EDMUND G. BROWN JR., Attorney General
of the State of California
FRANK H. PACOE
Supervising Deputy Attorney General
JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-1299
Facsimile: (415) 703-5480

Attorneys for Complainant

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

In the Matter of the Accusation Against: SHAUNA MARIE WEAVER P.O. Box 1212 Pebble Beach, CA 93953 Pharmacist License No. RPH 49557 Respondent.	Case No. 3225 **ACCUSATION**

Complainant alleges:

PARTIES

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

2. On or about August 20, 1997, the Board of Pharmacy issued Pharmacist License No. RPH 49557 to Shauna Marie Weaver (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2009, unless renewed.

JURISDICTION

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

4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.

6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of the Code provides that any other license issued by the Board may be canceled by the Board if not renewed within 60 days after its expiration, and any license canceled in this fashion may not be reissued but will instead require a new application to seek reissuance.

STATUTORY PROVISIONS

7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be limited to, any of the following:

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

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

(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 . . .

8. Section 4327 of the Code, in pertinent part, makes it unlawful, while on duty, to sell, dispense or compound any drug while under the influence of any dangerous drug.

9. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.

10. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

11. Section 4021 of the Code states:

"'Controlled substance' means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

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

"'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

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

. . .

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

13. **Norco**, **Vicodin**, **Vicodin ES**, **Lortab**, and **Lorcet** are among the brand names for compounds of varying dosages of acetaminophen (aka APAP) and **hydrocodone**, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous drug as designated by Business and Professions Code section 4022. The varying compounds are also known generically as **Hydrocodone with APAP**. These are narcotic drugs.

FACTUAL BACKGROUND

14. From in or around July 2002 through at least September 2007, Respondent was employed as a pharmacist at a Vons Pharmacy (PHY 43052) in Fresno, CA. In or around January 2006, she became Pharmacist in Charge of that Vons Pharmacy.

15. By her own admission, Respondent began having problems with drinking alcohol in or around the final month(s) of 2006 and/or the first month(s) of 2007. By April 2007, Respondent was consuming significant quantities of alcohol, primarily vodka. Respondent often felt the effects of her drinking while on duty as a pharmacist, including hangovers and vomiting. On one or more occasions between March 2007 and September 2007, her co-workers at the Vons Pharmacy observed that Respondent appeared to be under the influence of alcohol or drugs.

16. On or about September 8, 2007, Respondent reported to work at the Vons Pharmacy suffering effects from and/or under the influence of alcohol. She was unable to handle the functions of her position, and after a short period shut down the pharmacy and locked up. At that point she admitted to her superior(s) at Vons that she had a drinking problem.

17. On or about October 2-3, 2007, Respondent drank a significant quantity of vodka, then ingested approximately 20 tablets of **Vicodin** in what she described as an attempt at suicide and/or a cry for help. On or about October 3, 2007 Respondent was taken by ambulance to an area hospital, and after refusing treatment was detained for evaluation pursuant to Welfare and Institutions Code section 5150 (permitting detention for up to 72 hours for evaluation and treatment of a person likely to be a threat to him/herself or others).

FIRST CAUSE FOR DISCIPLINE

(Dangerous or Injurious Use of Alcohol and/or Drugs)

18. Respondent is subject to disciplinary action under section 4301(h) of the Code, in that as described in paragraphs 15-17 above, on one or more occasions between at least April and October 2007, Respondent used alcohol, controlled substances and/or dangerous drugs to an extent or in a manner so as to be dangerous or injurious to herself or to others, or to the extent that the use impaired her ability to practice pharmacy with safety to the public.

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SECOND CAUSE FOR DISCIPLINE

(Self-Administration of Controlled Substance)

19. Respondent is subject to disciplinary action under section 4301(j) and/or (o) of the Code, and Health and Safety Code section 11170, in that as described in paragraphs 15-17 above, between at least April and October 2007, Respondent self-administered alcohol and/or one or more controlled substances in an improper or abusive manner, and/or directly or indirectly attempted, conspired, and/or assisted in or abetted such conduct.

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:

A. Revoking or suspending Pharmacist License Number RPH 49557, issued to Shauna Marie Weaver (Respondent);

B. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

C. Taking such other and further action as is deemed necessary and proper.

DATED: 4/10/09

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

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