

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**ROBERT PAUL HOOTEN**  
P.O. Box 316  
Huntsville, UT 84317

Pharmacist License No. RPH 33459

Respondent.

Case No. 5772

**WITHDRAWAL OF ACCUSATION**

On or about July 30, 2016, Complainant Virginia Herold ("Complainant"), in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 5772 against Respondent Robert Paul Hooten, (Pharmacist License No. RPH 33459).

Complainant, exercising her discretionary authority pursuant to Title 16, California Code of Regulations, Section 1703, and acting on information submitted to her, and in the interest of justice, has determined that good cause exists to withdraw Accusation No. 5772 against Respondent Robert Paul Hooten.

WHEREFORE, Complainant hereby withdraws Accusation No. 5772, filed on or about July 30, 2016, against Respondent Robert Paul Hooten, (Pharmacist License No. RPH 33459).

DATED: September 22, 2016



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

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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. 5772

12 **ROBERT PAUL HOOTEN**  
P.O. Box 316  
13 Huntsville, UT 84317

**ACCUSATION**

14 **Pharmacist License No. RPH 33459**

15 Respondent.

16  
17 Virginia Herold ("Complainant") alleges:

18 **PARTIES**

- 19 1. Complainant brings this Accusation solely in her official capacity as the Executive  
20 Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.  
21 2. On or about October 15, 1979, the Board issued Pharmacist License Number  
22 RPH 33459 to Robert Paul Hooten ("Respondent"). The Pharmacist License was in full force and  
23 effect at all times relevant to the charges brought herein and will expire on July 31, 2017, unless  
24 renewed.

25 **JURISDICTION**

- 26 3. Business and Professions Code ("Code") section 4300 states, in pertinent part:  
27 (a) Every license issued may be suspended or revoked.

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

3 (1) Suspending judgment.

4 (2) Placing him or her upon probation.

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

6 (4) Revoking his or her license.

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

9 4. Code section 4300.1 states:

10 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
11 by operation of law or by order or decision of the board or a court of law, the  
12 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.

13  
14 **STATUTORY PROVISIONS**

15 5. Code section 4301 states, in pertinent part:

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

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

22 (k) The conviction of more than one misdemeanor or any felony involving the  
use, consumption, or self-administration of any dangerous drug or alcoholic beverage,  
23 or any combination of those substances.

24 (l) The conviction of a crime substantially related to the qualifications,  
functions, and duties of a licensee under this chapter. The record of conviction of a  
25 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United  
States Code regulating controlled substances or of a violation of the statutes of this  
state regulating controlled substances or dangerous drugs shall be conclusive  
26 evidence of unprofessional conduct. In all other cases, the record of conviction shall  
be conclusive evidence only of the fact that the conviction occurred. The board may  
27 inquire into the circumstances surrounding the commission of the crime, in order to  
fix the degree of discipline or, in the case of a conviction not involving controlled  
28 substances or dangerous drugs, to determine if the conviction is of an offense

1 substantially related to the qualifications, functions, and duties of a licensee under this  
2 chapter. A plea or verdict of guilty or a conviction following a plea of nolo  
3 contendere is deemed to be a conviction within the meaning of this provision. The  
4 board may take action when the time for appeal has elapsed, or the judgment of  
5 conviction has been affirmed on appeal or when an order granting probation is made  
6 suspending the imposition of sentence, irrespective of a subsequent order under  
7 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of  
8 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or  
9 dismissing the accusation, information, or indictment.

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

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

#### 11 COST RECOVERY

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

#### 18 FIRST CAUSE FOR DISCIPLINE

19 (Criminal Conviction)

20 8. Respondent is subject to disciplinary action pursuant to Code section 4301(I), on the  
21 grounds of unprofessional conduct, in that Respondent committed a crime substantially related to  
22 the qualifications, functions, and duties of a licensed pharmacist. Specifically, on or about May  
23 13, 2015, in the case entitled *State of Utah v. Robert Paul Hooten*, Second District Court,  
24 (Ogden), Weber County, Utah, Case No. 151900058, Respondent pled guilty to Utah Code Ann.,  
25 section 76-9-701 (intoxication - under the influence of alcohol to a degree that the person may  
26 endanger the person or another, in a public place or in a private place where the person  
27 unreasonably disturbs another), a class "C" misdemeanor; and, Utah Code Ann., section 76-10-  
28 508 (unlawful discharge of a firearm), a class "B" misdemeanor. The circumstances of the crimes

1 are that on or about January 10, 2015, at approximately 14:00 hours, deputies with the Weber  
2 County Sheriff's office were dispatched in response to a report of a threatened suicide.  
3 Respondent's adult son reported that while inside Respondent's home, Respondent, waving a  
4 loaded gun, threatened suicide and discharged a gun inside the house, breaking a window. The  
5 son took the two guns, hid them in the kitchen, and left to seek help from the neighbors. The son  
6 cautioned deputies that Respondent had a cache of weapons and was hostile towards law  
7 enforcement. Due to Respondent's potential for violence and his criminal record, the Ogden  
8 Metro SWAT team was called in. At approximately 19:45 hours, Respondent surrendered to a  
9 member of the SWAT team. Respondent became very belligerent when he was arrested, and he  
10 yelled and cursed at the deputy who transported him to the county jail. Deputies seized 24  
11 firearms (including two found in the kitchen) and a cross bow with arrows from Respondent's  
12 house. Several empty bottles of hard alcohol were found in Respondent's gun room. Respondent  
13 admitted that he has struggled with alcohol abuse, that he drank a great deal on the day of his  
14 arrest, and became depressed and suicidal.

15 **SECOND CAUSE FOR DISCIPLINE**

16 (One or More Convictions Involving the Use of Alcoholic Beverages)

17 9. Respondent is subject to disciplinary action pursuant to Code section 4301(k), on the  
18 grounds of unprofessional conduct, in that he has been convicted more than once of a crime  
19 involving the use of an alcoholic beverage, as set forth in paragraph 8, above, and paragraph 12,  
20 subparagraph a, below.

21 **THIRD CAUSE FOR DISCIPLINE**

22 (Use of Alcoholic Beverages in a Dangerous or Injurious Manner)

23 10. Respondent is subject to disciplinary action pursuant to Code section 4301(h), in that  
24 Respondent used alcoholic beverages in a manner dangerous or injurious to himself and others, as  
25 set forth in paragraph 8, above.

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27 ///  
28 ///

1 MATTERS IN AGGRAVATION

2 11. To determine the degree of discipline, if any, to be imposed on Respondent,  
3 Complainant alleges that on or about May 20, 2013, the Board issued to Respondent *Citation*  
4 No. CI 2011 49595, based on unprofessional behavior, as follows:

5 a. Section 4301(h)(Use of Alcoholic Beverages to The Extent Or in a Manner as to  
6 be Dangerous or Injurious to Oneself). On or about January 8, 2010, in the matter entitled  
7 *State of Utah v. Robert Paul Hooten*, Second District Court, (Ogden), Ogden City Justice Court,  
8 Weber County, Utah, Case No. 095814498, Respondent was convicted on his plea of guilty to  
9 violating Utah Code Ann. section 41-6A-502.5 (impaired driving), a class "C" misdemeanor. The  
10 circumstances of the crime are that on or about September 2, 2009, Respondent drove a vehicle  
11 while under the influence of alcohol, and collided with two parked vehicles. He was rushed to the  
12 hospital for injuries sustained and refused to take a blood alcohol test. Respondent admitted that  
13 he had been drinking excessively.

14 b. Section (l) (Conviction of a Crime Substantially Related to the Practice of  
15 Pharmacy). On or about October 27, 2009, in the matter entitled *State of Utah v. Robert Paul*  
16 *Hooten*, Roy Justice Court, Weber County, Utah, Case No. 091101239, Respondent was  
17 convicted on his plea of guilty to violating Weber County Ordinance section 6-4-2 (formerly  
18 section 2-4-8) (animals at-large prohibited), a class "B" misdemeanor. The circumstances of the  
19 crime are that on or about June 1, 2009, A deputy with the Weber County Sheriff's Office found  
20 on a road an abandoned, malnourished horse with lacerations and puncture wounds. The horse  
21 was euthanized the following day and bullets were retrieved from its corpse. When questioned,  
22 Respondent said the horse was vicious and had cost him a lot of money. Respondent admitted that  
23 he dropped the horse off and shot it with the intent to kill, but was unaware that it was alive when  
24 he left it.

25 c. Section 4301(n) (Out of State Disciplinary Action). Respondent was disciplined by  
26 the Division of Occupational and Professional Licensing of the Department of Commerce of the  
27 State of Utah ("Division"), in an action entitled, *In the Matter of the Licenses of Robert Paul*  
28 *Hooten to Practice as a Pharmacist and to Dispense Controlled Substances in the State of Utah,*

1 Case No. DOPL 2012-315. Pursuant to a Stipulation and Order entered therein, Respondent's  
2 license to practice as a pharmacist in the State of Utah was publically reprimanded. The basis of  
3 said discipline is Respondent's unprofessional conduct. The Division alleged that Respondent  
4 denied any prior criminal history, including any arrest, in the course of questioning by a Division  
5 representative in October 2009. In fact, Respondent was arrested in December 2006 on suspicion  
6 of simple battery, for which charges were filed and later dismissed.

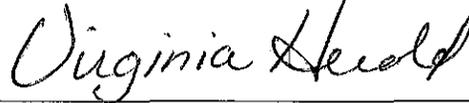
7 **PRAYER**

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

- 10 1. Revoking or suspending Pharmacist License Number RPH 33459, issued to Robert  
11 Paul Hooten;
- 12 2. Ordering Robert Paul Hooten to pay the Board of Pharmacy the reasonable costs of  
13 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
14 125.3; and,
- 15 3. Taking such other and further action as deemed necessary and proper.

16  
17 DATED: \_\_\_\_\_

7/30/16



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

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