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

10 In the Matter of the Accusation Against:

Case No. 5827

11 **DONALD FRANK TOOMBS**
12 **119 Gull Street**
13 **Manhattan Beach, CA 90266**

A C C U S A T I O N

14 **Pharmacist License No. RPH 48396**

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 September 22, 1995, the Board of Pharmacy issued Pharmacist License
22 Number RPH 48396 to Donald Frank Toombs (Respondent). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on August 31,
24 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.

1 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
2 of this provision. The board may take action when the time for appeal has elapsed, or the
3 judgment of conviction has been affirmed on appeal or when an order granting probation is made
4 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
5 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
6 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
7 indictment.

8
9 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
10 violation of or conspiring to violate any provision or term of this chapter or of the applicable
11 federal and state laws and regulations governing pharmacy, including regulations established by
12 the board or by any other state or federal regulatory agency.

13
14 7. California Code of Regulations, title 16, section 1770, states:

15 For the purpose of denial, suspension, or revocation of a personal or facility license
16 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
17 crime or act shall be considered substantially related to the qualifications, functions or duties of a
18 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
19 licensee or registrant to perform the functions authorized by his license or registration in a manner
20 consistent with the public health, safety, or welfare.

21 **COST RECOVERY**

22 8. Section 125.3 of the Code provides, in pertinent part, that a Board may request the
23 administrative law judge to direct a licentiate found to have committed a violation or violations of
24 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
25 enforcement of the case.

26 **FIRST CAUSE FOR DISCIPLINE**

27 (Criminal Conviction)

28 9. Respondent is subject to disciplinary action under Code section 4301, subsection

1 (1), in that she has been convicted of crimes substantially related to the qualifications, functions,
2 and duties of a licensee. The circumstances are as follows:

3 10. On or about March 16, 2016, in The People of the State of California vs. Donald
4 Frank Toombs, Los Angeles County Superior Court Case No. 5LT01321, Respondent was
5 convicted of having violated California Vehicle Code section 23152(a) (DUI). The circumstances
6 of the conviction were that on or about September 29, 2015, Respondent drove a vehicle in an
7 unsafe manner while under the influence of alcohol. Respondent was placed on a 36 month
8 summary probation and, among other things, ordered to pay restitution, perform 192 hours of
9 community service, and attend a 9-month licensed first offender program and other drug
10 education and counseling program

11 **SECOND CAUSE FOR DISCIPLINE**

12 (Dangerous Use of Alcohol)

13 11. Respondent is subject to disciplinary action under Code section 4301, subsection (h),
14 in that he administered to himself, or used, alcoholic beverages to the extent or in a manner as to
15 be dangerous or injurious to herself, to a person holding a license under this chapter, or to any
16 other person or to the public, and/or to the extent that the use impaired his ability to conduct with
17 safety to the public the practice authorized by his license, as set forth above in paragraph 10.

18 **DISCIPLINARY CONSIDERATIONS**

19 12. To determine the degree of discipline, if any, to be imposed on Respondent,
20 Complainant alleges as follows:

21 13. In a disciplinary action entitled In the Matter of Accusation Against Donald Frank
22 Toombs, Case No. 2988, a Decision and Order was entered, effective October 5, 2007, adopting
23 the Stipulated Settlement and Disciplinary Order whereby Respondent's Pharmacist License
24 number RPH 48396 was revoked. However, the revocation was stayed and Respondent's License
25 was placed on probation for a period of five (5) years with certain terms and conditions. A copy
26 of that decision is attached as Exhibit A and is incorporated by reference.

27 14. The circumstances of the Accusation were that on or about September 21, 2005
28 through September 30, 2005, while on duty as a licensed pharmacist at Little Company of Mary

1 Hospital pharmacy, located at 4101 Torrance Blvd., in Torrance, California, Respondent diverted
2 Demerol¹ for his own personal use as follows: 10 carpuments² of Demerol 100mg, 10 carpuments of
3 Demerol 50mg, and 1 carpument of Demerol 75mg.

4 PRAYER

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

- 7 1. Revoking or suspending Pharmacist License Number RPH 48396, issued to Donald
8 Frank Toombs;
- 9 2. Ordering Donald Frank Toombs to pay the Board of Pharmacy the reasonable costs of
10 the investigation and enforcement of this case, pursuant to Business and Professions Code section
11 125.3;
- 12 3. Taking such other and further action as deemed necessary and proper.

13
14 DATED: _____

12/5/16

Virginia Herold

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

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26 _____
27 ¹ "Demerol," is the brand name for Meperidine. It is a Schedule II controlled substance as
28 designated by Health and Safety Code section 11055, subdivision (c)(17), and is categorized as a
"dangerous drug" pursuant to Business and Professions Code section 4022.

² Carpuments are pre-filled disposable cartridges.