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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:

Case No. 3694

13 **JIN HONG**
1604 Tres Picos Dr.
14 Yuba City, CA 95993

A C C U S A T I O N

15 Pharmacist License No. RPH 52141

16 Respondent.
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19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about September 11, 2000, the Board of Pharmacy issued Pharmacist License
24 Number RPH 52141 to Jin Hong (Respondent). The Pharmacist License was in full force and
25 effect at all times relevant to the charges brought herein and will expire on March 31, 2012,
26 unless renewed.

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1 **JURISDICTION**

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

5 **STATUTORY AND REGULATORY PROVISIONS**

6 4. Section 490 of the Code provides, in pertinent part, that a board may suspend or
7 revoke a license on the ground that the licensee has been convicted of a crime substantially
8 related to the qualifications, functions, or duties of the business or profession for which the
9 license was issued.

10 5. Section 492 of the Code states:

11 “Notwithstanding any other provision of law, successful completion of any diversion
12 program under the Penal Code, or successful completion of an alcohol and drug problem
13 assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of
14 Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2
15 ([Healing Arts] commencing with Section 500) of this code, or any initiative act referred to in that
16 division, from taking disciplinary action against a licensee or from denying a license for
17 professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a
18 record pertaining to an arrest.

19 6. Section 493 of the Code states:

20 “Notwithstanding any other provision of law, in a proceeding conducted by a board within
21 the department pursuant to law to deny an application for a license or to suspend or revoke a
22 license or otherwise take disciplinary action against a person who holds a license, upon the
23 ground that the applicant or the licensee has been convicted of a crime substantially related to the
24 qualifications, functions, and duties of the licensee in question, the record of conviction of the
25 crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact,
26 and the board may inquire into the circumstances surrounding the commission of the crime in
27 order to fix the degree of discipline or to determine if the conviction is substantially related to the
28 qualifications, functions, and duties of the licensee in question.

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8. Section 4300 provides in relevant part:

“(a) Every license issued may be suspended or revoked.”

9. Section 4301 provides in relevant part:

“The board shall take action against any holder of a license who is guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to, any of the following:

a) Gross immorality.

(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.

(h) ...use of ...alcoholic beverage to the extent or in a manner dangerous to oneself ... or to others or the public.

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.

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

COST RECOVERY

11. Section 125.3 of the Code provides, in pertinent part, that the Board/Registrar/Director 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 enforcement of the case.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct)

3 13. Respondent is subject to disciplinary action under sections 4301(a) and (f) in that
4 respondent engaged in sexual intercourse with female under the age of 18. The circumstances
5 are as follows:

6 14. In or about 2005, respondent was over the age of eighteen (18) when he engaged
7 in sexual intercourse with a female, C.I., who was fourteen years of age. Respondent engaged in
8 intercourse with the minor female on at least two occasions.

9 **SECOND CAUSE FOR DISCIPLINE**

10 (Conviction of Crime)

11 15. Respondent is subject to disciplinary action under section 4301(j) in that respondent
12 was convicted of violations of California statutes concerning unlawful intercourse with a minor
13 and driving under the influence. The circumstances are as follows:

14 16. Paragraphs 13 and 14 are incorporated herein as though set forth at length.
15 Respondent was convicted of crimes as follows:

16 a. On or about May 16, 2006 respondent was convicted of two counts of violation
17 of Penal Code section 261.5, unlawful intercourse with a minor.

18 b. On or about February 28, 2008 respondent was convicted of violating Vehicle
19 Code section 23152(b), driving while under the influence with a blood alcohol level of .08% or
20 greater.

21 **THIRD CAUSE FOR DISCIPLINE**

22 (Conviction of a Crime Substantially Related)

23 17. Respondent is subject to disciplinary action under section 4301(l) in that
24 respondent was convicted of crimes substantially related to the duties and qualifications of a
25 pharmacist license. The circumstances are as follows:

26 18. Paragraphs 13, 14, 15 and 16 are incorporated herein as though set forth at
27 length. Respondent's convictions for violations of Penal Code section 261.5 and Vehicle Code
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1 section 23152 (b) evidences present or potential unfitness to perform the functions authorized by
2 a licensee consistent with public health, safety or welfare.

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4 **FOURTH CAUSE FOR DISCIPLINE**

(Unprofessional Conduct)

5 19. Respondent is subject to disciplinary action pursuant to section 4301(p) in that
6 respondent committed acts that would warrant denial of a license. The circumstances are as
7 follows:

8 20. Paragraphs 13, 14, 15 and 16 are incorporated herein as though set forth at
9 length. The acts leading to respondent's convictions evidences unfitness for licensure as a
10 pharmacist and would warrant denial of a pharmacist license.

11 **FIFTH CAUSE FOR DISCIPLINE**

(Unprofessional Conduct-Dangerous Conduct)

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13 21. Respondent's license is subject to disciplinary action pursuant to section 4301(h)
14 in that respondent used alcohol to such an extent as to be dangerous to himself or others. The
15 circumstances are as follows:

16 22. On or about January 6, 2008, respondent operated a motor vehicle with a blood
17 alcohol level of .12. In doing so, respondent was a danger to himself or others or members of the
18 public.

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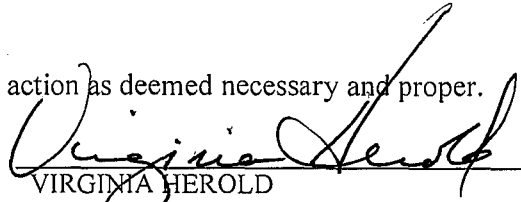
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PRAYER

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 52141, issued to Jin Hong.
2. Ordering Jin Hong 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: 6/22/10



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