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

11 In the Matter of the Accusation Against:
12 **LOUIS H. KRUGER**
13 8 Lazy S Lane
14 Chico, CA 95928
15 Original Pharmacist License No. RPH 21665
16 Respondent.

Case No. 5992

A C C U S A T I O N

17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about July 22, 1960, the Board of Pharmacy issued Original Pharmacist License
23 Number RPH 21665 to Louis H. Kruger (Respondent). The Original Pharmacist License was in
24 full force and effect at all times relevant to the charges brought herein and will expire on June 30,
25 2018, 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 118, subdivision (b), of the Code provides that the
6 suspension/expiration/surrender/cancellation of a license shall not deprive the Director of
7 jurisdiction to proceed with a disciplinary action during the period within which the license may be
8 renewed, restored, reissued or reinstated.

9 STATUTORY PROVISIONS

10 5. Section 4301 of the Code states:

11 The board shall take action against any holder of a license who is guilty of
12 unprofessional conduct or whose license has been issued by mistake. Unprofessional
conduct shall include, but is not limited to, any of the following:

13 (h) The administering to oneself, of any controlled substance, or the use of any
14 dangerous drug or of alcoholic beverages to the extent or in a manner as to be
15 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.

16 ...

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

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1 COST RECOVERY

2 6. 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 FIRST CAUSE FOR DISCIPLINE

9 (Criminal Conviction)

10 7. Respondent's License is subject to discipline under Code section 4301, subd. (I) in that
11 Respondent was convicted a crime that is substantially related to the qualifications, functions or
12 duties of a pharmacist:

13 a. On or about August 23, 2016, in the case of *People v. Luis Henry Kruger*, (Super. Ct.
14 Butte County, Case No. 16CM02602), Respondent was convicted by the Court on his plea of
15 contest to violating Vehicle Code section 23152(a), driving under the influence of alcohol, a
16 misdemeanor, and admitted to the enhancement pursuant to Vehicle Code section 23578 of driving
17 with a blood alcohol content of .15% or higher. The circumstances are as follows:

18 On or about January 7, 2016, the vehicle Respondent was driving drifted towards another
19 vehicle and nearly collided with the vehicle's driver side mirror. Respondent continued driving
20 and rear-ended a vehicle in which a school crossing guard was seated waiting for students to end
21 their classes. The impact pushed the vehicle forward 15-20 feet. Respondent continued driving
22 and struck a curb. Respondent then attempted to re-engage the transmission to drive away. Upon
23 officers' arrival, Respondent smelled of alcohol, admitted to officers that he had been drinking
24 vodka and had taken hydrocodone and that he felt "f---ed up!" Respondent submitted to a
25 chemical blood test which revealed a blood alcohol content of .28%.

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1 SECOND CAUSE FOR DISCIPLINE

2 (Dangerous Use of Alcohol)

3 8. Respondent is subject to disciplinary action under section 4301(h) in that Respondent
4 used alcoholic beverages to an extent and in a manner dangerous or injurious to himself or others,
5 and more fully set forth in paragraph 7 above.

6 PRAYER

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

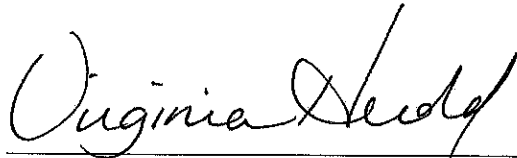
9 1. Revoking or suspending Original Pharmacist License Number RPH 21665, issued to
10 Louis H. Kruger;

11 2. Ordering Louis H. Kruger to pay the Board of Pharmacy the reasonable costs of the
12 investigation and enforcement of this case, pursuant to Business and Professions Code section
13 125.3; and,

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

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18 DATED: _____

2/13/17



19 VIRGINIA HEROLD
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

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