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

11 In the Matter of the Accusation Against:

Case No. 5349

12 **STEVEN A. IANNONE**
13 **11875 Country Garden Drive**
14 **Rancho Cordova, CA 95742**

A C C U S A T I O N

15 **Pharmacist License No. RPH 68846**

16 Respondent.

17
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 July 1, 2013, the Board of Pharmacy issued Pharmacist License Number
23 RPH 68846 to Steven A. Iannone (Respondent). The Pharmacist License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on September 30, 2016,
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 (Code) unless otherwise indicated.

5 4. Section 4300 of the Code states, in pertinent part:

6 "(a) Every license issued may be 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
9 operation of law or by order or decision of the board or a court of law, the placement of a license
10 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
11 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
12 proceeding against, the licensee or to render a decision suspending or revoking the license."

13 **STATUTORY PROVISIONS**

14 6. Section 480 of the Code states, in pertinent part:

15 (a) A board may deny a license regulated by this code on the grounds that the applicant has
16 one of the following:

17 "...

18 "(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
19 benefit himself or herself or another, or substantially injure another. . . ."

20 7. Section 4022 of the Code states:

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

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

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

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

3 8. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
4 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
5 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

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

7 "No person shall possess any controlled substance, except that furnished to a person upon
8 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
9 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse
10 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
11 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
12 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
13 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. . . ."

14 10. Section 4301 of the Code states, in pertinent part:

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

18 ". . .

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

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

26 ". . .

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

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“(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.

(p) Actions or conduct that would have warranted denial of a license. . . .”

HEALTH AND SAFETY CODE

11. California Health and Safety Code section 11350 states, in pertinent part:

(a) Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision . . . (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in a county jail for not more than one year”

12. California Health and Safety Code section 11377 states, in pertinent part:

“(a) Except as authorized by law and as otherwise provided in subdivision (b) or Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug . . . unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or pursuant to subdivision (h) of Section 1170 of the Penal Code. . . .”

REGULATIONS

13. Title 21 of the United States Code, section 829 states, in pertinent part:

“(a) Schedule II substances. Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule II, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act [21 USCS §§ 301 et seq.], may be dispensed without the written prescription of a practitioner, except that in emergency

1 situations, as prescribed by the Secretary by regulation after consultation with the Attorney
2 General, such drug may be dispensed upon oral prescription in accordance with section 503(b) of
3 that Act [21 USCS § 353(b)]. Prescriptions shall be retained in conformity with the requirements
4 of section 307 of this title [21 USCS § 827]. No prescription for a controlled substance in
5 schedule II may be refilled.

6 “(b) Schedule III and IV substances. Except when dispensed directly by a practitioner, other
7 than a pharmacist, to an ultimate user, no controlled substance in schedule III or IV, which is a
8 prescription drug as determined under the Federal Food, Drug, and Cosmetic Act [21 USCS §§
9 301 et seq.], may be dispensed without a written or oral prescription in conformity with section
10 503(b) of that Act [21 USCS § 353(b)]. Such prescriptions may not be filled or refilled more than
11 six months after the date thereof or be refilled more than five times after the date of the
12 prescription unless renewed by the practitioner. . . .”

13 **COST RECOVERY**

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

18 **DANGEROUS DRUGS**

19 15. *Vicodin* is a compound consisting of 5 mg hydrocodone bitartrate, also known as
20 dihydrocodeinone, and 500 mg acetaminophen per tablet, and is a Schedule III controlled
21 substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

22 16. *Phentermine hydrochloride* is a Schedule IV controlled substance as designated by
23 Health and Safety Code section 11057, subdivision (f)(4).

24 17. *Oxycontin* is a trade name for controlled release oxycodone. Oxycodone is a
25 Schedule II controlled substance as designated by Health and Safety Code section 11055,
26 subdivision (b)(1)(M).

27 18. *Amphetamine* is a Schedule II controlled substance as designated by Health and
28 Safety Code section 11055, subdivision (d)(1).

1 19. *Methadone Hydrochloride* is a Schedule II controlled substance as designated by
2 Health and Safety Code section 11055, subdivision (c)(14) and a dangerous drug pursuant to
3 Code section 4022.

4 20. *Morphine* is a Schedule II controlled substance as designated by Health and Safety
5 Code section 11055, subdivision (b)(1)(L).

6 21. *Adderall*, an amphetamine indicated for the treatment of Attention Deficit
7 Hyperactivity Disorder and narcolepsy, is a Schedule II controlled substance as designated by
8 Health and Safety Code section 11055, subdivision (d)(1).

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct—Knowingly Making or Signing Any Certificate or Document**
11 **That Falsely Represents the Existence or Nonexistence of a State of Facts)**

12 22. Respondent is subject to disciplinary action under section 4301(g) of the Code in that
13 Respondent knowingly signed his application for pharmacist examination and licensure when it
14 falsely represented the existence or nonexistence of a state of facts. The facts and circumstances
15 are as follows:

16 23. On or about May 14, 2014, Respondent self-reported to the Board that he made a false
17 statement on his application for pharmacist examination and licensure when he answered "no" to
18 question 13 on his application (which asks if he currently engages, or has ever been engaged in
19 the past two years, in the illegal use of controlled substances), when he should have answered
20 "yes." Respondent informed the Board that in the two years preceding the submission of his
21 pharmacist application, he tried "pot brownies" and that he was a curious person and liked to try
22 "things."

23 24. On or about May 16, 2014, Respondent sent an e-mail to the Board stating that he
24 illegally tried six pills from various rotations—Introductory Pharmacy Practice Experience and
25 Advance Pharmacy Practice Experience. Respondent disclosed that between 2009 and 2011, he
26 tried the following: (1) two Vicodin 5/500; (2) two Phentermine 37.5 mg pills; (3) one Oxycontin
27 10 mg; (4) one Dextro Amphetamine 10 mg; (5) "tasted" an unknown amount of Methadone;

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1 (6) "tasted" an unknown amount of Morphine Oral Solution; and (7) "tasted" a Marijuana
2 brownie.

3 25. On or about October 2, 2014, during a telephonic intake interview with the
4 Pharmacist Recovery Program at MAXIMUS, a diversion program that contracts with the Board,
5 Respondent admitted to diverting unknown quantities of controlled substances and dangerous
6 drugs from the pharmacies where he performed his internship. Respondent admitted to diverting
7 the following medications: Phentermine, Oxycotin, Adderall, Hydrochlorothiazide, Trimerathine,
8 and Lisinopril. Respondent further admitted to taking prescribed Norco before his shift.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct—Unlawful Self-Administering of Controlled Substances)**

11 26. Respondent is subject to disciplinary action under section 4301(h) of the Code, and
12 title 21 of the United States Code, section 829(a) and (b), in that he unlawfully self-administered
13 controlled substances. The facts and circumstances are described in more particularity in
14 paragraphs 24-25, and as follows:

15 27. On or about October 22, 2014, Respondent submitted a Random Drug Test to
16 MAXIMUS which was positive for Hydromorphone/Hydrocodone. Respondent never submitted
17 a prescription to MAXIMUS for Hydromorphone/Hydrocodone.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct—Violation of Statutes Regulating Controlled Substances)**

20 28. Respondent is subject to disciplinary action under sections 4060 and 4301(j) and (o)
21 of the Code, and section 11350(a) of the California Health and Safety Code, in that he violated
22 section 4060 of the Code, and California Health and Safety Code sections 11350(a) and 11377(a)
23 when between 2009 and 2014, he illegally self-administered controlled substances without a
24 prescription: The facts and circumstances are set forth in more particularity in paragraphs 24-25,
25 and 27.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct—False Statement on Application)**

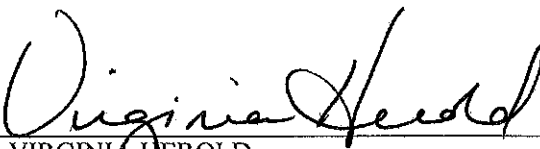
3 29. Respondent is subject to disciplinary action under section 4301(p) of the Code for
4 engaging in actions that would have warranted denial of a license, by and through section
5 480(a)(2) of the Code, for making a false statement on his application for pharmacist examination
6 and licensure. The facts and circumstances are described with more particularity in paragraphs
7 23-25.

8 **PRAYER**

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

- 11 1. Revoking or suspending Pharmacist License Number RPH 68846, issued to Steven A.
12 Iannone;
- 13 2. Ordering Steven A. Iannone to pay the Board of Pharmacy the reasonable costs of the
14 investigation and enforcement of this case, pursuant to Business and Professions Code section
15 125.3; and,
- 16 3. Taking such other and further action as deemed necessary and proper.

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18
19 DATED: 12/11/14



20 VIRGINIA HEROLD
21 Executive Officer
22 Board of Pharmacy
23 Department of Consumer Affairs
24 State of California
25 *Complainant*

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