WONG.

21 4. Ordering Respondents PATTERSON FAMILY PHARMACY, WILLIAM THOMAS
22 BRAGDON JR. and JOHN F. WONG to pay the Board of Pharmacy the reasonable costs of the
23 investigation and enforcement of this case, pursuant to Business and Professions Code
24 section 125.3;

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

DATED:

4/6/10


VIRGINIA HEROLD

Executive Officer

Board of Pharmacy

Department of Consumer Affairs

State of California

Complainant

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