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

12 In the Matter of the Accusation Against:

Case No. 6099

13 **GORDON KWOK HO NG**  
5675 Northborough Drive  
Sacramento, CA 95835

**A C C U S A T I O N**

14 **Pharmacist License No. RPH 65690**

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 August 10, 2011, the Board issued Pharmacist License No. RPH 65690  
22 to Gordon Kwok Ho Ng ("Respondent"). The license was in full force and effect at all times  
23 relevant to the charges brought herein and will expire on September 30, 2018, unless renewed.

24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
26 Consumer Affairs, under the authority of the following laws. All section references are to the  
27 Business and Professions Code unless otherwise indicated.

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STATUTORY PROVISIONS

4. Section 4300 of the Code states in pertinent 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. Code section 4300.1 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.

6. Section 4301 of the Code states in pertinent part:

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

...

(h) The administering to oneself, of any controlled substance, or the use of any 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 the person to conduct with safety to the public the practice authorized by the license.

...

(i) 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 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 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 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 substances or

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

11 **COST RECOVERY**

12 7. Code section 125.3 provides, in pertinent part, that a Board may request the  
13 administrative law judge to direct a licensee 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.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Criminal Conviction)**

18 8. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
19 Code section 4301, subdivision (i), in that on or about January 12, 2017, in the criminal  
20 proceeding entitled *People v. Gordon Kwok Ng* (Contra Costa County Super. Ct., Case No.  
21 01-177892), Respondent pled *nolo contendere* to violating Vehicle Code section 23152,  
22 subdivision (b) (driving with a blood alcohol concentration [BAC] of 0.08 percent or higher), a  
23 misdemeanor. Respondent was sentenced to four (4) days work project, and will be on probation  
24 for a period of three (3) years. The circumstances are that on or about April 9, 2016, Respondent  
25 was in the driver seat of a vehicle that was stuck on the curb in a bar parking lot. Respondent was  
26 attempting to drive the vehicle when police officers contacted him. Respondent submitted to a  
27 chemical breath test, which resulted in a BAC of 0.23%/0.24%. Respondent was arrested for  
28 driving under the influence of alcohol.

**SECOND CAUSE FOR DISCIPLINE**

**(Dangerous Use of Alcohol)**

9. Respondent is subject to disciplinary action for unprofessional conduct pursuant to  
Code section 4301, subdivision (h), in that Respondent used alcoholic beverages to an extent or in

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1 a manner dangerous or injurious to himself, others, and the public, as more particularly set forth  
2 above in paragraph 8.


3 **PRAYER**

4 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
5 and that following the hearing, the Board issue a decision:

- 6 1. Revoking or suspending Pharmacist License No. RPH 65690, issued to Gordon Kwok  
7 Ho Ng;  
8 2. Ordering Gordon Kwok Ho Ng to pay the Board of Pharmacy the reasonable costs of  
9 the investigation and enforcement of this case, pursuant to Code section 125.3; and,  
10 3. Taking such other and further action as deemed necessary and proper.

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DATED: 7/17/17

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

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