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

10 In the Matter of the Accusation Against:
11
12 ELLEN M. OERTLI
1255 Detroit Avenue #7
Concord, California 94520
13
14 Pharmacist License No. RPH 49590
15
Respondent.

Case No. 3344

ACCUSATION

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17 Complainant alleges:

18 PARTIES

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
21 2. On or about August 26, 1997, the Board of Pharmacy issued Pharmacist
22 License Number RPH 49590 to Ellen M. Oertli (Respondent). The Pharmacist License was in
23 full force and effect at all times relevant to the charges brought herein and will expire on
24 February 28, 2011, unless renewed.

25 JURISDICTION

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

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
2 abetting the violation of or conspiring to violate any provision or term of this chapter or of the
3 applicable federal and state laws and regulations governing pharmacy . . .

4 8. Section 4059 of the Code, in pertinent part, prohibits furnishing of any
5 dangerous drug or dangerous device except upon the prescription of an authorized prescriber.

6 9. Section 4060 of the Code provides, in pertinent part, that no person shall
7 possess any controlled substance, except that furnished upon a valid prescription/drug order.

8 10. Section 4327 of the Code makes it unlawful for any person, while on duty,
9 to sell, dispense or compound any drug while under the influence of a dangerous drug or alcohol.

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

12 12. Health and Safety Code section 11173, subdivision (a), provides that no
13 person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure
14 the administration of or prescription for controlled substances, (1) by fraud, deceit,
15 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

16 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful
17 to possess any controlled substance listed in Schedule II (Health and Safety Code section 11055),
18 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

19 14. Health and Safety Code section 11550, in pertinent part, makes it unlawful
20 for any person to use or be under the influence of any controlled substance in Schedule II (Health
21 and Safety Code section 11055), subdivision (b) or (c), or any narcotic drug in Schedules III-V,
22 except when administered by or under the direction of an authorized licensee.

23 COST RECOVERY

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

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