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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 Number 4494

13 **STEPHEN DAVIS BOURQUE**
609 Ashbury Street, #7
San Francisco, California 94117

A C C U S A T I O N

14 **Pharmacist License Number RPH 63701,**

15 Respondent.

16
17 Complainant Virginia Herold 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 February 11, 2010, the Board issued Pharmacist License Number RPH
22 63701 to respondent Stephen Davis Bourque. The pharmacist license was in full force and effect
23 at all times relevant to the charges brought in this accusation and will expire on March 31, 2015,
24 unless renewed.¹

25 _____
26 ¹ On or about February 6, 2008, the Veterinary Medical Board issued Veterinary License
27 Number 17076 to respondent Stephen Bourque. The veterinary license was in full force and
28 effect at all times relevant to the charges brought in this accusation and will expire on March 31,
2015, unless renewed. The Veterinary Medical Board also has filed an accusation against
respondent's veterinary license.

1 the crime is substantially related to the qualifications, functions, or duties of the business or
2 profession for which the license was issued.”

3 8. Section 4301 states in part:

4 “The board shall take action against any holder of a license who is guilty of unprofessional
5 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

6 Unprofessional conduct shall include, but is not limited to, any of the following:

7 ...

8 “(h) The administering to oneself, of any controlled substance, or the use of any dangerous
9 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
10 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
11 to the extent that the use impairs the ability of the person to conduct with safety to the public the
12 practice authorized by the license.

13 ...

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

16 ...

17 “(l) The conviction of a crime substantially related to the qualifications, functions, and
18 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
19 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
20 substances or of a violation of the statutes of this state regulating controlled substances or
21 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
22 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
23 The board may inquire into the circumstances surrounding the commission of the crime, in order
24 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
25 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
26 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
27 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
28 of this provision. The board may take action when the time for appeal has elapsed, or the

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

6 9. California Code of Regulations, title 16, section 1770, states:

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

13 COST RECOVERY

14 10. Section 125.3, subdivision (a), states:

15 “Except as otherwise provided by law, in any order issued in resolution of a disciplinary
16 proceeding before any board within the department or before the Osteopathic Medical Board,
17 upon request of the entity bringing the proceedings, the administrative law judge may direct a
18 licentiate found to have committed a violation or violations of the licensing act to pay a sum not
19 to exceed the reasonable costs of the investigation and enforcement of the case.”

20 DRUGS

21 11. “Ketamine” is a Schedule III controlled substance under Health and Safety Code
22 section 11056, subdivision (g), and a dangerous drug within the meaning of Business and
23 Professions Code section 4022. It is used in human and veterinary medicine primarily as a
24 general anesthetic. It is also used as a recreational drug.

25 12. “Methamphetamine” is a Schedule II controlled substance under Health and Safety
26 Code section 11055, subdivision (d)(2). It is a recreational drug.

27 13. “Testosterone cypionate” is a Schedule III controlled substance under Health and
28 Safety Code section 11056, subdivision (f)(30), and a dangerous drug within the meaning of

1 Business and Professions Code section 4022. It is an anabolic steroid used for male replacement
2 therapy for conditions associated with symptoms of deficiency or absence of endogenous
3 testosterone. It also frequently is misused for its muscle-enhancing effects. It is taken by
4 injection into muscle tissue.

5 **FACTUAL BACKGROUNDS AND CAUSES FOR DISCIPLINE**

6 **APRIL 12, 2012, ARREST**

7 14. On April 12, 2012, a San Francisco police officer found an illegally parked rental
8 vehicle with the keys on the passenger seat. Two packages of ketamine were inside: one
9 unopened and one opened with two vials missing. Respondent's name was on the rental
10 agreement in the vehicle.

11 15. The police found respondent's unoccupied room in a nearby motel. Inside was a
12 vial of ketamine with syringe nearby. Respondent came to the room shortly thereafter. He said
13 that he had been drinking at a bar. He said that he was renting a vehicle but did not know where
14 it was. He said that he is a veterinarian and had received the ketamine that was in the vehicle
15 earlier that day but did not have time to secure it properly. He admitted to personally having used
16 ketamine both in the past and on that day – he said that he needed help and that what he was
17 doing was wrong.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **Unprofessional Conduct – Use of Controlled Substance or Dangerous Drug
20 Business and Professions Code section 4301, subdivision (h)**

21 16. The allegations of paragraphs 14-15 are realleged and incorporated by reference as if
22 fully set forth.

23 17. Respondent has subjected his pharmacist license to discipline for the unprofessional
24 conduct of using a dangerous drug to the extent as to be dangerous or injurious to a person, or that
25 the use impairs his ability to safely conduct the practice of pharmacy (Bus. & Prof. Code, § 4301,
26 subd. (h)). As set forth in paragraphs 14-15 above, ketamine, a dangerous drug, was found in
27 respondent's hotel room. Respondent admitted to personally using ketamine and to needing help
28 with his abuse of it.

///

1 for prescription only. Respondent denied knowledge of any of the controlled substances found in
2 his bags.

3 24. On May 15, 2013, in San Mateo County Superior Court, Case Number SF384548
4 entitled *People v. Stephen Bourque*, respondent pled no contest to resisting, delaying, or
5 obstructing an officer (Pen. Code, § 148, subd. (a)(1)), a misdemeanor. Imposition of sentence
6 was suspended and respondent was placed on 18 months' supervised probation. Terms and
7 conditions of probation included the first year of probation under supervision of drug court.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **Conviction**

10 **Business and Professions Code section 490, subdivision (a)**

11 25. The allegations of paragraphs 20-24 are realleged and incorporated by reference as if
12 fully set forth.

13 26. Respondent has subjected his pharmacist license to discipline for being convicted of a
14 crime (Bus. & Prof. Code, § 490, subd. (a)). As set forth in paragraphs 23-27 above, respondent
15 pled no contest to resisting, delaying, or obstructing an officer (Pen. Code, § 148, subd. (a)(1)), a
16 misdemeanor.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **Unprofessional Conduct – Conviction**

19 **Business and Professions Code section 4301, subdivision (l)**

20 27. The allegations of paragraphs 20-24 are realleged and incorporated by reference as if
21 fully set forth.

22 28. Respondent has subjected his pharmacist license to discipline for the unprofessional
23 conduct of being convicted of a crime (Bus. & Prof. Code, § 4301, subd. (l)). As set forth in
24 paragraphs 20-24 above, respondent pled no contest to resisting, delaying, or obstructing an
25 officer (Pen. Code, § 148, subd. (a)(1)), a misdemeanor.

26 ///

1 **FIFTH CAUSE FOR DISCIPLINE**
2 **Unprofessional Conduct – Violation of Laws Regulating Controlled Substances and**
3 **Dangerous Drugs**
4 **Business and Professions Code section 4301, subdivision (j)**

5 29. The allegations of paragraphs 20-24 are realleged and incorporated by reference as if
6 fully set forth.

7 30. Respondent has subjected his pharmacist license to discipline for the unprofessional
8 conduct of violating laws regulating controlled substances and dangerous drugs (Bus. & Prof.
9 Code, § 4301, subd. (j)). As set forth in paragraphs 20-24 above, respondent illegally possessed
10 methamphetamine, a controlled substance, and testosterone, a controlled substance and dangerous
11 drug (Health & Saf. Code, § 11377, subd. (a)).

12 **PRAYER**

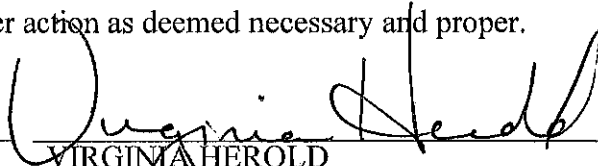
13 WHEREFORE, complainant requests that a hearing be held on the matters alleged in this
14 accusation, and that following the hearing, the Board of Pharmacy issue a decision:

15 1. Revoking or suspending Pharmacist License Number RPH 63701 issued to Stephen
16 Davis Bourque;

17 2. Ordering Stephen Davis Bourque to pay the Board of Pharmacy the reasonable costs
18 of the investigation and enforcement of this case under Business and Professions Code section
19 125.3; and

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

21 DATED: 5/3/14



22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant

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