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

10 In the Matter of the Accusation Against:

Case No. 3713

11 **ALICE YANG FOREST**
12 **15729 Silverpointe Avenue**
13 **Chino Hills, CA 91709**
Pharmacist License No. RPH 50114

A C C U S A T I O N

14 Respondent.

15
16 Complainant alleges:

17 PARTIES

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

20 2. On or about May 6, 1998, the Board of Pharmacy issued Pharmacist License Number
21 RPH 50114 to Alice Yang Forest (Respondent). The Pharmacist License was in full force and
22 effect at all times relevant to the charges brought herein and will expire on July 31, 2011, unless
23 renewed.

24 JURISDICTION

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

1 4. Section 4081 of the Code states:

2 "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs
3 or dangerous devices shall be at all times during business hours open to inspection by authorized
4 officers of the law, and shall be preserved for at least three years from the date of making. A
5 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary
6 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,
7 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,
8 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and
9 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and
10 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

11 "(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal
12 drug retailer shall be jointly responsible, with the pharmacist-in-charge or representative-in-
13 charge, for maintaining the records and inventory described in this section.

14 "(c) The pharmacist-in-charge or representative-in-charge shall not be criminally
15 responsible for acts of the owner, officer, partner, or employee that violate this section and of
16 which the pharmacist-in-charge or representative-in-charge had no knowledge, or in which he or
17 she did not knowingly participate."

18 5. Section 4301 of the Code states:

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

25

26 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
27 violation of or conspiring to violate any provision or term of this chapter or of the applicable
28

1 federal and state laws and regulations governing pharmacy, including regulations established by
2 the board or by any other state or federal regulatory agency.

3 6. Section 4113, subdivision (c) states:

4 "The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state
5 and federal laws and regulations pertaining to the practice of pharmacy."

6 7. California Code of Regulations, title 16, section 1718, states:

7 "'Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions
8 Code shall be considered to include complete accountability for all dangerous drugs handled by
9 every licensee enumerated in Sections 4081 and 4332.

10 "The controlled substances inventories required by Title 21, CFR, Section 1304 shall be
11 available for inspection upon request for at least 3 years after the date of the inventory."

12 8. California Code of Regulations, title 16, section 1714, subdivision (d) states:

13 "Each pharmacist while on duty shall be responsible for the security of the prescription
14 department, including provisions for effective control against theft or diversion of dangerous
15 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy
16 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist."

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

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

25 11. Hydrocodone is a Schedule III controlled narcotic substance pursuant to Health and
26 Safety Code section 11056(e)(4) and a dangerous drug pursuant to Business and Professions Code
27 section 4022.
28

FIRST CAUSE FOR DISCIPLINE

(Failure to Maintain Current Inventory)

12. Respondent is subject to disciplinary action under section 4301 subdivisions (j) and (o) in conjunction with California Code of Regulations, title 16, section 1718 for failure to maintain a "current inventory", in that Respondent was unable to account for approximately 58,719 units of Hydrocodone APAP (multiple strengths) between August 26, 2008 and September 27, 2009 as follows:

DRUG	Last Inventory - 8/26/08	Purchases 8/26/08 - 9/27/08	Amount Dispensed 8/26/08 - 9/27/09	Returns	Expected On-Hand Inventory	Actual Inventory	Variance
HC/APAP 10/325	1659	113000	68092	9	46558	2728	[43830] ¹
HC/APAP 5/500	2966	692500	683152	161	12153	19370	7217
HC/APAP 7.5/750	1466	91000	83747	0	8719	1354	[7365]
HC/APAP 5/325	578	73200	74828	0	[1050]	1020	2070
HC/APAP 7.5/325	650	20500	20136	0	1014	100	[914]
HC/APAP 10/650	1834	400	724	1225	285	163	[122]
HC/APAP 7.5/650	70	700	543	0	227	241	14
HC/APAP 10/500	1827	2300	2245	0	1882	196	[1686]
HC/APAP 7.5/500	464	11300	10776	0	988	848	[140]
HC/APAP 10/660	90	1000	838	0	252	170	[82]

¹ A subsequent audit covering the time period 9/27/2009-10/12/2009 revealed an additional shortage of 4,580 units.

1 SECOND CAUSE FOR DISCIPLINE

2 (Failure to Secure Pharmacy)

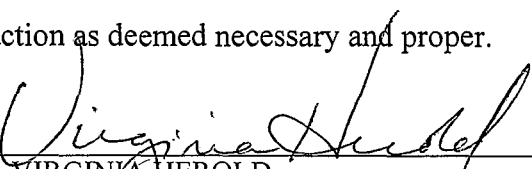
3 13. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
4 (o), in conjunction with California Code of Regulations, title 16, section 1714, subdivision (d) in
5 that she failed to ensure that controlled substances located at Skilled Nursing Pharmacy were
6 securely maintained.

7 PRAYER

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

- 10 1. Revoking or suspending Pharmacist License Number RPH 50114, issued to Alice
- 11 Yang Forest;
- 12 2. Ordering Alice Yang Forest to pay the Board of Pharmacy the reasonable costs of the
- 13 investigation and enforcement of this case, pursuant to Business and Professions Code section
- 14 125.3;
- 15 3. Taking such other and further action as deemed necessary and proper.

16 DATED: 11/8/10

17 
 18 VIRGINIA HEROLD
 19 Executive Officer
 20 Board of Pharmacy
 Department of Consumer Affairs
 State of California
 Complainant

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