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

11
12 In the Matter of the Accusation Against:

Case No. 4755

13 **EUGENE HOON PARK**
14 **5150 Vista del Amigo**
Yorba Linda, CA 92886

A C C U S A T I O N

15 **Pharmacist License No. RPH 51040**

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about September 2, 1999, the Board of Pharmacy issued Pharmacist License
24 Number RPH 51040 to Eugene Hoon Park (Respondent). The Pharmacist License was in full
25 force and effect at all times relevant to the charges brought herein and will expire on November
26 30, 2014, unless renewed.

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1 **JURISDICTION**

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 The expiration, cancellation, forfeiture, or suspension of a board-
7 issued license by operation of law or by order or decision of the board or a
8 court of law, the placement of a license on a retired status, or the voluntary
9 surrender of a license by a licensee shall not deprive the board of jurisdiction
10 to commence or proceed with any investigation of, or action or disciplinary
11 proceeding against, the licensee or to render a decision suspending or
12 revoking the license.

13 5. Section 4300.1 of the Code states:

14 The expiration, cancellation, forfeiture, or suspension of
15 a board-issued license by operation of law or by order or decision of
16 the board or a court of law, the placement of a license on a retired
17 status, or the voluntary surrender of a license by a licensee shall
18 not deprive the board of jurisdiction to commence or proceed with any
19 investigation of, or action or disciplinary proceeding against, the
20 licensee or to render a decision suspending or revoking the license.

21 **STATUTORY PROVISIONS**

22 6. Section 4060 of the Code states:

23 No person shall possess any controlled substance, except that
24 furnished to a person upon the prescription of a physician, dentist, podiatrist,
25 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7,
26 or furnished pursuant to a drug order issued by a certified nurse-midwife
27 pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1,
28 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.

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1 7. Section 4301 of the Code states:

2 The board shall take action against any holder of a license who is
3 guilty of unprofessional conduct or whose license has been procured by
4 fraud
5 or misrepresentation or issued by mistake. Unprofessional conduct shall
6 include, but is not limited to, any of the following:

7 ...

8 (b) Incompetence.

9 (c) Gross negligence.

10 ...

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

15 ...

16 (h) The administering to oneself, of any controlled substance, or the
17 use of any dangerous drug or of alcoholic beverages to the extent or in a
18 manner as to be dangerous or injurious to oneself, to a person holding a
19 license under this chapter, or to any other person or to the public, or to the
20 extent that the use impairs the ability of the person to conduct with safety to
21 the public the practice authorized by the license.

22 ...

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

26 ...

27 (o) Violating or attempting to violate, directly or indirectly, or
28 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

...

8. Health and Safety Code section 11357 states:

(a) 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

1
2 Section 11056, or (2) any controlled substance classified in Schedule III, IV,
3 or V which is a narcotic drug, unless upon the written prescription of a
4 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.

5 **REGULATORY PROVISIONS**

6 9. California Code of Regulations, title 16, section 1769, states:

7
8 (b) When considering the suspension or revocation of a facility or a
9 personal license on the ground that the licensee or the registrant has been
10 convicted of a crime, the board, in evaluating the rehabilitation of such
11 person and his present eligibility for a license will consider the following
12 criteria:

13 (1) Nature and severity of the act(s) or offense(s).

14 (2) Total criminal record.

15 (3) The time that has elapsed since commission of the act(s) or
16 offense(s).

17 (4) Whether the licensee has complied with all terms of parole,
18 probation, restitution or any other sanctions lawfully imposed against the
19 licensee.

20 (5) Evidence, if any, of rehabilitation submitted by the licensee.

21 10. California Code of Regulations, title 16, section 1770, states:

22
23 For the purpose of denial, suspension, or revocation of a personal or facility
24 license pursuant to Division 1.5 (commencing with Section 475) of the Business
25 and Professions Code, a crime or act shall be considered substantially related to
26 the qualifications, functions or duties of a licensee or registrant if to a substantial
27 degree it evidences present or potential unfitness of a licensee or registrant to
28 perform the functions authorized by his license or registration in a manner
consistent with the public health, safety, or welfare.

29 **COST RECOVERY**

30 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request
31 the administrative law judge to direct a licentiate found to have committed a violation or
32 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
33 and enforcement of the case. The Board may also include investigation and recovery costs in a
34 stipulated settlement.

1 **DRUGS**

2 12. Fentanyl is a Schedule II controlled substance as designated by Health and Safety
3 Code Section 11055(c)(8), and is a dangerous drug pursuant to Business and Professions Code
4 section 4022. Fentanyl is a narcotic (opioid) pain medicine.

5 13. Actiq a brand name for a formulation of fentanyl citrate a Schedule II controlled
6 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(N), and is a
7 dangerous drug pursuant to Business and Professions Code section 4022. Actiq is dispensed in a
8 lozenge form often on a stick like a popsicle and is designed to absorb slowly in the mouth. Actiq
9 is many times more potent than morphine and is often prescribed for opiate tolerant individuals or
10 for severe cancer breakthrough pain. Recently a generic form of Actiq has been introduced into
11 the market referred to simply as fentanyl citrate.

12 14. Oxycodone, also sold under the brand name OxyContin, is a Schedule II controlled
13 substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(N), and is a
14 dangerous drug pursuant to Business and Professions Code section 4022.

15 15. Vicodin ES, a brand name for hydrocodone and acetaminophen, is a Schedule III
16 controlled substance as designated by Health and Safety Code Section 11056(c), and is a
17 dangerous drug pursuant to Business and Professions Code section 4022.

18 16. Clonazepam is a generic name for Klonopin, a Schedule IV substance under
19 California Health and Safety Code section 11057(d)(7), and is a dangerous drug pursuant to
20 Business and Professions Code section 4022.

21 **FIRST CAUSE FOR DISCIPLINE**

22 (Unprofessional Conduct - Moral Turpitude)

23 17. Respondent is subject to disciplinary action for unprofessional conduct under section
24 4301(f) of the Code in that Respondent was dishonest and acted fraudulently in his procurement
25 of prescriptions drugs. The circumstances are as follows:

26 a. At all times mentioned herein, Respondent was the Pharmacist in Charge of
27 Campus Pharmacy in Loma Linda, California. Respondent admitted that he used his position to
28 divert fentanyl citrate and used the drug to further his own addiction.

1 b. As the Pharmacist in Charge, Respondent was responsible for maintaining a
2 proper accounting and inventory of the medication within the pharmacy. Respondent hid his drug
3 diversion by ordering fentanyl citrate in its generic form and under its brand name "Actiq."
4 Respondent ordered the drugs from a wholesale supplier that Campus Pharmacy did not use in the
5 regular course of business and used his position of authority to circumvent the normal inventory,
6 stocking and labeling procedures. A formal accounting of Campus Pharmacy's drug supply
7 concluded that 6,000 doses of fentanyl citrate had been diverted. Table 1 below outlines the
8 specific unaccounted for medication.

9 **TABLE 1.**

10 Medication	Unaccounted for Supply
11 Fentanyl Citrate (generic) 800 mcg	360
12 Actiq (brand name) 400 mcg	300
13 Actiq (brand name) 600 mcg	120
14 Actiq (brand name) 800 mcg	4,830
15 Actiq (brand name) 1200 mcg	120
16 Actiq (brand name) 1600 mcg	270

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Unprofessional Conduct - Incompetence and Gross Negligence)

19 18. Respondent is subject to disciplinary action for unprofessional conduct under sections
20 4301 subdivision (b) and (c) in that he was grossly negligent and incompetent in maintaining an
21 accurate supply of the drug inventory under his care. As the Pharmacist in Charge Respondent
22 failed to maintain a secure and accurate count of the medication entrusted to him. Table 2 below
23 outlines the specific unaccounted for medication.

24 **TABLE 2.**

25 Medication	Unaccounted for Supply
26 Clonazepam 0.5 mg	552
27 Clonazepam 1 mg	375

1	Clonazepam 2 mg	600
2	Hydrocodone/APAP 7.5/5 16z	2,097
3	Hydrocodone/APAP 7.5/500 16z	670
4	Oxycodone 10 mg	100
5	Oxycodone/APAP 10-325 mg	1,154
6	Oxycontin 20 mg	300
7	Oxycontin 30 mg	84
8	Oxycontin 40 mg	5
9	Oxycodone/APAP 17.5-325 mg	100

10

11 **THIRD CAUSE FOR DISCIPLINE**

12 (Unprofessional Conduct - Self-Administration of a Controlled Substance)

13 19. Respondent is subject to disciplinary action for unprofessional conduct under section
 14 4301 subdivision (h) in that he self-administered to fentanyl citrate, a controlled substance, as
 15 outlined in paragraph 17, which is incorporated herein by reference.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 (Unprofessional Conduct - Possession of a Controlled Substance)

18 20. Respondent is subject to disciplinary action for unprofessional conduct under Code
 19 section 4301 subdivision (j), in that he possessed fentanyl citrate without a valid prescription in
 20 violation of Health and Safety Code section 11357. The circumstances are as outlined in
 21 paragraph 17, which is incorporated herein by reference.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 (Unprofessional Conduct – Possession of a Controlled Substance)

24 21. Respondent is subject to disciplinary action for unprofessional conduct under Code
 25 section 4301 subdivisions (o), in that he possessed fentanyl citrate without a valid prescription in
 26 violation of section 4060 of the Code. The circumstances are as outlined in paragraph 17, which
 27 is incorporated herein by reference.

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1 **PRAYER**

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

- 4 1. Revoking or suspending Pharmacist License Number RPH 51040, issued to Eugene
5 Hoon Park;
- 6 2. Ordering Eugene Hoon Park to pay the Board of Pharmacy the reasonable costs of the
7 investigation and enforcement of this case, pursuant to Business and Professions Code section
8 125.3;
- 9 3. Taking such other and further action as deemed necessary and proper.

10
11
12 DATED: 2/19/14



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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17 Park Accusation.docx
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