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

11 In the Matter of the Accusation Against:

Case No. 5897

12 **DANA D. DARLING, RPH**
2669 Crystal Downs
13 Tulare, CA 93274

ACCUSATION

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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4. Section 4300 of the Code 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. Section 4301 of the Code 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.

7. Section 4327 of the Code states:

Any person who, while on duty, sells, dispenses or compounds any drug 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.

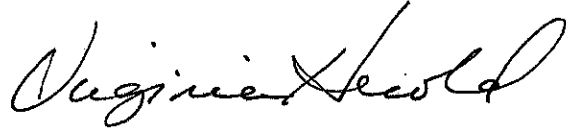
23 12. On or about November 23, 2015, B. M., Pharmacist-in-Charge, spoke with
24 Respondent and observed that Respondent's "overall demeanor was off." He believed that
25 Respondent might have shown some signs of impairment. Respondent admitted to B. M. that she
26 was having personal problems and took several days off, returning after the Thanksgiving
27 Holiday.

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

DATED: _____

10/10/16



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

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