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

11 In the Matter of the Accusation Against:
12
13 **FRANCIS KWOCK MING CHUNG**
30 Fanpalm
Irvine, CA 92620
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15 **Pharmacist License No. RPH 35558**
16
Respondent.

Case No. 5218

A C C U S A T I O N

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18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about August 19, 1980, the Board of Pharmacy issued Pharmacist License
23 Number RPH 35558 to Francis Kwock Ming Chung (Respondent). The Pharmacist License was
24 in full force and effect at all times relevant to the charges brought herein and will expire on
25 September 30, 2014, unless renewed.
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JURISDICTION

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. Section 4011 of the Code provides 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. Section 4300, subdivision (a), of the Code provides that every license issued by the Board may be suspended or revoked.

6. Section 4300.1 of the Code 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

7. Section 4323 of the Code states:

Every person, who in order to obtain any drug, falsely represents himself or herself to be a physician who can lawfully prescribe the drug, or falsely represents that he or she is acting on behalf of a person who can lawfully prescribe the drug, in a telephone or electronic communication with a pharmacist, shall be punished by imprisonment in the county jail for not more than one year.

8. 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.

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

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

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COST RECOVERY

9. Section 125.3 of the Code 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

DRUG

10. Zovirax, a brand name for Acyclovir, is a dangerous drug pursuant to Business and Professions Code section 4022.

FACTUAL ALLEGATIONS

11. At all times mentioned herein, Respondent was employed as a staff pharmacist in the oncology Ambulatory Care Clinic at Kaiser Permanente Pharmacy #019 located in Los Angeles, California.

12. On November 30, 2009, August 24, 2010 and February 25, 2011, Respondent prescribed Acyclovir 200 mg to himself utilizing the electronic prescribing software of Kaiser Permanente Pharmacy.

13. On July 12, 2002, December 4, 2002, June 10, 2003, September 17, 2003, January 28, 2004, and June 1, 2004, Respondent forged prescriptions for Acyclovir 200 mg listing Dr. T.M. as the prescriber and D.C. as the patient.

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FIRST CAUSE FOR DISCIPLINE

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

14. Respondent is subject to disciplinary action under Code section 4301(f), in that he committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as set forth in paragraphs 11 through 13, which are incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

(Knowingly Making or Signing Documents Falsely Representing the Existence of Facts)

15. Respondent is subject to disciplinary action under Code section 4301(g), in that he knowingly made or signed certificates or other documents that falsely represented the existence or nonexistence of a state of facts, as set forth in paragraphs 11 through 13, which are incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Falsely Representing Self as Physician to Obtain Drugs)

16. Respondent is subject to disciplinary action under Code section 4301(o), for violating Code section 4323, in that he falsely represented himself to be a physician who could lawfully prescribe drugs in order to obtain drugs, as set forth in paragraphs 11 through 13, which are incorporated herein by reference.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

17. Respondent is subject to disciplinary action under Code section 4301 for unprofessional conduct in that he engaged in the activities described in paragraphs 11 through 13 above, which are incorporated herein by reference.

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:

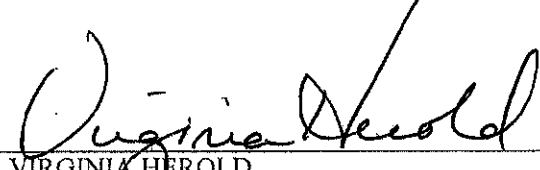
- 1. Revoking or suspending Pharmacist License Number RPH 35558, issued to Francis Kwock Ming Chung;

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2. Ordering Francis Kwock Ming Chung 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: 9/19/14



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

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