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

12 In the Matter of the Accusation Against:
13 **SHAHNAZ CHADORBAF,**
aka Shahnaz Chadorbaf-Arastoo
14 10 Hillgrass
Irvine, CA 92612
15 Pharmacist License No: RPH 43894
16
17 Respondent.

Case No. 3223

A C C U S A T I O N

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, Department of Consumer Affairs.
22 2. On or about September 20, 1990, the Board of Pharmacy (Board) issued
23 Pharmacist License Number RPH 43894 (License) to Shahnaz Chadorbaf (Respondent). The
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on August 31, 2010, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board under the authority of the following
28 laws. All section references are to the Business and Professions Code unless otherwise stated.

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9. 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 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

....

(f) The commission of any act involving moral turpitude, dishonesty, 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.

....

(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 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 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.

....

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

....

REGULATORY PROVISIONS

10. 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 crime 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.

1 11. California Code of Regulations, title 16, section 1769, states, in pertinent part:

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3 (b) When considering the suspension or revocation of a facility or a
4 personal license on the ground that the licensee or the registrant has been
5 convicted of a crime, the board, in evaluating the rehabilitation of such person
6 and his present eligibility for a license will consider the following criteria:

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

11 **COST RECOVERY**

12 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request
13 the administrative law judge to direct a licensee found to have committed a violation or
14 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
15 and enforcement of the case.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(September 12, 2007 Federal Criminal Conviction for Receiving
18 Illegal Medicare Kickbacks Between 2002 and 2003)**

19 13. Respondent has subjected her license to discipline under sections 490 and 4301,
20 subdivision (l) of the Code in that she was convicted of a crime substantially related to the
21 qualifications, duties, and functions of a pharmacist. The circumstances are as follows:

22 a. On or about September 12, 2007, in a criminal proceeding entitled *United*
23 *States of America v. Shanaz Chadorbaf-Arastoo*, United States District Court for the Central
24 District of California, Southern Division, case number SA CR 07-0019, Respondent was
25 convicted on her plea of guilty of violating Title 42, U.S. Code, §1320a-7b(b)(1)(A), receiving
26 financial kickbacks in return for referring patients for the furnishing of, or arranging for the
27 furnishing of, respiratory treatments paid under Medicare, a felony.

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PRAYER

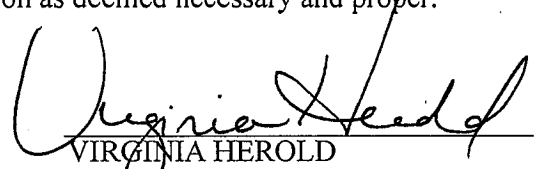
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacist License Number RPH 43894, issued to Shahnaz Chadorbaf, aka Shahnaz Chadorbaf-Arastoo;

2. Ordering Shahnaz Chadorbaf, aka Shahnaz Chadorbaf-Arastoo 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: 3/26/09



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