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8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 4699

12 **LILLIAN BLAIR HUSBANDS**
13 **1100 E. Roseville Parkway 1113**
14 **Roseville, CA 95678**

ACCUSATION

15 **Registered Pharmacist No. 44568**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 12, 1991, the Board of Pharmacy issued Registered Pharmacist
23 License Number 44568 to Lillian Blair Husbands (Respondent). The Registered Pharmacist
24 License was in full force and effect at all times relevant to the charges brought herein and will
25 expire on July 31, 2015, 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 4. Section 4300 of the Code states, in pertinent part:

6 "(a) Every license issued may be suspended or revoked. . . ."

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation
9 of law or by order or decision of the board or a court of law, the placement of a license on a
10 retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of
11 jurisdiction to commence or proceed with any investigation of, or action or disciplinary
12 proceeding against, the licensee or to render a decision suspending or revoking the license.

13 **STATUTORY PROVISIONS**

14 6. Section 490 of the Code states:

15 "(a) In addition to any other action that a board is permitted to take against a licensee, a
16 board may suspend or revoke a license on the ground that the licensee has been convicted of a
17 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
18 or profession for which the license was issued.

19 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
20 discipline a licensee for conviction of a crime that is independent of the authority granted under
21 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
22 of the business or profession for which the licensee's license was issued.

23 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
24 conviction following a plea of nolo contendere. Any action that a board is permitted to take
25 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
26 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
27 made suspending the imposition of sentence, irrespective of a subsequent order under the
28 provisions of Section 1203.4 of the Penal Code.

1 (d) The Legislature hereby finds and declares that the application of this section has been
2 made unclear by the holding in *Petropoulos v. Department of Real Estate* (2006) 142 Cal.App.4th
3 554, and that the holding in that case has placed a significant number of statutes and regulations
4 in question, resulting in potential harm to the consumers of California from licensees who have
5 been convicted of crimes. Therefore, the Legislature finds and declares that this section
6 establishes an independent basis for a board to impose discipline upon a licensee, and that the
7 amendments to this section made by Senate Bill 797 of the 2007-08 Regular Session do not
8 constitute a change to, but rather are declaratory of, existing law."

9 7. Section 4301 of the Code states, in pertinent part:

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

13 "...

14 "(h) The administering to oneself, of any controlled substance, or the use of any dangerous
15 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to
16 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
17 to the extent that the use impairs the ability of the person to conduct with safety to the public the
18 practice authorized by the license.

19 "...

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

22 "...

23 "(l) The conviction of a crime substantially related to the qualifications, functions, and
24 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
25 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
26 substances or of a violation of the statutes of this state regulating controlled substances or
27 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
28 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

1 The board may inquire into the circumstances surrounding the commission of the crime, in order
2 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
3 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
4 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
5 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
6 of this provision. The board may take action when the time for appeal has elapsed, or the
7 judgment of conviction has been affirmed on appeal or when an order granting probation is made
8 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
9 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
10 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
11 indictment.

12 "...

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

14 **REGULATIONS**

15 8. California Code of Regulations, title 16, section 1770, states:

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

22 **COST RECOVERY**

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

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct—Conviction of Crime Substantially Related to Qualifications,**
3 **Functions, and Duties of Licensee)**

4 10. Respondent is subject to disciplinary action under sections 490 and 4301(l) of the
5 Code in that Respondent has been convicted of a crime that is substantially related to her
6 qualifications, functions, and duties as a registered pharmacist. The circumstances are as follows:

7 11. On or about July 10, 2013, in *People v. Lillian Blair Husbands*, Superior Court of
8 California, Butte County, case no. CM038350, Respondent pled nolo contendere to a
9 misdemeanor charge of driving while under the influence of alcohol or drugs (a violation of
10 Vehicle Code section 23152(a)). The court sentenced Respondent to thirty-six months of
11 probation, two days of house arrest, ordered Respondent to pay a fine, and ordered Respondent to
12 enroll in and complete a level one DUI program.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct—Use of Controlled Substance in a Dangerous Manner)**

15 12. Respondent is subject to disciplinary action under section 4301(h) of the Code in that
16 on December 18, 2012, Respondent used controlled substances to the extent or in a manner as to
17 be dangerous or injuries to herself and the public, and to the extent that the use impaired
18 Respondent's ability to conduct with safety to the public the practice of a registered pharmacist.
19 The circumstances are as follows:

20 13. On or about December 18, 2012, in response to a police dispatch for a DUI driver, a
21 sergeant with the Oroville Police Department observed a vehicle (driven by Respondent),
22 matching the description identified on the dispatch, at Lincoln Boulevard and Oro Dam
23 Boulevard. The sergeant observed Respondent's vehicle nearly rear-end another vehicle at a stop
24 light. The sergeant then followed Respondent's vehicle and effected a traffic stop. While
25 following Respondent's vehicle, the sergeant observed the vehicle straddle the broken white line
26 between the numbers one and two lanes of eastbound Oro Dam Boulevard. The vehicle then
27 pulled to the right and drove up onto the sidewalk with the passenger-side tires straddling the
28 sidewalk. Respondent's vehicle continued to straddle the sidewalk for approximately 75 feet

1 before it pulled into a parking lot. When the sergeant approached Respondent's vehicle,
2 Respondent displayed slow, lethargic reactions and spoke in a slow, lethargic voice. When an
3 officer from the Oroville Police Department arrived at the scene to assist the sergeant, the officer
4 approached Respondent and Respondent stated that she was experiencing double vision and that
5 she had taken Advan, Celexa, and Vicodin three hours earlier. The officer observed that
6 Respondent's eyes were droopy and watery, and her movements were lethargic and slow.
7 Respondent failed the field sobriety tests administered by the officer. The officer arrested
8 Respondent and took Respondent to Oroville Hospital for a blood draw due to her medication
9 use. Before transporting Respondent to the hospital, the officer searched Respondent's purse and
10 discovered three prescription bottles—one bottle of Cyclobenzaprine and two bottles of
11 Diazepam. The officer observed more than three types of pills in these bottles. The officer
12 inventoried the pills he found in Respondent's purse as follows: (1) 6 pills of Diazepam; (2) 1
13 pill of Temazepam; (3) 7 1/2 pills of Hydrocodone; (4) 1 pill of Calcium Carbonat; (5) 1 pill of
14 Zyrtec; (6) 17 pills of Cyclobenzaprine; (7) 1 pill of Citalopram; (8) 3 pills of Famotidine; (9) 3
15 pills of Lorazepam; (10) 7 pills of Zolpidem; (11) 6 1/2 pills of Alprazolam; and (12) 1 pill of
16 Aspirin. Respondent's toxicology report, issued after completion of her blood draw, revealed
17 0.02 mg/L of Hydrocodone, 0.01 mg/L of Bupropion, a positive test for Chlorpheniramine, 0.11
18 mg/L of Citalopram, and 0.04 mg/L of Zolpidem.

19 **PRAYER**

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

22 1. Revoking or suspending Registered Pharmacist License Number 44568, issued to
23 Lillian Blair Husbands

24 2. Ordering Lillian Blair Husbands to pay the Board of Pharmacy the reasonable costs
25 of the investigation and enforcement of this case, pursuant to Business and Professions Code
26 section 125.3; and

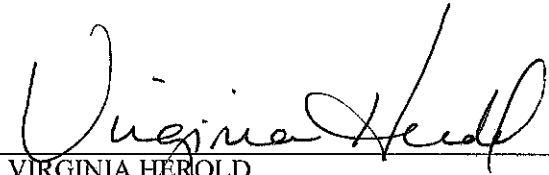
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3. Taking such other and further action as deemed necessary and proper.

DATED: 9/27/13



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

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