

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:
11 **LARRY ALAN GRABEL**
12 **4 Cindy Lane**
Alamo, CA 94507
13 **Pharmacist License No. RPH 28046**
14 Respondent.

Case No. 4120

A C C U S A T I O N

15 Complainant alleges:

16 PARTIES

- 17 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
18 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 19 2. On or about November 17, 1972, the Board of Pharmacy issued Pharmacist License
20 No. RPH 28046 to Larry Alan Grabel (Respondent). The License was in full force and effect at
21 all times relevant to the charges brought herein and will expire on June 30, 2013, unless renewed.
22 Between on or about September 18, 1986 and on or about June 15, 2011, and at all times relevant
23 to the charges brought herein, Respondent was, and/or was listed in Board records as, Pharmacist
24 in Charge (PIC) and co-owner of Bacon East Pharmacy (PHY 33076) in Concord, CA.

25 JURISDICTION

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

1 4. Section 4011 of the Code provides that the Board shall administer and enforce both
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
3 Act [Health & Safety Code, § 11000 et seq.].

4 5. Section 4300(a) of the Code provides that every license issued by the Board may be
5 suspended or revoked.

6 6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,
7 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
8 disciplinary action during the period within which the license may be renewed, restored, reissued
9 or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not
10 renewed within three years following its expiration may not be renewed, restored, or reinstated
11 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of
12 the Code provides that any other license issued by the Board may be canceled by the Board if not
13 renewed within 60 days after its expiration, and any license canceled in this fashion may not be
14 reissued but will instead require a new application to seek reissuance.

15 STATUTORY AND REGULATORY PROVISIONS

16 7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
17 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but
18 not be limited to, any of the following:

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

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

25 (q) Engaging in any conduct that subverts or attempts to subvert a board investigation.

26 8. Section 4306.5 of the Code provides, in pertinent part, that unprofessional conduct for
27 a pharmacist may also include any of the following:

28 (a) Inappropriate exercise of his/her education, training, or experience as a pharmacist;

1 (b) Failure to exercise or implement his/her best professional judgment or corresponding
2 responsibility with regard to the dispensing or furnishing of controlled substances, dangerous
3 drugs, or dangerous devices, or with regard to the provision of services.

4 (c) Failure to consult appropriate patient, prescription, and other records pertaining to the
5 performance of any pharmacy function.

6 (d) Failure to fully maintain and retain appropriate patient-specific information pertaining
7 to the performance of any pharmacy function.

8 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous
9 drug or dangerous device except upon the prescription of an authorized prescriber.

10 10. Section 4059.5 of the Code, in pertinent part, permits ordering/delivery of dangerous
11 drugs or devices only by and to entities licensed by the board and authorized prescribers.

12 11. Section 4113, subdivision (c) of the Code states:

13 “The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state
14 and federal laws and regulations pertaining to the practice of pharmacy.”

15 12. Section 4081 of the Code provides, in pertinent part, that all records of manufacture,
16 sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be kept open to
17 inspection and retained for at least three years, that a current inventory shall be kept by every
18 pharmacy that maintains a stock of dangerous drugs or dangerous devices, and that the owner(s),
19 officer(s), partner(s), and pharmacist in charge or designated representative in charge shall be
20 jointly responsible for maintaining the records and keeping the inventory.

21 13. Section 4105 of the Code requires, in pertinent part, that unless a waiver is granted by
22 the board, all records and other documentation of the acquisition and disposition of dangerous
23 drugs and devices by any entity licensed by the board be retained on the licensed premises, in a
24 readily retrievable form, for three years from the date of making.

25 8. Section 4332 of the Code makes it unlawful for any person: to fail, neglect, or refuse
26 to maintain the records required by Section 4081; or, when called upon by an authorized officer
27 or a member of the board, to fail, neglect, or refuse to produce or provide the records within a
28 reasonable time; or to willfully produce or furnish records that are false:

1 14. California Code of Regulations, title 16, section 1718, states:

2 “‘Current Inventory’ as used in Sections 4081 and 4332 of the Business and Professions
3 Code shall be considered to include complete accountability for all dangerous drugs handled by
4 every licensee enumerated in Sections 4081 and 4332.

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

7 15. Section 4342 of the Code provides, in pertinent part, that the board may institute any
8 action or actions provided by law and deemed necessary to prevent the sale of pharmaceutical
9 preparations and drugs that do not conform to expected quality or strength.

10 16. California Code of Regulations, title 16, section 1715, subdivision (a), requires that
11 the pharmacist-in-charge of each pharmacy shall complete a self-assessment of the pharmacy’s
12 compliance with federal and state pharmacy law before July 1 of every odd-numbered year, and
13 subdivision (d) requires that each self-assessment shall be kept for three years after completion.

14 17. California Code of Regulations, title 16, section 1716, in pertinent part, prohibits any
15 pharmacist from deviating from the requirements of a prescription, except by prior consent of the
16 prescriber or for purposes of selection of the drug product pursuant to Section 4073.

17 18. California Code of Regulations, title 16, section 1717, subdivision (b) requires, in
18 pertinent part, that for each prescription on file, certain information shall be maintained and be
19 readily retrievable in the pharmacy, including the date dispensed, and the name or initials of the
20 dispensing pharmacist. All prescriptions filled or refilled by an intern pharmacist must also be
21 initialed by the supervising pharmacist before they are dispensed.

22 19. California Code of Regulations, title 16, section 1761 provides that no pharmacist
23 shall compound or dispense any prescription containing a significant error, omission, irregularity,
24 uncertainty, ambiguity or alteration, that upon receipt of any such prescription, the pharmacist
25 shall contact the prescriber to obtain the information needed to validate the prescription, and that
26 even after conferring with the prescriber, the pharmacist shall not compound or dispense any
27 controlled substance prescription where the pharmacist knows or has objective reason to know
28 that the prescription was not issued for a legitimate medical purpose.

1 20. California Code of Regulations, title 16, section 1793.7, subdivision (c) requires that
2 a pharmacy technician wear identification clearly identifying him/her as a pharmacy technician.

3 21. Health and Safety Code section 11153, subdivision (a), requires that a prescription for
4 a controlled substance be issued for a legitimate medical purpose by an individual practitioner
5 acting in the usual course of his or her professional practice, and specifies that the responsibility
6 for proper prescribing and dispensing of controlled substances is on the prescribing practitioner,
7 but that a corresponding responsibility rests with the pharmacist who fills the prescription.

8 22. Health and Safety Code section 11158 provides, in pertinent part, that no controlled
9 substance shall be dispensed without a prescription meeting security form requirements.

10 23. Health and Safety Code section 11162.1 specifies the security form requirements that
11 must be met for any written prescription for a controlled substance, including a latent, repetitive
12 “void” pattern printed on the form that becomes visible if the prescription is scanned or copied, a
13 description of the security features included on each prescription form, six quantity check off
14 boxes printed on the form, check boxes for indicating the number of refills, an identifying number
15 assigned to the approved security printer that printed the form, and sequential numbering thereby.

16 24. Title 21, Code of Federal Regulations, section 1304.04(f) requires, in pertinent part,
17 that inventories and records of Schedule I and II controlled substances shall be kept separate from
18 all other records, and that inventories and records of Schedule III-V controlled substances shall be
19 either kept separate from other records, or be immediately retrievable from the business records.

20 25. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
21 administrative law judge to direct a licensee found to have committed a violation of the licensing
22 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

23 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

24 26. Section 4021 of the Code provides that a “controlled substance” means any substance
25 listed in Schedules I through V contained in Health and Safety Code section 11053 et seq.

26 27. Section 4022 of the Code states, in pertinent part:

27 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
28 except veterinary drugs that are labeled as such, and includes the following:

1 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
2 prescription,’ ‘Rx only,’ or words of similar import. . . .

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

5 28. **OxyContin** is a brand name for **oxycodone**, a Schedule II controlled substance as
6 designated by Health and Safety Code section 11055(b)(1)(N) and a dangerous drug as designated
7 by Business and Professions Code section 4022. It is an opioid analgesic.

8 29. **Duragesic** is a brand name for a patch delivering **fentanyl**, a Schedule II controlled
9 substance as designated by Health and Safety Code section 11055(c)(8) and a dangerous drug as
10 designated by Business and Professions Code section 4022. It is an opioid analgesic.

11 30. **Demerol** is a brand name for **meperidine**, a Schedule II controlled substance as
12 designated by Health and Safety Code section 11055(b)(2) and a dangerous drug as designated by
13 Business and Professions Code section 4022. It is an opioid analgesic.

14 31. **Methadose** is a brand name for **methadone hydrochloride**, a Schedule II controlled
15 substance as designated by Health and Safety Code section 11055(c)(14) and a dangerous drug as
16 designated by Business and Professions Code section 4022. It is an opioid analgesic.

17 32. **Norco, Vicodin, Vicodin ES, Lortab, and Lorcet** are among the brand names for
18 compounds of varying dosages of acetaminophen (aka APAP) and **Hydrocodone**, a Schedule III
19 controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous
20 drug as designated by Business and Professions Code section 4022. The varying compounds are
21 also known generically as **Hydrocodone with APAP**. These are all narcotic drugs.

22 33. **Testosterone** is a Schedule III controlled substance as designated by Health and
23 Safety Code section 11056(f)(30) and a dangerous drug as designated by Business and
24 Professions Code section 4022. It is a male hormone.

25 34. **Versed** is a brand name for **midazolam**, a Schedule IV controlled substance as
26 designated by Health and Safety Code section 11057(d)(21) and a dangerous drug as designated
27 by Business and Professions Code section 4022. It is a sedative drug.

28 ///

1 46. The investigation(s) revealed record-keeping, dispensing, and furnishing practices at
2 Bacon East Pharmacy, under Respondent's stewardship, that failed to comply with the law.

3 47. For instance, during an October 14, 2010 inspection by Board Inspector(s), five (5)
4 pharmacy technicians were on duty in the pharmacy without any of them wearing name tags.

5 48. Also during the inspection on October 14, 2010, Respondent was asked for a copy of
6 the most recent completed Community Pharmacy Self-Assessment Form. Respondent could not
7 produce a form completed in 2009, and the most recent form was completed in 2007.

8 49. Also on October 14, 2010, the Inspector(s) discovered two (2) prescription bottles in
9 the active inventory of the pharmacy that appeared not to have been dispensed from Bacon East
10 Pharmacy, and about which little could be discovered. The first of these was for patient M.L.¹: a
11 bottle labeled by Contra Costa Regional Medical Center Hospital Pharmacy, bearing prescription
12 number IP000397546 dated September 14, 2010, containing all of the forty-two (42) **divalproex**
13 **500 mg** unit dose tablets that it was labeled to contain. The second was for patient S.W.¹: a bottle
14 labeled with prescription number R41601023 dated April 25, 2010, with no pharmacy name on
15 the label, containing seventeen (17) of the sixty (60) **Geodon 80mg** caplets that it was labeled to
16 contain. The pharmacy had no records of acquisition for these containers or their contents, and
17 Respondent could not say for sure where they had come from. Respondent suspected that they
18 had been returned to the pharmacy from a half-way house where the patients were residents. The
19 patient profile for each patient maintained by Bacon East Pharmacy showed that on September
20 16, 2010 Bacon East Pharmacy dispensed prescription number 695042 to patient M.L. for forty-
21 two (42) **Depakote ER 500mg** tablets, on September 7, 2010 Bacon East Pharmacy dispensed
22 prescription number 695862 to patient S.W. for twenty-eight (28) **Geodon 40mg** capsules, and on
23 September 21, 2010 Bacon East Pharmacy dispensed prescription number 695660 to patient S.W.
24 for sixty (60) **Geodon 40mg** capsules. Both patients were then resident at the half-way house.

25 50. During an October 26, 2010 follow-up inspection, the Board Inspector(s) discovered
26 that the Schedule II prescription documents were filed together with the Schedule III-V materials.

27 _____
28 ¹ The full name(s) will be revealed to Respondent during discovery.

1 51. On October 26, 2010, the Board Inspector(s) discovered prescription number 699671
2 dispensed to patient S.M.¹ for **testosterone 0.2%** cream, not written on a security prescription
3 form, and prescription number 699648, dispensed to patient N.C.¹ for an unspecified number of
4 **Duragesic** patches, which did not have a quantity listed and/or the quantity check boxes marked.

5 52. During the course of the inspection(s), the Board Inspector(s) discovered that only a
6 small percentage of the prescription documents retained in the pharmacy had been hand-initialed
7 by the dispensing pharmacist. For instance, out of seventy-five (75) prescriptions numbered from
8 699400 to 699599 there were eleven (11) with the dispensing pharmacist's initials and sixty-four
9 (64) without initials. Likewise, out of sixty-one (61) prescriptions between 699600 and 699799
10 there were fourteen (14) with the dispensing pharmacist's initials and forty-seven (47) without.
11 Respondent admitted he could not determine who the dispensing pharmacist was for any of these.

12 53. During the course of the inspection(s), the Board Inspector(s) discovered that all of
13 the labels generated for prescription containers and all of the trailer labels attached to the back of
14 prescriptions printed with the initials "LG." Respondent admitted that these were his initials but
15 that their presence on the label did not mean anything because that was a default that printed on
16 every label and did not reflect the actual identity of the dispensing pharmacist.

17 54. During the course of the inspection(s), the Board Inspector(s) discovered at least six
18 (6) partially-used bubble packs in the active inventory of the pharmacy, two (2) each containing
19 **risperidone (Risperdal)** and **warfarin (Coumadin)**, and one (1) each containing **fluoxetine**
20 **(Prozac)** and **Diovan (valsartan)**, for which the pharmacy had no acquisition records.

21 55. During the course of the investigation(s), the Board Inspector(s) discovered that on at
22 least five (5) occasions between September 5, 2008 and November 5, 2010, Bacon East Pharmacy
23 furnished at least seven (7) compounds containing dangerous drugs to one or more persons who
24 were not prescribers, without a legitimate prescription or other legitimate authorization, relying
25 solely on letters from a Dr. Allen Fujimoto. The dangerous drugs included a topical cream
26 containing **hydroquinone** (furnished on or about September 5, 2008 and March 2, 2010), and a
27 gel or other topical application containing **lidocaine**, **tetracaine**, and/or **benzocaine** (furnished on
28 or about September 5, 2008, and March 2, May 27, October 22, and November 5, 2010).

1 56. During the investigation of these deliveries, the Board Inspector(s) asked for all of the
2 records of disposition pertaining to Dr. Fujimoto, or either of the subjects of the two letters. As
3 its response, Bacon East Pharmacy produced only one (1) of five (5) monthly billing statements,
4 and only three (3) of five (5) shipping receipts or tracking documents, pertaining to the deliveries
5 listed above. In addition, all of the documents produced related to deliveries to only one of the
6 two persons allegedly authorized to receive deliveries by the letters from Dr. Fujimoto, and there
7 were no records produced that related to any deliveries made to the other subject of the letters.

8 57. Finally, during the course of the investigation(s), the Board Inspector(s) discovered
9 the following with regard to dispensing of controlled substances and dangerous drugs by Bacon
10 East Pharmacy, and/or as to Respondent as dispensing pharmacist and/or Pharmacist in Charge:

11 a. In or about August and September 2010, the Board received two complaints by
12 a family member of a Bacon East Pharmacy patient (A.H.¹), claiming that A.H. had recently been
13 hospitalized, that she had been filling **OxyContin** (or **oxycodone**) prescriptions with Bacon East
14 Pharmacy for over a year, that between June 21, 2010 and August 10, 2010 she filled excessive
15 prescriptions for **OxyContin** (or **oxycodone**) at Bacon East Pharmacy in a total quantity or daily
16 average that nearly killed her,² and that A.H.'s prescriber had been disciplined and lost his DEA
17 registration.³ The complaint(s) asserted that Bacon East Pharmacy ought to have intervened.

18 b. Between on or about January 1, 2007 and September 2, 2010, patient A.H. was
19 dispensed one hundred seventeen (117) controlled substance prescriptions, from ten (10) different
20 prescribers, by five (5) different pharmacies. Fifty four (54) of these were dispensed by Bacon
21 East Pharmacy, the largest number among the pharmacies. All fifty four (54) were written by
22 Dickie L. Hill, D.O., and were dispensed between May 8, 2009 and September 2, 2010.

23 ² During this time period, patient A.H. filled seven (7) prescriptions for a total of sixty (60)
24 tablets of **OxyContin** (or **oxycodone**) **20mg**, three hundred forty (340) tablets of **OxyContin** (or
oxycodone) **30mg**, and two hundred eighty (280) tablets of **OxyContin** (or **oxycodone**) **40mg**.

25 ³ Subsequent investigation later confirmed that by Decision and Order of the Osteopathic
26 Medical Board effective September 30, 2010, the prescriber, Dickie L. Hill, D.O., had his license
27 to practice revoked, with the revocation stayed in favor of a probation of five (5) years, on terms
28 and conditions including a limitation to prescribing controlled substances in Schedules III and IV
of the California Uniform Controlled Substances Act, and a requirement that Dr. Hill surrender
his DEA registration for cancellation and re-apply for a registration limited to these Schedules.

1 c. Prior to coming to Bacon East Pharmacy for the first time on or about May 8,
2 2009, patient A.H. had a drug history of primarily maintenance prescriptions for **Hydrocodone**
3 **with APAP** drug products, dispensed approximately monthly with tapering usage. A.H. had also
4 previously been prescribed **oxycodone**, but not since on or about June 4, 2007, and for almost two
5 (2) years, patient A.H. was not prescribed any Schedule II controlled substances.

6 d. Then, on May 8, 2009, upon her first presentation to the pharmacy as a patient,
7 Bacon East Pharmacy dispensed to patient A.H., pursuant to prescriptions from Dr. Hill, ten (10)
8 **fantanyl 50mcg** patches, fifty (50) **oxycodone 15mg** and one hundred (100) **Oxycontin 40mg**.
9 This was a significant jump in controlled substance pain therapy for patient A.H.

10 e. Bacon East Pharmacy continued to dispense Schedule II controlled substances
11 to patient A.H., pursuant to prescriptions from Dr. Hill, on approximately a monthly basis from
12 May 2009 to August 2010, for a total of fifty four (54) prescriptions. The prescribed medications
13 included **fantanyl**, **OxyContin/oxycodone**, and sleep medications.

14 f. At least one other patient for whom Dr. Hill prescribed had a high volume of
15 controlled substance prescriptions dispensed by Bacon East Pharmacy. Between January 1, 2009
16 and September 2, 2010, patient M.T.¹ was dispensed the largest number of **Hydrocodone with**
17 **APAP 10/325** prescriptions (42), and the largest number of **OxyContin 80mg** prescriptions (40),
18 all written by Dr. Hill. During this time period, Dr. Hill also wrote for patient M.T., and Bacon
19 East Pharmacy dispensed to patient M.T., seven (7) prescriptions for **oxycodone 30mg**, seventeen
20 (17) prescriptions for **alprazolam**, and nineteen (19) prescriptions for **Ambien**.

21 g. At least with regard to these two patients, neither Respondent nor anyone else
22 at Bacon East Pharmacy sufficiently investigated or acted upon suspicious circumstances that
23 suggested the impropriety of the controlled substance prescriptions dispensed.

24 h. Respondent admitted to Board Inspector(s) that neither he nor anyone else at
25 Bacon East Pharmacy made a practice of assessing a patient's therapy for questionable patterns of
26 use before dispensing controlled substance prescriptions, and said that he considered it the job of
27 the prescriber to determine the propriety of the prescription(s) for the patient(s).

28 i. Respondent said that he and his colleagues did not tend to ask many questions.

1 FIRST CAUSE FOR DISCIPLINE

2 (Pharmacy Technician(s) Not Wearing Identification Badge(s))

3 58. Respondent is subject to discipline under section 4301(o) and/or section 4113(c) of
4 the Code, by reference to California Code of Regulations, title 16, section 1793.7, subdivision (c),
5 for directly or indirectly violating, attempting to violate, or assisting in or abetting a violation of
6 laws or regulations governing the practice of pharmacy, or in his role as Pharmacist in Charge for
7 violations of laws or regulations by Bacon East Pharmacy or its employee(s), in that, as described
8 in paragraph 47 above, on or about October 14, 2010 the pharmacy technician(s) at Bacon East
9 Pharmacy was/were not wearing appropriate identification badge(s).

10 SECOND CAUSE FOR DISCIPLINE

11 (Failure to Complete Biennial Pharmacy Self-Assessment Form(s))

12 59. Respondent is subject to discipline under section 4301(o) and/or section 4113(c) of
13 the Code, by reference to California Code of Regulations, title 16, section 1715, subdivision (a),
14 for directly or indirectly violating, attempting to violate, or assisting in or abetting a violation of
15 laws or regulations governing the practice of pharmacy, or in his role as Pharmacist in Charge for
16 violations of laws or regulations by Bacon East Pharmacy or its employee(s), in that, as described
17 in paragraph 48 above, on or about October 14, 2010 the most recent Community Pharmacy Self-
18 Assessment Form had been completed in 2007, rather than in 2009 as required.

19 THIRD CAUSE FOR DISCIPLINE

20 (Incomplete Inventory and/or Records of Acquisition)

21 60. Respondent is subject to discipline under section 4301(o) and/or section 4113(c) of
22 the Code, by reference to section(s) 4081, 4105, 4332 and/or 4342 of the Code, and/or California
23 Code of Regulations, title 16, section 1718, for directly or indirectly violating, attempting to
24 violate, or assisting in or abetting a violation of laws or regulations governing the practice of
25 pharmacy, or in his role as Pharmacist in Charge for violations of laws or regulations by Bacon
26 East Pharmacy or its employee(s), in that, as described in paragraphs 49 and 54 above, on or
27 about October 14, 2010 and/or October 26, 2010, Bacon East Pharmacy had in its inventory at
28 least eight (8) dangerous drugs for which it had no or inadequate records of acquisition.

1 FOURTH CAUSE FOR DISCIPLINE

2 (Failure to Segregate Schedule II Prescription Documents)

3 61. Respondent is subject to discipline under section 4301(o) and/or section 4113(c) of
4 the Code, by reference to Title 21, Code of Federal Regulations, section 1304.04(f), for directly
5 or indirectly violating, attempting to violate, or assisting in or abetting a violation of laws or
6 regulations governing the practice of pharmacy, or in his role as Pharmacist in Charge for
7 violation(s) of laws or regulations by Bacon East Pharmacy or its employee(s), in that, as
8 described in paragraph 50 above, on or about October 26, 2010 the Schedule II prescription
9 documents were filed together with the Schedule III-V documents, rather than being segregated.

10 FIFTH CAUSE FOR DISCIPLINE

11 (Dispensing Controlled Substance(s) Without Compliant Security Prescription(s))

12 62. Respondent is subject to discipline under section 4301(j) and/or (o), and/or section
13 4113(c), of the Code, by reference to Health and Safety Code section(s) 11158 and/or 11162.1,
14 for violating statutes regulating controlled substances or dangerous drugs, or for directly or
15 indirectly violating, attempting to violate, or assisting in or abetting a violation of laws or
16 regulations governing the practice of pharmacy, or in his role as Pharmacist in Charge for
17 violation(s) of laws or regulations by Bacon East Pharmacy or its employee(s), in that, as
18 described in paragraph 51 above, on one or more occasions Bacon East Pharmacy dispensed one
19 or more controlled substances pursuant to a prescription that either was not written on a security
20 prescription form, or did not have the requisite information listed on the form.

21 SIXTH CAUSE FOR DISCIPLINE

22 (Failure to Identify Dispensing Pharmacist(s))

23 63. Respondent is subject to discipline under section 4301(o) and/or section 4113(c) of
24 the Code, by reference to California Code of Regulations, title 16, section 1717, subdivision (b),
25 for directly or indirectly violating, attempting to violate, or assisting in or abetting a violation of
26 laws or regulations governing the practice of pharmacy, or in his role as Pharmacist in Charge for
27 violation(s) of laws or regulations by Bacon East Pharmacy or its employee(s), in that, as
28 described in paragraphs 52 and 53 above, a dispensing pharmacist could often not be identified.

1 SEVENTH CAUSE FOR DISCIPLINE

2 (Furnishing to Unauthorized Person(s) and/or Improper Dispensing)

3 64. Respondent is subject to discipline under section 4301(o) and/or section 4113(c) of
4 the Code, by reference to section(s) 4059 and/or 4059.5 of the Code, and/or California Code of
5 Regulations, title 16, section(s) 1716 and/or 1761, for directly or indirectly violating, attempting
6 to violate, or assisting in or abetting a violation of laws or regulations governing the practice of
7 pharmacy, or in his role as Pharmacist in Charge for violation(s) of laws or regulations by Bacon
8 East Pharmacy or its employee(s), in that, as described in paragraph 55 above, on one or more
9 occasions Bacon East Pharmacy furnished dangerous drugs to persons not authorized to receive
10 same, deviated from the requirements from a prescription, and/or dispensed a prescription
11 containing a significant error, omission, irregularity, uncertainty, ambiguity, or alteration.

12 EIGHTH CAUSE FOR DISCIPLINE

13 (Incomplete Inventory and/or Records of Disposition)

14 65. Respondent is subject to discipline under section 4301(o) and/or section 4113(c) of
15 the Code, by reference to section(s) 4081, 4105, 4332 and/or 4342 of the Code, and/or California
16 Code of Regulations, title 16, section 1718, for directly or indirectly violating, attempting to
17 violate, or assisting in or abetting a violation of laws or regulations governing the practice of
18 pharmacy, or in his role as Pharmacist in Charge for violations of laws or regulations by Bacon
19 East Pharmacy or its employee(s), in that, as described in paragraph 56 above, Bacon East
20 Pharmacy was unable to produce all records of the dispositions described in paragraph 55 above.

21 NINTH CAUSE FOR DISCIPLINE

22 (Subversion or Attempted Subversion of Investigation)

23 66. Respondent is subject to discipline under section 4301(o) and/or (q) and/or section
24 4113(c) of the Code, for directly or indirectly violating, attempting to violate, or assisting in or
25 abetting a violation of laws or regulations governing the practice of pharmacy, for subverting or
26 attempting to subvert a Board investigation, or in his role as Pharmacist in Charge for violations
27 of laws or regulations by Bacon East Pharmacy or its employee(s), in that, as described in
28 paragraphs 56 and 65 above, failure to produce adequate records subverted a Board investigation.

1 TENTH CAUSE FOR DISCIPLINE

2 (Failure(s) to Meet Corresponding Responsibility of Pharmacist(s))

3 67. Respondent is subject to discipline under section 4301(j) and/or (o), and/or section
4 4113(c), of the Code, by reference to Health and Safety Code sections 11153 and/or California
5 Code of Regulations, title 16, section 1761, for violating statutes regulating controlled substances
6 or dangerous drugs, or for directly or indirectly violating, attempting to violate, or assisting in or
7 abetting a violation of laws or regulations governing the practice of pharmacy, or in his role as
8 Pharmacist in Charge for violation(s) of laws or regulations by Bacon East Pharmacy or its
9 employee(s), in that, as described in paragraph 57 above, on one or more occasions Respondent
10 and/or other pharmacists at Bacon East Pharmacy who filled controlled substance prescription(s)
11 failed to meet his/her/their corresponding responsibility as to the legitimacy of the prescription(s).

12 ELEVENTH CAUSE FOR DISCIPLINE

13 (Inappropriate Exercise of Education, Training, or Experience as Pharmacist)

14 68. Respondent is subject to discipline under section 4301(j) and/or (o), section 4306.5,
15 and/or section 4113(c), of the Code: for violating statutes regulating controlled substances or
16 dangerous drugs; for directly or indirectly violating, attempting to violate, or assisting in or
17 abetting a violation of laws or regulations governing the practice of pharmacy; for inappropriately
18 exercising his education, training, or experience as a pharmacist, failing to exercise or implement
19 his best professional judgment or corresponding responsibility with regard to the dispensing or
20 furnishing of controlled substances or dangerous drugs, failing to consult appropriate patient,
21 prescription, and other records pertaining to performance of a pharmacy function, or failing to
22 fully maintain and retain appropriate patient-specific information pertaining to performance of a
23 pharmacy function; and/or in his role as Pharmacist in Charge for violation(s) of laws or
24 regulations by Bacon East Pharmacy or its employee(s), in that, as described in paragraph 57
25 above, Respondent and/or other pharmacists at Bacon East Pharmacy who filled controlled
26 substance prescription(s) failed to properly exercise his/their education, training and experience,
27 failed to exercise or implement his/their best professional judgment/corresponding responsibility,
28 and/or failed to consult or maintain appropriate patient records for pharmacy function(s).

1 TWELFTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct)

3 69. Respondent is subject to discipline under section 4301 of the Code in that
4 Respondent, as described in paragraphs 45 to 68 above, engaged in unprofessional conduct

5
6 PRAYER

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

9 1. Revoking or suspending Pharmacist License No. RPH 28046, issued to Larry Alan
10 Grabel (Respondent);

11 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and
12 enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

14
15 DATED: 5/14/12



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

22 SF2011202120
23 40535172.doc
24
25
26
27
28