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

11 In the Matter of the Petition to Revoke
12 Probation Against,

Case No. 5801

13 **CHARLES A. WALKER**
14 **6948 Avalon Way**
Lemon Grove, CA 91945

PETITION TO REVOKE PROBATION

15 **Pharmacist License No. RPH 32316**

16 Respondent.

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18 PARTIES

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

22 2. On or about August 14, 1978, the Board issued Pharmacist License Number RPH
23 32316 to Charles A. Walker (Respondent). The Pharmacist License was in effect at all times
24 relevant to the charges brought herein and will expire on December 31, 2017, unless renewed.

25 3. In a disciplinary action entitled "In the Matter of Accusation Against Charles A.
26 Walker," Case No. 3865, the Board issued a decision, effective June 22, 2012, in which
27 Respondent's Pharmacist License was revoked. However, the revocation was stayed and
28 Respondent's Pharmacist License was placed on probation for a period of three (3) years with

1 certain terms and conditions. A copy of that decision is attached as Exhibit A, and is
2 incorporated by reference.

3 JURISDICTION

4 4. This Petition to Revoke Probation is brought before the Board, under the authority of
5 the following laws. All section references are to the Business and Professions Code unless
6 otherwise indicated.

7 5. Condition 14 of the Decision and Order states:

8 **Violation of Probation:** If respondent has not complied with any term or
9 condition of probation, the board shall have continuing jurisdiction over
10 respondent, and probation shall be automatically extended, until all terms and
11 conditions have been satisfied or the board has taken other action as deemed
appropriate to treat the failure to comply as a violation of probation, to terminate
probation, and to impose the penalty that was stayed.

12 If respondent violates probation in any respect, the board, after giving
13 respondent notice and an opportunity to be heard, may revoke probation and carry
14 out the disciplinary order that was stayed. Notice and opportunity to be heard are
15 not required for those provisions stating that a violation thereof may lead to
16 automatic termination of the stay and/or revocation of the license. If a petition to
17 revoke probation or an accusation is filed against respondent during probation, the
board shall have continuing jurisdiction and the period of probation shall be
automatically extended until the petition to revoke probation or accusation is heard
and decided.

18 6. Condition 13 of the Decision and Order states:

19 **Tolling of Probation:** Except during periods of suspension, respondent shall,
20 at all times while on probation, be employed as a pharmacist in California for a
21 minimum of 50 hours per calendar month. Any month during which this minimum
22 is not met shall toll the period of probation, i.e., the period of probation shall be
23 extended by one month for each month during which this minimum is not met.
During any such period of tolling of probation, respondent must nonetheless
comply with all terms and conditions of probation.

24 Should respondent, regardless of residency, for any reason (including
25 vacation) cease practicing as a pharmacist for a minimum of 50 hours per calendar
26 month in California, respondent must notify the board in writing within 10 days of
27 the cessation of practice, and must further notify the board in writing within 10
days of the resumption of practice. Any failure to provide such notification(s)
shall be considered a violation of probation.

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1 It is a violation of probation for respondent's probation to remain tolled
2 pursuant to the provisions of this condition for a total period, counting consecutive
3 and non-consecutive months, exceeding 36 months.

4 "Cessation of practice" means any calendar month during which respondent is
5 not practicing as a pharmacist for at least 50 hours, as defined by Business and
6 Professions Code section 4000 et seq. "Resumption of practice" means any
7 calendar month during which respondent is practicing as a pharmacist for at least
8 50 hours as a pharmacist as defined by Business and Professions Code section
9 4000 et seq.

10 7. Penal Code section 118 states:

11 (a) Every person who, having taken an oath that he or she will testify, declare,
12 depose, or certify truly before any competent tribunal, officer, or person, in any of
13 the cases in which the oath may by law of the State of California be administered,
14 willfully and contrary to the oath, states as true any material matter which he or
15 she knows to be false, and every person who testifies, declares, deposes, or
16 certifies under penalty of perjury in any of the cases in which the testimony,
17 declarations, depositions, or certification is permitted by law of the State of
18 California under penalty of perjury and willfully states as true any material matter
19 which he or she knows to be false, is guilty of perjury.

20 This subdivision is applicable whether the statement, or the testimony,
21 declaration, deposition, or certification is made or subscribed within or without the
22 State of California.

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24 8. Penal Code section 124 states:

25 The making of a deposition, affidavit or certificate is deemed to be complete,
26 within the provisions of this chapter, from the time when it is delivered by the
27 accused to any other person, with the intent that it be uttered or published as true.

28 **FIRST CAUSE TO REVOKE PROBATION**

(Obey All Laws)

9. At all times after the effective date of Respondent's probation, Condition 1 stated:

Obey all laws: Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substance laws.
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment.

- a conviction of any crime.
- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's pharmacist license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

10. Respondent's probation is subject to revocation because he failed to comply with Probation Condition 1, referenced above in that Respondent made a false statement under penalty of perjury in violation of Penal Code section 118, that he complied with the continuing education requirements, when in fact, he had not. The circumstances are as follows:

a. On or about October 26, 2015, Respondent sent his Pharmacist License Renewal Application to the Board. In his Pharmacist License Renewal Application, Respondent signed under penalty of perjury under the laws of the state of California that he had successfully completed 30 hours of continuing education (CE) as required during the last two year renewal period. On or about February 12, 2016, the Board sent Respondent a Continuing Education Audit letter directing Respondent to send documentation to the Board that he had completed at least 30 hours of CE during the two year renewal period from January 1, 2014 to December 31, 2015. On or about February 25, 2016, the Board received a letter from Respondent which included a transcript of his continuing education. The transcript of Respondent's continuing education showed that Respondent completed no CEs during the specific two year renewal period of January 1, 2014 to December 31, 2015. As such, Respondent made a false statement under penalty of perjury on his Pharmacist Renewal Application which he sent to the Board.

SECOND CAUSE TO REVOKE PROBATION

(Compliance With Probation Program)

11. At all times after the effective date of Respondent's probation, Condition 2 stated:

Report to the Board: Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of

1 delinquency in submission of reports as directed may be added to the total period
2 of probation. Moreover, if the final probation report is not made as directed,
3 probation shall be automatically extended until such time as the final report is
4 made and accepted by the board.

5 12. Respondent's probation is subject to revocation because he failed to comply with
6 Probation Condition 2, referenced above in that Respondent submitted two delinquent reports
7 during probation. The circumstances are as follows:

8 a. Respondent was required to submit a quarterly report due post-marked July 10, 2015.
9 Respondent failed to file the report on time. On September 10, 2015, the Board sent Respondent
10 a non-compliance letter advising him that the quarterly report due on July 10, 2015 had not been
11 received by the Board. On or about September 24, 2015, Respondent submitted the report, over
12 two months late.

13 b. Respondent was required to submit a quarterly report due post-marked January 10,
14 2016. Respondent submitted the report on January 14, 2016, which was four days late.

15 **THIRD CAUSE TO REVOKE PROBATION**

16 **(Continuing Education)**

17 13. At all times after the effective date of Respondent's probation, Condition 5 stated:

18 **Continuing Education:** Respondent shall provide evidence of efforts to
19 maintain skill and knowledge as a pharmacist as directed by the board or its
20 designee.

21 14. Respondent's probation is subject to revocation because he failed to comply with
22 Probation Condition 5, referenced above in that he failed to provide evidence of continuing
23 education from January 1, 2014 to December 31, 2015, as set forth more fully in paragraph 10
24 above, incorporated herein.

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1 **FOURTH CAUSE TO REVOKE PROBATION**

2 **(Notice to Employers)**

3 15. At all times after the effective date of Respondent's probation, Condition 6 stated:

4 **Notice to Employers:** During the period of probation, respondent shall
5 notify all present and prospective employers of the decision in case number 3865
6 and the terms, conditions and restrictions imposed on respondent by the decision,
as follows:

7 Within 30 days of the effective date of this decision, and within 15 days of
8 respondent undertaking any new employment, respondent shall cause his direct
9 supervisor, pharmacist-in-charge (including each new pharmacist-in-charge
10 employed during respondent's tenure of employment) and owner to report to the
11 board in writing acknowledging that the listed individuals(s) has/have read the
decision in case number 3865 and the terms and conditions imposed thereby. It
shall be respondent's responsibility to ensure that his employer(s) and/or
supervisor(s) submit timely acknowledgment(s) to the board.

12 If respondent works for or is employed by or through a pharmacy
13 employment service, respondent must notify his direct supervisor, pharmacist-in-
14 charge, and owner at every entity licensed by the board of the terms and conditions
15 of the decision in case number 3865 in advance of respondent commencing work
at each licensed entity. A record of this notification must be provided to the board
upon request.

16 Furthermore, within 30 days of the effective date of this decision, and within
17 15 days of respondent undertaking any new employment by or through a pharmacy
18 employment service, respondent shall cause his direct supervisor with the
19 pharmacy employment service to report to the board in writing acknowledging that
20 he or she has read the decision in case number 3865 and the terms and conditions
imposed thereby. It shall be respondent's responsibility to ensure that his
employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

21 Failure to timely notify present or prospective employer(s) or to cause
22 that/those employer(s) to submit timely acknowledgments to the board shall be
considered a violation of probation.

23 "Employment" within the meaning of this provision shall include any full-
24 time, part-time, temporary, relief or pharmacy management service as a
25 pharmacist, or any position for which a pharmacist license is a requirement or
26 criterion for employment, whether the respondent is an employee, independent
contractor or volunteer.

27 16. Respondent's probation is subject to revocation because he failed to comply with
28 Probation Condition 6, referenced above in that he failed on multiple occasions to provide a full

1 and complete employment verification form for each pharmacy he was employed at as required
2 by Probation Condition 6.

3 **FIFTH CAUSE TO REVOKE PROBATION**

4 **(Prescription Monitoring and Monitoring of Prescription)**

5 17. At all times after the effective date of Respondent's probation, Condition 19 stated:

6 **Prescription Monitoring and Monitoring of Prescription:** Within thirty
7 (30) days of the effective date of this decision, respondent shall submit to the
8 board, for its prior approval, the name and qualifications of a single physician,
9 nurse practitioner, physician assistant, or psychiatrist of respondent's choice, who
10 shall be aware of the respondent's history with the use of controlled substances
11 and who will coordinate and monitor any prescriptions for respondent for
12 dangerous drugs, controlled substance or mood-altering drugs. The approved
13 practitioner shall be provided with a copy of the board's accusation and decision.
14 A record of this notification must be provided to the board upon request.
15 Respondent shall sign a release authorizing the practitioner to communicate with
16 the board about respondent's treatment(s). The coordinating physician, nurse
17 practitioner, physician assistant, or psychiatrist shall report to the board on a
18 quarterly basis for the duration of probation regarding respondent's compliance
19 with this condition. If any substances considered addictive have been prescribed,
20 the report shall identify a program for the time limited use of any such substances.
21 The board may require that the single coordinating physician, nurse practitioner,
22 physician assistant or psychiatrist be a specialist in addictive medicine, or consult
23 a specialist in addictive medicine. Should respondent, for any reason, cease
24 supervision by the approved practitioner, respondent shall notify the board
25 immediately and, within thirty (30) days of ceasing treatment, submit the name of
26 a replacement physician, nurse practitioner, physician assistant or psychiatrist of
27 respondent's choice to the board of its designee for its prior approval. Failure to
28 timely submit the selected practitioner or replacement practitioner to the board for
approval, or to ensure the required reporting thereby on the quarterly reports, shall
be considered a violation of probation.

21 If at any time an approved practitioner determines that respondent is unable
22 to practice safely or independently as a pharmacist, the practitioner shall notify the
23 board immediately by telephone and follow up by written letter within three (3)
24 working days. Upon notification from the board or its designee of this
25 determination, respondent shall be automatically suspended and shall not resume
26 practice until notified by the board that practice may be resumed.

25 During suspension, respondent shall not enter any pharmacy area or any
26 portion of the licensed premises of a wholesaler, veterinary food-animal drug
27 retailer or any other distributor of drugs which is licensed by the board, or any
28 manufacturer, or where dangerous drugs and devices or controlled substances are
maintained. Respondent shall not practice pharmacy nor do any act involving
drug selection, selection of stock, manufacturing, compounding, dispensing or

1 patient consultation; nor shall respondent manage, administer, or be a consultant to
2 any licensee of the board, or have access to or control the ordering, manufacturing
3 or dispensing of dangerous drugs and controlled substances. Respondent shall not
4 resume practice until notified by the board.

5 During suspension, respondent shall not engage in any activity that requires
6 the professional judgment of a pharmacist. Respondent shall not direct or control
7 any aspect of the practice of pharmacy. Respondent shall not perform the duties of
8 a pharmacy technician or a designated representative for any entity licensed by the
9 board.

10 Subject to the above restrictions, respondent may continue to own or hold an
11 interest in any licensed premises in which he holds an interest at the time this
12 decision becomes effective unless otherwise specified in this order.

13 Failure to comply with this suspension shall be considered a violation of
14 probation.

15 18. Respondent's probation is subject to revocation because he failed to comply with
16 Probation Condition 19, referenced above. The circumstances as follows: Respondent did not
17 submit to the Board, for its prior approval, the name and qualifications of a single physician,
18 nurse practitioner, physician assistant, or psychiatrist to coordinate and monitor any prescriptions
19 for Respondent for dangerous drugs, controlled substance or mood-altering drugs within thirty
20 days of the effective date of the decision. On November 25, 2013, the Board sent Respondent a
21 non-compliance letter for failing to submit the name of a medical practitioner who would
22 coordinate and monitor his prescriptions. On December 19, 2013, the Board received a letter
23 from Respondent's medical practitioner, who agreed to serve as Respondent's prescription
24 monitor and to submit quarterly reports to the Board. The Board approved the practitioner and
25 directed him to submit quarterly reports to the Board regarding Respondent's compliance with his
26 medication treatment. The Board did not receive any quarterly reports from the approved
27 practitioner. Therefore, on August 15, 2014, the Board sent Respondent a non-compliance letter.
28 On or about August 25, 2014, the Board received the delinquent prescription monitoring
quarterly report from the approved practitioner. No further quarterly reports were received from
the practitioner from August 25, 2014 through September 15, 2015. Therefore, on September 15,
2015, the Board sent Respondent another non-compliance letter. On October 7, 2015, the Board
received the delinquent prescription monitoring report. No further quarterly reports were

1 received from the practitioner from October 8, 2015 through February 9, 2016. Therefore, on
2 February 9, 2016, the Board sent Respondent another non-compliance letter to Respondent. On
3 February 22, 2016, the Board received a delinquent prescription monitoring report from the
4 practitioner.

5 PRAYER

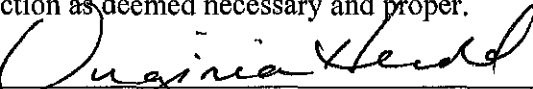
6 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
7 and that following the hearing, the Board of Pharmacy issue a decision:

8 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 3865
9 and imposing the disciplinary order that was stayed, thereby revoking Pharmacist License No.
10 RPH 32316 issued to Charles A. Walker;

11 2. Revoking or suspending Pharmacist License No. RPH 32316 issued to Charles A.
12 Walker;

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

14 DATED: 4/4/16



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

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