

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 BRIAN S. TURNER
Deputy Attorney General
4 State Bar No. 108991
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-0603
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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 No. 5683

13 **ASHIV SHARMA**
462 Main Street
Yuba City, CA 95991

A C C U S A T I O N

14 **Intern Pharmacist Registration**
15 **No. INT 29999**

16 Respondent.

17 Virginia Herold ("Complainant") 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 September 6, 2012, the Board issued Intern Pharmacist Registration
22 Number INT 29999 to Ashiv Sharma ("Respondent"). The Intern Pharmacist Registration was in
23 full force and effect at all times relevant to the charges brought herein and will expire on June 30,
24 2017, unless renewed.

25 **JURISDICTION/STATUTORY PROVISIONS**

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4. Code section 4300 states, in pertinent part:

- (a) Every license issued may be suspended or revoked.
- (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
 - (1) Suspending judgment.
 - (2) Placing him or her upon probation.
 - (3) Suspending his or her right to practice for a period not exceeding one year.
 - (4) Revoking his or her license.
 - (5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper . . .

5. Code section 4300.1 states:

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

6. Code section 4301 states, in pertinent part:

- The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:
- (h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.
 - (j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.
 - (k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.
 - (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

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

9 7. Code section 4060 states, in pertinent part:

10 A person shall not possess any controlled substance, except that furnished to a
11 person upon the prescription of a physician, dentist, podiatrist, optometrist,
12 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
13 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
14 nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to
15 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist
16 pursuant to Section 4052.1, 4052.2, or 4052.6. . . .

14 8. Health and Safety Code section 11377(a) states, in pertinent part:

15 Except as authorized by law and as otherwise provided in subdivision (b) or
16 Section 11375, or in Article 7 (commencing with Section 4211) of Chapter 9 of
17 Division 2 of the Business and Professions Code, every person who possesses any
18 controlled substance which is (1) classified in Schedule III, IV, or V, and which is
19 not a narcotic drug, (2) specified in subdivision (d) of Section 11054, except
20 paragraphs (13), (14), (15), and (20) of subdivision (d), (3) specified in
21 paragraph (11) of subdivision (c) of Section 11056, (4) specified in paragraph (2) or
22 (3) of subdivision (f) of Section 11054, or (5) specified in subdivision (d), (e), or (f)
23 of Section 11055, unless upon the prescription of a physician, dentist, podiatrist, or
24 veterinarian, licensed to practice in this state, shall be punished by imprisonment in a
25 county jail for a period of not more than one year or pursuant to subdivision (h) of
26 Section 1170 of the Penal Code.

22 COST RECOVERY

23 9. Code section 125.3 provides, in pertinent part, that a 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.

27 ///

28 ///

1 **DRUGS**

2 10. *Alprazolam* is designated a Schedule IV controlled substance by Health and Safety
3 Code section 11057(d)(1). A central nervous system (“CNS”) depressant, patients are cautioned
4 against engaging in hazardous occupations or activities requiring complete mental alertness such
5 as driving a motor vehicle. Alprazolam may have additive effects when used in conjunction with
6 other CNS depressants. Sedation, somnolence, diplopia, dysarthria, ataxia and intellectual
7 impairment are the most common adverse effects of benzodiazepines.

8 11. *Marijuana* or *marihuana* is identified as a hallucinogenic and is designated a
9 Schedule I controlled substance pursuant to United States Code, title 21, section 812, and the
10 Code of Federal Regulations, title 21, section 1308.11(d)(23).

11 12. *Norco*, a brand of hydrocodone bitartrate and acetaminophen, is designated a
12 Schedule III controlled substance by Health and Safety Code section 11056(e)(4), and is a
13 dangerous drug pursuant to Code section 4022. It is designated a Schedule II controlled substance
14 by the Code of Federal Regulations, title 21, section 1308.12(b)(1)(vi). Hydrocodone is an opioid
15 analgesic believed to affect the central nervous system. In addition to analgesia, it may produce
16 drowsiness, changes in mood and mental clouding; impair the mental and/or physical abilities
17 required for the performance of potentially hazardous tasks such as driving a car; and, may have
18 additive effects when used in conjunction with other CNS depressants.

19 13. *Oxycodone* is designated a Schedule II controlled substance by Health and Safety
20 Code section 11055(b)(1)(M). Oxycodone may have additive effects when used in conjunction
21 with other CNS depressants. Oxycodone may impair the mental and/or physical abilities required
22 for the performance of potentially hazardous tasks such as driving a car.

23 14. *Testosterone Enanthate* is an anabolic steroid and is designated a controlled substance
24 by Health and Safety Code section 11056(f)(30).

25 15. *Trenbolone* is an anabolic steroid and is designated a controlled substance pursuant to
26 Health and Safety Code section 11056(f)(31).

27 16. *Ultram*, a brand name for *tramadol*, is designated a controlled substance by the Code
28 of Federal Regulations, title 21, section 1308.14(b)(3). Tramadol is a centrally acting synthetic

1 opioid analgesic. Tramadol may have additive effects when used in conjunction with other CNS
2 depressants. Patients using tramadol are cautioned that it may impair the mental and or physical
3 abilities required to drive a vehicle.

4 17. *Zolpidem* is designated a Schedule IV controlled substance by Health and Safety
5 Code section 11057(d)(32), and is a dangerous drug pursuant to Code section 4022. It is a
6 sedative used for the short-term treatment of insomnia. Due to the rapid onset of action, zolpidem
7 should only be taken immediately prior to going to bed. Zolpidem can impair motor coordination
8 and alertness and may have additive effects when used in conjunction with other CNS
9 depressants.

10 FACTUAL ALLEGATIONS

11 18. Respondent has multiple criminal convictions as follows:

12 a. On or about June 15, 2016, in *People v. Ashiv Sharma*, Superior Court of California,
13 County of Sutter, Case No. CRTR15-1069, Respondent was convicted by the Court following his
14 plea of nolo contendere to violating Vehicle Code section 23103.5 (reckless driving) , a
15 misdemeanor. The circumstances of the crime are that on or about February 22, 2015, a Yuba
16 City Police officer observed Respondent's vehicle stopped in the westbound lane of Bradley
17 Estates Drive without a turn signal activated or brake lights.

18 The officer exited his vehicle to investigate the stopped vehicle and observed Respondent in
19 the driver's seat with his chin on his chest. The vehicle's engine was off. The officer knocked on
20 the driver's side window and Respondent's head snapped up. Respondent opened the door and the
21 officer observed that Respondent had bloodshot and watery eyes, slurred speech, disoriented and
22 unsteady but no smell of alcohol. The officer had to assist Respondent as he exited the vehicle to
23 keep Respondent from falling.

24 Respondent did not have an explanation for stopping in the middle of the road. The officer
25 performed field sobriety tests on Respondent who failed all tests. The officer conducted a search
26 of Respondent's vehicle and among other things found two drug vials that were tested and found
27 to contain Trenbolone and testosterone enanthate, both anabolic steroids. Respondent was
28 arrested for driving under the influence of drugs and was required to submit to a blood test. The

1 blood test results showed the presence of hydrocodone, zolpidem, alprazolam, and marijuana.

2 b. On or about June 15, 2016, in the *People v. Ashiv Sharma*, Superior Court of
3 California, County of Sutter, Case No. CRTR15-1070, Respondent was convicted by the Court
4 following his plea of nolo contendere to violating Vehicle Code section 23103.5 (reckless
5 driving), a misdemeanor. The circumstances of the crime are that on or about March 20, 2015,
6 Yuba City Police officers responded to a report of vehicle stopped in the middle of Plumas Street
7 near Center Street. When the officers arrived to investigate Respondent was in the driver's seat
8 of the vehicle asleep with engine running and the transmission in park.

9 The officers noted Respondent's face was droopy, balance unsteady, rancid breath, and a
10 white film on his lips and tongue but no smell of alcohol. Respondent vacillated from sleep to
11 being talkative as the officers questioned him. One officer attempted to perform field sobriety
12 tests but Respondent could not perform them because of his mental and physical condition.
13 Respondent was arrested and submitted to a blood test that revealed the presence of tramadol,
14 hydrocodone, and alprazolam.

15 c. On or about June 15, 2016, in *People v. Ashiv Sharma*, Superior Court of California,
16 County of Sutter, Case No. CRTR16-0365, Respondent was convicted by the Court following his
17 plea of nolo contendere to violating Vehicle Code section 23152(e) (driving under the influence
18 of drugs), a misdemeanor. The circumstances of the crime are that on or about October 22, 2015,
19 Yuba City police officers responded to an accident scene involving Respondent's vehicle that
20 crashed in an orchard. While investigating the accident, the officers noted the smell of alcohol
21 coming from Respondent. Officers noted Respondent had slurred speech that was barely audible,
22 bloodshot eyes and difficulty maintaining his balance such that a officer had to hold on to
23 Respondent to prevent him from falling.

24 Respondent was tested for alcohol at the scene with a preliminary alcohol screening
25 instrument. The test was performed starting at 0150 and revealed blood alcohol of .16 and .14.
26 The officer believed Respondent could not perform physical field sobriety tests without injuring
27 himself so the tests were discontinued. Respondent was arrested and submitted to a blood test
28 that was analyzed and found to have measureable levels of oxycodone, zolpidem, alprazolam, and

1 marijuana.

2 **FIRST CAUSE FOR DISCIPLINE**

3 (Criminal Convictions)

4 19. Paragraph 18 is incorporated herein as though set forth at length. Respondent is
5 subject to disciplinary action for unprofessional conduct pursuant to Code section 4301(l), in that
6 Respondent was convicted of crimes substantially related to the qualifications, functions, and
7 duties of an intern pharmacist.

8 **SECOND CAUSE FOR DISCIPLINE**

9 (More Than One Conviction Involving the Use, Consumption, or Self-Administration
10 of a Dangerous Drug, Alcoholic Beverage, or Combination Thereof)

11 20. Paragraph 18 is incorporated herein as though set forth at length. Respondent is
12 subject to disciplinary action pursuant to Code section 4301(k), in that he was convicted of more
13 than one misdemeanor involving the use, consumption, or self-administration of a dangerous drug
14 and/or alcoholic beverage. Respondent has multiple criminal convictions involving driving under
15 the influence of drugs and/or alcohol.

16 **THIRD CAUSE FOR DISCIPLINE**

17 (Violation of State Laws Regulating Controlled Substances)

18 21. Paragraph 18 is incorporated herein as though set forth at length. Respondent is
19 subject to disciplinary action pursuant to Code section 4301(j), on the grounds of unprofessional
20 conduct, in that Respondent violated statutes regulating controlled substances and dangerous
21 drugs. On or about February 22, 2015, Respondent unlawfully possessed Trenbolone and
22 testosterone enanthate, controlled substances and dangerous drugs, in violation of Health &
23 Safety Code section 11377(a) and Code section 4060.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 (Use of Dangerous Drugs/Controlled Substances/Alcoholic Beverages
26 in a Dangerous or Injurious Manner)

27 22. Paragraph 18 is incorporated herein as though set forth at length. Respondent is
28 subject to disciplinary action pursuant to Code section 4301(h), in that he used dangerous drugs,

1 controlled substances, and alcoholic beverages in a manner dangerous or injurious to himself and
2 others.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 (Unprofessional Conduct)

5 23. Paragraph 18 is incorporated herein as though set forth at length. Respondent is
6 subject to disciplinary action pursuant to Code section 4301, for unprofessional conduct, in that
7 on or about April 26, 2015, Respondent was participated in a physical altercation with multiple
8 parties resulting in injuries. Yuba City Police Department officers were dispatched to investigate
9 reports of a physical altercation involving multiple people. The officers arrived to find
10 approximately 25-35 people in a residential cul-de-sac with an injured and unconscious individual
11 lying across the gutter and roadway. Respondent, was at the scene and interviewed by the
12 officers.

13 Respondent told officers that he drove his vehicle into the cul-de-sac when someone yelled
14 to slow down. Residents of the area came out and a physical fight started. Respondent informed
15 the officer that he tackled "S.D.". Respondent was observed holding S.D. on the ground while
16 another individual punched S.D. The fight continued until someone was knocked unconscious.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 (Violation of the Pharmacy Law)

19 24. Paragraph 18 is incorporated herein as though set forth at length. Respondent is
20 subject to disciplinary action pursuant to Code section 4301(o), for unprofessional conduct, in
21 that Respondent violated laws governing pharmacy.

22 **PRAYER**

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

25 1. Revoking or suspending Intern Pharmacist Registration Number INT 29999, issued to
26 Ashiv Sharma;

27 ///

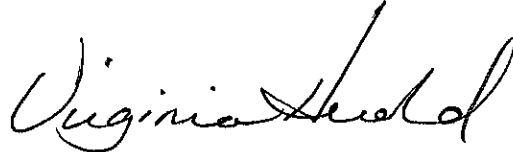
28 ///

1 2. Ordering Ashiv Sharma to pay the Board of Pharmacy the reasonable costs of the
2 investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3; and

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

5
6
7 DATED: _____

1/3/17



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

8
9
10 SA2016104302
11 12495320.doc
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28