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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. 5147

12 **ABRAHAM CHRISTO J. DU PLESSIS**  
13 **4787 Patricia Drive**  
14 **Eureka, CA 95503**

**ACCUSATION**

15 **Pharmacist License No. RPH 62535**

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 July 23, 2009, the Board of Pharmacy issued Pharmacist License  
23 Number RPH 62535 to Abraham Christo J. Du Plessis (Respondent). The Pharmacist License  
24 was in full force and effect at all times relevant to the charges brought in this Accusation and will  
25 expire on February 28, 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:

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

7 "(b) The board shall discipline the holder of any license issued by the board, whose default  
8 has been entered or whose case has been heard by the board and found guilty, by any of the  
9 following methods:

10 "(1) Suspending judgment.

11 "(2) Placing him or her upon probation.

12 "(3) Suspending his or her right to practice for a period not exceeding one year.

13 "(4) Revoking his or her license.

14 "(5) Taking any other action in relation to disciplining him or her as the board in its  
15 discretion may deem proper."

16 5. Section 4300.1 of the Code, states:

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

22 **STATUTORY AND REGULATORY AUTHORITY**

23 6. Section 4301 of the Code states, in relevant part:

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

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

6 . . .

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

9 . . .

10           “(l) The conviction of a crime substantially related to the qualifications, functions, and  
11 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
12 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
13 substances or of a violation of the statutes of this state regulating controlled substances or  
14 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
15 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
16 The board may inquire into the circumstances surrounding the commission of the crime, in order  
17 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
18 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
19 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
20 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
21 of this provision. The board may take action when the time for appeal has elapsed, or the  
22 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
23 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
24 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
25 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
26 indictment.”

27           7. Section 11170 of the Health and Safety Code, states:

28           “No person shall prescribe, administer, or furnish a controlled substance for himself.”

1 **DRUG STATUTES**

2 8. Hydrocodone/acetaminophen is designated as a schedule III controlled substance by  
3 Health and Safety Code section 11056, subdivision (e)(4).

4 9. Testosterone is designated as a schedule III controlled substance by Health and Safety  
5 Code section 11056, subdivision (f)(30).

6 10. Alprazolam is designated as a schedule IV controlled substance by Health and Safety  
7 Code section 11057, subdivision (d)(1).

8 11. Zolpidem is designated as a schedule IV controlled substance by Health and Safety  
9 Code section 11057, subdivision (d)(32).

10 **COST RECOVERY**

11 12. Section 125.3 of the Code provides, in relevant part, that the Board may request the  
12 administrative law judge to direct a licentiate found to have committed a violation or violations of  
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
14 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
15 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
16 included in a stipulated settlement.

17 **FACTUAL BACKGROUND**

18 13. On or about May 27, 2010, in a criminal proceeding entitled *The People of the State*  
19 *of California v. Abraham Christoffel Duplessis*, in the Humboldt County Superior Court, Case  
20 Number CR1000500, Respondent was convicted, upon his plea of no lo contendre, to driving  
21 under the influence of alcohol (Cal. Veh. Code, § 23152, subd. (a)), a misdemeanor. The court  
22 sentenced Respondent to three years probation. Additionally, Respondent was required to attend  
23 and complete a first time DUI offenders program and pay various fines and fees.

24 14. On or about October 7, 2013, at 8:45 p.m., Eureka Police Department officers  
25 (officers) responded to the scene of down power lines at an intersection in Eureka, California.  
26 Police found Respondent's crashed car in a ravine next to downed power lines. Respondent had  
27 already been transported to the hospital from the scene before officers had arrived. At about  
28 10:00 p.m., officers interviewed Respondent at St. Joseph Hospital. Respondent told the officer

1 he had consumed a couple glasses of wine earlier that night, and then decided to drive to dinner.  
2 Respondent informed the officer he had taken Norco (a pain medication) at the time he began  
3 drinking. Respondent affirmed he was alone and driving the vehicle involved in the accident.  
4 The officer observed that Respondent's speech was slow and deliberate, and his eyes were red  
5 and glassy. As a result, the officer arrested Respondent for driving under the influence of alcohol.  
6 At about 10:25 p.m., Respondent voluntarily submitted to a blood sample draw. That blood  
7 sample from Respondent indicated a blood alcohol concentration of .19%.

8 15. On or about November 18, 2013, an inspector from the Board conducted an  
9 inspection at Rite-Aid in Eureka, California, where Respondent worked as a pharmacist. As part  
10 of the inspection, the inspector reviewed pharmacy records and discovered that between the dates  
11 of January 16, 2012, and March 7, 2013, Respondent dispensed controlled substances to himself.  
12 The records indicated that during this time period, eighty-one controlled substances were  
13 dispensed at the pharmacy for Respondent's use. According to the records, Respondent  
14 personally dispensed thirty-seven of the eighty-one prescriptions for controlled substances to  
15 himself. Respondent self-furnished the following controlled substances: Hydrocodone,  
16 Testosterone, Alprazolam, and Zolipidem.

17 **FIRST CAUSE FOR DISCIPLINE**  
18 **(Unprofessional Conduct: Dangerous Use of Alcohol)**  
19 **(Bus. & Prof. Code, § 4301, subd. (h))**

20 16. Respondent has subjected his pharmacist license to disciplinary action under section  
21 4301, subdivision (h), for engaging in unprofessional conduct by using alcoholic beverages to a  
22 dangerous extent. Specifically, on or about October 25, 2010, California Highway Patrol officers  
23 arrested Respondent for driving under the influence of alcohol. Respondent's blood alcohol  
24 concentration was alleged to be .13% at time of arrest.

25 **SECOND CAUSE FOR DISCIPLINE**  
26 **(Unprofessional Conduct: Conviction)**  
27 **(Bus. & Prof. Code, § 4301, subd. (l))**

28 17. Respondent has subjected his pharmacist license to disciplinary action under section  
4301, subdivision (l), for engaging in unprofessional conduct in that he was convicted of a crime  
substantially related to the qualifications, functions, or duties of a pharmacist. Specifically, on or

1 about May 27, 2010, Respondent was convicted of driving under the influence (Veh. Code, §  
2 23152, subd. (a)). The circumstances are more fully explained in paragraph 13, above.

3 **THIRD CAUSE FOR DISCIPLINE**  
4 **(Unprofessional Conduct: Dangerous Use of Alcohol)**  
5 **(Bus. & Prof. Code, § 4301, subd. (h))**

6 18. Respondent has subjected his pharmacist license to disciplinary action under section  
7 4301, subdivision (h), for engaging in unprofessional conduct by using alcoholic beverages to a  
8 dangerous extent. Specifically, on or about October 7, 2013, Respondent drove a car while  
9 intoxicated. The circumstances are more fully explained in paragraph 14, above.

10 **FOURTH CAUSE FOR DISCIPLINE**  
11 **(Unprofessional Conduct: Violation of Controlled Substance Statute)**  
12 **(Bus. & Prof. Code, § 4301, subd. (j))**

13 19. Respondent has subjected his pharmacist license to disciplinary action under section  
14 4301, subdivision (j), for engaging in unprofessional conduct in that Respondent furnished  
15 controlled substances to himself, in violation of Health and Safety Code, section 11170.  
16 Specifically, a pharmacy audit revealed Respondent furnished thirty-seven controlled substances  
17 to himself. The circumstances are more fully explained in paragraph 15, above.

18 **OTHER DISCIPLINARY CONSIDERATIONS**

19 20. To determine the degree of discipline, if any, to be imposed on Respondent,  
20 Complainant alleges that on or about March 28, 2013, in a prior action, the Board of Pharmacy  
21 issued Citation Number CI 2012 55938. The Citation was based on a violation of title 16 of the  
22 California Code of Regulations section 1714, subdivision (d), relating to operational standards  
23 and security. That Citation is now final and is incorporated by reference as if fully set forth.

24 **PRAYER**

25 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
26 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

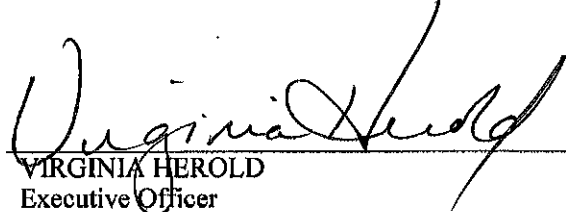
27 1. Revoking or suspending Pharmacist License Number RPH 62535, issued to Abraham  
28 Christo J. Du Plessis;

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2. Ordering Abraham Christo J. Du Plessis 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: 9/16/14



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

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