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

11 In the Matter of the Accusation Against:

Case No. 6186

12 **STEVEN ALDEN JAYNES**
13 **4004 W. Meadow Lane**
Visalia, CA 93277

A C C U S A T I O N

14 **Pharmacist License No. RPH 47516**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about August 11, 1994, the Board issued Pharmacist License Number RPH
22 47516 to Steven Alden Jaynes ("Respondent"). The Pharmacist License was in full force and
23 effect at all times relevant to the charges brought herein and will expire on December 31, 2017,
24 unless renewed.

25 **JURISDICTION**

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

...

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

5. Section 4300.1 of the Code 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 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.

...

(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.

1 (l) The conviction of a crime substantially related to the qualifications,
2 functions, and duties of a licensee under this chapter. The record of conviction of
3 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the
4 United States Code regulating controlled substances or of a violation of the
5 statutes of this state regulating controlled substances or dangerous drugs shall be
6 conclusive evidence of unprofessional conduct. In all other cases, the record of
7 conviction shall be conclusive evidence only of the fact that the conviction
8 occurred. The board may inquire into the circumstances surrounding the
9 commission of the crime, in order to fix the degree of discipline or, in the case of
10 a conviction not involving controlled substances or dangerous drugs, to determine
11 if the conviction is of an offense substantially related to the qualifications,
12 functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
13 a conviction following a plea of nolo contendere is deemed to be a conviction
14 within the meaning of this provision. The board may take action when the time
15 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
16 or when an order granting probation is made suspending the imposition of
17 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal
18 Code allowing the person to withdraw his or her plea of guilty and to enter a plea
19 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
20 information, or indictment.

11 ...
12 7. California Code of Regulations, title 16, section 1770, states:

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

17 COST RECOVERY

18 8. Code section 125.3 provides, in pertinent part, that the Board may request the
19 administrative law judge to direct a licentiate found to have committed a violation or violations of
20 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
21 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
22 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
23 included in a stipulated settlement.

24 FIRST CAUSE FOR DISCIPLINE

25 (Conviction of Crimes)

26 9. Respondent is subject to disciplinary action pursuant to Code sections 4300 and
27 4301(l) and (k) in that Respondent was convicted of the following crimes which are substantially
28 related to the qualifications, functions, and duties of a pharmacist:

1 a. On or about March 14, 2017, in the criminal proceeding entitled *People of the*
2 *State of California v. Steven Alden Jaynes*, Superior Court of the State of California, County of
3 Tulare, Case Number VCM347380, Respondent was convicted on his plea of nolo contendere of
4 the misdemeanor of violating Penal Code section 23152(b) (driving while having 0.08% or higher
5 blood alcohol), with a prior conviction for violation of Vehicle Code section 23152(b) (driving a
6 motor vehicle while having a 0.08% or higher blood alcohol level), and a special allegation of
7 Vehicle Code section 23578 (having a blood alcohol content of .15% or more). The facts and
8 circumstances are that on or about February 7, 2017, an officer with the California Highway
9 Patrol and an officer with the Visalia Police Department responded to a traffic collision to which
10 Respondent was a party. While making a right hand turn at a high rate of speed, drove into
11 another vehicle that was stopped at a red-light. The Visalia Police Department officer observed
12 that Respondent was having difficulty maintaining control of the items in his wallet, that he was
13 unstable while walking, had a strong odor of alcohol on him, had bloodshot and watery eyes, an
14 unsteady balance, and slurred speech. Respondent failed to perform field sobriety tests as
15 explained and demonstrated. Respondent's blood alcohol level was 0.18%, and 0.16%. As a
16 result of Respondent's conviction, Respondent was sentenced to 30 days in jail, four years
17 summary probation, ordered to wear an electronic home monitor, ordered to enroll in an SB38
18 (Multiple Offender DUI) program, and ordered to pay fines and fees.

19 b. On or about August 23, 2007, in the criminal proceeding entitled *People of the*
20 *State of California v. Steven Alden Jaynes*, Superior Court of California, County of San Luis
21 Obispo, Case Number M403123, Respondent was convicted of the misdemeanor of violating
22 Vehicle Code section 23152(b) (driving while having 0.08% or higher blood alcohol).

23 **SECOND CAUSE FOR DISCIPLINE**

24 (Multiple Convictions Involving Alcohol Consumption)

25 10. Respondent is subject to disciplinary action pursuant to Code sections 4300 and
26 4301(k) in that Respondent has more than one conviction of misdemeanors involving the use,
27 consumption, or self-administration of an alcoholic beverage, as set forth above in paragraph 9,
28 and its subparts.

1 **THIRD CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct)

3 11. Respondent is subject to disciplinary action pursuant to Code sections 4300 and
4 4301(h), in that, as described in paragraphs 9-10 above, Respondent administered to himself and
5 used alcoholic beverages to the extent or in a manner as to be dangerous or injurious to himself,
6 to any other person and to the public, and to the extent that the use impaired the ability of
7 Respondent to conduct with safety to the public the practice authorized by the license.

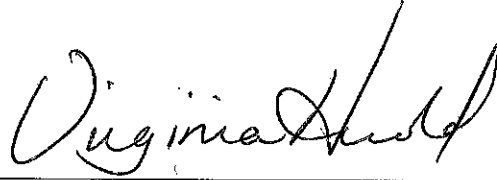
8 **PRAYER**

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

- 11 1. Revoking or suspending Pharmacist License Number RPH 47516, issued to Steven
12 Alden Jaynes
- 13 2. Ordering Steven Alden Jaynes to pay the Board of Pharmacy the reasonable costs of
14 the investigation and enforcement of this case, pursuant to Business and Professions Code section
15 125.3; and,
- 16 3. Taking such other and further action as deemed necessary and proper.

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18
19 DATED: _____

9/5/17



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

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