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9	BEFORE THE BOARD OF PHARMACY DEPARTMENT OF CONSUMER A FEATING	
- 1	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
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11	In the Matter of the Accusation Against:	Case No. 4379
12	RANDALL A. OROSCO 1075 Mill Street	
13	Selma, CA 93662	ACCUSATION
14	Original Pharmacist No. RPH 49260	
15	Respondent.	
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17	Complainant alleges:	
18	<u>PARTIES</u>	
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 March 18, 1997, the Board of Pharmacy issued Original Pharmacist	
22	Number RPH 49260 to Randall A. Orosco (Respondent). The license will expire, unless renewed	
23	on August 31, 2014.	
24	<u>JURISI</u>	<u>DICTION</u>
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.	
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(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.
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5. Section 4301 of the Code states, in pertinent part:
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.
14.4
(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 ability of the person to conduct with safety to the public the
practice authorized by the license.

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

. . . .

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

. . .

6. Section 4060 of the Code 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, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. 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.

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.

7. Section 4327 of the Code states:

Any person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor.

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7. Section 11350(a) of the Health and Safety Code states, in pertinent part:

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 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 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 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.

. . . .

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

COST RECOVERY

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

<u>DRUGS</u>

- 10. Codeine with acetaminophen is a Schedule III controlled substance as designated by Health and Safety Code section 11056, subdivision (e), and is a dangerous drug pursuant to Code section 4022.
 - 11. Carisoprodol is a dangerous drug pursuant to Code section 4022.
 - 12. Tramadol is a dangerous drug pursuant to Code section 4022.

FIRST CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

¹ In 2012, Carisoprodol was designated as a Schedule IV controlled substance under Health and Safety Code section 11057, subdivision (d)(17).

- 13. Respondent is subject to disciplinary action under section 4301, subdivision (f) in that he engaged in acts involving moral turpitude, dishonesty, fraud, deceit, or corruption in that he stole dangerous drugs and controlled substances on multiple occasions. The circumstances are as follows:
- 14. From approximately November of 2008 through approximately August of 2011, on multiple occasions, all dates which are not specifically known, while employed as a pharmacist at PharmAmerica Pharmacy in Fresno, Respondent stole carisoprodol, a dangerous drug. A subsequent pharmacy drug audit showed a loss of over 6000 tablets.
- 15. From approximately February of 2010 through approximately August of 2011, on multiple occasions, all dates which are not specifically known, while employed as a pharmacist at PharmAmerica Pharmacy, Respondent stole tramadol, a dangerous drug. A subsequent pharmacy drug audit showed a loss of over 7,700 tablets.
- 16. Per Respondent's admissions, on two occasions, the exact dates which were unknown, between June 2011 and August 2011, while employed as a pharmacist at PharmAmerica Pharmacy, he stole acetaminophen with codeine, a schedule III controlled substance and narcotic and dangerous drug. A subsequent pharmacy audit indicated a loss of as much as 258 tablets from the pharmacy from April 2011 to October 2011.

SECOND CAUSE FOR DISCIPLINE

(Unlawful Possession of a Controlled Substance)

- 17. Respondent is subject to disciplinary action under section 4301, subdivision (j), in that he violated the statutes of this state regulating controlled substances and dangerous drugs. The circumstances are as follows:
- 18. Per Respondent's admissions, on two occasions, the exact dates which were unknown, between June 2011 and August 2011, he stole acetaminophen with codeine, a schedule III controlled substance and narcotic and dangerous drug, and was in possession of the medication without a prescription, in violation of Business and Professions Code section 4060 and Health and Safety Code section 11350, subdivision (a).

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THIRD CAUSE FOR DISCIPLINE

(Unlawful Self-Administration of a Controlled Substance)

- 19. Respondent is subject to disciplinary action under section 4301, subdivision (h), in that he unlawfully self administered a controlled substance. The circumstances are as follows:
- 20. Per Respondent's admissions, on two occasions, the exact dates which were unknown, between June 2011 and August 2011, he illegally self-administered acetaminophen with codeine, a schedule III controlled substance and narcotic and dangerous drug.

FOURTH CAUSE FOR DISCIPLINE

(Working as a Pharmacist While Under the Influence)

- 21. Respondent is subject to disciplinary action under section 4301, subdivision (o), in that he violated or attempted to violate the statutes of this state governing pharmacy. The circumstances are as follows:
- 22. Per Respondent's admissions, on two occasions, the exact dates which were unknown, between November 2008 and August 2011, while working as a licensed pharmacist, Respondent self-administered dangerous drugs and controlled substances, including carisoprodol, tramadol, and acetaminophen with codeine. As a result, he was under the influence of one or more of these dangerous drugs on multiple occasions when he was involved with the preparation, compounding, dispensing, and sale of prescriptions and providing patient care as a licensed pharmacist, in violation of Business and Professions Code section 4327.

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<u>PRAYER</u> WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision: 1. Revoking or suspending Original Pharmacist Number RPH 49260, issued to Randall A. Orosco.; Ordering Randall A. Orosco to pay the Board of Pharmacy the reasonable costs of the 2. investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; Taking such other and further action as deemed necessary and proper. 3. Board of Pharmacy Department of Consumer Affairs State of California Complainant SA2012107198 10954340.doc