

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MICHAEL MOON
520 E. El Nido Ct.
Santa Maria, CA 93455

Respondent.

Case No. 3262

OAH No. 2009070966

DECISION

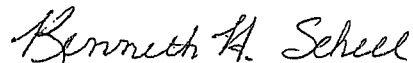
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy as its Decision in the above-entitled matter.

This decision shall become effective on June 9, 2010.

It is so ORDERED May 10, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



KENNETH H. SCHELL
Board President

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

In the Matter of the Accusation Against:

MICHAEL DOUGLAS MOON

**Pharmacist License No.
RPH 42325**

Respondent.

Case No. 3262

OAH No. L2009070966

PROPOSED DECISION

This matter came on regularly for hearing on February 2, 2010, in Santa Barbara, California, before H. Stuart Waxman, Administrative Law Judge, Office of Administrative Hearings, State of California.

Virginia Herold (Complainant) was represented by Christina Thomas, Deputy Attorney General.

Michael Douglas Moon (Respondent) was present and represented himself.

Oral and documentary evidence was received. The record was closed on the hearing date, and the matter was submitted for decision.

FACTUAL FINDINGS

The Administrative Law Judge makes the following factual findings:

1. Virginia Herold made the Accusation in her official capacity as Executive Officer of the Board of Pharmacy, Department of Consumer Affairs (Board).

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2. On March 3, 1989, the Board issued Original Pharmacist License No. RPH 42325 to Respondent. On or about May 1, 2008, Respondent surrendered his license pursuant to a court order following his felony conviction referenced in Factual Finding 3, below. Respondent renewed his license on a date not disclosed by the evidence. The license will expire on December 31, 2010, unless renewed.

3. On May 1, 2008, in the Superior Court of California, County of Santa Barbara, in Case No. 1280546, Respondent pled nolo contendere and was convicted of violating Penal Code section 487, subdivision (a) (grand theft by embezzlement), a felony involving moral turpitude, and a crime substantially related to the qualifications, functions and duties of a pharmacist.

4. Respondent was placed on felony probation for a period of three years under various terms and conditions including but not limited to incarceration in the Santa Barbara County Jail for 120 days with credit for one day served, payment of fines and fees totaling \$1,296.50, payment of restitution of \$13,940.88, a prohibition against possession and consumption of controlled substances unless prescribed for him by a physician, a prohibition against consumption of alcohol, and completion of an outpatient drug treatment program. In addition, the court ordered Respondent to surrender his pharmacist license.

5. The facts and circumstances underlying the conviction are that, over a period of 2.5 years, while employed as a pharmacist at a Walgreen's Pharmacy, Respondent embezzled more than \$12,000 worth of dangerous drugs and controlled substances, including narcotic medications, and over-the-counter medications. Among the drugs he stole were Hydrocodone (Vicodin) 10/325, Hydrocodone 10/500, Hydrocodone 10/660, Hydrocodone 10/650, Phentermine, Claritin, Zantac, Hydrocortisone cream, Acetaminophen with Codeine #3, Acetaminophen with Codeine #4, Keflex 500 mg, Xanax 1 mg, Prazosin 5 mg, Prilosec 20 mg, Azithromycin 250 mg, and Tobrex Ophthalmic. He wrapped the drugs in tissue paper and hid them in his clothing. Respondent also stole six syringes.

6. In addition, during the same period of time, on certain occasions, while on duty as a pharmacist, Respondent ingested drugs he stole from his employer and continued thereafter to dispense medications to customers.

7. Respondent stopped taking illegal drugs on January 3, 2008, the date of his arrest. He continued to consume alcoholic beverages for approximately four months thereafter. He has been completely sober for approximately 18 months.

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8. After completing six months of court-ordered drug counseling, Respondent entered an outpatient drug recovery program offered by Maximus, Inc., a company contracted by the Board to provide assessment and treatment to recovering pharmacists through the Board's Pharmacist Recovery Program (PRP). On April 16, 2009, the court modified the terms of Respondent's probation to permit Respondent to work in a pharmacy if approved by Maximus, Inc. Maximus, Inc. has since approved Respondent to work in a pharmacy for 32 hours per week with 50 percent supervision. Despite that approval and Respondent's repeated efforts, Respondent has been unable to find anyone who will hire him as a pharmacist.

9. Respondent attends Alcoholics Anonymous (AA) meetings five days per week, and participates in an outpatient recovery program through Cottage Hospital. Respondent looks forward to the AA meetings and enjoys speaking with new members because they remind him of where he has been and where he could be again. He works with a sponsor within AA. Respondent has adopted the philosophy of "one day at a time," meaning that his goal is to get through the present day without a relapse.

10. Respondent undergoes biological fluid testing on an average of every two weeks. Every test thus far has been negative.

11. Before his sobriety, Respondent and his wife consumed alcoholic beverages together. His wife continues to drink alcohol today, but Respondent claims her continued alcohol use does not bother him.

12. Respondent's drug dependence was intermittent over an approximate 20 year period and was based on feelings of low self-esteem, arrogance, isolation, and a lack of joy in his life. He attempted to terminate his drug use earlier but lacked the tools he presently has through AA and the drug recovery programs in which he has, and continues to participate, and the support groups he has developed through those programs. In addition to attending the programs, he has begun an exercise regimen, he sleeps better, and he takes better care of himself. He now enjoys being out of his home and speaking with people. Respondent is confident that he will not return to drug or alcohol use. He is sincerely remorseful over his wrongdoing but recognizes that "it's part of what an addict does and I have to own that."

13. Respondent is paying the court-ordered restitution in monthly payments of \$150.

14. Respondent is the father of a 29-year-old son and a 19-year-old daughter. His son is a teacher who married in August 2008. Respondent's daughter lives at home and attends college.

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15. Respondent has not been gainfully employed for approximately two years. He has been living on retirement income but has found it difficult to support his family and pay monthly restitution payments with that one income source. Respondent's wife works at a local junior high school for approximately 50 minutes per day as a noon supervisor.

16. Pursuant to Business and Professions Code section 125.3, Complainant's counsel requested that Respondent be ordered to pay to the Board \$5,370.75 for its costs of investigation and prosecution of the case. The costs were broken down as \$2,677.50 for investigative costs and \$2,693.25 for prosecution costs.

17. The prosecution costs are deemed just and reasonable. However, the Certification of Costs of Investigation by Agency Executive Officer reflects only the total sum of investigation hours and costs without any reference to the tasks performed or the time spent on each task, as required by California Code of Regulations, title 1, section 1042, subdivision (b). This case involved only a single arrest and a single conviction on a single criminal count. Expenditure of 26.25 hours for investigation, at an hourly rate of \$102, as set forth in the cost certification, appears excessive, especially since a paralegal also spent 1.25 hours of "investigation" time. Reasonable investigation time for this case, exclusive of that spent by the paralegal, should not have exceeded 13 hours. The cost of investigation shall be reduced by \$1,351.50.

18. Based on the above, the reasonable costs of investigation and prosecution of this matter total \$4,019.25. However, as is more fully set forth below, that sum shall be reduced because of Respondent's financial hardship.

LEGAL CONCLUSIONS

Pursuant to the foregoing factual findings, the Administrative Law Judge makes the following legal conclusions:

1. Cause exists to discipline Respondent's pharmacist license, pursuant to Business and Professions Code section 4301, subdivision (l), for conviction of a crime substantially related to the qualifications, functions and duties of a pharmacist, as set forth in Findings 3, 4, 5 and 6.

2. Cause exists to discipline Respondent's pharmacist license, pursuant to Business and Professions Code section 4301, subdivision (f), for acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as set forth in Findings 3, 4, 5, and 6.

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3. Cause exists to discipline Respondent's pharmacist license, pursuant to Business and Professions Code section 4301, subdivision (j), in conjunction with Business and Professions Code sections 4059, subdivision (a), 4060, and 4077, for possession of controlled substances and dangerous drugs without valid prescriptions, and in non-conforming prescription containers, as set forth in Findings 5 and 6.

4. Cause exists to discipline Respondent's pharmacist license, pursuant to Business and Professions Code section 4301, subdivision (h), for self-administration of illegal drugs, as set forth in Findings 5 and 6.

5. Cause exists to discipline Respondent's pharmacist license, pursuant to Business and Professions Code section 4301, subdivision (j), in conjunction with Business and Professions Code section 4327, for dispensing while under the influence of illegal drugs, as set forth in Findings 5 and 6.

6. Cause exists to order Respondent to pay costs claimed under Business and Professions Code section 125.3, as set forth in Findings 16, 17, and 18.

7. Although Respondent has shown remorse and has taken a number of positive steps toward rehabilitation, insufficient time has elapsed since either his conviction or his sobriety date to establish his full rehabilitation. He is still on felony probation and is scheduled to remain so until May of 2011. Since people have a strong incentive to obey the law while under the supervision of the criminal justice system, little weight is generally placed on the fact that an applicant has engaged in good behavior while on probation or parole. (*In re Gossage* (2000) 23 Cal.4th 1080, 1099.) In fact, the length of Respondent's crime spree against his employer far exceeds the time that has passed since his conviction and sentencing.

8. Because Respondent is a pharmacist, and because his wrongdoing involved stealing drugs from his employer and then self-administering them, extra care must be taken in this case to ensure that the public health, safety, welfare and interest are adequately protected. Even if Respondent's present level of rehabilitation was sufficient to justify the issuance of a probationary license for work in which he did not have direct access to dangerous drugs and controlled substances (i.e., a vehicle salesperson, insurance agent, etc.), the facts that Respondent used his licensed position as a pharmacist to gain access to prescription and non-prescription drugs, steal them from his employer, a pharmacy, and then self-administer them, and did so over a period of 2.5 years, precludes the Board from jeopardizing public protection by issuing a probationary license to Respondent.

9. Complainant proved each of the five causes for discipline alleged in the Accusation and is therefore entitled to recover the reasonable costs of investigation and prosecution. As more fully set forth in Factual Findings 16, 17 and 18, those costs total \$4,019.25.

10. However, Respondent is presently in a dire financial situation. He has been unemployed for two years. He is living off of his retirement income, and from that income he must support his family which includes his wife and his daughter who is a college student, and he must continue to pay the court-ordered restitution in monthly payments of \$150. The salary Respondent's wife earns in working at a local junior high school for less than one hour per day is not likely to have a large impact on the family's financial resources. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 [124 Cal.Rptr.2d 701], the Court addressed the effect that an inability to pay investigation and prosecution costs could have on a respondent's ability to effectively defend against a board's Accusation.¹ The Court stated:

The Board must exercise its discretion to reduce or eliminate cost awards in a manner that will ensure that regulation 317.5^[2] does not deter chiropractors with potentially meritorious claims or defenses from exercising their right to a hearing. Thus, the Board must not assess the full costs of investigation and prosecution when to do so will unfairly penalize a chiropractor who has committed some misconduct, but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed. The Board must consider the chiropractor's "subjective good faith belief in the merits of his or her position" [citation] and whether the chiropractor has raised a "colorable challenge" to the proposed discipline [citation]. Furthermore, as in cost recoupment schemes in which the government seeks to recover from criminal defendants the cost of their state-provided legal representation [citation], the Board must determine that the chiropractor will be financially able to make later payments. Finally, the Board may not assess the full costs of investigation and prosecution when it has conducted a disproportionately large investigation to prove that a chiropractor engaged in relatively innocuous misconduct. [footnote omitted.] (*Id.* at 45.)

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¹ *Zuckerman* involved a chiropractor, but the Court's reasoning is equally applicable to pharmacists.

² Regulation 317.5 is the Board of Chiropractic Examiners' cost recovery provision. The Court's reasoning applies equally to Business and Professions Code section 125.3.

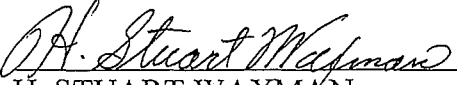
11. The costs of investigation and prosecution should not be completely forgiven in this case. At the time he requested a hearing in this matter, Respondent understood that he had committed the acts for which professional discipline was sought. Therefore, the chances of a dismissal of the case, even with a strong showing of rehabilitation, were quite small, and an order imposing probation would most likely include an order to pay reasonable costs. However, the purpose of a disciplinary proceeding such as this one is to protect the public, and not to punish the licensee. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161; *Small v. Smith* (1971) 16 Cal.App.3d 450, 457.) No constructive purpose will be served by requiring Respondent to pay prohibitive costs that will preclude him from paying his court-ordered restitution, thereby violating his criminal probation. Public protection does not require such a Draconian order. Respondent shall be required to pay \$2,500 in investigation and prosecution costs. The costs shall be payable as a condition precedent to re-licensure.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

1. License number RPH 42325, issued to Respondent, Michael Douglas Moon, is revoked pursuant to Legal Conclusions 1, 2, 3, 4, 5, 7 and 8, separately and together. Respondent shall relinquish his wall license and pocket renewal license to the Board within 10 days of the effective date of this decision. Respondent may not petition the Board for reinstatement of his revoked license for three years from the effective date of this decision.
2. Should Respondent seek reinstatement of his revoked license, upon any reinstatement, Respondent shall reimburse the Board for its costs of investigation and prosecution in the amount of \$2,500. That amount shall be paid in full prior to the reinstatement of his license. If Respondent fails to pay the amount specified, his license shall remain revoked.

DATED: February 16, 2010


H. STUART WAXMAN
Administrative Law Judge
Office of Administrative Hearings

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10 BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA
12

13 In the Matter of the Accusation Against,
14 MICHAEL DOUGLAS MOON
520 E. El Nido Ct.
15 Santa Maria, CA 93455
16 Pharmacist License No. RPH 42325
17 Respondent.

Case No. 3262
ACCUSATION

18
19
20 Complainant alleges:

21 PARTIES

- 22 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
23 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
24 2. On or about March 3, 1989, the Board of Pharmacy (Board) issued Pharmacist
25 License No. RPH 42325 to Michael Douglas Moon (Respondent). On May 1, 2008, Respondent
26 surrendered his Pharmacist License No. RPH 42325. On December 31, 2008, Respondent
27 renewed his Pharmacist License No. RPH 42325, and the Pharmacist License will expire on
28 December 31, 2010, unless renewed.

JURISDICTION

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

4. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

5. Section 4022 provides that a "Dangerous drug" or "dangerous device" is any drug or device unsafe for self-use in humans or animals, and by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to other restriction.

6. Section 4059, subdivision (a), states:

" A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7."

7. Section 4060 states:

"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly

1 labeled with the name and address of the supplier or producer.

2 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
3 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
4 devices."

5 8. Section 4077 states, in pertinent part, that except as provided in subdivisions (b) and
6 (c) of this section, no person shall dispense any dangerous drug upon prescription except in a
7 container correctly labeled with the information required by Section 4076.

8 9. Section 4300 states that "[e]very license issued may be suspended or revoked."

9 10. Section 4301 states, in pertinent part:

10 "The board shall take action against any holder of a license who is guilty of unprofessional
11 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
12 Unprofessional conduct shall include, but is not limited to, any of the following:

13

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

17

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

23

24 "(j) The violation of any of the statutes of this state, or any other state, or of the United
25 States regulating controlled substances and dangerous drugs.

26

27 "(l) The conviction of a crime substantially related to the qualifications, functions, and
28 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13

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

16 11. Section 4327 states:

17 "Any person who, while on duty, sells, dispenses or compounds any drug while under the
18 influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor.

19 12. Health and Safety Code section 11170 states:

20 "No person shall prescribe, administer, or furnish a controlled substance for himself.

21 REGULATORY PROVISIONS

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

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

1 COST RECOVERY

2 14. Section 125.3 states, in pertinent part, that the Board may request the administrative
3 law judge to direct a licentiate found to have committed a violation or violations of the licensing
4 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
5 case.

6 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

7 15. Cephalexin, brand name Keflex, is categorized as a dangerous drug pursuant to
8 Business and Professions Code section 4022.

9 16. Norco is the brand name for the combination narcotic, Hydrocodone with
10 Acetaminophen. Norco is a Schedule II controlled narcotic substance pursuant to Health and
11 Safety Code section 11056(e)(4) and a dangerous drug pursuant to Business and Professions Code
12 section 4022.

13 17. Tylenol with Codeine #3 and Tylenol with Codeine #4, a brand name for
14 Acetaminophen with Codeine, 30 mg. for #3, 60 mg. for #4 with 300 mg. Acetaminophen with
15 Codeine is a Schedule III controlled substance as designated by Health and Safety Code section
16 11056(e)(2) and is categorized as a dangerous drug pursuant to Business and Professions Code
17 section 4022.

18 FIRST CAUSE FOR DISCIPLINE

19 (Conviction of Substantially Related Crimes)

20 18. Respondent is subject to disciplinary action under section 4301, subdivision (l), in
21 that on or about May 1, 2008, Respondent was convicted of crimes substantially related to
22 substantially related to the qualifications, functions or duties of a pharmacist which to a
23 substantial degree evidence his present or potential unfitness to perform the functions authorized
24 by his license or registration in a manner consistent with the public health, safety, or welfare. The
25 circumstances of the conviction are as follow:

26 a. On or about May 1, 2008, after pleading no contendere, Respondent was convicted of
27 one felony count of violating Penal Code section 487(a) [grand theft by embezzlement] in the
28 criminal proceeding entitled *The People of the State of California v. Michael Douglas Moon*

1 (Super. Ct. Santa Barbara County, 1008, Case No. 1280546). The Court sentenced Respondent to
 2 120 days in jail, ordered payment of \$13,940.88 restitution to Walgreens, and ordered surrender
 3 of his Pharmacist License to the Court.

4 b. The circumstances surrounding the conviction are that on or between July 1, 2005
 5 and January 3, 2008, Respondent admittedly took controlled substances, dangerous drugs and
 6 over-the-counter drugs from his employer Walgreens Pharmacy. On January 3, 2008,
 7 Respondent consumed two tablets of Hydrocodone/Acetaminophen 10/325 (Norco) during his
 8 work shift, and from his socks and other clothing, Respondent retrieved drugs wrapped in tissue
 9 paper in amounts as follows: 19 Tylenol with Codeine #3; 22 Norco; and 8 Cephalexin 500 mg.

10 c. On January 3, 2008, Respondent admitted to stealing over the prior two and one half
 11 (2 1/2) years as follows:

<u>Drug</u>	<u>Quantity</u>	<u>Controlled Substance Schedule¹</u>	<u>Dangerous Drug</u>	<u>Over- the- Counter</u>
Hydrocodone 10/325	8,320	III	Yes	
Hydrocodone 10/500	1,000	III		
Hydrocodone 10/660	300	III		
Hydrocodone 10/650	300	III		
Phentermine 37 1/2mg	200	IV		
Claritin 10mg	300			Yes
Zantac 150 mg	1,000		Yes	
Hydrocortisone Cream	6x30gm		Yes	
Acetaminophen W Codeine #3	1,000	III		
Acetaminophen W Codeine #4	800	III		
Keflex 500 mg	500		Yes	
Xanax 1mg	500	IV		
Prazosin 5mg	100		Yes	
Prilosec 20mg	500			Yes
Azithromycin 250mg	4x30ml		Yes	
Tobrex Ophthalmic	6x10ml		Yes	
23 Gauge 1" Needle/Syringe	6x3ml		Yes	

23 SECOND CAUSE FOR DISCIPLINE

24 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

25 19. Respondent is subject to disciplinary action under section 4301, subdivision (f), in

26
 27 ¹ Schedule III, Health and Safety Code section 11056

Schedule IV, Health and Safety Code section 11057

28 All Schedule controlled substances are dangerous drugs pursuant to Business and Professions
 code section 4022.

1 that on or between July 1, 2005 and January 3, 2008, Respondent committed acts involving moral
2 turpitude, dishonesty, fraud, deceit, or corruption, when while working as a staff pharmacist at
3 Walgreens Pharmacy he stole controlled substances, dangerous drugs and over the counter drugs.
4 Complainant refers to and by this reference incorporates the allegations set forth above in
5 paragraph 18, subdivisions (a), (b) and (c), inclusive, as though set forth fully.

6 **THIRD CAUSE FOR DISCIPLINE**

7 **(Possession of Controlled Substances and Dangerous Drugs Without Valid Prescriptions)**

8 20. Respondent is subject to disciplinary action under section 4301, subdivision (j), in
9 conjunction with sections 4059, subdivision (a), 4060, and 4077, in that on or between July 1,
10 2005 and January 3, 2008, Respondent was in possession of controlled substances and dangerous
11 drug without valid prescriptions, and in non-conforming prescription containers. Complainant
12 refers to and by this reference incorporates the allegations set forth above in paragraphs 18 and
13 19, inclusive, as though set forth fully.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Self Administration of Illegal Drugs)**

16 21. Respondent is subject to disciplinary action under section 4301, subdivision (h), in
17 conjunction with Health and Safety Code section 11170, in that on or between July 1, 2005, and
18 January 3, 2008, Respondent administered to himself controlled substances without valid
19 prescriptions. Complainant refers to and by this reference incorporates the allegations set forth
20 above in paragraphs 18 - 20, inclusive, as though set forth fully.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Dispensing While Under the Influence of Illegal Drugs)**

23 22. Respondent is subject to disciplinary action under section 4301, subdivision (j), in
24 conjunction with section 4327, in that on or between July 1, 2005, and January 3, 2008, while on
25 duty as a staff pharmacist at Walgreens, Respondent dispensed medications when he was under
26 the influence of illegally ingested controlled substances and dangerous drugs. Complainant refers
27 to and by this reference incorporates the allegations set forth above in paragraphs 18-21, inclusive,
28 as though set forth fully.

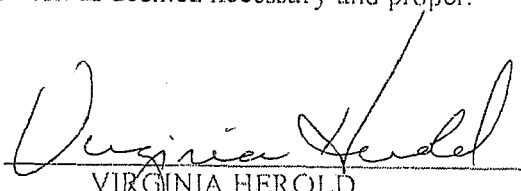
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PRAYER

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

1. Revoking or suspending Pharmacist License No. RPH 42325, issued to Respondent;
2. Ordering Respondent to pay the Board 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: 6/26/09



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

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