

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

In the Matter of the Accusation Against:  
**EMILY ANNE CLARK**  
**200 E. La Vida Avenue**  
**Visalia, CA 92377**  
  
**Pharmacist License No. RPH 63443**  
  
Respondent.

Case No. 5179  
OAH No. 2015110692  
**DEFAULT DECISION AND ORDER**  
  
[Gov. Code, §11520]

FINDINGS OF FACT

1. On or about October 20, 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5179 against Emily Anne Clark (Respondent) before the Board of Pharmacy. (Accusation attached as Exhibit A.)

2. On or about November 19, 2009, the Board of Pharmacy (Board) issued Pharmacist License No. RPH 63443 to Respondent. The Pharmacist License was suspended on April 8, 2014 pursuant to an Interim Suspension Order dated April 4, 2014. The Pharmacist License expired on June 30, 2015, and has not been renewed.

///

1           3.     On or about November 4, 2015, Respondent was served by Certified and First Class  
2 Mail copies of Accusation No. 5179, Statement to Respondent, Notice of Defense, Request for  
3 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at  
4 Respondent's address of record which, pursuant to Business and Professions Code section 4100,  
5 is required to be reported and maintained with the Board. Respondent's address of record was  
6 and is:

7     200 E. La Vida Avenue  
8     Visalia, CA 92377.

9           4.     Service of the Accusation was effective as a matter of law under the provisions of  
10 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
11 124.

12           5.     On or about March 28, 2016, Respondent withdrew her Notice of Defense.

13           6.     Government Code section 11506(c) states, in pertinent part:

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

19           7.     Respondent withdrew her Notice of Defense and therefore waived her right to a  
20 hearing on the merits of Accusation No. 5179.

21           8.     California Government Code section 11520(a) states, in pertinent part:

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

26           9.     Pursuant to its authority under Government Code section 11520, the Board finds  
27 Respondent is in default. The Board will take action without further hearing and, based on the  
28 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
taking official notice of all the investigatory reports, exhibits, and statements contained therein on  
file at the Board's offices regarding the allegations contained in Accusation No. 5179, finds that

1 the charges and allegations in Accusation No. 5179, are separately and severally, found to be true  
2 and correct by clear and convincing evidence.

3 10. Taking official notice of its own internal records, pursuant to Business and  
4 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
5 and Enforcement are \$14,144.00 as of March 3, 2016.

6 DETERMINATION OF ISSUES

7 1. Based on the foregoing findings of fact, Respondent Emily Anne Clark has subjected  
8 her Pharmacist License No. RPH 63443 to discipline.

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

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

13 a. Respondent violated Business and Professions Code sections 490 and 4301(*l*) in that  
14 Respondent has been convicted of a crime that is substantially related to her qualifications,  
15 functions, and duties as a pharmacist. The facts and circumstances of this conviction are as  
16 follows:

17 b. On or about April 21, 2015, in *People of the State of California v. Emily Anne Clark*,  
18 Superior Court of California, County of Kings, case no. 14CM3049, Respondent pled nolo  
19 contendere to: (1) a felony charge of embezzlement by public officer (a violation of Penal Code  
20 section 504); (2) a felony charge of obtaining a controlled substance by fraud (a violation of  
21 Health and Safety Code section 11173(a)); and (3) two misdemeanor charges of unlawful use of  
22 prescription: forgery (a violation of Business and Professions Code section 4324(a)). The facts  
23 and circumstances of this conviction are as follows:

24 c. On or about January 15, 2014, the Board received a Fresno Police Department arrest  
25 report for Respondent which revealed the following. On December 20, 2013, after being notified  
26 by the Fresno Yosemite International Airport (FYIA) Public Safety Dispatch of a possible  
27 prohibited item at the TSA checkpoint, a Fresno Police Officer responded to the airport. Upon  
28 the Officer's arrival, a TSA supervisor informed the Officer that the supervisor located a clear-

1 topped metal jar on Respondent as she was going through the checkpoint. The supervisor was  
2 alerted to search Respondent due to a scanner hit which located an object near Respondent's groin  
3 area. The container had a pink powdery substance. The supervisor also located a metal tray with  
4 powder residue in the same groin area as the jar. When the Officer performed a field  
5 identification test of the pink powdery substance, it tested positive for amphetamines. The  
6 Officer then searched Respondent's luggage which contained the following: (1) three  
7 prescription bottles issued to Respondent, one of which contained two different types of pills (one  
8 type of pills did not match the prescription label and were unidentifiable); (2) four pill bottles  
9 containing meperidine, morphine oral 15mg, Oxycontin 80mg, methadone oral 10mg,  
10 carisoporodol 350mg, oxycodone 10mg, Adderall 20mg, morphine oral 30mg, hydromorphone  
11 2mg, morphine oral 100mg, and amphetamine salts 30mg (prescription issued to D. C.); and  
12 (3) numerous unit dose blister packs of carisoprodol 350mg. A DEA Special Agent responded to  
13 the FYIA terminal and in his opinion, the quantity of medication was consistent with possession  
14 for sale and not personal use. Respondent did not possess a current, valid prescription for any of  
15 the medications.

16 d. On or about December 20, 2013, the Fresno Police Department arrested Respondent.  
17 During an interview with a Fresno Police Drug Interdiction Team Sergeant, Respondent admitted  
18 having a problem with opiate use since college. Respondent told the Sergeant that she had the  
19 pills in her possession for personal use but was also moving them from Visalia to Colorado for  
20 someone. Respondent stated that she made two trips in nine months to deliver pills to Southern  
21 California. Respondent told the Sergeant that she generally gets paid \$2,000.00 per trip to deliver  
22 "stuff like that," indicating the pills on the table.

23 e. Respondent violated Business and Professions Code section 4301(f), by and through  
24 sections 4060 and 4324 of that code, in that, as described in paragraphs 3(a)-(d) above and  
25 discovered during the Board's investigation, Respondent committed acts involving moral  
26 turpitude, dishonesty, fraud, deceit, or corruption as follows:

27 f. On or about December 20, 2013, Respondent possessed various controlled substances  
28 without a current, valid prescription.

1 g. On or about February 19 and 25, 2014, Respondent took controlled substances from  
2 her employer, Adventist Central Valley Network's (Adventist), pharmacies after the pharmacies  
3 were closed.

4 h. On and between June 18, 2011 and March 7, 2014, while working at Adventist,  
5 Respondent received controlled substances from a wholesaler on four different occasions but did  
6 not enter those products into inventory.

7 i. On November 11 and December 13, 2013, Respondent picked up two Adderall  
8 prescriptions for D. C. These were prescriptions which Respondent forged.

9 j. Respondent violated Business and Professions Code section 4301(h) in that  
10 Respondent administered to herself controlled substances or dangerous drugs to the extent or in a  
11 manner as to be dangerous or injuries to herself, any person of the public, or to the extent that the  
12 use impaired her ability to conduct with safety to the public the practice authorized by her license  
13 as follows:

14 k. On or about December 20, 2013, Respondent possessed various controlled substances  
15 without a current, valid prescription.

16 l. On or about December 20, 2013, Respondent admitted having a problem with opiate  
17 use since college, and that the controlled substances in her possession were for personal use.

18 m. Respondent violated Business and Professions Code section 4301(j), by and through  
19 sections 4060 and 4324 of that code, and sections 11157, 11170, 11171, 11173, and 11350 of the  
20 Health and Safety Code, and sections 828(a), 829(a) and (b), and 841(a) of Title 21 of the United  
21 States Code, in that Respondent violated the statutes of this state and the United States regulating  
22 controlled substances and dangerous drugs as follows:

23 n. On or about December 20, 2013, Respondent possessed various controlled substances  
24 without a current, valid prescription.

25 o. On or about December 20, 2013, Respondent admitted that she was transporting  
26 controlled substances to Colorado to provide to another individual.

27 p. On or about December 20, 2013, Respondent admitted that she had made two trips in  
28 nine months to deliver pills to Southern California.

1 q. On or about February 19 and 25, 2014, Respondent took controlled substances from  
2 Adventist's pharmacies after the pharmacies were closed.

3 r. On and between June 18, 2011 and March 7, 2014, while working at Adventist,  
4 Respondent received controlled substances from a wholesaler on four different occasions but did  
5 not enter those products into inventory.

6 s. On November 11 and December 13, 2013, Respondent picked up two Adderall  
7 prescriptions for D. C. These were prescriptions which Respondent forged.

8 t. Respondent violated Business and Professions Code section 4301(o), by and through  
9 sections 4060 and 4324 of that code, and sections 11157, 11170, 11171, 11173, and 11350 of the  
10 Health and Safety Code, and sections 828(a), 829(a) and (b), and 841(a) of Title 21 of the United  
11 States Code, in that Respondent violated or attempted to violate the provisions of the terms of this  
12 chapter and the applicable federal and state laws and regulations governing pharmacy. The facts  
13 and circumstances are described with more particularity in paragraphs 3(a)-(s), above.

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ORDER

IT IS SO ORDERED that Pharmacist License No. RPH 63443, heretofore issued to Respondent Emily Anne Clark, is revoked.

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

This Decision shall become effective at 5:00 p.m. on June 9, 2016.

It is so ORDERED on May 10, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

12208347.DOC  
SA2015103624  
Attachment:  
Exhibit A: Accusation

---

# Exhibit A

Accusation

(EMILY ANNE CLARK)



1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 PHILLIP L. ARTHUR  
Deputy Attorney General  
4 State Bar No. 238339  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-0032  
Facsimile: (916) 327-8643  
7 E-mail: Phillip.Arthur@doj.ca.gov  
Attorneys for Complainant  
8

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

11 In the Matter of the Accusation Against:  
12 **EMILY ANNE CLARK**  
13 **200 E. La Vida Avenue**  
14 **Visalia, CA 92377**  
15 **Original Pharmacist License No. RPH 63443**  
16 Respondent.

Case No. 5179

**ACCUSATION**

17  
18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
22 2. On or about November 19, 2009, the Board of Pharmacy issued Original Pharmacist  
23 License Number RPH 63443 to Emily Anne Clark (Respondent). The Pharmacist License will  
24 expire on June 30, 2015, 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 4. Section 4300 of the Code states, in pertinent part:

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

3 5. Section 4300.1 of the Code states:

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

9 **BUSINESS AND PROFESSIONS CODE**

10 6. Section 490 of the Code provides, in pertinent part, that a board may suspend or  
11 revoke a license on the ground that the licensee has been convicted of a crime substantially related  
12 to the qualifications, functions, or duties of the business or profession for which the license was  
13 issued.

14 7. Section 4022 of the Code states, in pertinent part:

15 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self use in  
16 humans or animals, and includes the following:

17 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
18 prescription," "Rx only," or words of similar import.

19 "...

20 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
21 prescription or furnished pursuant to Section 4006."

22 8. Section 4059 of the Code states, in pertinent part:

23 "(a) A person may not furnish any dangerous drug, except upon the prescription of a  
24 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
25 3640.7. A person may not furnish any dangerous device, except upon the prescription of a  
26 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
27 3640.7. . . ."

28 ///

1           9.    Section 4060 of the Code states:

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

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

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

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

19           "...

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

23           "...

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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

"...

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

"...

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

"...

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

///

///

1 11. Section 4324 of the Code states, in pertinent part:

2 "(a) Every person who signs the name of another, or of a fictitious person, or falsely makes,  
3 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any  
4 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the  
5 state prison, or by imprisonment in the county jail for not more than one year. . . ."

6 **HEALTH AND SAFETY CODE**

7 12. California Health and Safety Code section 11157 states, "No person shall issue a  
8 prescription that is false or fictitious in any respect."

9 13. California Health and Safety Code section 11170 states, "No person shall prescribe,  
10 administer, or furnish a controlled substance for himself."

11 14. California Health and Safety Code section 11171 states, "No person shall prescribe,  
12 administer, or furnish a controlled substance except under the conditions and in the manner  
13 provided by this division."

14 15. California Health and Safety Code section 11173 states, in pertinent part:

15 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or  
16 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,  
17 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

18 "(b) No person shall make a false statement in any prescription, order, report, or record,  
19 required by this division. . . ."

20 16. California Health and Safety Code section 11350 states, in pertinent part:

21 "(a) Except as otherwise provided in this division, every person who possesses (1) any  
22 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of  
23 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or  
24 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section  
25 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic  
26 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian  
27 licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of  
28 Section 1170 of the Penal Code. . . ."

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**REGULATIONS**

17. Title 21 of the United States Code, section 828 states, in pertinent part:

“(a) Unlawful distribution of controlled substances. It shall be unlawful for any person to distribute a controlled substance in schedule I or II to another except in pursuance of a written order of the person to whom such substance is distributed, made on a form to be issued by the Attorney General in blank in accordance with subsection (d) and regulations prescribed by him pursuant to this section. . . .”

18. Title 21 of the United States Code, section 829 states, in pertinent part:

“Schedule II substances. Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule II, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act [21 USCS §§ 301 et seq.], may be dispensed without the written prescription of a practitioner, except that in emergency situations, as prescribed by the Secretary by regulation after consultation with the Attorney General, such drug may be dispensed upon oral prescription in accordance with section 503(b) of that Act [21 USCS § 353(b)]. Prescriptions shall be retained in conformity with the requirements of section 307 of this title [21 USCS § 827]. No prescription for a controlled substance in schedule II may be refilled.

“(b) Schedule III and IV substances. Except when dispensed directly by a practitioner, other than a pharmacist, to an ultimate user, no controlled substance in schedule III or IV, which is a prescription drug as determined under the Federal Food, Drug, and Cosmetic Act [21 USCS §§ 301 et seq.], may be dispensed without a written or oral prescription in conformity with section 503(b) of that Act [21 USCS § 353(b)]. Such prescriptions may not be filled or refilled more than six months after the date thereof or be refilled more than five times after the date of the prescription unless renewed by the practitioner. . . .”

19. Title 21 of the United States Code, section 841 states, in pertinent part:

“(a) Unlawful acts. Except as authorized by this title, it shall be unlawful for any person knowingly or intentionally—

///

1           “(1) to manufacture, distribute, or dispense, or possess with intent to manufacture,  
2 distribute, or dispense, a controlled substance; or

3           “(2) to create, distribute, or dispense, or possess with intent to distribute or dispense, a  
4 counterfeit substance. . . .”

#### 5   **COST RECOVERY**

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

#### 10    **CONTROLLED SUBSTANCES**

11           21. “Carisoprodol” is a muscle-relaxant and sedative. It is a dangerous drug as defined in  
12 Code section 4022, and a Schedule IV controlled substance as defined in section 11057(b)(d) of  
13 the Health and Safety Code.

14           22. “Morphine Sulfate,” aka as brand names Astramorph, Duramorph, MSIR, RMS  
15 Uniserts, and Roxanol, is for use in patients who require a potent opioid analgesic for relief of  
16 moderate to severe pain, and is a dangerous drug as defined in section 4022 of the Code and a  
17 Schedule II controlled substance as defined in section 11055(b)(1)(L) of the Health and Safety  
18 Code.

19           23. “Oxycodone” with acetaminophen and oxycodone with aspirin both contain  
20 oxycodone, a white odorless crystalline powder derived from the opium alkaloid, thebaine.  
21 Oxycodone is a semisynthetic narcotic analgesic with multiple actions qualitatively similar to  
22 those of morphine. It is a dangerous drug as defined in Code section 4022, a schedule II  
23 controlled substance and narcotic as defined by section 11055(b)(1)(M) of the Health and Safety  
24 Code, and a Schedule II controlled substance as defined by section 1308.12(b)(1) of Title 21 of  
25 the Code of Federal Regulations.

26           24. “Meperidine Hydrochloride” is a strong synthetic opioid analgesic used in the relief of  
27 moderate to severe pain, as a pre-operative supplement to anesthesia, and to provide pain relief  
28 during labor. Also known by the brand name Demerol, meperidine hydrochloride preparations

1 are subject to control as Schedule II controlled substances as designated by Health and Safety  
2 Code section 11055(c)(17), and dangerous drugs within the meaning of Code section 4022.

3 25. "Methadone Hydrochloride," aka as brand names Dolophine, Methadose, and  
4 Physeptone, is a synthetic narcotic analgesic with multiple actions quantitatively similar to those  
5 of morphine. It is a dangerous drug as defined in Code section 4211, and a schedule II controlled  
6 substance as defined in section 11055(c)(14) of the Health and Safety Code

7 26. "Diazepam (Valium)" is a psychotropic drug for the management of anxiety disorders  
8 or for the short-term relief of the symptoms of anxiety. It is a Schedule IV controlled substance as  
9 defined by section 11057(d)(9) of the Health and Safety Code, and a Schedule IV controlled  
10 substance as defined by section 1308.14(c)(16) of Title 21 of the Code of Federal Regulations.

11 27. "Xanax," a trade name for Alprazolam, is a dangerous drug as defined in Code  
12 section 4022, and a schedule IV controlled substance as defined by section 1308.14(c)(2) of Title  
13 21 of the Code of Federal Regulations.

14 28. "Lorazepam (Ativan)" is used for anxiety and sedation in the management of anxiety  
15 disorder for short-term relief from the symptoms of anxiety or anxiety associated with depressive  
16 symptoms. It is a dangerous drug as defined in Code section 4022, a Schedule IV controlled  
17 substance as defined by section 11057(d)(16) of the Health and Safety Code, and a Schedule IV  
18 controlled substance as defined by section 1308.14(c)(30) of Title 21 of the Code of Federal  
19 Regulations.

#### 20 BACKGROUND

21 29. On or about December 26, 2013, the Board received a Subsequent Arrest Notification  
22 from the California Department of Justice informing that on or about December 20, 2013, the  
23 Fresno Police Department arrested Respondent on charges of violating Health and Safety Code  
24 sections 11351 (possession/purchase for sale narcotic/controlled substance) and 11352(a)  
25 (transport/sell narcotic/controlled substance).

26 30. On or about January 15, 2014, the Board received a Fresno Police Department arrest  
27 report for Respondent which revealed the following. On December 20, 2013, after being notified  
28 by the Fresno Yosemite International Airport (FYIA) Public Safety Dispatch of a possible



1 prohibited item at the TSA checkpoint, a Fresno Police Officer responded to the airport. Upon  
2 the Officer's arrival, a TSA supervisor informed the Officer that the supervisor located a clear-  
3 topped metal jar on Respondent as she was going through the checkpoint. The supervisor was  
4 alerted to search Respondent due to a scanner hit which located an object near Respondent's groin  
5 area. The container had a pink powdery substance. The supervisor also located a metal tray with  
6 powder residue in the same groin area as the jar. When the Officer performed a field  
7 identification test of the pink powdery substance, it tested positive for amphetamines. The Officer  
8 then searched Respondent's luggage which contained the following: (1) three prescription bottles  
9 issued to Respondent, one of which contained two different types of pills (one type of pills did not  
10 match the prescription label and were unidentifiable); (2) four pill bottles containing meperidine,  
11 morphine oral 15mg, Oxycontin 80mg, methadone oral 10mg, carisoprodol 350mg, oxycodone  
12 10mg, Adderall 20mg, morphine oral 30mg, hydromorphone 2mg, morphine oral 100mg, and  
13 amphetamine salts 30mg (prescription issued to D. C.); and (3) numerous unit dose blister packs  
14 of carisoprodol 350mg. A DEA Special Agent responded to the FYIA terminal and in his  
15 opinion, the quantity of medication was consistent with possession for sale and not personal use.  
16 Respondent did not possess a current, valid prescription for any of the medications.

17 31. On or about December 20, 2013, the Fresno Police Department arrested Respondent.  
18 During an interview with a Fresno Police Drug Interdiction Team Sergeant, Respondent admitted  
19 having a problem with opiate use since college. Respondent told the Sergeant that she had the  
20 pills in her possession for personal use but was also moving them from Visalia to Colorado for  
21 someone. Respondent stated that she made two trips in nine months to deliver pills to Southern  
22 California. Respondent told the Sergeant that she generally gets paid \$2,000.00 per trip to deliver  
23 "stuff like that," indicating the pills on the table.

24 32. After receiving notification of Respondent's arrest, the Board initiated an  
25 investigation. As part of its investigation, Board Inspector D. P. contacted Respondent's  
26 employer, Adventist Central Valley Network (Adventist). Adventist owns and operates four  
27 hospitals: Adventist Medical Center-Hanford, Adventist Medical Center-Selma, Adventist  
28

1 Medical Center-Reedley, and Central Valley General Hospital. Each hospital has a pharmacy.  
2 All of Adventist's pharmacists work at each hospital.

3 33. On or about March 13, 2014, Adventist provided Inspector D. P. with a DVD copy of  
4 security surveillance video at one of Adventist's pharmacies, Adventist Medical Center-Selma.  
5 The video showed Respondent accessing and obtaining controlled substances after the pharmacy  
6 was closed on February 19, 2014. Respondent was not scheduled to work on February 19, 2014,  
7 and time clock records showed she did not clock in to work.

8 34. Adventist also provided Inspector D. P. with a security surveillance video, dated  
9 February 25, 2014, showing Respondent's access to controlled substances at one of Adventist's  
10 pharmacies, Central Valley Hospital, after the pharmacy was closed. The video shows  
11 Respondent place a zipper plastic bag full of medication into her personal carry bag.

12 35. As part of her investigation, Inspector D. P. reviewed documentation from Adventist  
13 regarding controlled substances that it received from a wholesaler from June 18, 2011 through  
14 March 7, 2014, which included the time frame during which Respondent worked at Adventist.  
15 This revealed that Respondent had received controlled substances from the wholesaler on four  
16 different occasions but did not enter those products into inventory. While an exact count of the  
17 amount of controlled substances missing from all four Adventist locations could not be made, an  
18 audit of those pharmacies suggested large amounts of controlled substances could not be  
19 accounted for in dispensing records.

20 36. During her investigation, Inspector D. P. discovered that on November 11, and  
21 December 13, 2013, Respondent picked up two Adderall prescriptions for D. C. at two different  
22 Rite Aid pharmacies located in Hanford, California. These prescriptions were written on an  
23 Adventist prescription blank that was stored under pharmacy control at Adventist Medical Center-  
24 Hanford. Dr. J. C. was the prescriber listed on both prescriptions. Dr. J. C. stated that he did not  
25 know patient D. C. and did not issue the two prescriptions. The two Adventist prescription blanks  
26 were not signed out in the pharmacy and were reported as missing in an audit of the prescription  
27 blanks, Respondent's handwriting on time clock documents showed substantial similarities to the  
28 handwriting on the two prescriptions.

1 37. During her investigation, Inspector D. P. discovered that on December 13, 2013,  
2 Respondent accessed her Adventist Health record and entered a false prescription record for a  
3 generic Adderall prescription written by an Adventist physician.. During an interview with  
4 Adventist's pharmacist-in-charge, she admitted to seeing a prescription for D C. listed in  
5 Respondent's health record.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct—Conviction of a Crime Substantially Related to**  
8 **Qualifications, Functions, and Duties of Licensee)**

9 38. Respondent is subject to disciplinary action under sections 490 and 4301(i) of the  
10 Code in that Respondent has been convicted of a crime that is substantially related to her  
11 qualifications, functions, and duties as a pharmacist. The facts and circumstances of this  
12 conviction are as follows:

13 39. On or about April 21, 2015, in *People of the State of California v. Emily Anne Clark*,  
14 Superior Court of California, County of Kings, case no. 14CM3049, Respondent pled nolo  
15 contendere to: (1) a felony charge of embezzlement by public officer (a violation of Penal Code  
16 section 504); (2) a felony charge of obtaining a controlled substance by fraud (a violation of  
17 Health and Safety Code section 11173(a)); and (3) two misdemeanor charges of unlawful use of  
18 prescription: forgery (a violation of Business and Professions Code section 4324(a)). The facts  
19 and circumstances of this conviction are described with more particularity in paragraphs 29-31.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct—Commission of Acts Involving Moral Turpitude, Dishonesty,**  
22 **Fraud, Deceit, or Corruption)**

23 40. Respondent is subject to disciplinary action under section 4301(f) of the Code, by and  
24 through sections 4060 and 4324 of the Code, in that Respondent committed acts involving moral  
25 turpitude, dishonesty, fraud, deceit or corruption as follows:

26 a. On or about December 20, 2013, Respondent possessed various controlled substances  
27 without a current, valid prescription.

28 ///

1 b. On or about February 19 and 25, 2014, Respondent took controlled substances from  
2 Adventist's pharmacies after the pharmacies were closed.

3 c. On and between June 18, 2011 and March 7, 2014, while working at Adventist,  
4 Respondent received controlled substances from a wholesaler on four different occasions but did  
5 not enter those products into inventory.

6 d. On November 11 and December 13, 2013, Respondent picked up two Adderall  
7 prescriptions for D. C. These were prescriptions which Respondent forged.

8 e. The facts and circumstances are described with more particularity in paragraphs 31-  
9 37.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct—Administering to Oneself Any Controlled Substance, or the Use**  
12 **of Any Dangerous Drug to the Extent or in a Manner as to be Dangerous or Injurious to**  
13 **Oneself, to a Person Holding a License Under This Chapter, or to Any Person or to the**  
14 **Public, or to the Extent That the Use Impairs the Ability of the Person to Conduct With**  
15 **Safety to the Public the Practice Authorized by the License)**

16 41. Respondent is subject to disciplinary action under section 4301(h) of the Code in that  
17 Respondent administered to herself controlled substances or dangerous drugs to the extent or in a  
18 manner as to be dangerous or injuries to herself, any person of the public, or to the extent that the  
19 use impaired her ability to conduct with safety to the public the practice authorized by her license  
20 as follows:

21 a. On or about December 20, 2013, Respondent possessed various controlled substances  
22 without a current, valid prescription.

23 b. On or about December 20, 2013, Respondent admitted having a problem with opiate  
24 use since college, and that the controlled substances in her possession were for personal use.

25 c. The facts and circumstances are set forth with more particularity in paragraphs 30-31.

26 ///

27 ///

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct—Violation of Statutes of This State and the United States**  
3 **Regulating Controlled Substances and Dangerous Drugs)**

4 42. Respondent is subject to disciplinary action under section 4301(j) of the Code, by and  
5 through sections 4060 and 4324 of the Code, sections 11157, 11170, 11171, 11173, and 11350 of  
6 the Health and Safety Code, and sections 828(a), 829(a) and (b), and 841(a) of Title 21 of the  
7 United States Code, in that Respondent violated the statutes of this state and the United States  
8 regulating controlled substances and dangerous drugs as follows:

9 a. On or about December 20, 2013, Respondent possessed various controlled substances  
10 without a current, valid prescription.

11 b. On or about December 20, 2013, Respondent admitted that she was transporting  
12 controlled substances to Colorado to provide to another individual.

13 c. On or about December 20, 2013, Respondent admitted that she had made two trips in  
14 nine months to deliver pills to Southern California.

15 d. On or about February 19 and 25, 2014, Respondent took controlled substances from  
16 Adventist's pharmacies after the pharmacies were closed.

17 e. On and between June 18, 2011 and March 7, 2014, while working at Adventist,  
18 Respondent received controlled substances from a wholesaler on four different occasions but did  
19 not enter those products into inventory.

20 f. On November 11 and December 13, 2013, Respondent picked up two Adderall  
21 prescriptions for D. C. These were prescriptions which Respondent forged.

22 g. The facts and circumstances are described with more particularity in paragraphs 31-

23 37.

24 ///

25 ///

26 ///

27 ///

28 ///

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct—Violating or Attempting to Violate Any Provision or Term of**  
3 **This Chapter or of the Applicable Federal and State Laws and Regulations Governing**  
4 **Pharmacy)**

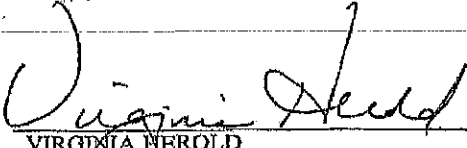
5 43. Respondent is subject to disciplinary action under section 4301(o) of the Code, by and  
6 through sections 4060 and 4324 of the Code, sections 11157, 11170, 11171, 11173, and 11350 of  
7 the Health and Safety Code, and sections 828(a), 829(a) and (b), and 841(a) of Title 21 of the  
8 United States Code, in that Respondent violated or attempted to violate the provisions of the  
9 terms of this chapter and the applicable federal and state laws and regulations governing  
10 pharmacy. The facts and circumstances are described with more particularity in paragraphs 31-37  
11 and 42.

12 **PRAYER**

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

- 15 1. Revoking or suspending Original Pharmacist License Number RPH 63443, issued to  
16 Emily Anne Clark.;
- 17 2. Ordering Emily Anne Clark to pay the Board of Pharmacy the reasonable costs of the  
18 investigation and enforcement of this case, pursuant to Business and Professions Code section  
19 125.3; and
- 20 3. Taking such other and further action as deemed necessary and proper.
- 21  
22

23  
24 DATED: 10/20/15

  
25 VIRGINIA HEROLD  
26 Executive Officer  
27 Board of Pharmacy  
28 Department of Consumer Affairs  
State of California  
Complainant

SA2015103624  
11881028.doc