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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. 5591

12 **ULANA CHRISTINE REY**  
13 **1553 Madison Avenue**  
14 **Rhonert Park, CA 94928**

**ACCUSATION**

15 **Pharmacist License No. RPH 54635**

16 Respondent.

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, Department of Consumer Affairs.

21 2. On or about August 20, 2003, the Board of Pharmacy issued Pharmacist License  
22 Number RPH 54635 to Ulana Christine Rey (Respondent). The Pharmacist License was in full  
23 force and effect at all times relevant to the charges brought in this accusation and will expire on  
24 June 30, 2017, unless renewed.

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JURISDICTION

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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 unless otherwise indicated.

4. Section 4300 of the Code states, in relevant part:

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

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

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

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

"(4) Revoking his or her license.

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

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."

STATUTES/REGULATIONS

6. Section 4301 of the Code states, in relevant part:

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

...

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

6           ...

7           "(l) The conviction of a crime substantially related to the qualifications, functions, and  
8 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
9 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
10 substances or of a violation of the statutes of this state regulating controlled substances or  
11 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
12 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
13 The board may inquire into the circumstances surrounding the commission of the crime, in order  
14 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or  
15 dangerous drugs, to determine if the conviction is of an offense substantially related to the  
16 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
17 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
18 of this provision. The board may take action when the time for appeal has elapsed, or the  
19 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
20 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
21 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
22 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
23 indictment."

24           7. California Code of Regulations, title 16, section 1770, states:

25           "For the purpose of denial, suspension, or revocation of a personal or facility license  
26 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
27 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
28 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

1 licensee or registrant to perform the functions authorized by his license or registration in a manner  
2 consistent with the public health, safety, or welfare."

3 8. Section 4022 of the Code states

4 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in  
5 humans or animals, and includes the following:

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

8 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale  
9 by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled  
10 in with the designation of the practitioner licensed to use or order use of the device.

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

#### 13 COST RECOVERY

14 9. Section 125.3 of the Code states, in relevant part, that the Board may request the  
15 administrative law judge to direct a licentiate found to have committed a violation or violations of  
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
17 enforcement of the case.

#### 18 BACKGROUND

19 10. On or about October 23, 2013, at 1:21 a.m., officers from the Santa Barbara Police  
20 Department observed Respondent driving a Jeep SUV without its headlights illuminated. When  
21 the officers conducted an enforcement stop, Respondent drove the Jeep to the right side of the  
22 road, running over the curb with the Jeep's front right tire. While speaking with Respondent, the  
23 responding officer observed that Respondent's eyes were bloodshot and watery, her speech was  
24 slurred, and she had a strong odor of alcohol on her breath. Respondent admitted to the officer  
25 that she had two glasses of wine. Subsequently, Respondent failed to properly perform several  
26 field sobriety tests administered by the officer, and refused to submit to a preliminary alcohol test.  
27 The officer arrested Respondent for driving under the influence of alcohol (Veh. Code, § 23152,  
28 subd. (a)). Respondent refused to submit to any chemical tests. Therefore, after obtaining a

1 search warrant, the officer transported Respondent to the hospital, where an involuntary blood  
2 draw was taken from Respondent at about 4:18 a.m. The subsequent lab result indicated that  
3 there was a .15 percent blood alcohol concentration in the blood sample taken from Respondent.

4 11. On or about June 30, 2015, in a criminal proceeding entitled *The People of the State*  
5 *of California v. Ulana Christine Rey*, in the Santa Barbara County Superior Court, Case Number  
6 1442104, Respondent was convicted of two misdemeanors: 1) driving under the influence of  
7 alcohol (Veh. Code, § 23152, subd. (a)); and 2) driving with a blood alcohol concentration of .08  
8 percent or higher (Veh. Code, § 23152, subd.(b)). The court sentenced Respondent to three years  
9 of probation with various conditions, including serving 8 days in the Santa Barbara County Jail,  
10 successfully completing a nine-month alcohol counseling program, attending 5 Alcoholic  
11 Anonymous-type meetings, and paying various fines and fees.

12 **FIRST CAUSE FOR DISCIPLINE**  
13 **(Unprofessional Conduct—Use of Alcohol in a Dangerous Manner)**  
14 **(Bus. & Prof. Code 4301, subd. (h))**

15 12. Respondent has subjected her pharmacist license to disciplinary action under section  
16 4301, subdivision (h), for engaging in unprofessional conduct by using alcoholic beverages to a  
17 dangerous extent. Specifically, on or about October 23, 2013, Santa Barbara Police Department  
18 officers arrested Respondent for driving under the influence of alcohol. The circumstances are  
19 more fully explained in paragraph 10, above.

20 **SECOND CAUSE FOR DISCIPLINE**  
21 **(Unprofessional Conduct—Conviction)**  
22 **(Bus. & Prof. Code, 4301, subd. (l))**

23 13. Respondent has subjected her pharmacist license to disciplinary action under section  
24 4301, subdivision (l), for engaging in unprofessional conduct in that she was convicted of a crime  
25 substantially related to the qualifications, functions, or duties of a pharmacist. Specifically, on or  
26 about June 30, 2015, Respondent was convicted of driving under the influence of alcohol (Veh.  
27 Code, § 23152, subd. (a)), and driving with a blood alcohol concentration of .08 percent or higher  
28 (Veh. Code, § 23152, subd. (b)). The circumstances are more fully explained in paragraph 11,  
above.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacist License Number RPH 54635, issued to Ulana Christine Rey;
2. Ordering Ulana Christine Rey 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: 12/2/15 Virginia Herold

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

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