

1 KAMALA D. HARRIS  
Attorney General of California  
2 ALFREDO TERRAZAS  
Senior Assistant Attorney General  
3 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
4 State Bar No. 101336  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-3037  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 4432

13 **IRENE NAYGAS**  
14 **1342 N. Fuller Avenue #104**  
**Los Angeles, CA 90046**

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

15 **Pharmacist License No. RPH 58720**

16 Respondent.

17  
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 8, 2006, the Board of Pharmacy issued Pharmacist  
23 License Number RPH 58720 to Irene Naygas (Respondent). The Pharmacist License was in full  
24 force and effect at all times relevant to the charges brought herein and will expire on December  
25 31, 2013, 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 (Code) unless otherwise indicated.

5 4. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
6 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
7 disciplinary action during the period within which the license may be renewed, restored, reissued,  
8 or reinstated.

9 5. Section 4300, subdivision (a), of the Code states that every license issued may be  
10 suspended or revoked.

11 **STATUTORY PROVISIONS**

12 6. Section 482 of the Code states:

13 Each board under the provisions of this code shall develop criteria to  
14 evaluate the rehabilitation of a person when:

15 (a) Considering the denial of a license by the board under Section 480; or

16 (b) Considering suspension or revocation of a license under Section 490.

17 Each board shall take into account all competent evidence of rehabilitation  
18 furnished by the applicant or licensee.

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

23 8. Section 493 of the Code states:

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

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1 is substantially related to the qualifications, functions, and duties of the licensee in  
2 question.

3 As used in this section, 'license' includes 'certificate,' 'permit,'  
4 'authority,' and 'registration.'

5 9. Section 4022 of the Code states

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

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

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

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

16 10. Section 4301 of the Code states:

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

21 . . . .

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

28 . . . .

(j) The violation of any of the statutes of this state, or any other state, or of  
the United States regulating controlled substances and dangerous drugs.

. . . .

(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

1 provision. The board may take action when the time for appeal has elapsed, or the  
2 judgment of conviction has been affirmed on appeal or when an order granting  
3 probation is made suspending the imposition of sentence, irrespective of a  
4 subsequent order under section 1203.4 of the Penal Code allowing the person to  
5 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside  
6 the verdict of guilty, or dismissing the accusation, information, or indictment.

7 . . . .

## 8 **REGULATORY PROVISIONS**

9 11. California Code of Regulations, title 16, section 1769, states:

10 . . . .

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

15 (1) Nature and severity of the act(s) or offense(s).

16 (2) Total criminal record.

17 (3) The time that has elapsed since commission of the act(s) or  
18 offense(s).

19 (4) Whether the licensee has complied with all terms of parole,  
20 probation, restitution or any other sanctions lawfully imposed against the licensee.

21 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

## 3 **COST RECOVERY**

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

1 **DRUGS AT ISSUE**

2 14. Alprazolam, is a depressant in the benzodiazepine family and is a Schedule IV  
3 controlled substance as designated by Health and Safety Code, section 11057, subdivision (d)(1).  
4 It is used to treat anxiety disorders, panic disorders, and anxiety.

5 15. Diazepam, is a depressant in the benzodiazepine family and is a Schedule IV  
6 controlled substance as designated by Health and Safety Code, section 11057, subdivision (d)(1).  
7 It is used to treat anxiety disorders, panic disorders, and anxiety.

8 16. Nordiazepam, is an active metabolite of Diazepam, a depressant in the  
9 benzodiazepine family and is a Schedule IV controlled substance as designated by Health and  
10 Safety Code, section 11057, subdivision (d)(1). It is used to treat anxiety disorders, panic  
11 disorders, and anxiety.

12 17. Temazepam, is a depressant in the benzodiazepine family and is a Schedule IV  
13 controlled substance as designated by Health and Safety Code, section 11057, subdivision (d)(1).  
14 It is used to treat anxiety disorders, panic disorders, and anxiety.

15 **FIRST CAUSE FOR DISCIPLINE**

16 **(September 27, 2012 Criminal Conviction for DUI on January 15, 2012)**

17 18. Respondent subjected her license to discipline under Code sections 490 and 4301,  
18 subdivision (l) in that she was convicted of a crime that is substantially related to the  
19 qualifications, functions, and duties of a Licensed Pharmacist. The circumstances are as follows:

20 a. On or about September 27, 2012, in a criminal proceeding entitled *The*  
21 *People of the State of California vs. Irene Naygas*, in Riverside County Superior Court Banning  
22 Courthouse, Case Number BAM1200814, Respondent was convicted on her plea of guilty to  
23 violating Vehicle Code (VC) 23152 subdivision (a), driving under the influence of alcohol and a  
24 drug and under their combined influence (DUI), a misdemeanor. Respondent was also charged  
25 with violating HSC section 11500, subdivision (a), unlawful use and being under the influence of  
26 a controlled substance, not having been administered by and under the direction of a person  
27 licensed by the State of California to prescribe and administer controlled substances, a  
28 misdemeanor, which was dismissed as a result of a plea bargain.



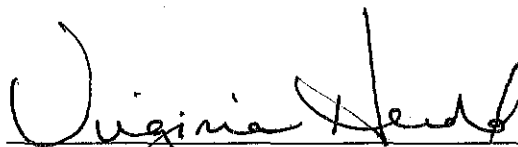
1 (a), unlawful use and being under the influence of a controlled substance, not having been  
2 administered by and under the direction of a person licensed by the State of California to  
3 prescribe and administer controlled substances, a statute of the State of California regulating  
4 controlled substances and dangerous drugs.

5 **PRAYER**

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

- 8 1. Revoking or suspending Pharmacist License Number RPH 58720, issued to Irene  
9 Naygas;
- 10 2. Ordering Irene Naygas to pay the Board of Pharmacy the reasonable costs of the  
11 investigation and enforcement of this case, pursuant to Business and Professions Code section  
12 125.3;
- 13 3. Taking such other and further action as deemed necessary and proper.

14  
15  
16 DATED: 2/27/13



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

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