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

12 In the Matter of the Statement of Issues
Against:

Case No. 3967

13 **CHARLES LOUIS PECKERMAN**
14 2508 Freedom Way
Medford, Oregon 97504

STATEMENT OF ISSUES

15 **Applicant for Pharmacist License**

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

21 1. Virginia K. Herold (Complainant) brings this Statement of Issues solely in her official
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs
23 (Board).

24 2. On or about January 12, 2010, the California State Board of Pharmacy received an
25 application for a Pharmacist License from Charles Louis Peckerman (Respondent). On or about
26 December 25, 2009, Respondent certified under penalty of perjury to the truthfulness of all
27 statements, answers, and representations in the application. The Board denied the application on
28 May 11, 2010.

1 3. On or about March 21, 1985, the Board of Pharmacy (Board) issued Pharmacist
2 License No. RPH 39310 to Charles Louis Peckerman (Respondent). On or about June 18, 2003,
3 License No. RPH 39310 was revoked, immediately stayed, and placed on probation for three (3)
4 years pursuant to the Board's decision in case no. 1986, as more fully discussed below. Pursuant
5 to Respondent's request to surrender his License, the Board canceled the License on or about
6 October 24, 2005.

7 JURISDICTION

8 4. This Statement of Issues is brought before the Board of Pharmacy (Board), under the
9 authority of the following laws. All section references are to the Business and Professions Code
10 unless otherwise indicated.

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

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

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

16 ...

17 "(2) Placing him or her upon probation.

18

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

21 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
22 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
23 guilty of unprofessional conduct and who has met all other requirements for licensure."

24 6. Section 4301 of the Code states:

25 "The board shall take action against any holder of a license who is guilty of unprofessional
26 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake."

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1 7. Section 480 of the Code states:

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

4 ...

5 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
6 would be grounds for suspension or revocation of license.

7 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is
8 substantially related to the qualifications, functions, or duties of the business or profession for
9 which application is made."

10 8. Section 820 of the Code states:

11 "Whenever it appears that any person holding a license, certificate or permit under this
12 division or under any initiative act referred to in this division may be unable to practice his or her
13 profession safely because the licentiate's ability to practice is impaired due to mental illness, or
14 physical illness affecting competency, the licensing agency may order the licentiate to be
15 examined by one or more physicians and surgeons or psychologists designated by the agency.
16 The report of the examiners shall be made available to the licentiate and may be received as direct
17 evidence in proceedings conducted pursuant to Section 822."

18 9. Section 822 of the Code states:

19 "If a licensing agency determines that its licentiate's ability to practice his or her profession
20 safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the
21 licensing agency may take action by any one of the following methods:

22 "(a) Revoking the licentiate's certificate or license.

23 "(b) Suspending the licentiate's right to practice.

24 "(c) Placing the licentiate on probation.

25 "(d) Taking such other action in relation to the licentiate as the licensing agency in its
26 discretion deems proper.

27 "The licensing agency shall not reinstate a revoked or suspended certificate or license
28 until it has received competent evidence of the absence or control of the condition which caused

1 its action and until it is satisfied that with due regard for the public health and safety the person's
2 right to practice his or her profession may be safely reinstated."

3 10. Section 4313 of the Code states:

4 "In determining whether to grant an application for licensure or whether to discipline or
5 reinstate a license, the board shall give consideration to evidence of rehabilitation. However,
6 public protection shall take priority over rehabilitation and, where evidence of rehabilitation and
7 public protection are in conflict, public protection shall take precedence."

8 REGULATORY PROVISION

9 11. California Code of Regulations, title 16, section 1770, states:

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

16 CAUSE FOR DENIAL OF APPLICATION

17 (Prior Discipline - Impairment)

18 12. Respondent's application is subject to denial under Sections 480, subdivision (a)(3),
19 and 822, in that Respondent committed acts which if committed by a licensee would be grounds
20 for the suspension or revocation of that license, as follows:

21 13. Respondent's previous license, Pharmacist License No. RPH 39310, was disciplined
22 pursuant to Section 822 of the Code in the case entitled, "*In the Matter of the Accusation Against*
23 *Charles Peckerman, Pharmacist License No. RPH 39310*," Case No. 1986, effective on or about
24 June 18, 2003. Pursuant to the Decision and Order, Respondent's license was revoked, revocation
25 stayed, and placed on probation for three years with terms and conditions, which included
26 undergoing a mental health examination and psychotherapy. In addition, based on the mental
27 health examination and/or the psychotherapy, if Respondent was determined unable to practice
28 safely, Respondent was required to immediately stop practice and not to resume practice until

1 notified by the Board. A copy of the Decision and Order is attached hereto as Exhibit "A" and
2 incorporated herein by this reference.

3 14. In the Board-adopted Stipulated Settlement and Disciplinary Order, Respondent
4 admitted the truth of each and every charge and allegation in Accusation No. 1986, including the
5 fact that he suffers from a mental illness which, if not controlled with proper medication and/or
6 therapy, may impair his ability to safely practice as a pharmacist, and therefore his license was
7 subject to an order pursuant to Business and Professions Code Section 822.

8 15. Pursuant to Section 822 of the Code, Respondent has failed to submit to the Board
9 with his application "competent evidence of the absence or control of the condition which caused
10 [the Board's] action and . . . that with due regard for the public health and safety . . .
11 [Respondent's] right to practice his or her profession may be safely reinstated."

12 OTHER MATTERS

13 16. On or about January 6, 2005, *In the Matter of the Pharmacist License of Charles L.*
14 *Peckerman, R.PH., Licensee, Case No. 2004-0145*, the Board of Pharmacy, State of Oregon
15 (Oregon Board of Pharmacy), disciplined Respondent's Pharmacist License No. RPH-0009349
16 issued by the Oregon Board of Pharmacy. The discipline was based on the California Board of
17 Pharmacy's Decision and Order in Case No. 1986. The Oregon Board of Pharmacy's Consent
18 Order (Consent Order), dated January 6, 2005, placed Respondent's Oregon Pharmacist License
19 No. RPH-0009349 on probation until May 2006. The Consent Order, dated February 22, 2006,
20 terminated the probation early and fully reinstated Respondent's pharmacist license as of February
21 22, 2006. Copies of the Consent Orders are attached hereto as Exhibit B and are incorporated
22 herein by this reference.

23 17. On or about April 17, 2008, in *In the Matter of Charles L. Peckerman, Credential No.*
24 *PH00022492*, Docket No. 07-08-A-1089PH, Master Case No. M2007-73845, the Board of
25 Pharmacy, Department of Health, State of Washington (Washington Board of Pharmacy)
26 disciplined Respondent's pharmacist license issued by the Washington Board of Pharmacy,
27 Credential No. PHRM. PH. 00022492 (2008 Agreed Order). The discipline was based on the
28 California Board of Pharmacy's Decision and Order in Case No. 1986. The 2008 Agreed Order

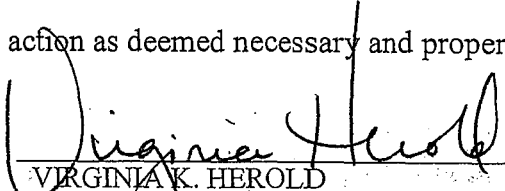
1 indefinitely suspended Respondent's Washington Pharmacist License unless certain conditions
2 were met. On or about January 21, 2010, the Washington Board of Pharmacy issued an Agreed
3 Order in the matter that lifted the suspension of Respondent's Washington pharmacy license and
4 placed his license on probation for at least five (5) years with terms and conditions. Copies of the
5 Washington Board of Pharmacy's Agreed Orders are attached hereto as Exhibit C and are
6 incorporated herein by this reference.

7 **PRAYER**

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

- 10 1. Denying the application of Charles Louis Peckerman for a Pharmacist License; and,
11 2. Taking such other and further action as deemed necessary and proper.

12 DATED: 5/27/11

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14 VIRGINIA K. HEROLD
15 Executive Officer
16 California State Board of Pharmacy
17 State of California
18 Complainant

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EXHIBIT A
Decision and Order, Case No. 1986

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EXHIBIT B
Board of Pharmacy, State of Oregon
Consent Orders

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EXHIBIT C
State of Washington, Board of Pharmacy
Agreed Orders