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

11 In the Matter of the Accusation Against:

Case No. 3710

12 **KERRY JOEL EASTLAND**
13 **11050 Francisco Place**
14 **Riverside, CA 92505**

A C C U S A T I O N

15 **Pharmacist License No. RPH 61785**

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 October 15, 2008, the Board of Pharmacy issued Pharmacist License
23 Number RPH 61785 to Kerry Joel Eastland (Respondent). The Pharmacist License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on June 30,
25 2012, unless renewed.

1 JURISDICTION

2 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code unless otherwise indicated.

5 4. Section 4300(a) of the Code states that “[e]very license issued may be suspended or
6 revoked.”

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

11 STATUTORY AND REGULATORY PROVISIONS

12 6. Section 4059 of the Code provides, in pertinent part, that a person may not furnish
13 any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
14 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
15 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,
16 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

17 7. Section 4060 of the Code states:

18 No person shall possess any controlled substance, except that furnished to a
19 person upon the prescription of a physician, dentist, podiatrist, optometrist,
20 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
21 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
22 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to
23 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist
24 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
25 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section
26 shall not apply to the possession of any controlled substance by a manufacturer,
27 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,
28 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or
physician assistant, when in stock in containers correctly labeled with the name and
address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse
practitioner, a physician assistant, or a naturopathic doctor, to order his or her own
stock of dangerous drugs and devices.

8. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of

1 unprofessional conduct or whose license has been procured by fraud or
2 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
3 not limited to, any of the following:

4

5 (h) The administering to oneself, of any controlled substance, or the use of any
6 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
7 dangerous or injurious to oneself, to a person holding a license under this chapter, or
8 to any other person or to the public, or to the extent that the use impairs the ability of
9 the person to conduct with safety to the public the practice authorized by the license.

10

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

13

14 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
15 abetting the violation of or conspiring to violate any provision or term of this chapter
16 or of the applicable federal and state laws and regulations governing pharmacy,
17 including regulations established by the board or by any other state or federal
18 regulatory agency.

19 COST RECOVERY

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

24 DRUG

25 10. Marijuana is a schedule I controlled substance as designated by Health and Safety
26 Code section 11054(d)(13), and is a dangerous drug pursuant to Business and Professions Code
27 section 4022.

28 FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct-Use of a Controlled Substance)

11 Respondent is subject to disciplinary action under section 4301(h) of the Code in that
12 he used a controlled substance, Marijuana while performing his functions as a pharmacist and
13 otherwise. The circumstances are that on or about August 26, 2009, Respondent was
14 administered a random drug test at his place of employment and failed that test which revealed
15 positive results for Marijuana. The drug test indicated an initial test-level of 50 ng/ml for

1 Marijuana and a confirmation level of 15 ng/ml. Respondent subsequently admitted to smoking
2 Marijuana on a daily basis approximately from October 2008 through October 22, 2009.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct-Violations of the Chapter)**

5 12. Respondent is subject to disciplinary action under section 4301(o) of the Code for
6 violation of the Pharmacy Act in that in or about October 2008 through October 22, 2009,
7 Respondent furnished to himself and possessed a controlled substance, Marijuana, in violation of
8 Code sections 4059 and 4060, as is more fully described in paragraph 14, above.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct-Violating Laws Regulating Controlled Substances)**

11 13. Respondent is subject to disciplinary action under section 4301(j) of the Code in that
12 on or about October 2008 through October 22, 2009, Respondent violated the California Uniform
13 Controlled Substances Act (Health and Safety Code Sections 11000, et. seq.) as is more fully
14 described in paragraph 14, above.

15 **PRAYER**

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

18 1. Revoking or suspending Pharmacist License Number RPH 61785, issued to Kerry
19 Joel Eastland;

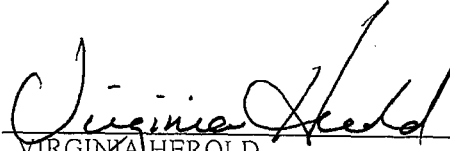
20 2. Ordering Kerry Joel Eastland to pay the Board of Pharmacy the reasonable costs of
21 the investigation and enforcement of this case, pursuant to Business and Professions Code section
22 125.3;

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

DATED: _____

7/2/10



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

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