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

In the Matter of the Accusation Against:
CARL A. DEAN
1001 Cromwell Road
Wyndmoor, PA 19038
Pharmacist License No. RPH 37053
Respondent.

Case No. 4793

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 21, 2013, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4793 against Carl A. Dean (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)
2. On or about December 4, 1981, the Board of Pharmacy (Board) issued Pharmacist License No. RPH 37053 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 4793 and will expire on May 31, 2014, unless renewed.
3. On or about November 7, 2013, Respondent was served by Certified and First Class Mail copies of the Accusation No. 4793, Statement to Respondent, Notice of Defense, Request

1 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and
2 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code
3 section 4100, is required to be reported and maintained with the Board. Respondent's address of
4 record at the time was: 204 Heatherwood Road, Erdenheim, PA 92688.

5 4. Service of the Accusation was effective as a matter of law under the provisions of
6 Government Code section 11505, subdivision (c) and/or Business & Professions Code section
7 124.

8 5. Government Code section 11506 states, in pertinent part:

9 (c) The respondent shall be entitled to a hearing on the merits if the respondent
10 files a notice of defense, and the notice shall be deemed a specific denial of all parts
11 of the accusation not expressly admitted. Failure to file a notice of defense shall
12 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
13 may nevertheless grant a hearing.

14 6. On or about November 21, 2013, Respondent submitted documentation stating that he
15 did not want a hearing and agreeing to license revocation.

16 7. California Government Code section 11520 states, in pertinent part:

17 (a) If the respondent either fails to file a notice of defense or to appear at the
18 hearing, the agency may take action based upon the respondent's express admissions
19 or upon other evidence and affidavits may be used as evidence without any notice to
20 respondent.

21 8. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondent is in default. The Board will take action without further hearing and, based on the
23 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
24 taking official notice of all the investigatory reports, exhibits and statements contained therein on
25 file at the Board's offices regarding the allegations contained in Accusation No. 4793, finds that
26 the charges and allegations in Accusation No. 4793, are separately and severally, found to be true
27 and correct by clear and convincing evidence.

28 9. Taking official notice of its own internal records, pursuant to Business and
Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation
and Enforcement is \$892.50 as of January 9, 2014.

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1 DETERMINATION OF ISSUES

2 1. Based on the foregoing findings of fact, Respondent Carl A. Dean has subjected his
3 Pharmacist License No. RPH 37053 to discipline.

4 2. The agency has jurisdiction to adjudicate this case by default.

5 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacist License
6 based upon the following violations alleged in the Accusation which are supported by the
7 evidence contained in the Default Decision Evidence Packet in this case.:

8 a. Business and Professions Code section 4301, subdivision (n) – out of state discipline

9 b. Business and Professions Code section 4301, subdivision (f) – dishonest acts

10 ORDER

11 IT IS SO ORDERED that Pharmacist License No. RPH 37053, heretofore issued to
12 Respondent Carl A. Dean, is revoked.

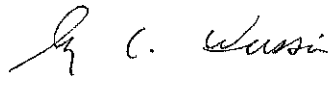
13 Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a
14 written motion requesting that the Decision be vacated and stating the grounds relied on within
15 seven (7) days after service of the Decision on Respondent. The agency in its discretion may
16 vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

17 This decision shall become effective on May 30, 2014.

18 It is so ORDERED on April 30, 2014.

19 BOARD OF PHARMACY
20 DEPARTMENT OF CONSUMER AFFAIRS
21 STATE OF CALIFORNIA

22
23 By



24 STAN C. WEISSER
Board President

25 11252351.DOC
26 DOJ Matter ID:SA2013111875

27 Attachment:
28 Exhibit A: Accusation

Exhibit A

Accusation

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KAREN R. DENVER
Deputy Attorney General
4 State Bar No. 197268
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:
12 **CARL A. DEAN**
204 Heatherwood Road
13 Erdenheim, PA 92688
14 **Pharmacist License No. RPH 37053**
15 Respondent.

Case No. 4793

ACCUSATION

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.1. On or
21 about December 4, 1981, the Board of Pharmacy issued Pharmacist License Number RPH 37053
22 to Carl A. Dean (Respondent). The Pharmacist License was in full force and effect at all times
23 relevant to the charges brought herein and will expire on May 31, 2014, unless renewed.

24 **JURISDICTION**

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

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3. Section 4300 of the Code states, in pertinent part:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

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

....
4. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

5. Section 4301 of the Code states, in pertinent part:

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

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

....
(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.

....

1 COST RECOVERY

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

6 FIRST CAUSE FOR DISCIPLINE

7 (Out of State Discipline)

8 7. Respondent is subject to disciplinary action under section 4301, subdivision (n), on
9 the grounds of unprofessional conduct, in that Respondent's license to practice pharmacy was
10 disciplined by the Pennsylvania State Board of Pharmacy ("Pennsylvania Board") as follows:

11 8. On or about February 24, 2012, pursuant to the Consent Agreement and Order in the
12 disciplinary proceeding titled "Commonwealth of Pennsylvania, Bureau of Professional and
13 Occupational Affairs vs. Carl A. Dean, R.Ph.", the Pennsylvania Board suspended Respondent's
14 pharmacist license, immediately stayed the suspension, and placed him on probation for a period
15 of two years. The Pennsylvania Board's disciplinary proceeding is based on Respondent's
16 criminal case in which he was charged with eight felony counts of insurance fraud, two felony
17 counts of forgery, eight felony counts of theft by deception and eight felony counts of deceptive
18 business practices/dealing in proceeds of unlawful activities. The circumstances are that from on
19 or about April 2007 to on or about June 18, 2010, Respondent billed 966 fraudulent prescriptions
20 to Blue Cross/Blue Shield for himself or his family for a total amount of \$86,070.88. A true and
21 correct copy of the Consent Agreement and Order is attached as **Exhibit A** and incorporated
22 herein by reference.

23 SECOND CAUSE FOR DISCIPLINE

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

25 9. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
26 that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit or corruption
27 as set forth more fully in paragraph 8, above.

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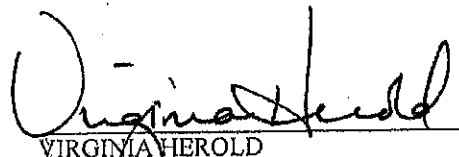
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PRAYER

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

1. Revoking or suspending Pharmacist License Number RPH 37053, issued to Carl A. Dean.;
2. Ordering Carl A. Dean 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: 10/21/13



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

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