In the Matter of the Accusation Against:

DEBRA LEAH SHORT
10192 Creek Trail Circle
Stockton, CA 95209

Pharmacist License No. RPH 50183

Respondent.

Virginia Herold ("Complainant") alleges:

PARTIES

1. Complainant brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about August 17, 1998, the Board of Pharmacy issued Pharmacist License Number RPH 50183 to Debra Leah Short ("Respondent"). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2014, unless renewed.
3. This Accusation is brought before the Board of Pharmacy ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Code section 4011 provides, in pertinent part, that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

5. Code section 4300 states, in pertinent part, that every license issued may be suspended or revoked.

6. Code section 4300.1 states:

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

STATUTORY PROVISIONS

Business and Professions Code

7. Code section 4301 states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct. 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.”

..."(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."

... (l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.

... 

"(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."

8. Code section 4021 states:

"'Controlled Substance' means any substance listed in Chapter 2 (commencing with section 11053) of Division 10 of the Health and Safety Code."

9. Code section 4022 states, in pertinent part:

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

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

... (c) Any drug that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to section 4006.

10. Code section 4060 states, in pertinent part, that no person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.
Health and Safety Code

11. Health and Safety Code section 11170 states that “no person shall prescribe, administer, or furnish a controlled substance for himself.”

12. Health and Safety Code section 11173 provides, in pertinent part, that no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess any controlled substance listed in Schedule II (Health and Safety Code section 11055), subdivision (b) or (c), or any controlled substance which is a narcotic drug in Schedules III-V, absent a valid prescription.

COST RECOVERY

14. Code section 125.3 provides, 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.

DRUGS

15. “Norco” and “Vicodin” are among the brand names for compounds of varying dosages of acetaminophen (aka APAP) and hydrocodone, a Schedule III controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4) and dangerous drug as designated by Business and Professions Code section 4022.

16. “Furosemide” is a loop diuretic (water pill) that used to eliminate water and salt from the body, and is a dangerous drug as designated by Business and Professions Code section 4022.

17. “Carisoprodol,” or “Soma,” is a muscle relaxer that works by blocking pain sensations between the nerves and the brain, and is a dangerous drug as designated by Business and Professions Code section 4022.

18. “Potassium chloride” is used to prevent or to treat low amounts of potassium in the
blood, and is a dangerous drug as designated by Business and Professions Code section 4022.

**FIRST CAUSE FOR DISCIPLINE**

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

19. Respondent is subject to discipline under Code section 4301, subdivision (f), for unprofessional conduct, in that Respondent committed numerous acts involving moral turpitude, dishonesty, fraud, deceit or corruption. The circumstances are as follows:

a. Between approximately April 2011 and March or April of 2012, Respondent stole 9,044 tablets of hydrocodone-containing schedule III controlled substance medications, which were also narcotics, from Walgreens in Stockton, where Respondent was employed as the pharmacist-in-charge. Additionally, per her own admissions, she also stole non-narcotic dangerous drugs including, Furosemide 40mg, Carisoprodol 350mg, and Potassium Chloride 20meq. Respondent stole medications and narcotics every few weeks by placing and concealing several hundred tablets in the pockets of her pants and then leaving Walgreens with the medication at the end of the day. The medications she stole and illegally possessed were fraudulently and illegally used for self-medication, without a prescription for those medications.

**SECOND CAUSE FOR DISCIPLINE**

*(Unlawful Possession of Controlled Substance)*

20. Respondent is subject to discipline under Code sections 4301, subdivision (j), section 4060, and Health and Safety Code section 11350, in that on multiple and regular instances, Respondent possessed controlled substances (hydrocodone products) without a prescription, as more fully set forth above in paragraph 19 and its subpart.

**THIRD CAUSE FOR DISCIPLINE**

*(Unlawful Self-Administration of a Controlled Substance)*

21. Respondent is subject to discipline under Code section 4301, subdivision (h), and Health and Safety Code section 11170, in that on multiple and regular instances, Respondent administered to herself controlled substances (hydrocodone products) without a prescription, as more fully set forth above in paragraph 19 and its subpart.
FOURTH CAUSE FOR DISCIPLINE
(Furnishing of Dangerous Drug)

22. Respondent is subject to discipline under Code sections 4301, subdivision (j), section 4059, and Health and Safety Code section 11170, in that on multiple and regular instances, Respondent furnished to herself controlled substances and dangerous drugs (hydrocodone products, Furosemide, Carisoprodol, and Potassium Chloride) without a valid prescription, as more fully set forth above in paragraph 19 and its subpart.

FIFTH CAUSE FOR DISCIPLINE
(Obtaining Controlled Substance by Fraud, Deceit, or Subterfuge)

23. Respondent is subject to discipline under Code sections 4301, subdivision (j) and Health and Safety Code section 11173, subdivision (a), in that on multiple and regular instances, Respondent obtained controlled substances (hydrocodone products) by fraud, deceit, subterfuge, or concealment of a material fact, as more fully set forth above in paragraph 19 and its subpart.

SIXTH CAUSE FOR DISCIPLINE
(Conviction of Crime)

24. Respondent is subject to discipline action under Code section 4301, subdivision (j), in that on or about July 10, 2012, in the matter of People v. Debra Leah Short (Super. Ct. San Joaquin County Case No. SM280244A), Respondent was convicted of violation of Penal Code section 503 (Embezzlement). The facts and circumstances are more fully set forth above in paragraph 19 and its subpart.

SEVENTH CAUSE FOR DISCIPLINE
(Violation of Statutes Governing Controlled Substances)

25. Respondent is subject to discipline under Code section 4301, subdivision (j), in that Respondent violated statutes regulating controlled substances and dangerous drugs, including Code section 4059, as set forth above in paragraph 22, Code section 4060, as set forth above in paragraph 20, and Health and Safety Code section 111350, as set forth above in paragraph 20,
Health and Safety Code section 11170, as set forth above in paragraphs 21 and 22, and Health and Safety Code section 11173, as set forth above in paragraph 23.

**EIGHTH CAUSE FOR DISCIPLINE**

(Violation of the Laws Governing Pharmacy)

26. Respondent is subject to discipline under Code section 4301, subdivision (o), in that Respondent violated the laws governing pharmacy, as more fully set forth above in paragraphs 19 through 25, and their subparts.

**PRAYER**

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 Pharmacist License Number RPH 50183, issued to Debra Leah Short;

2. Ordering Debra Leah Short to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 11/4/13

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

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