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

12 In the Matter of the Accusation Against:

Case No. 5761

13 **SUN HEUY CHUNG**
14 **22573 Belaire Drive**
Moreno Valley, CA 92553

A C C U S A T I O N

15 **Pharmacist License No. RPH 53777**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

23 2. On August 29, 2002, the Board issued Pharmacist License Number RPH 53777 to
24 Sun Heuy Chung (Respondent). Respondent has also been known as Sun Hevy Chung. The
25 Pharmacist License was in full force and effect at all times relevant to the charges brought herein
26 and will expire on June 30, 2016, unless renewed.

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1 As used in this section, "license" includes "certificate," "permit,"
2 "authority," and "registration."

3 9. Code section 4301 states, in pertinent part:

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

7 ...

8 (f) The commission of any act involving moral turpitude, dishonesty,
9 fraud, deceit, or corruption, whether the act is committed in the course of relations
as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

10 ...

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

21 ...

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

23

24 REGULATORY PROVISIONS

25 10. California Code of Regulations, title 16, section 1769, states, in pertinent part:

26 ...

27 (b) When considering the suspension or revocation of a facility or a
28 personal license on the ground that the licensee or the registrant has been

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1 convicted of a crime, the board, in evaluating the rehabilitation of such person and
2 his present eligibility for a license will consider the following criteria:

- 3 (1) Nature and severity of the act(s) or offense(s).
- 4 (2) Total criminal record.
- 5 (3) The time that has elapsed since commission of the act(s) or
6 offense(s).
- 7 (4) Whether the licensee has complied with all terms of parole,
8 probation, restitution or any other sanctions lawfully imposed against the licensee.
- 9 (5) Evidence, if any, of rehabilitation submitted by the licensee.

10 11. California Code of Regulations, title 16, section 1770, states:

11 For the purpose of denial, suspension, or revocation of a personal or
12 facility license pursuant to Division 1.5 (commencing with Section 475) of the
13 Business and Professions Code, a crime or act shall be considered substantially
14 related to the qualifications, functions or duties of a licensee or registrant if to a
15 substantial degree it evidences present or potential unfitness of a licensee or
16 registrant to perform the functions authorized by his license or registration in a
17 manner consistent with the public health, safety, or welfare.

18 **COST RECOVERY**

19 12. Code section 125.3 provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations
21 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case, with failure of the licentiate to comply subjecting the license to not
23 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
24 may be included in a stipulated settlement.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(October 13, 2015 Conviction for Felony Child Endangerment on December 1-31, 2012)**

27 13. Respondent is subject to discipline under sections 490 and 4301, subdivision (l),
28 in that she was convicted of a crime that is substantially related to the qualifications, functions,
and duties of a licensed pharmacist. The circumstances are as follows:

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1 a. On October 13, 2015, in a criminal proceeding entitled *The People of the*
2 *State of California, Plaintiff, v. Sun Hevy Chung, Defendant*, in Riverside County Superior
3 Court, Hall of Justice Courthouse, Criminal Division Case Number RIF1300965, Respondent
4 was convicted on her plea of guilty of violating Penal Code (PC) section 273a, subdivision (a),
5 child endangerment, a felony. Felony charges for violation of PC sections 206, inflicting great
6 bodily injury; 136.1, subdivision (c)(1), dissuading a witness by threat of force or violence; 273d,
7 subdivision (a), corporal punishment upon a child; and two counts of 136.1, subdivision (a)(1),
8 dissuading a witness, were dismissed under a plea bargain.

9 b. As a result of the conviction, on December 28, 2015, Respondent was
10 sentenced to be committed to the custody of the Riverside County Sheriff for 180 days, with
11 credit for one day actually served, and the balance of 179 days to be served in the Leaders in
12 Community Alternatives, Inc. (LCA)¹ Electronic Monitoring Program. Respondent was granted
13 48 months formal probation subject to certain terms and conditions. Respondent was ordered to
14 enroll in a child abuse treatment program and attend for a minimum of one year and participate
15 in an appropriate counseling, rehabilitation, and treatment program. Respondent was also ordered
16 to provide a biological sample under PC section 296 and pay fines, fees, assessments, restitution,
17 pre-sentence incarceration costs, and the costs of probation supervision. Respondent was
18 prohibited from owning, possessing, or having control of any firearm, deadly weapon,
19 ammunition, weapon related paraphernalia, or incendiary device.

20 c. The facts that led to the conviction are that on December 20, 2012, while
21 attending school in Moreno Valley, California, Respondent's six-year old child was told by his
22 teacher that she was going to call his parents to report his misbehavior. Respondent's child got
23 scared and told his teacher that his step-father would get angry, and would hit him with a bat.

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25 ¹ LCA Electronic Monitoring Program is one of the most effective solutions available to help
26 manage realignment and changes relating to AB109. Depending on the type of monitoring
27 required by the court, LCA offers different equipment options. LCA provides the technology,
28 services, and case management to support re-entry and reduction in overcrowding jails. LCA
programs keep clients accountable, while allowing them to keep their jobs, pay taxes, pay court
fines, support their families, make restitution, and reintegrate into the community.

1 The child told his teacher that his step-father hit him the night before and showed her bruises on
2 his stomach. The teacher contacted Child Protection Services, which notified the Riverside
3 County Sheriff's Department. In the course of the investigation, bruises and loop welts were
4 found on the child's head, chest, stomach, back, legs, and other parts of the body. The child had a
5 one inch laceration on the right palm, and callouses on his knees and feet. The child claimed to
6 have been punched on the head and thrown on the ground, which caused the head bruise. The
7 child also narrated that his step-father hit him with a bat, musical drumstick, and jump rope. The
8 laceration on the child's palm was caused by intentional burning of the child's hand on the oven
9 for stealing chocolates. In a search of Respondent's house, the deputies found a jump rope and
10 two wooden musical drumsticks. Respondent admitted that their discipline consisted of "time
11 outs" that could last for days at a time if a child's bad behavior was not corrected to their
12 satisfaction. Respondent also admitted to spanking the child on the buttocks or slapping the child
13 in the face.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct - Commission of Acts Involving Moral Turpitude or Deceit)**

16 14. Respondent is subject to discipline under Code section 4301, subdivision (f), in
17 that on December 19, 2012 and on other dates, Respondent knew of the abuse her husband
18 inflicted on her child but did nothing to protect him, an act involving moral turpitude and deceit,
19 as detailed in paragraph 13, above.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct - Conduct That Would Have Warranted Denial of a License)**

22 15. Respondent is subject to discipline under Code section 4301, subdivision (p), in
23 that Respondent was convicted of felony child endangerment, conduct that would have
24 warranted the denial of a pharmacist license under Code section 480, subdivision (a)(1), as
25 detailed in paragraph 13, above.

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1 **DISCIPLINARY CONSIDERATIONS**

2 16. To determine the degree of discipline, if any, to be imposed on Respondent,
3 Complainant alleges:

4 a. On August 27, 2009, the Board received a complaint that a pharmacy
5 technician was working at Respondent's employment pharmacy without a license. An
6 investigation substantiated the claim and the Board issued Citation Number CI 2009 43879
7 against Respondent imposing a fine of \$500.00. On May 5, 2010, Respondent paid the fine in
8 full.

9 b. On April 10, 2012, the Board received a complaint that a patient received
10 the wrong medication on multiple occasions. An investigation substantiated the claim and found
11 that Respondent's employment pharmacy dispensed Valcyte 50 mg/ml to a patient without first
12 reconstituting the medication. In addition, the investigation found that one patient was handed
13 medication and left the pharmacy without being offered consultation. The Board issued Citation
14 Number CI 2012 57425 against Respondent with no fine.

15 c. On March 15, 2013, the Board received a complaint that a pharmacy
16 technician had diverted hydrocodone and alprazolam from Respondent's employment pharmacy
17 from August 2012 until December 2012. An audit of the pharmacy from June 2012 to June 2013
18 revealed 10,920 hydrocodone/acetaminophen 10/325 mg tablets and 2,160 hydrocodone/
19 acetaminophen 7.5/750 mg tablets were missing. On September 18, 2014, the Board issued a
20 letter of admonishment to Respondent.

21 **PRAYER**

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

24 1. Revoking or suspending Pharmacist License Number RPH 53777, issued to Sun
25 Heuy Chung;

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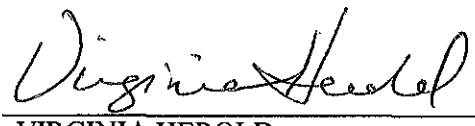
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2. Ordering Sun Heuy Chung to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 4/8/16



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

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