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

In the Matter of the Accusation Against:

**ULANA CHRISTINE REY** 

845 Lake Street #4 San Francisco, CA 94118 Pharmacist License No. RPH 54635 Case No. 5591

OAH No. 2016030492

Respondent.

### **DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the

Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on November 3, 2016.

It is so ORDERED on October 4, 2016.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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Amy Gutierrez, Pharm.D. Board President

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1	KAMALA D. HARRIS				
2	Attorney General of California DIANN SOKOLOFF				
	Supervising Deputy Attorney General				
3	TIMOTHY J. MCDONOUGH Deputy Attorney General				
4	State Bar No. 235850 1515 Clay Street, 20th Floor	•			
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7	Facsimile: (510) 622-2270 E-mail: Tim.McDonough@doj.ca.gov	·			
8	Attorneys for Complainant				
	BEFORE THE				
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS				
10	STATE OF CALIFORNIA				
11	To the Motton of the Accuration Aminute	Case No. 5591			
12	In the Matter of the Accusation Against:				
13	ULANA CHRISTINE REY	OAH No. 2016030492			
14	845 Lake Street #4 San Francisco, CA 94118	STIPULATED SURRENDER OF LICENSE AND ORDER			
15	Pharmacist License No. RPH 54635				
	Respondent.				
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18	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-				
19	entitled proceedings that the following matters are true:				
20	PARTIES				
21	1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.				
22	She brought this action solely in her official capacity and is represented in this matter by Kamala				
23	D. Harris, Attorney General of the State of California, by Timothy J. McDonough, Deputy				
24	Attorney General.				
25					
26	2. Ulana Christine Rey (Respondent) is represented in this proceeding by attorney				
	Marglyn Paseka, whose address is:				
27	Slote, Links& Boreman, LLP One Embarcadero Center, Suite 400	· · ·			
28	San Francisco, CA 94111				
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]	· · · · · · · · · · · · · · · · · · ·	Stipulated Surrender of License (Case No. 5591)			

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On or about August 20, 2003, the Board of Pharmacy issued Pharmacist License No.
 RPH 54635 to Ulana Christine Rey (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 5591 and will expire on June 30, 2017, unless renewed.

### JURISDICTION

4. Accusation No. 5591 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 8, 2015.
Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 5591 is attached as Exhibit A and incorporated by reference.

### ADVISEMENT AND WAIVERS

12 5. Respondent has carefully read, fully discussed with counsel, and understands the
13 charges and allegations in Accusation No. 5591. Respondent also has carefully read, fully
14 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
15 Order.

6. Respondent is fully aware of her legal rights in this matter, including the right to a
hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
her own expense; the right to confront and cross-examine the witnesses against her; the right to
present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
compel the attendance of witnesses and the production of documents; the right to reconsideration
and court review of an adverse decision; and all other rights accorded by the California
Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
every right set forth above.

### **CULPABILITY**

8. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in Accusation No. 5591, and that those charges constitute cause for

discipline. Respondent hereby gives up her right to contest that cause for discipline exists based on those charges.

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9. Respondent surrenders her Pharmacist License No. RPH 54635 for the Board's formal 3. acceptance.

Respondent understands that by signing this stipulation she enables the Board to issue 10. an order accepting the surrender of her Pharmacist License without further process.

### CONTINGENCY

This stipulation shall be subject to approval by the Board of Pharmacy. Respondent 11. 8 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may 9 communicate directly with the Board regarding this stipulation and surrender, without notice to or 10 participation by Respondent or her counsel. By signing the stipulation, Respondent understands 11 and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the 12 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its 13 Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or 14 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, 15 and the Board shall not be disqualified from further action by having considered this matter. 16

The parties understand and agree that Portable Document Format (PDF) and facsimile 12. copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

This Stipulated Surrender of License and Order is intended by the parties to be an 13. 20 integrated writing representing the complete, final, and exclusive embodiment of their agreement. 21 It supersedes any and all prior or contemporaneous agreements, understandings, discussions, 22 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order 23 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing 24executed by an authorized representative of each of the parties. 25

In consideration of the foregoing admissions and stipulations, the parties agree that 14. 26 the Board may, without further notice or formal proceeding, issue and enter the following Order: 27 ///

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IT IS HEREBY ORDERED that Pharmacist License No. RPH 54635, issued to Respondent Ulana Christine Rey, is surrendered and accepted by the Board of Pharmacy.

ORDER

1. Respondent shall lose all rights and privileges as a Pharmacist in California as of the effective date of the Board's Decision and Order. Respondent shall relinquish her wall license and pocket renewal license to the board within ten (10) days of the effective date of this decision.

2. The surrender of Respondent's Pharmacist License and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This decision constitutes a record of discipline and shall become a part of Respondent's license history with the Board.

3. Respondent understands and agrees that if she ever files an application for licensure
or a petition for reinstatement in the State of California, the board shall treat it as a new
application for licensure.

4. Respondent may not apply for any license, permit, or registration from the board for 14 three years from the effective date of this decision. Respondent stipulates that should she apply 15 for any license from the board on or after the effective date of this decision, all allegations set 16 17 forth in Accusation No. 5591 shall be deemed to be true, correct, and admitted by Respondent when the board determines whether to grant or deny the application. Respondent shall satisfy all 18 requirements applicable to that license as of the date the application is submitted to the board, 19 including, but not limited to taking and passing the California Pharmacist Licensure Examination 20 prior to the issuance of a new license. Respondent is required to report this surrender as 21 disciplinary action. 22

5. Respondent stipulates that should she apply for any license from the board on or after
the effective date of this decision the investigation and prosecution costs in the amount of
\$2,245.00 shall be paid to the board prior to issuance of the new license.

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Stipulated Surrender of License (Case No. 5591)

1	ACCEPTANCE				
. 2	I have carefully read the above Stipulated Surrender of License and Order and have fully				
3	discussed it with my attorney, Marglyn Paseka, Esq. I understand the stipulation and the effect it				
4	will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order				
5	voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the				
6	Board of Pharmacy.				
. 7					
8	DATED:07/21/2016				
9	ULANA CHRISTINE REY Respondent				
10	I have read and fully discussed with Respondent Ulana Christine Rey the terms and				
11	conditions and other matters contained in this Stipulated Surrender of License and Order. I				
12	approve its form and content.				
13	DATED: July 21, 2016				
14	MARGLYN PASEKA, ESQ. Attorney for Respondent				
15					
16	ENDORSEMENT				
17	The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted				
18	for consideration by the Board of Pharmacy of the Department of Consumer Affairs.				
19	Dated: $7 - \lambda - \lambda_0/6$ Respectfully submitted,				
20	KAMALA D. HARRIS Attorney General of California				
21	DIANN SOKOLOFF Supervising Deputy Attorney General				
22	Ol-On N				
23	Ch mp				
24	TIMOTHY J. MCDONOUGH Deputy Attorney General				
25	Attorneys for Complainant				
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	Stimulated Surrander of License (Case No. 5501)				

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# Exhibit A

Accusation No. 5591

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1	KAMALA D. HARRIS Attorney. General of California	•			
2	DIANN ŠOKOLOFF Supervising Deputy Attorney General				
3	TIMOTHY J. MCDONOUGH				
4	Deputy Attorney General State Bar No. 235850				
. 5	1515 Clay Street, 20th Floor P.O. Box 70550	· ·			
6	Oakland, CA 94612-0550 Telephone: (510) 622-2134				
	Facsimile: (510) 622-2270 E-mail: Tim.McDonough@doj.ca.gov				
7	Attorneys for Complainant				
8	BEFORE TH	ÚŻ .	•		
9	DEPARTMENT OF CONSU	JMER AFFAIRS			
10		ORNIA			
11		No. 5591			
12		110, 0001			
13	ULANA CHRISTINE REY 1553 Madison Avenue				
14	Rhonert Park, CA 94928 A C	CUSATION			
15	Pharmacist License No. RPH 54635				
16	Respondent,	• * • •			
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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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			ACCUSATION		
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#### JURISDICTION

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.

7 "(b) The board shall discipline the holder of any license issued by the board, whose default
8 has been entered or whose case has been heard by the board and found guilty, by any of the
9 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."

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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."

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STATUTES/REGULATIONS

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

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

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ACCUSATION

"(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.

"(1) 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. 12 The board may inquire into the circumstances surrounding the commission of the crime, in order 13 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or 14 dangerous drugs, to determine if the conviction is of an offense substantially related to the 15 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or 16 a conviction following a plea of nois contendere is deemed to be a conviction within the meaning 17 of this provision. The board may take action when the time for appeal has elapsed, or the 18 judgment of conviction has been affirmed on appeal or when an order granting probation is made 19 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of 20 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not 21 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or 22 indictment." 23

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

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

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

8. Section 4022 of the Code states

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

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

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

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

### COST RECOVERY

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

## BACKGROUND

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

ACCUSATION

search warrant, the officer transported Respondent to the hospital, where an involuntary blood draw was taken from Respondent at about 4:18 a.m. The subsequent lab result indicated that there was a .15 percent blood alcohol concentration in the blood sample taken from Respondent. On or about June 30, 2015, in a criminal proceeding entitled The People of the State 11. of California v. Ulana Christine Rey, in the Santa Barbara County Superior Court, Case Number 1442104, Respondent was convicted of two misdemeanors: 1) driving under the influence of alcohol (Veh. Code, § 23152, subd. (a)); and 2) driving with a blood alcohol concentration of .08 percent or higher (Veh. Code, § 23152, subd.(b)). The court sentenced Respondent to three years of probation with various conditions, including serving 8 days in the Santa Barbara County Jail, successfully completing a niné-month alcohol counseling program, attending 5 Alcoholic Anonymous-type meetings, and paying various fines and fees.

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#### FIRST CAUSE FOR DISCIPLINE (Unprofessional Conduct-Use of Alcohol in a Dangerous Manner) (Bus. & Prof. Code 4301, subd. (h))

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

# SECOND CAUSE FOR DISCIPLINE (Unprofessional Conduct-Conviction) (Bus, & Prof. Code, 4301, subd. (I))

Respondent has subjected her pharmacist license to disciplinary action under section 4301, subdivision (1), for engaging in unprofessional conduct in that she was convicted of a crime 22 substantially related to the qualifications, functions, or duties of a pharmacist. Specifically, on or 23 about June 30, 2015, Respondent was convicted of driving under the influence of alcohol (Veh. 24 Code, § 23152, subd. (a)), and driving with a blood alcohol concentration of .08 percent or higher 25 (Veh. Code, § 23152, subd. (b)). The circumstances are more fully explained in paragraph 11, 26 above 27

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ACCUSATION

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: Revoking or suspending Pharmacist License Number RPH 54635, issued to Ulana 1.

Christine Rey; Ordering Ulana Christine Rey to pay the Board of Pharmacy the reasonable costs of 2. the investigation and enforcement of this case, pursuant to Business and Professions Code section 7 125.3; 8

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

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DATED:

TRGINIA/HEROLD

Executive Officer Board of Pharmacy Department of Consumer Affairs State of California Complainant.

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