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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 No. 5779

13 **SHAHRIAR ZARTOSHTI**
1101 Ocean Front Walk, #21
Venice, CA 90291

A C C U S A T I O N

14 **Pharmacist License No. RPH 66143**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about September 21, 2011, the Board of Pharmacy issued Pharmacist License
22 Number RPH 66143 to Shahriar Zartoshti (Respondent). The Pharmacist License was in full force
23 and effect at all times relevant to the charges brought herein and will expire on September 30,
24 2017, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4300 provides that every license issued by the Boards is subject to discipline,
2 including suspension or revocation.

3 STATUTORY PROVISIONS

4 5. Section 4301 of the Code states, in pertinent part, that:

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

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

8

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

14

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

17

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

1 of this 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 probation is made
3 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
4 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
5 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
6 indictment. . . .”

7 **REGULATORY PROVISIONS**

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

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

15 7. Section 4060 of the Code states:

16 “No person shall possess any controlled substance, except that furnished to a person upon
17 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
18 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
19 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
20 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
21 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
22 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply
23 to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
24 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
25 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
26 labeled with the name and address of the supplier or producer.

1 “Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician
2 assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
3 devices.”

4 COST RECOVERY

5 8. Section 125.3 provides, in pertinent part, that the Board may request the
6 administrative law judge to direct a licentiate found to have committed a violation or violations of
7 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
8 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
9 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
10 included in a stipulated settlement.

11 DRUG CLASSIFICATIONS

12 9. Adderall is a Scheduled II controlled substance as defined in Health and Safety Code
13 section 11055(d)(1) and is categorized as a dangerous drug pursuant to Business and Professions
14 Code section 4022.

15 10. Amphetamine is a Scheduled II controlled substance as defined in Health and Safety
16 Code section 11055(d)(1) and is categorized as a dangerous drug pursuant to Business and
17 Professions Code section 4022.

18 11. Dextroamphetamine is used in the brand name drugs Dexedrine and Adderall. It is a
19 Schedule II controlled substance as designated in Health and Safety Code section 11055 (d)(1),
20 and a dangerous drug pursuant to section 4022.

21 12. Escitalopram is a dangerous drug pursuant to Business & Professions Code section
22 4022.

23 13. Finasteride is a dangerous drug pursuant to Business & Professions Code section
24 4022.

25 14. Hydrochlorothiazide is a dangerous drug pursuant to Business & Professions Code
26 section 4022.

27 15. Hydrocodone is a Schedule II controlled narcotic substance pursuant to Health and
28 Safety Code section 11055(b)(1)(I) and a dangerous drug pursuant to Business and Professions

1 Code section 4022. Preparations containing hydrocodone in combination with other non-narcotic
2 medicinal ingredients are in Schedule III.

3 16. Lyrica is a dangerous drug pursuant to Business & Professions Code section 4022.

4 17. Morphine/Morphine Sulfate, a narcotic substance, is a Schedule II controlled
5 substance pursuant to Health and Safety Code Section 11055(b)(1)(L) and is categorized as a
6 dangerous drug pursuant to Business and Professions Code section 4022.

7 18. Oxycodone, a narcotic substance, is a Schedule II controlled substance pursuant to
8 Health and Safety Code Section 11055(b)(1)(M) and is categorized as a dangerous drug pursuant
9 to Business and Professions Code section 4022.

10 19. Triamterene is a dangerous drug pursuant to Business & Professions Code section
11 4022.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Conviction of a Substantially Related Crime)**

14 20. Respondent is subject to disciplinary action under sections 4300 and 4301,
15 subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the
16 grounds of unprofessional conduct, in that on or about June 9, 2015, Respondent was convicted of
17 a crime substantially related to the qualifications, functions or duties of a registrant which to a
18 substantial degree evidences his present or potential unfitness to perform the functions authorized
19 by his license in a manner consistent with the public health, safety, or welfare. The circumstances
20 are as follows:

21 a. On or around June 9, 2015, the Santa Barbara County Sheriff's Department
22 responded to a local hotel in response to a complaint that Respondent was brandishing a weapon
23 in public. After Respondent was identified and detained, he consented to a search of his person
24 wherein officers located an Advil bottle, which contained various prescription pills, in the pocket
25 of his pants. The bottle was not an assigned prescription vial and did not have Respondent's name
26 on it. During an ensuing protective sweep of the premises, officers also located a prescription
27 bottle with Respondent's name on it among his belongings. The second bottle contained various
28 prescription pills.

1 b. The pills from both bottles included: 2 pills Hydrocodone; 2 pills Finasteride
2 (H36); 2 pills Hydrochlorothiazide (3571 V); 1 pill Triamterene (MYLAN TH 2); 1 pill
3 Escitalopram (F 56); 6 pills Lyrica; 9 pills Diphenhydramine (44 329); 5 pills Adderall (XR); 3.5
4 pills Trazodone Hydrochloride (50 50 50 PLIVA 441); 10 pills Amphetamine /
5 Dextroamphetamine (cor 136); and, 1 pill Morphine Sulfate (M MS 30). In addition, there were
6 14 brown pills with no imprints, and one green oval pill with G-X imprinted on it that could not be
7 identified. No prescription bottles were found that matched the prescription pills from either
8 bottle, nor any other evidence that indicated that the prescription pills were actually prescribed to
9 Respondent.

10 c. Officers arrested Respondent for a violation of Penal Code section 417
11 [brandishing a weapon]. After transporting Respondent to the local jail facility, officers conducted
12 an Under the Influence of a Controlled Substance Investigation and concluded that he was under
13 the influence based upon multiple factors, including, but not limited to, Respondent's slow and
14 methodical speech, droopy eyelids, the presence of dark circles surrounding his eyes, extremely
15 elevated pulse rate, his inability to keep his eyes open, and pinpoint pupils. Respondent also
16 admitted to officers that he was taking prescribed drugs such as Adderall, Q.I.D., Norco, Lyrica,
17 and Oxycodone. Based on the foregoing, Respondent was also booked for a violation of Health &
18 Safety Code section 11550 [being under the influence of a controlled substance] and Business &
19 Professions Code section 4060 [possession of a controlled substance without a proper
20 prescription].

21 d. On or around August 11, 2015, Respondent was criminally charged with one
22 count of violating Business & Professions Code section 4060 [possession of controlled substances]
23 and a second count of Penal Code section 415(2) [public disturbance] in a matter entitled *The*
24 *People of the State of California v. Shariar Zartoshti*, Santa Barbara County Superior Court, Case
25 No. 1481436 (filed Aug. 11, 2005). Respondent ultimately pled nolo contendere to the second
26 count and was subsequently convicted thereof.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dangerous Use of Controlled Substance)**

3 21. Respondent is subject to disciplinary action under sections 4300 and 4301, subdivision
4 (h), on the grounds of unprofessional conduct, in that on or about June 9, 2015, Respondent
5 administered multiple controlled substances to himself to the extent or in a manner to be dangerous
6 or injurious to himself or others. Complainant refers to and by this reference incorporates the
7 allegations set forth above in paragraph 20, subparagraphs a through c, inclusive, as though set
8 forth fully herein.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Illegal Possession of Controlled Substances / Dangerous Drugs)**

11 22. Respondent is subject to disciplinary action under Sections 4300 and 4301, subdivision
12 (j), on the grounds of unprofessional conduct, in that on or around June 9, 2015, Respondent was
13 in possession of controlled substances and/or dangerous drugs. Complainant refers to and by this
14 reference incorporates the allegations set forth above in paragraph 20, subparagraphs a through d,
15 inclusive, as though set forth fully herein.

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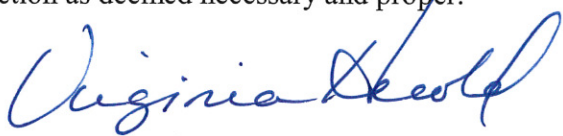
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacist License Number RPH 66143, issued to Shahriar Zartoshti;

2. Ordering Shahriar Zartoshti 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: 6/10/16



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

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