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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:

Case No. 5693

12 **CURTIS DEAN ANCAR**  
13 **880 S. Jackson Avenue**  
14 **San Jose, CA 95116**

**A C C U S A T I O N**

15 **Pharmacist License No. RPH 57345**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 16, 2005, the Board of Pharmacy issued Pharmacist License  
22 Number RPH 57345 to Curtis Dean Ancar (Respondent). The Pharmacist License was in full  
23 force and effect at all times relevant to the charges brought in this Accusation and will expire on  
24 July 31, 2017, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
27 Consumer Affairs, under the authority of the following laws. All section references are to the  
28 Business and Professions Code unless otherwise indicated.



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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."

8. Code section 4113, subdivision (c), states, "[the pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy."

9. Code section 4306.5 of the Code states, in pertinent part:

"Unprofessional conduct for a pharmacist may include any of the following:

"(a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.

"(b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement his or her best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services.

"(c) Acts or omissions that involve, in whole or in part, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function."

10. Health and Safety Code section 11153, subdivision (a) states:

"A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of

1 controlled substances, which is issued not in the course of professional treatment or as part of an  
2 authorized narcotic treatment program, for the purpose of providing the user with controlled  
3 substances, sufficient to keep him or her comfortable by maintain customary use.”

4 ~~11. Health and Safety Code section 11200, subdivision (b) states:~~

5 “No prescription for a Schedule III or IV substance may be refilled more than five times and  
6 in an amount, for all refills of that prescription taken together, exceeding a 120 day supply.”

#### 7 COST RECOVERY

8 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
9 administrative law judge to direct a licentiate found to have committed a violation or violations of  
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
11 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
12 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
13 included in a stipulated settlement.

#### 14 FACTUAL ALLEGATIONS

15 13. From August 26, 2005, through the present, Respondent Ancar has been the  
16 Pharmacist-in-Charge (“PIC”) of Rite Aid Pharmacy #5952.

17 14. On or about January 27, 2015, a Board inspector conducted a routine inspection of a  
18 Target Pharmacy in Citrus Heights, California, and observed prescribing irregularities involving  
19 Dr. C.J. The Board inspector requested and reviewed Controlled Substance Utilization Review  
20 and Evaluation System (“CURES”) data relating to Dr. C.J. and determined that Rite Aid  
21 Pharmacy #5952 dispensed more controlled substance prescriptions for Dr. C.J. than any other  
22 pharmacy on the report. On or about February 11, 2015, a Board Inspector received the CURES  
23 report for Rite Aid Pharmacy #5952, dated January 1, 2012, through February 11, 2015. The  
24 Board Inspector’s review of the CURES data caused the Board to open a Complaint Investigation  
25 into the dispensing practices at Rite Aid Pharmacy #5952.

26 15. On or about March 4, 2015, the Board Inspector received and reviewed patient  
27 activity reports (“PAR”) from the Board’s CURES unit.

28 16. On or about March 12, 2015, Board Inspectors conducted an inspection at Rite Aid

1 Pharmacy #5952. A review of prescription documents for the time period between February 22,  
2 2015 and March 11, 2015, revealed the following irregularities:

3 a. Respondent dispensed controlled substances where doctor or patient was outside of  
4 the pharmacy area.

5 b. Respondent dispensed prescriptions for medications with no logical connection to  
6 diagnosis or treatment.

7 c. Respondent dispensed prescriptions when brand name medications were specifically  
8 requested.

9 d. Respondent dispensed prescriptions despite irregularities on the face of the  
10 prescription.

11 e. Respondent dispensed prescriptions for unusually high doses and quantities of  
12 controlled substances.

13 17. An overall review of electronic prescription dispensing data supplied by Rite Aid  
14 Pharmacy #5952 for prescriptions written by Dr. C.J. between January 1, 2012 and February 11,  
15 2015, revealed the following irregularities:

16 a. Higher doses of Oxycodone were prescribed, when normal use would involve starting  
17 at a lower dose and titrating the dose upward, dependent upon patient needs.

18 b. A total of 32,086 tablets of Oxycodone 30 mg were dispensed to a single patient.

19 c. The average quantity per Oxycodone 30 mg prescription was 338 tablets per patient  
20 compared to the average quantity of 148 tablets per patient.

21 d. A prescription for 420 tablets of Oxycodone 30 mg for "breakthrough pain," did not  
22 have a logical connection with the treatment on the prescription.

23 e. Respondent requested that Dr. C.J. test the patient to ensure that the patient was  
24 taking the prescribed Oxycodone 30 mg. Respondent supplied over 23,000 tablets of Oxycodone  
25 30 mg to the patient, without receiving the requested test results.

26 f. Respondent furnished 77 controlled substance prescriptions, a total of 2,560 dosage  
27 units, in excess of the amount allowed by law.

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1 g. Respondent failed to verify high starting dose and high quantity of Oxycodone 30 mg  
2 for new patients paying cash.

3 h. Respondent failed to verify overlapping prescriptions from multiple doctors.

4 ~~i. Respondent dispensed "drug-cocktails" of highly-addictive and commonly-abused~~  
5 combinations of controlled substances without effective inquiry or verification.

6 j. Respondent dispensed controlled substances to patients with no prescription history  
7 with Rite Aid Pharmacy #5952, who were making cash or discount card payments, without inquiry  
8 or proper verification.

9 k. Respondent dispensed controlled substances when the prescribing practice of the  
10 doctor had been called into question.

11 l. Respondent dispensed 236 prescriptions for controlled substances early and before  
12 previous supplies were exhausted.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Failure to Exercise Corresponding Responsibility In Dispensing Controlled Substances)**

15 17. Respondent has subjected his Pharmacist License to disciplinary action under Code  
16 section 4301, subdivision (j) and Health and Safety Code section 11153, subdivision (a), in that he  
17 failed to comply with his corresponding responsibility to ensure that controlled substances are  
18 dispensed for a legitimate medical purpose when he furnished prescriptions for controlled  
19 substances despite the presence of numerous "red flags." The circumstances are set forth in  
20 paragraphs 13 through 16, above.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Excessive Furnishing of Controlled Substances)**

23 18. Respondent has subjected his Pharmacist License to disciplinary action under Code  
24 sections 4301, subdivision (d), in that he furnished clearly excessive amounts of controlled  
25 substances in violation of Health and Safety Code section 11153, subdivision (a). The  
26 circumstances are set forth in paragraphs 13 through 16, above.

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**THIRD CAUSE FOR DISCIPLINE**

**(Misuse of Education )**

19. Respondent has subjected his Pharmacist License to disciplinary action under Code section 4306.5, subdivision (a), in that he failed to use his education, training, and experience as a pharmacist when he filled prescriptions for patients as described in paragraphs 13 through 16, above.

**FOURTH CAUSE FOR DISCIPLINE**

**(Failure to Exercise or Implement Best Professional Judgment or Corresponding Responsibility)**

20. Respondent has subjected his Pharmacist License to disciplinary action under Code section 4306.5, subdivision (b), in that he failed to implement his best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services. Respondent filled prescriptions without taking measures to confirm the prescriptions were prescribed for a legitimate medical purpose. The circumstances are set forth in paragraphs 13 through 16, above.

**FIFTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct)**

21. Respondent has subjected his Pharmacist License to disciplinary action under Code section 4301, in that he engaged in unprofessional conduct as set forth in paragraphs 13 through 16.

**DISCIPLINE CONSIDERATIONS**

22. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about February 24, 2014, in a prior action, the Board of Pharmacy issued Citation Number CI 2013 59752 to Respondent for failing to provide a consultation, in violation of Code section 4113, subdivision (c), as defined in Cal. Code Regulations, section 1707.2, subdivision (b)(1)(A). Respondent was ordered to pay a fine in the amount of \$1,000.00. That Citation is now final and is incorporated by reference as if fully set forth.

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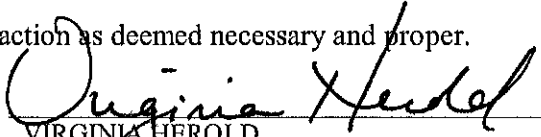
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**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

- 1. Revoking or suspending Pharmacist License Number RPH57345, issued to Curtis Dean Ancar;
- 2. Ordering Curtis Dean Ancar 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: 2/5/16

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

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