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

12
13 In the Matter of the Accusation Against:

Case No. 6201

14 **DIANA LEE TELAHUN**
1792 Garnet Avenue
15 San Diego, CA 92109

ACCUSATION

16 **Pharmacist License No. RPH 60385**

17 Respondent.
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19 Complainant alleges:

20 **PARTIES**

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

23 2. On or about November 15, 2007, the Board issued Pharmacist License Number RPH
24 60385 to Diana Lee Telahun, formerly known as Diana Y. Lee (Respondent). The Pharmacist
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on May 31, 2019, unless renewed.

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JURISDICTION

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3. This Accusation is brought before the Board under the authority of the following laws.

All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 4300, subdivision (a) of the Code states: "Every license issued may be suspended or revoked."

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:
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:

...

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

...

(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. . .

REGULATORY PROVISIONS

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

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

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1 **COSTS**

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. On the evening of May 4, 2017, Respondent called 911 and reported that her husband
10 was pointing a gun at her face, and that he was injuring her and her two children. Respondent's
11 report prompted a large response from the San Diego Police Department. Upon arrival at an
12 apartment complex, Respondent's husband (ET) flagged down officers. ET stated he and
13 Respondent had been arguing about alleged infidelity. When ET tried to leave their bedroom,
14 Respondent blocked the exit with her arms and hands. Respondent began shouting that ET was
15 hurting her, loud enough for the neighbors to think ET was battering Respondent. ET had to put
16 his hands on Respondent's shoulders to move her out of the way so he could leave. Respondent
17 ripped ET's t-shirt as he left. ET stated that Respondent had consumed almost a full bottle of
18 wine. ET was worried about the welfare of their two young children and returned to the
19 apartment. Because he was concerned about false claims of abuse, ET used his cellphone to
20 videotape Respondent calling 911. ET told officers that he did not want Respondent to be
21 arrested, and that he would not assist with prosecution.

22 10. A police officer interviewed Respondent. The officer observed that Respondent was
23 intoxicated, and emanating a strong odor of alcohol. Respondent stated that she and ET had been
24 having bad arguments over suspected infidelity, and ET wanted Respondent to move out of their
25 apartment. Respondent refused to leave because of their two children. Respondent admitted to
26 the officer that she exaggerated her police report. Her statement to the 911 operator that her
27 husband was pointing a gun at her face, and that he was injuring her and her two children was
28 false. Respondent told officers she knew that ET had a gun somewhere in the apartment, but he

1 never pointed it at her. Respondent also admitted she blocked ET to prevent him from leaving.
2 Respondent was arrested and charged with false imprisonment (Pen. Code, § 236), and filing a
3 false police report. The San Diego City Attorney subsequently rejected the case for prosecution.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Dangerous Use of Alcohol)**

6 11. Respondent is subject to disciplinary action under section 4301, subdivision (h) of the
7 Code for unprofessional conduct in that on or about May 4, 2017, Respondent used alcoholic
8 beverages to the extent or in a manner as to be dangerous or injurious to herself and others, as
9 described in paragraph 10, above.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Act Involving Dishonesty & Fraud)**

12 12. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the
13 Code for unprofessional conduct in that on or about May 4, 2017, Respondent called 911 and
14 knowingly made a fraudulent claim that her husband was pointing a gun at her face, and that he
15 was injuring her and her two children, as described in paragraph 10, above. Respondent's false
16 claim prompted a large response from the police department, which diverted law enforcement
17 resources away from actual emergencies.

18 **DISCIPLINARY CONSIDERATIONS**

19 13. To determine the degree of discipline, if any, to be imposed on Respondent,
20 Complainant alleges that on or about March 26, 2009, in a criminal proceeding entitled *People of*
21 *the State of California v. Diana Lee*, Respondent was convicted on her plea of guilty to violating
22 Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration of .08
23 percent or more, a misdemeanor. As a result of the conviction, the Board issued a Letter of
24 Admonishment to Respondent on May 20, 2010, alleging that the conviction was substantially
25 related to the qualifications, duties, and functions of a pharmacist (Bus. & Prof. Code, § 4301(l)),
26 and that she used alcohol to the extent or in a manner as to be dangerous to oneself or others (Bus.
27 & Prof. Code, § 4301(h)).

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1 14. To determine the degree of discipline, if any, to be imposed on Respondent,
2 Complainant alleges that on or about August 16, 2011, in a criminal proceeding entitled *People of*
3 *the State of California v. Diana Lee*, Respondent was convicted on her plea of guilty to violating
4 Vehicle Code section 23152, subdivision (b), driving with a blood alcohol concentration of .08
5 percent or more, a misdemeanor. As a result of the conviction, the Board issued Citation No. CI
6 2010 47996, an Order of Abatement, and required payment of an administrative fine of \$5,000.
7 Respondent complied with the citation.

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 60385, issued to Diana Lee
12 Telahun;
13 2. Ordering Diana Lee Telahun to pay the Board of Pharmacy the reasonable costs of the
14 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 DATED: 10/16/17



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

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