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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. 3729

12 **JAMES A. GREENLEE**
13 **25 Cosmo Dr.**
14 **Chico, California 95926**

A C C U S A T I O N

15 **Pharmacist License No. RPH 48842**

16 Respondent.

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 August 29, 1996, the Board of Pharmacy issued Pharmacist License
22 Number RPH 48842 (License) to James A. Greenlee (Respondent). The License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on July 31, 2012,
24 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. Code section 4300 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.

....

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

5. Code section 4301 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:

....

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

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

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the

1 ability of the person to conduct with safety to the public the practice authorized by
the license.

2
3 (j) The violation of any of the statutes of this state, or any other state, or of the
4 United States regulating controlled substances and dangerous drugs.

5
6 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
7 abetting the violation of or conspiring to violate any provision or term of this
8 chapter or of the applicable federal and state laws and regulations governing
9 pharmacy, including regulations established by the board or by any other state or
10 federal regulatory agency.

11
12 6. Code section 4022 states:

13 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
14 self-use in humans or animals, and includes the following:

15 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
16 without prescription," "Rx only," or words of similar import.

17 (b) Any device that bears the statement: "Caution: federal law restricts this
18 device to sale by or on the order of a _____," "Rx only," or words of similar
19 import, the blank to be filled in with the designation of the practitioner licensed to
20 use or order use of the device.

21 (c) Any other drug or device that by federal or state law can be lawfully
22 dispensed only on prescription or furnished pursuant to Section 4006.

23 7. Code section 4059.5, subd. (a), states:

24 (a) Except as otherwise provided in this chapter, dangerous drugs or dangerous
25 devices may only be ordered by an entity licensed by the board and shall be delivered
26 to the licensed premises and signed for and received by a pharmacist. Where a
27 licensee is permitted to operate through a designated representative, the designated
28 representative may sign for and receive the delivery.

8. Code section 4060 states:

No person shall possess any controlled substance, except that furnished to a
person upon the prescription of a physician, dentist, podiatrist, optometrist,
veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished
pursuant to a drug order issued by a certified nurse-midwife pursuant to Section
2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant
pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
pharmacist pursuant to either Section 4052.1 or 4052.2. This section shall not apply
to the possession of any controlled substance by a manufacturer, wholesaler,
pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, 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.

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

3 9. Code section 4063 states:

4 No prescription for any dangerous drug or dangerous device may be refilled
5 except upon authorization of the prescriber. The authorization may be given orally
or at the time of giving the original prescription. No prescription for any dangerous
6 drug that is a controlled substance may be designated refillable as needed.

7 10. Code section 4324, subd. (a), states:

8 (a) Every person who signs the name of another, or of a fictitious person, or
falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine,
9 any prescription for any drugs is guilty of forgery and upon conviction thereof shall
be punished by imprisonment in the state prison, or by imprisonment in the county
10 jail for not more than one year.

11 11. Health and Safety Code section 11170 states:

12 No person shall prescribe, administer, or furnish a controlled substance for himself.

13 12. Health and Safety Code section 11173, subd. (a), states:

14 (a) No person shall obtain or attempt to obtain controlled substances, or
procure or attempt to procure the administration of or prescription for controlled
15 substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the
concealment of a material fact.

16 13. Health and Safety Code section 11350, subd. (a), states:

17 Except as otherwise provided in this division, every person who possesses (1)
any controlled substance specified in subdivision (b) or (c), or paragraph (1) of
18 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
19 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
20 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to
practice in this state, shall be punished by imprisonment in the state prison.

21 14. Health and Safety Code section 11377, subd. (a), states:

22 Except as authorized by law and as otherwise provided in subdivision (b) or
23 Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of
Division 2 of the Business and Professions Code, every person who possesses any
24 controlled substance which is (1) classified in Schedule III, IV, or V, and which is
not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except
25 paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in paragraph
(11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or (3) of
26 subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f) of
Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or
27 veterinarian, licensed to practice in this state, shall be punished by imprisonment in
a county jail for a period of not more than one year or in the state prison.
28

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

5 FIRST CAUSE FOR DISCIPLINE

6 (Corrupt Acts - Theft of Medications)

7 16. Respondent is subject to disciplinary action under Code section 4301, subd. (f), in
8 that Respondent engaged in unprofessional conduct when he stole medications. The
9 circumstances are as follows: in between May 5, 2007, and January 31, 2010, on specific dates
10 only known to Respondent, while working as a pharmacist at Enloe Pharmacy in Chico,
11 California, (Enloe Pharmacy) Respondent stole for personal use approximately 200 tablets of
12 hydrocodone/apap 10/325¹, and approximately 200 tablets of Adderall 30 mg² from Enloe
13 Pharmacy.

14 SECOND CAUSE FOR DISCIPLINE

15 (Unlawful Possession and Self-Furnishing of Controlled Substances)

16 17. Respondent is subject to disciplinary action under Code sections 4301, subds. (f), (j)
17 and (o); 4059.5; 4060; and 4063; and Health and Safety Code sections 11170; 11350; and 11377,
18 in that Respondent engaged in unprofessional conduct by unlawfully possessing and self-
19 furnishing controlled substances. The circumstances are as follows:

20 a. Respondent stole for personal use hydrocodone-containing medications and Adderall
21 30 mg. as detailed above in paragraph 16.

22 ///

23 ¹ Hydrocodone/apap 10/325 is a compound consisting of 10 mg hydrocodone bitartrate
24 also known as dihydrocodeinone, a Schedule III narcotic controlled substance as designated by
25 Health and Safety Code section 11056(e)(4), and 325 mg acetaminophen per tablet, and is a
dangerous drug within the meaning of Code section 4022, in that under federal law it requires a
prescription.

26 ² Adderall 30 mg. is a brand name of 30 mg of amphetamine salts, a Schedule II
27 controlled substance as designated by Health and Safety Code section 11055(d)(1) and is a
28 dangerous drug within the meaning of Code section 4022, in that under federal law it requires a
prescription.

1 ///

2 b. Respondent possessed alprazolam³ on multiple dates and on exact dates only known
3 to Respondent when while working as a pharmacist at Enloe Pharmacy he refilled his
4 prescriptions for alprazolam earlier and more frequently than authorized by the prescriber.

5 c. Respondent, while working as a pharmacist at Enloe Pharmacy, self-filled
6 prescriptions for alprazolam on or about: March 20, 2009; April 30, 2009; May 15, 2009; June 5,
7 2009; June 30, 2009; July 20, 2009; and September 1, 2009.

8 THIRD CAUSE FOR DISCIPLINE

9 (Unlawful Self-Administration of Controlled Substances)

10 18. Respondent is subject to disciplinary action under Code section 4301, subds. (j), (h)
11 and (o); and Health and Safety Code section 11170 in that Respondent engaged in unprofessional
12 conduct by unlawfully self-administering controlled substances. The circumstances are as
13 follows: in between May 5, 2007, and January 31, 2010, on specific dates only known to
14 Respondent, Respondent unlawfully self-administered hydrocodone/apap 10/325, Adderall 30
15 mg., alprazolam, and Phentermine⁴.

16 FOURTH CAUSE FOR DISCIPLINE

17 (Creating False or Fraudulent Controlled Substance Prescription Records)

18 19. Respondent is subject to disciplinary action under Code sections 4301, subds. (f), (g),
19 (j) and (o); and 4324(a) and Health and Safety Code section 11173, subd. (b), in that Respondent
20 engaged in unprofessional conduct by falsifying prescriptions for controlled substances. The
21 circumstances are as follows: in between March 20, 2009, and September 1, 2009, Respondent
22 while working as a pharmacist at Enloe Pharmacy falsified two prescriptions for Phentermine.
23 One prescription was refilled three times and the other was refilled two times by Respondent.

24 _____
25 ³ Alprazolam is a Schedule IV controlled substance as designated by Health and Safety
26 Code section 11057(f)(4) and is a dangerous drug within the meaning of Code section 4022, in
that under federal law it requires a prescription.

27 ⁴ Phentermine is a Schedule IV controlled substance as designated by Health and Safety
28 Code section 11057(f)(4) and is a dangerous drug within the meaning of Code section 4022, in
that under federal law it requires a prescription.

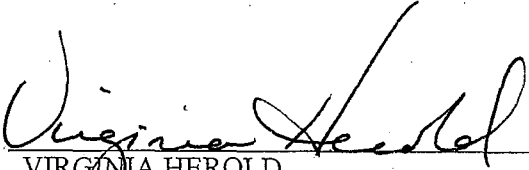
1 Respondent falsified the prescriptions as if Dr. Ekkens had authorized the prescriptions for
2 Respondent's wife, Cathleen Greenlee. In fact neither Dr. Ekkens or Respondent's wife knew
3 anything the prescriptions or the refills. The prescriptions were not authorized by Dr. Ekkens.
4 Respondent filled the prescriptions for himself and self-administered the Phentermine.

5 PRAYER

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

- 8 1. Revoking or suspending Pharmacist License Number RPH 48842, issued to James A.
9 Greenlee
- 10 2. Ordering James A. Greenlee to pay the Board of Pharmacy the reasonable costs of the
11 investigation and enforcement of this case, pursuant to Business and Professions Code section
12 125.3;
- 13 3. Taking such other and further action as deemed necessary and proper.
- 14

15
16 DATED: 11/2/10


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

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