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7
8 **BEFORE THE**
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the First Amended Accusation Case No. 5426
11 Against:

12 **ORENTHAL JAMES CARTER**
13 **511 S. Park View Street #308**
Los Angeles, CA 90057

FIRST AMENDED ACCUSATION

14 **Pharmacist License No. RPH 68823**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about June 25, 2013, the Board of Pharmacy ("Board") issued Pharmacist
22 License Number RPH 68823 to Orenthal James Carter ("Respondent"). The Pharmacist License
23 was in full force and effect at all times relevant to the charges brought herein and will expire on
24 November 30, 2018, unless renewed.

25 **JURISDICTION**

26 3. This First Amended Accusation is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code unless otherwise
28 indicated.

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4. 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."

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

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper."

STATUTORY PROVISIONS

6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

7. 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 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

///

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

4 ...

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

10 ...

11 (i) The conviction of a crime substantially related to the qualifications, functions, and
12 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
14 substances or of a violation of the statutes of this state regulating controlled substances or
15 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
16 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
17 The board may inquire into the circumstances surrounding the commission of the crime, in order
18 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
19 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
20 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
21 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
22 of this provision. The board may take action when the time for appeal has elapsed, or the
23 judgment of conviction has been affirmed on appeal or when an order granting probation is made
24 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
25 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
26 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
27 indictment.

28 ...

1 "(n) The revocation, suspension, or other discipline by another state of a license to practice
2 pharmacy, operate a pharmacy, or do any other act for which a license is required by this
3 chapter."

4 **CONTROLLED SUBSTANCE**

5 8. Zolpidem, a generic name for Ambien, is a Schedule IV controlled substance
6 pursuant to Health and Safety Code section 11057, subdivision (d)(32) and is a dangerous drug
7 pursuant to Code section 4022.

8 **COST RECOVERY**

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

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Conviction of Substantially Related Crimes)**

15 10. Respondent is subject to disciplinary action under Code sections 490 and 4301,
16 subdivision (I), in conjunction with California Code of Regulations, title 16, section 1770, in that
17 Respondent was convicted of crimes substantially related to qualifications, functions, or duties of
18 a registered pharmacist which to a substantial degree evidence his present or potential unfitness to
19 perform the functions authorized by his registration in a manner consistent with the public health,
20 safety, or welfare.

21 a. On or about May 8, 2017, Respondent was convicted of one misdemeanor count of
22 violating Vehicle Code section 23152(a) [driving under the influence of alcohol], in the criminal
23 proceeding entitled *The People of the State of California v. Orenthal James Carter* (Super. Ct.
24 Los Angeles County, 2017, No. 6MN09078). The court placed Respondent on three years
25 probation, ordered him to complete a First-Offender alcohol program, serve one day in jail, and
26 pay fines and restitution.

27 b. The circumstances surrounding the conviction are that on or about December 12,
28 2016, Los Angeles Police Officers responded to a DUI investigation call at a local mall. Officers

1 observed Respondent put his vehicle in reverse and back up. Officers directed Respondent to stop
2 his vehicle. Officers observed Respondent exit his vehicle. Respondent staggered and leaned
3 against his car to balance and support himself from falling over. Officers detected a strong odor of
4 alcohol from Respondent's breath. Officers also observed Respondent have slurred speech, and
5 bloodshot, watery eyes.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct – Dangerous Use of Dangerous Drugs and/or Alcohol)**

8 11. Respondent is subject to disciplinary action under Code section 4301, subdivision (h)
9 on the grounds of unprofessional conduct, in that Respondent used alcohol in a manner as to be
10 dangerous or injurious to himself, any person of the public, or to the extent that the use impaired
11 his ability to conduct with safety to the public the practice authorized by his license Complainant
12 refers to and by this reference incorporates the allegations set forth above in paragraph 10,
13 inclusive, as though set forth fully.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct: Discipline by Another State)**

16 12. Respondent is subject to disciplinary action under Code section 4301, subdivision (n)
17 on the grounds of unprofessional conduct in that the Alabama State Board of Pharmacy
18 ("Alabama Board") disciplined Respondent's Alabama pharmacist license and the Louisiana
19 Board of Pharmacy ("Louisiana Board") disciplined Respondent's Louisiana pharmacist license.

20 a. On or May 14, 2013 in a case entitled *In the Matter of: Orenthal Carter License No.*
21 *15447*, the Alabama Board adopted a Consent Order that placed Respondent's Alabama
22 pharmacist license on probation for 5 years and ordered him to pay a \$5,000.00 fine. The facts
23 and circumstances underlying the Consent Order, include, but are not limited to:

24 1. In 2011 and 2012, Respondent verified prescriptions for or dispensed
25 medications for I.T. which were called in by her sister, Dr. N.T., who is a California physician,
26 knowing that there was no valid patient-physician relationship between I.T. and Dr. N.T. to
27 justify dispensing the prescribed medications.

28

1 2. In 2010 and 2011, Respondent unlawfully possessed Ambien prescribed by Dr.
2 N.T. in that at the time he received the drugs, he did not have a valid patient-physician
3 relationship with Dr. N.T.

4 b. On or about February 12, 2014, in a case entitled *In the Matter of Orenthal James*
5 *Carter Pharmacist License No. 18123*, Case No. 13-0497, the Louisiana Board adopted a Consent
6 Order ("2014 Consent Order") that placed Respondent's Louisiana pharmacist license on
7 probation for four years and ordered him to pay a \$250.00 fine. The facts and circumstances
8 underlying the 2014 Consent Order are that Respondent had his Alabama pharmacist license
9 placed on probation for 5 years and was assessed a \$5,000.00 fine.

10 c. On or about February 25, 2015, in a case entitled *In the Matter of Orenthal James*
11 *Carter Pharmacist License No. 18123*, Case No. 15-0003, the Louisiana Board adopted a Consent
12 Order ("2015 Consent Order") that issued a letter of reprimand against Respondent's Louisiana
13 pharmacist license and ordered him to pay a \$1,250.00 fine. The facts and circumstances
14 underlying the 2015 Consent Order are that Respondent failed to reveal a 2014 criminal incident
15 on his application for license renewal for the year 2015, as required.

16 d. On November 30, 2014, Respondent was arrested for "disturbing the peace
17 intoxication" in Alexandria, Louisiana. Respondent's vehicle was blocking the driveway of a
18 Popeyes fast food restaurant. Respondent was uncooperative with police officers, smelled of
19 alcohol, had slurred speech, and was unable to stand on his own without falling.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct: Dishonest Acts)**

22 13. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)
23 on the grounds of unprofessional conduct for committing dishonest acts, as follows:

24 a. In 2010 and 2011, Respondent knew or should have known that he obtained Ambien
25 through improper channels when he consulted with a physician, Dr. N.T., outside of her normal
26 practice setting and had Dr. N.T. send the prescriptions to a pharmacy in Alabama that was
27 different from the pharmacy where Respondent was employed. Dr. N.T. subsequently disavowed
28 authorizing the prescriptions in the first instance.

1 b. Respondent failed to reveal a 2014 criminal incident on his Louisiana application for
2 license renewal for the year 2015, as required.

3 **PRAYER**

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

6 1. Revoking or suspending Pharmacist License Number RPH 68823, issued to Orenthal
7 James Carter;

8 2. Ordering Orenthal James Carter to pay the Board of Pharmacy the reasonable costs of
9 the investigation and enforcement of this case, pursuant to Business and Professions Code section
10 125.3; and,

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

12
13 DATED: 6/5/17

Virginia Herold

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

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A C C U S A T I O N

14 **Pharmacist License No. RPH 68823**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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STATUTES

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

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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.

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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:

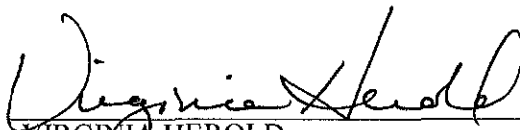
1. Revoking or suspending Pharmacist License Number RPH 68823, issued to Orenthal James Carter;

2. Ordering Orenthal James Carter 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; and

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

DATED:

11/27/15



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

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