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

11 In the Matter of the Accusation Against:

Case No. 4880

12 **Christian William Dapaah**
13 **868 Sweet Pea Lane**
Manteca, CA 95336

ACCUSATION

14 **Pharmacist License No.: RPH 54207**

15 Respondent.

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18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about March 18, 2003, the Board of Pharmacy issued Pharmacist Number RPH
23 54207 to Christian William Dapaah (Respondent). The Pharmacist License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on February 28, 2017,
25 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 in pertinent part that every license issued may be
6 suspended or revoked.

7 5. Section 4300.1 of the Code states:

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

13 6. Section 4301 of the Code states in pertinent part:

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

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

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

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

26 7. 7. Section 4306.5 of the codes states:

27 "Unprofessional conduct for a pharmacist may include any of the following:

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1 "(b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement
2 his or her best professional judgment or corresponding responsibility with regard to the dispensing
3 or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to
4 the provision of services..."

5 8. Section 4022 of the Code states

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

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

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

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

15 9. Section 4060 of the Code states in pertinent part:

16 "No person shall possess any controlled substance, except that furnished to a person upon
17 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
18 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
19 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
20 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
21 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
22 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052..."

23 10. Health and Safety Code section 11153 states in pertinent part:

24 "(a) A prescription for controlled substances shall only be issued for a legitimate medical
25 purpose by an individual practitioner acting in the usual course of his or her professional practice.
26 The responsibility for the proper prescribing and dispensing of controlled substances is upon the
27 prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the
28 prescription..."

1 DRUGS

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

5 12. Lortab is the brand name for hydrocodone with acetaminophen, is a Schedule III
6 controlled substance pursuant to Health and Safety Code section 11056, subdivision (e)(4), and a
7 dangerous drug as designated by Business and Professions Code section 4022.

8 13. Maxzide is the brand name for triamterene with hydrochlorothiazide and is a
9 dangerous drug as designated by Business and Professions Code section 4022. Maxzide is
10 prescribed to treat hypertension and edema.

11 COST RECOVERY

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

16 FIRST CAUSE FOR DISCIPLINE

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

18 15. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
19 section 4301, subdivision (f), in that Respondent committed acts involving moral turpitude,
20 dishonesty, fraud, deceit, or corruption, by possessing and transporting marijuana and
21 Lortab/hydrocodone for purposes of sale in violation of section 4060 and Health and Safety Code
22 sections 11360, subdivision (a), 11359, 11351, and 11352, subdivision (a). The circumstances are
23 as follows:

24 a. On or about April 8, 2013, Respondent was stopped by the California Highway
25 Patrol and was found to be in possession of 915 grams of marijuana, approximately \$18,920.00,
26 and a container of pills later identified as Lortab/hydrocodone bearing the patient name E.K.

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1 Respondent was also in possession of a cellular telephone which contained text messages
2 regarding the purchase and sale of marijuana and hydrocodone. Respondent stated that he had
3 been having financial troubles and admitted that he was selling marijuana in order to purchase a
4 sport utility vehicle.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Failed to Exercise Best Professional Judgment or Corresponding Responsibility)**

7 16. Respondent is subject to disciplinary action for unprofessional conduct pursuant to
8 section 4301, as defined by section 4306.5, subdivision (b), in that Respondent failed to exercise
9 his best professional judgment or corresponding responsibility by knowingly dispensing two (2)
10 prescriptions for dangerous drugs and one (1) prescription for a controlled substance that were
11 issued without any existing prescriber-patient relationship or examination. The circumstances are
12 as follows:

13 On or about April 1, 2013, Respondent contacted Dr. E.T., who resides and practices
14 medicine in California, and requested that he authorize a prescription for Maxzide for patient E.K.,
15 who resides in Georgia and was not an established patient of Dr. E.T. Dr. E.T. agreed to
16 authorize the prescription without examining the patient. Respondent wrote, filled, picked up, and
17 paid for the prescription.

18 b. On or about April 2, 2013, Respondent contacted Dr. E.T., who resides and
19 practices medicine in California, and requested that he authorize a prescription for Lortab for
20 patient J.D., who resides in Oklahoma and was not an established patient of Dr. E.T. Dr. E.T.
21 agreed to authorize the prescription without examining the patient. Respondent wrote, filled,
22 picked up, and paid for the prescription.

23 c. On or about April 8, 2013, the California Highway Patrol confiscated both
24 prescriptions referenced in paragraphs 16(a) and (b), from Respondent's possession.

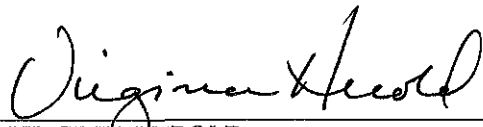
25 d. On or about April 15, 2013, Respondent re-authorized, filled, picked up, and
26 paid for a Maxzide prescription for patient E.K.

27 e. On or about April 16, 2013, Respondent re-authorized, filled, picked up, and
28 paid for a Lortab prescription for patient J.D.

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

DATED: 8/17/15



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

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