

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
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:

Case No. 3868

12 **LISA F. DAVIS**
13 **12857 Frederick Street, #207**
14 **Moreno Valley, CA 92553**

ACCUSATION

15 **Pharmacist License No. RPH 42690**

16 Respondent.

17
18
19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about August 8, 1989, the Board of Pharmacy issued Pharmacist License
24 Number RPH 42690 to Lisa F. Davis (Respondent). The Pharmacist License was in full force
25 and effect at all times relevant to the charges brought herein and will expire on August 31, 2011,
26 unless renewed.

1 JURISDICTION

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

5 4. Section 4300(a) of the Code states that "[e]very license issued may be suspended or
6 revoked."

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

11 STATUTORY AND REGULATORY PROVISIONS

12 6. Section 4301 of the Code states:

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

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
20 dangerous or injurious to oneself, to a person holding a license under this chapter, or
21 to any other person or to the public, or to the extent that the use impairs the ability of
22 the person to conduct with safety to the public the practice authorized by the license.

23

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

7. Section 4327 of the Code states that:

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

1 **COST RECOVERY**

2 8. 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 **DRUGS**

7 9. Vicodin, a brand name for acetaminophen and hydrocodone bitartrate, is a schedule
8 III controlled substance as designated by Health and Safety Code section 11056(e)(4), and is a
9 dangerous drug pursuant to Business and Professions Code section 4022.

10 10. Lorazepam, sold under the brand name Ativan, is a Schedule IV controlled substance
11 as designated by Health and Safety Code section 11057(d)(16), and is a dangerous drug pursuant
12 to Business and Professions Code section 4022.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct-Use of a Controlled Substance)**

15 11. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
16 she used controlled substances, namely lorazepam and Vicodin, while performing her functions
17 as a pharmacist. The circumstances are as follows.

18 a. Respondent began working as a pharmacist at Vons Pharmacy #2665, located at
19 4520 Sunset Blvd. in Los Angeles, California on January 11, 2000. On October 27, 2009, while
20 performing her duties as a pharmacist at Vons Pharmacy, Respondent was observed as being very
21 drowsy and sleepy with slurred speech. She had difficulty entering her password into the
22 computer and was very slow filling prescriptions, taking an hour to fill one prescription. She
23 dozed off during at least three phone calls and a pharmacy technician had to nudge her awake.
24 She fainted which caused the store management to call paramedics and she was taken to Kaiser
25 Permanente and admitted to that facility.

26 b. While at Kaiser, Respondent underwent a drug screen of her urine and her urine
27 tested positive for the presence of benzodiazepines (lorazepam contains benzodiazepines) and
28 opiates (Vicodin contains opiates). In her January 4, 2010 written statement to the Board which

1 was certified under penalty of perjury, Respondent admitted that she "was working while
2 impaired. The night before I took Lorazepam for my back and the next morning I went to
3 work...Three days prior to the test, I took a Vicodin."

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct-Violations of the Chapter)**

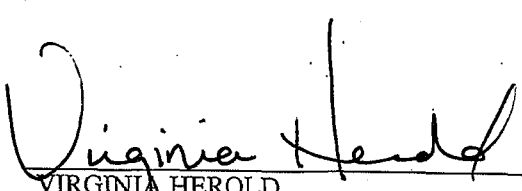
6 12. Respondent is subject to disciplinary action for unprofessional conduct under section
7 4301(o) of the Code in that she violated the Pharmacy Act by working as a pharmacist while
8 under the influence of controlled substances in violation of Code section 4327, as evidenced by
9 her admissions and her conduct as set forth in paragraph 11 above, incorporated herein by
10 reference.

11 **PRAYER**

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

- 14 1. Revoking or suspending Pharmacist License Number RPH 42690, issued to Lisa F.
15 Davis;
- 16 2. Ordering Lisa F. Davis to pay the Board of Pharmacy the reasonable costs of the
17 investigation and enforcement of this case, pursuant to Business and Professions Code section
18 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.
- 20

21
22
23 DATED: 2/25/11


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

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