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

11 In the Matter of the Accusation Against:

Case No. 5396

12 **TERRI RENE CIRVES**
13 **20207 34th Place W.**
Lynnwood, CA 98036

A C C U S A T I O N

14 **Pharmacist License No. RPH 40376**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about October 20, 1986, the Board issued Pharmacist License Number RPH
22 40376 to Terri Rene Cirves ("Respondent"). The pharmacist license was in full force and effect
23 at all times relevant to the charges brought herein and will expire on July 31, 2016, unless
24 renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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STATUTORY PROVISIONS

1
2 4. Section 4300 states, in pertinent part:

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

4 (b) The board shall discipline the holder of any license issued by the
5 board, whose default has been entered or whose case has been heard by the board and
6 found guilty, by any of the following methods:

7 (1) Suspending judgment.

8 (2) Placing him or her upon probation.

9 (3) Suspending his or her right to practice for a period not exceeding one
10 year.

11 (4) Revoking his or her license.

12 (5) Taking any other action in relation to disciplining him or her as the
13 board in its discretion may deem proper . . .

14 5. Section 4300.1 states:

15 The expiration, cancellation, forfeiture, or suspension of a board-issued
16 license by operation of law or by order or decision of the board or a court of law, the
17 placement of a license on a retired status, or the voluntary surrender of a license by a
18 licensee shall not deprive the board of jurisdiction to commence or proceed with any
19 investigation of, or action or disciplinary proceeding against, the licensee or to render
20 a decision suspending or revoking the license.

21 6. Section 4301 states, in pertinent part:

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

26

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

32

33 (i) The conviction of a crime substantially related to the qualifications,
34 functions, and duties of a licensee under this chapter. The record of conviction of a
35 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
36 States Code regulating controlled substances or of a violation of the statutes of this
37 state regulating controlled substances or dangerous drugs shall be conclusive
38 evidence of unprofessional conduct. In all other cases, the record of conviction shall

1 be conclusive evidence only of the fact that the conviction occurred. The board may
2 inquire into the circumstances surrounding the commission of the crime, in order to
3 fix the degree of discipline or, in the case of a conviction not involving controlled
4 substances or dangerous drugs, to determine if the conviction is of an offense
5 substantially related to the qualifications, functions, and duties of a licensee under this
6 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
7 contendere is deemed to be a conviction within the meaning of this provision. The
8 board may take action when the time for appeal has elapsed, or the judgment of
9 conviction has been affirmed on appeal or when an order granting probation is made
10 suspending the imposition of sentence, irrespective of a subsequent order under
11 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
12 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
13 dismissing the accusation, information, or indictment . . .

8 COST RECOVERY

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

13 FIRST CAUSE FOR DISCIPLINE

14 (Use of Alcoholic Beverages to an Extent or in a Manner

15 Dangerous or Injurious to Oneself, Others and the Public)

16 8. Respondent is subject to disciplinary action pursuant to section 4301, subdivision (h),
17 for unprofessional conduct, in that Respondent used alcoholic beverages to an extent or in a
18 manner dangerous or injurious to herself, others, and the public, as follows:

19 9. On or about November 6, 2013, at approximately 12:34 p.m., an Oregon State Police
20 officer was dispatched to locate an RV that was traveling southbound on Interstate 5. The police
21 had received two 911 calls from motorists, reporting that the RV was unable to maintain a single
22 lane of travel and had almost crashed into other vehicles and the concrete barrier separating the
23 southbound and northbound lanes of Interstate 5.

24 10. The officer located the RV and observed it weaving badly. The officer initiated a
25 traffic stop on the RV and approached the right front passenger window. The driver, later
26 identified as Respondent, looked dazed and confused. The officer knocked on the passenger
27 window 3 times before Respondent realized he was there. When Respondent rolled down the
28 window, the officer immediately smelled a strong odor of an alcoholic beverage. Respondent's

1 speech was thick and slurred, her eyes were watery and glassy, and she had a disheveled
2 appearance. The officer had Respondent exit the RV. Respondent was unstable on her feet and
3 displayed a constant circular sway. Respondent told the officer that she last consumed alcohol
4 around 6:00 a.m. that morning. The officer attempted to administer field sobriety tests, but
5 Respondent lost her balance and hit her back against the RV. The officer discontinued the tests
6 due to safety concerns. Respondent was placed under arrest for driving under the influence and
7 taken into custody. The officer searched the RV and found two 16 ounce cans of malt liquor.
8 One of the cans was empty and the other was opened and in the driver's side cup holder. During
9 her transport to the detox center, Respondent told the officer that she is a recovering alcoholic and
10 had started drinking again during her trip to Oregon. Respondent submitted two breath samples
11 while at the detox center and was found to have a blood alcohol level of 0.18 percent.

12 11. On or about February 21, 2014, in the criminal proceeding entitled *State of Oregon*
13 *vs. Terri R. Cirves* (Jackson County Circuit Ct., Case No. 14CR02281), Respondent was charged
14 with driving under the influence of intoxicants (DUII) and reckless driving. Respondent
15 petitioned the Court to be admitted into the diversion program. On or about May 8, 2014,
16 Respondent pled nolo contendere to the DUII charge. On or about May 13, 2014, the Court
17 granted Respondent's petition for diversion and withheld entry of judgment of Respondent's
18 conviction pending completion or termination of diversion. The Court ordered that Respondent
19 install an ignition interlock device in any vehicle operated by her during the period of the
20 diversion agreement. Respondent agreed to participate in diversion on and between May 13,
21 2014 and May 12, 2015, and not to use any alcohol or other intoxicant during the term of the
22 diversion agreement.

23 12. On or about June 27, 2014, Officer H. of the Truckee Police Department responded to
24 a report of a van that was observed swerving and dragging an item along the road, causing sparks.
25 Another officer had initiated a traffic enforcement stop on the vehicle. Officer H. arrived on
26 scene while the other officer was contacting the driver, later identified as Respondent. Officer H.
27 looked through the passenger side window and observed an opened bottle of beer sitting between
28 the front seats. The bottle was about half full of liquid. Officer H. contacted Respondent at the

1 driver's door and asked her to step out of the vehicle. When the door was opened, Officer H.
2 observed several empty beer bottles in the door pocket. As Respondent exited the vehicle,
3 Officer H. noticed that she was extremely unsteady on her feet and swayed while standing.
4 Respondent's eyes were glossy and there was a heavy odor of alcohol emitting from her breath as
5 she spoke. Officer H. administered field sobriety tests, then placed Respondent under arrest for
6 driving under the influence of alcohol. Respondent was transported to Tahoe Forest Hospital,
7 where she submitted to a chemical blood test. Respondent's test results showed that she had a
8 blood alcohol of 0.24%.

9 13. On or about October 27, 2014, in the criminal proceeding entitled *People vs. Terri*
10 *Rene Cirves* (Nevada County Super. Ct. , Case No. TM14-000432), Respondent was convicted on
11 her plea of nolo contendere of violating Vehicle Code section 23152, subdivision (b) (driving
12 while having a 0.08% or higher blood alcohol), with an enhancement pursuant to Vehicle Code
13 section 23578 (concentration of blood alcohol of 0.15% or more). The imposition of
14 Respondent's sentence was suspended and Respondent was placed on probation for 3 years.
15 Respondent was also ordered to pay a fine in the amount of \$2,258.25, to complete 32 hours of
16 community service, and to complete a 9 month DUI program.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Criminal Conviction)**

19 14. Respondent is subject to disciplinary action pursuant to section 4301, subdivision (I),
20 in that on or about October 27, 2014, Respondent was convicted of driving while having a 0.08%
21 or higher blood alcohol in violation of Vehicle Code section 23152, subdivision (b), as set forth
22 above, a crime substantially related to the qualifications, functions, and duties of a pharmacist.

23 **PRAYER**

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

26 1. Revoking or suspending Pharmacist License Number RPH 40376, issued to Terri
27 Rene Cirves;

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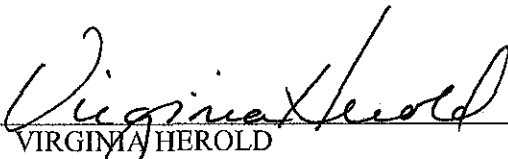
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2. Ordering Terri Rene Cirves to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED:

9/12/15



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

SA2015100581