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8	BEFORE THE
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS
10	STATE OF CALIFORNIA
11	In the Matter of the Accusation Against: Case Number 5115
12	GEORGE DENNIS PECK A C C U S A T I O N
13	1457 Vancil Fortuna, California 95540
14	Pharmacist License Number RPH 28543,
15	Respondent.
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18	Complainant Virginia Herold alleges:
19	PARTIES
20	1. Complainant brings this accusation solely in her official capacity as the Executive
21	Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.
22	2. On or about July 31, 1973, the Board issued Pharmacist License Number RPH
23	28543 to respondent George Dennis Peck. This pharmacist license was in full force and effect at
24	all times relevant to the charges brought in this accusation. It expired on February 28, 2014, and
25	has not been renewed.
26	JURISDICTION
27	3. This accusation is brought before the Board under the authority of the following
28	laws. All section references are to the Business and Professions Code unless otherwise indicated.
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1	4. Section 4011 states:
2	"The board shall administer and enforce this chapter and the Uniform Controlled
3	Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code)."
4	5. Section 4300 states in part:
5	"(a) Every license issued may be suspended or revoked."
6	6. Section 4300.1 states:
7	"The expiration, cancellation, forfeiture, or suspension of a board-issued license by
8	operation of law or by order or decision of the board or a court of law, the placement of a license
9	on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
10	of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
11	proceeding against, the licensee or to render a decision suspending or revoking the license."
12	7. Section 4304 states:
13	"The board may deny, revoke, or suspend any license issued pursuant to Section 4161 for
14	any violation of this chapter or for any violation of Part 5 (commencing with Section 109875) of
15	Division 104 of the Health and Safety Code."
16	STATUTORY PROVISIONS
17	8. Section 4060 states in part:
18	"No person shall possess any controlled substance, except that furnished to a person upon
19	the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic docto
20	pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-
21	midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician
22	assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a
23	pharmacist pursuant to either Section 4052.1 or 4052.2."
24	9. Section 4301 states in part:
25	"The board shall take action against any holder of a license who is guilty of
26	unprofessional conduct or whose license has been procured by fraud or misrepresentation or
27	issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
28	following:
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"(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. 4

"(h) The administering to oneself, of any controlled substance, or the use of any 6 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or 7 injurious to oneself, to a person holding a license under this chapter, or to any other person or to 8 the public, or to the extent that the use impairs the ability of the person to conduct with safety to 9 the public the practice authorized by the license. 10

- "(j) The violation of any of the statutes of this state, of any other state, or of the United 12 States regulating controlled substances and dangerous drugs. 13
- "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the 15 violation of or conspiring to violate any provision or term of this chapter or of the applicable 16 federal and state laws and regulations governing pharmacy, including regulations established by 17 the board or by any other state or federal regulatory agency." 18
 - 10. Health and Safety Code section 11170 states:

"No person shall prescribe, administer, or furnish a controlled substance for himself."

COST RECOVERY

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11. Section 125.3 states in part:

"(a) Except as otherwise provided by law, in any order issued in resolution of a 23 disciplinary proceeding before any board within the department or before the Osteopathic 24 Medical Board, upon request of the entity bringing the proceedings, the administrative law judge 25 may direct a licentiate found to have committed a violation or violations of the licensing act to 26 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case." 27

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DRUGS

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Hydrocodone is a Schedule III controlled substance under Health and Safety Code
 section 11056, subdivision (e)(4), and a dangerous drug under Business and Professions Code
 section 4022. It is used in the treatment of pain.

4 13. Hydromet is a combination of Hydrocodone and Homatropine. Homatropine is a
5 drug that works against Hydrocodone to prevent an overdose of this medication. Hydromet is
6 used to treat cough and usually is dispensed as a syrup.

7 14. Phentermine is a Schedule IV controlled substance under Health and Safety Code
8 section 11057, subdivision (f)(4), and a dangerous drug under Business and Professions Code
9 section 4022. It is a psychostimulant drug with pharmacology similar to amphetamine and used
10 as an appetite suppressant.

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FACTUAL BACKGROUND

12 15. Respondent was the pharmacist in charge at Palco Pharmacy in Scotia, California.
13 16. On April 23, 2013, respondent was seen in the pharmacy after store hours. A
14 computer audit of the pharmacy's drug inventory showed that the amount of Phentermine 30mg
15 held by the pharmacy had been changed after store hours on April 23, 2013. The audit showed
16 that the amount of Phentermine 30mg held by the pharmacy had been changed after store hours
17 on other dates as well. In total, 261 capsules of the drug were missing.

18 17. When confronted, respondent admitted to the pharmacy manager that he had
19 "screwed up."

20 18. An expanded audit found that the pharmacy was missing other drugs, including
21 2846 tablets of Hydrocodone/APAP 10/325 and 2321ml of Hydromet syrup.

22 19. Respondent submitted a written statement to the Board which included the
23 following:

"I used hydrocodone and phentermine from 11/2012 till 5/2013, and made adjustments in
inventory during this time. In thinking back I knew it was just a matter of time before I would be
detected, but I still could not admit I couldn't handle my problem.

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".... I admit to making changes in phentermine and hydromet and some of the

1	hydrocodone, but not near the quantity of hydrocodone missing. I have never taken any drugs to
2	be sold to others; they were only for personal use. I deeply regret this activity [and] I will never
3	be able to forgive my conduct during this time."
4	CAUSES FOR DISCIPLINE
5	FIRST CAUSE FOR DISCIPLINE
6	Unprofessional Conduct – Act of Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption Business and Brofessions Code section 4301 subdivision (f)
7	Business and Professions Code section 4301, subdivision (f)
8	20. The allegations of paragraphs 15-19 are realleged and incorporated by reference as
9	if fully set forth.
10	21. Respondent has subjected his pharmacist license to discipline for the
11	unprofessional conduct of committing an act of moral turpitude, dishonesty, fraud, deceit, or
12	corruption (Bus. & Prof. Code, § 4301, subd. (f)). Respondent modified pharmacy inventory
13	documents to steal Hydrocodone, Hydromet, and Phentermine.
14	SECOND CAUSE FOR DISCIPLINE Unprofessional Conduct – Possession of Controlled Substance
15	Business and Professions Code sections 4060 and 4301, subdivisions (j) and (o)
16	22. The allegations of paragraphs 15-19 are realleged and incorporated by reference as
17	if fully set forth.
18	23. Respondent has subjected his pharmacist license to discipline for the
19	unprofessional conduct of possession of a controlled substance (Bus. & Prof. Code, §§ 4060,
20	4301, subds. (j) & (o)). Respondent possessed Hydrocodone, Hydromet, and Phentermine
21	without a prescription or any authorization from the pharmacy.
22	THIRD CAUSE FOR DISCIPLINE Unprofessional Conduct – Self-Administration of a Controlled Substance
23	Business and Professions Code section 4301, subdivision (h)
24	24. The allegations of paragraphs 15-19 are realleged and incorporated by reference as
25	if fully set forth.
26	25. Respondent has subjected his pharmacist license to discipline for the
27	unprofessional conduct of self-administration of a controlled substance (Bus. & Prof. Code,
28	§ 4301, subd. (h)). Respondent modified pharmacy inventory documents to steal Hydrocodone,
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1	Hydromet, and Phentermine, and use them without a prescription or any authorization.
2	FOURTH CAUSE FOR DISCIPLINE
3	Unprofessional Conduct – Self-Administration of a Controlled Substance Business and Professions Code section 4301, subdivision (j);
4	Health & Safety Code section 11170
5	26. The allegations of paragraphs 15-19 are realleged and incorporated by reference as
6	if fully set forth.
7	27. Respondent has subjected his pharmacist license to discipline for the
8	unprofessional conduct of self-administration of a controlled substance (Bus. & Prof. Code,
9	§ 4301, subd. (j); Health & Saf. Code, § 11170). Respondent modified pharmacy inventory
10	documents to steal Hydrocodone, Hydromet, and Phentermine, and use them without a
11	prescription or any authorization.
12	<u>PRAYER</u>
13	WHEREFORE, complainant requests that a hearing be held on the matters alleged in this
14	accusation, and that following the hearing, the Board of Pharmacy issues a decision:
15	1. Revoking or suspending Pharmacist License Number RPH 28543 issued to George
16	Dennis Peck;
17	2. Ordering George Dennis Peck to pay the Board of Pharmacy the reasonable costs
18	of the investigation and enforcement of this case under to Business and Professions Code section
19	125.3; and
20	3. Taking such other and further action as deemed necessary and proper.
21	DATED: 11/14/14 Viginie Steed
22	VIRGINIA HEROLD Executive Officer
23	Board of Pharmacy Department of Consumer Affairs
24	State of California Complainant
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