

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 TIMOTHY J. MCDONOUGH  
Deputy Attorney General  
4 State Bar No. 235850  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 622-2134  
Facsimile: (510) 622-2270  
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 3865

13 **CHARLES WALKER**  
14 **191 Lippizan Dr.**  
**Vallejo, CA 94591**  
**Pharmacist No. RPH 32316**

**A C C U S A T I O N**

Respondent.

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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 August 14, 1978, the Board of Pharmacy issued Pharmacist License  
23 Number RPH 32316 to Charles Walker (Respondent). The Pharmacist was in full force and  
24 effect at all times relevant to the charges brought in this Accusation and will expire on December  
25 31, 2011, unless renewed.

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JURISDICTION

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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 of the Code states:

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

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

10 "(1) Suspending judgment.

11 "(2) Placing him or her upon probation.

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

13 "(4) Revoking his or her license.

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

16 ...

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

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

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

4 8. Section 492 of the Code states:

5 "Notwithstanding any other provision of law, successful completion of any diversion  
6 program under the Penal Code, or successful completion of an alcohol and drug problem  
7 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of  
8 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2  
9 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that  
10 division, from taking disciplinary action against a licensee or from denying a license for  
11 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a  
12 record pertaining to an arrest.

13 "This section shall not be construed to apply to any drug diversion program operated by any  
14 agency established under Division 2 (commencing with Section 500) of this code, or any  
15 initiative act referred to in that division."

16 9. Section 4022 of the Code states:

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

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

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

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

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1 DRUGS

2 10. Marijuana is a Schedule I controlled substance as designated by Health and Safety  
3 Code section 11054, subdivision (d)(13), and a dangerous drug as designated by Business and  
4 Professions Code section 4022. It is a hallucinogenic drug.

5 COST RECOVERY

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

10 **FIRST CAUSE FOR DISCIPLINE**  
11 **(Unprofessional Conduct-Use of Controlled Substance)**  
12 **(Bus. & Prof. Code §§ 4060 & 4301(h))**

13 12. Respondent has subjected his Pharmacist License to disciplinary action under Code  
14 sections 4060 and 4301, subdivision (h), in that he was in possession of Marijuana and self-  
15 administered Marijuana over a period of several months. Marijuana is a controlled substance and  
16 considered a dangerous drug. The circumstances are as follows:

17 13. In June 2008, Respondent became depressed after he sold his pharmacy, which he  
18 had owned for 28 years, to Walgreens. He continued to work at the Pharmacy as a Pharmacist  
19 after selling it to Walgreens. After working for there for a couple of weeks he began smoking  
20 Marijuana a couple of times a week in order to deal with his depression. After the death of a  
21 close friend in December of 2009, Respondent began smoking Marijuana everyday to cope with  
22 the pain of losing his friend. Respondent was smoking Marijuana until at least February 15,  
23 2010.

24 **SECOND CAUSE FOR DISCIPLINE**  
25 **(Unprofessional Conduct-Violation of Laws Regarding Controlled Substance)**  
26 **(Bus. & Prof. Code §§ 4301(j))**

27 14. Respondent has subjected his Pharmacist License to disciplinary action under Code  
28 section 4301, subdivision (j), in that he violated state and federal laws regarding controlled  
substances and dangerous drugs. Respondent admitted to smoking Marijuana, a controlled

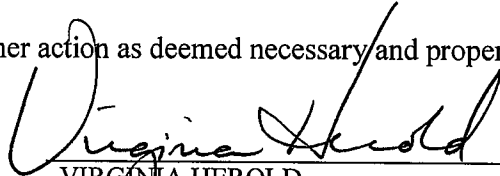
1 substance, for several months between June 2009 and February 2010. The circumstances are  
2 further explained in paragraph 13, above.

3 PRAYER

4 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
5 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

- 6 1. Revoking or suspending Pharmacist License Number RPH 32316, issued to Charles  
7 Walker;
- 8 2. Ordering Charles Walker to pay the Board of Pharmacy the reasonable costs of the  
9 investigation and enforcement of this case, pursuant to Business and Professions Code section  
10 125.3;
- 11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: 2/23/11



13 VIRGINIA HEROLD  
14 Executive Officer  
15 Board of Pharmacy  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

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