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8	Attorneys for Complainant		
9	BEFORE THE BOARD OF PHARMACY		
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
11	In the Matter of the Accusation Against:		
12	DANA D. DARLING, RPH		
13	2669 Crystal Downs Tulare, CA 93274 A C C U S A T I O N		
14	Pharmacist License No. RPH 40309		
15	Respondent.		
16	Complainant alleges:		
17	PARTIES		
18	1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity		
19	as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.		
20	2. On or about August 22, 1986, the Board issued Pharmacist License Number RPH		
21	40309 to Respondent Dana D. Darling ("Respondent"). The Pharmacist License was in full force		
22	and effect at all times relevant to the charges brought herein and will expire on February 28, 2018,		
23	unless renewed.		
24	JURISDICTION		
25	3. This Accusation is brought before the Board under the authority of the following		
26	laws. All section references are to the Business and Professions Code ("Code") unless otherwise		
27	indicated.		
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1		4.	Section 4300 of the Code states, in pertinent part:
2			(a) Every license issued may be suspended or revoked.
3			(b) The board shall discipline the holder of any license issued by the board,
4			whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
5			(1) Suspending judgment.
6			(2) Placing him or her upon probation.
7 8			(3) Suspending his or her right to practice for a period not exceeding one year.
° 9			(4) Revoking his or her license.
10			(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.
11		5.	Code section 4300.1 states:
12			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
13			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
14 15			or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.
16		6,	Section 4301 of the Code states, in pertinent part:
17			The board shall take action against any holder of a license who is guilty
18			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:
19 22			(h) The administering to oneself, of any controlled substance, or the use
20			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
21 22			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.
22		7.	Section 4327 of the Code states:
24			Any person who, wile on duty, sells, dispenses or compounds any drug
25			while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor.
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1	COST RECOVERY
2	8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3	administrative law judge to direct a licentiate found to have committed a violation or violations of
4	the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5	enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6	renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7	included in a stipulated settlement.
8	FACTUAL ALLEGATIONS
9	9. At all times alleged herein, Respondent was a Registered Pharmacist and employed in
10	her licensed capacity by Corcoran State Prison Hospital Pharmacy ("Corcoran Prison Pharmacy"),
11	a prison operated and administered by the California Department of Corrections and
12	Rehabilitation, located in Corcoran, California. The Corcoran Prison Pharmacy has both
13	compounding and dispensing operations.
14	10. On, or about October 19, 2015, November 23, 2015, and November 30, 2015,
15	Respondent reported to work under the influence of alcohol. Respondent's colleagues, M. C.
16	[male], A. J., and M. C. [female] observed that Respondent exhibited objective signs of being
17	under the influence of an alcoholic beverage that is, odor of alcohol on her breath, bloodshot eyes,
18	sleeping on the job, sleepiness, and flushed face.
19	11. On or about October 19, 2015, and November 30, 2015, Respondent's colleagues,
20	mentioned above, observed Respondents objective signs of being under the influence of an
21	alcoholic beverage while Respondent was performing the duties and functions of a licensed
22	pharmacist.
23	12. On or about November 23, 2015, B. M., Pharmacist-in-Charge, spoke with
24	Respondent and observed that Respondent's "overall demeanor was off." He believed that
25	Respondent might have shown some signs of impairment. Respondent admitted to B. M. that she
26	was having personal problems and took several days off, returning after the Thanksgiving
27	Holiday.
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1	13. On or about January 7, 2015, Respondent admitted to a Board inspector that she had
2	been having "issues" for the past year, that it was "mostly a weekend problem," and that she
3	sometimes would drink in the middle of the night. Respondent also admitted that she had had
4	"problems" on and off throughout the years. Respondent refused to disclose her "triggers."
5	FIRST CAUSE FOR DISCIPLINE
6	(Used Alcoholic Beverages to an Extent or Manner - Dangerous or Injurious
7	to Self or Others – Impaired Ability to Practice Safely)
8	14. Respondent is subject to disciplinary action under Code section 4300 on the grounds
9	of unprofessional conduct within the meaning of Code section 4301, subdivision (h), in that
10	Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to herself
11	or others and impaired her ability to practice safely as a licensed pharmacist, as set forth in
12	paragraphs 9 through 13, above, incorporated herein by reference.
13	SECOND CAUSE FOR DISCIPLINE
14	(Dispensed Drugs While Under the Influence of Alcohol)
15	14. Respondent is subject to disciplinary action under Code section 4300 on the grounds
16	of unprofessional conduct in conjunction with Code section 4327 in that Respondent performed
17	the duties and functions of a licensed pharmacist by dispensing drugs when she reported to work
18	at Corcoran Prison Pharmacy while under the influence of alcoholic beverages, as set forth in
19	paragraphs 9 through 13, above, incorporated herein by reference.
20	PRAYER
21	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22	and that following the hearing, the Board of Pharmacy issue a decision:
23	1. Revoking or suspending Pharmacist License Number RPH 40309 issued to Dana D.
24	Darling;
25	2. Ordering Dana D. Darling to pay the Board of Pharmacy the reasonable costs of the
26	investigation and enforcement of this case, pursuant to Business and Professions Code section
27	125.3; and,
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Taking such other and further action as deemed necessary and proper. 3. DATED: 10/10/16 VIRGINIA HEROLD **Executive Officer** Board of Pharmacy Department of Consumer Affairs ' State of California Complainant SA2016102892 12438927.doc ACCUSATION