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9 10 11	BOARD OF DEPARTMENT OF C	RE THE PHARMACY CONSUMER AFFAIRS CALIFORNIA
12 13 14 15	In the Matter of the Accusation Against: DOROTHY A. NEELY 915 Cerritos Road Palm Springs, CA 92262 Pharmacist License No. RPH 23354	Case No. 5165 A C C U S A T I O N
16 17	Respondent.	
18 19	Complainant alleges:	TIES
20		s 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 February 4, 1964, the Board of Pharmacy issued Pharmacist License	
23	Number RPH 23354 to Dorothy A. Neely (Respo	ondent). The Pharmacist License was in full
24	force and effect at all times relevant to the charge	es brought herein and will expire on March 31,
25	2015, unless renewed.	
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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 of the Code states:	
6	"(a) Every license issued may be suspended or revoked.	
7	"(b) The board shall discipline the holder of any license issued by the board, whose default	
8	has been entered or whose case has been heard by the board and found guilty, by any of the	
9	following methods:	
10	"(1) Suspending judgment.	
11	"(2) Placing him or her upon probation.	
12	"(3) Suspending his or her right to practice for a period not exceeding one year.	
13	"(4) Revoking his or her license.	
14	"(5) Taking any other action in relation to disciplining him or her as the board in its	
15	discretion may deem proper.	
16	"(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The	
17	board may, in its sole discretion, issue a probationary license to any applicant for a license who is	
18	guilty of unprofessional conduct and who has met all other requirements for licensure. The board	
19	may issue the license subject to any terms or conditions not contrary to public policy, including,	
20	but not limited to, the following:	
21	"(1) Medical or psychiatric evaluation.	
22	"(2) Continuing medical or psychiatric treatment.	
23	"(3) Restriction of type or circumstances of practice.	
24	"(4) Continuing participation in a board-approved rehabilitation program.	
25	"(5) Abstention from the use of alcohol or drugs.	
26	"(6) Random fluid testing for alcohol or drugs.	
27	"(7) Compliance with laws and regulations governing the practice of pharmacy.	
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"(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
 certificate of licensure for any violation of the terms and conditions of probation. Upon
 satisfactory completion of probation, the board shall convert the probationary certificate to a
 regular certificate, free of conditions.

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5
(commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
shall have all the powers granted therein. The action shall be final, except that the propriety of the
action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil
Procedure."

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5. 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."

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STATUTORY PROVISIONS

6. Section 480 of the Code states:

18 "(a) A board may deny a license regulated by this code on the grounds that the applicant has19 one of the following:

"(1) Been convicted of a crime. A conviction within the meaning of this section means a
plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code.

"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially
benefit himself or herself or another, or substantially injure another.

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"(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

"(B) The board may deny a license pursuant to this subdivision only if the crime or act is 3 substantially related to the qualifications, functions, or duties of the business or profession for 4 which application is made. 5

"(b) Notwithstanding any other provision of this code, no person shall be denied a license 6 solely on the basis that he or she has been convicted of a felony if he or she has obtained a 7 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of 8 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has 9 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate 10 the rehabilitation of a person when considering the denial of a license under subdivision (a) of 11 Section 482. 12

"(c) A board may deny a license regulated by this code on the ground that the applicant 13 knowingly made a false statement of fact required to be revealed in the application for the 14 license." 15

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7. Section 4301 of the Code states:

"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

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"(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 "(j) The violation of any of the statutes of this state, or any other state, or of the United 25 States regulating controlled substances and dangerous drugs. 26

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"(p) Actions or conduct that would have warranted denial of a license.

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2	8. Section 4022 of the Code states
3	"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
4	humans or animals, and includes the following:
5	"(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
6	prescription," "Rx only," or words of similar import.
7	"(b) Any device that bears the statement: "Caution: federal law restricts this device to sale
8	by or on the order of a," "Rx only," or words of similar import, the blank to be filled
9	in with the designation of the practitioner licensed to use or order use of the device.
10	"(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
11	prescription or furnished pursuant to Section 4006."
12	9. Section 4059 of the Code states:
13	"(a) A person may not furnish any dangerous drug, except upon the prescription of a
14	physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
15	3640.7. A person may not furnish any dangerous device, except upon the prescription of a
16	physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section
17	3640.7
18	n R * • • •
19	DRUGS
20	10. Benazepril is also known by the brand name Lotensin [®] . It is a dangerous drug under
21	Code section 4022. It is used to treat hypertension.
22	COSTS
23	11. Section 125.3 of the Code states, in pertinent part, that the Board may request the
24	administrative law judge to direct a licentiate found to have committed a violation or violations of
25	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26	enforcement of the case.
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1	FIRST CAUSE FOR DISCIPLINE	
2	(Unprofessional Conduct - Act of Moral Turpitude or Dishonesty)	
3	12. Respondent is subject to disciplinary action under Code section 4301, subdivision (f)	
4	in that Respondent committed theft, an act of moral turpitude or dishonesty. The circumstances	
5	are:	
6	13. On or about February 22, 2013, Respondent worked as a pharmacist at a CVS	
7	Pharmacy in Cathedral City. She unlawfully diverted from the pharmacy benazepril for her own	
8	use.	
9	SECOND CAUSE FOR DISCIPLINE	
10	(Unprofessional Conduct - Violation of Laws Regulating	
11	Controlled Substances and Dangerous Drugs)	
12	14. Complainant re-alleges and incorporates by reference the allegations set forth above	
13	in paragraphs 12-13.	
14	15. Respondent is subject to disciplinary action under Code sections 4301, subdivision (j)	
15	in that Respondent violated laws regulating controlled substances and dangerous drugs. The laws	
16	include the following:	
17	a. <u>Code section 4059, subd. (a)</u> : failure to furnish a dangerous drug upon the	
18	prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor	
19	pursuant to Section 3640.7.	
20	THIRD CAUSE FOR DISCIPLINE	
21	(Unprofessional Conduct - Act Warranting Denial of Licensure)	
22	16. Complainant re-alleges and incorporates by reference the allegations set forth above	
23	in paragraphs 12-15.	
24	17. Respondent is subject to disciplinary action under section 4301, subdivision (p), in	
25	that she committed an act that would have warranted denial of a license by stealing the dangerous	
26	drug benazepril from her place of employment, an act enumerated in Code section 480,	
27	subdivision (a)(2), which is cause for denial of a license to an applicant who committed an act of	
28	dishonesty with the intent to substantially benefit herself or another.	
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1	PRAYER	
2	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,	
3	and that following the hearing, the Board of Pharmacy issue a decision:	
4	1. Revoking or suspending Pharmacist License Number RPH 23354, issued to Dorothy	
5	A. Neely;	
6	2. Ordering Dorothy A. Neely to pay the Board of Pharmacy the reasonable costs of the	
7	investigation and enforcement of this case, pursuant to Business and Professions Code section	
8	125.3; and	
9	3. Taking such other and further action as deemed necessary and proper.	
10	- chuld li : No 10	
11	DATED: 6/16/14 Unerina Steed	
12	Executive Officer Board of Pharmacy	
13	Department of Consumer Affairs State of California	
14	<i>Complainant</i> SD2014706969 70863390.doc	
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