

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

In the Matter of the First Accusation Against:

**JOSE RAMON SARDINAS**

38 Village Circle  
Manhattan Beach, CA 90266

Pharmacist License No. RPH 27061

Respondent.

Case No. 3584

OAH No. 2010040966

**DECISION**

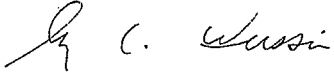
The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy as its Decision in the above-entitled matter.

This decision shall become effective on March 9, 2011.

It is so ORDERED February 7, 2011.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

  
\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

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

In the Matter of the Accusation Against:	Case No. 3584
JOSE RAMON SARDINAS	OAH No. 2010040966
Pharmacy License No. RPH 27061	
Respondent.	

**PROPOSED DECISION**

This matter was heard by Humberto Flores, Administrative Law Judge, Office of Administrative Hearings, on September 9, 2010, in Los Angeles, California.

Deputy Attorney General Susan Melton Wilson represented complainant. Robert Courtney, Attorney at Law, represented respondent.

Evidence was received and the record was left open to allow complainant to submit an amended accusation. Complainant's First Amended Accusation was received on September 16, 2010, and was made part of exhibit 1. Respondent's counsel did not file a response to the First Amended Accusation. The matter was deemed submitted on September 26, 2010.

**FACTUAL FINDINGS**

1. Virginia Herold made and filed the Accusation and First Amended Accusation in her official capacity as Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, State of California.

2. On November 19, 1970, the Board of Pharmacy issued Pharmacist's Number RPH 27061 to Jose Ramon Sardinas (respondent). Respondent's pharmacist's license is in full force and effect.

3. On August 22, 2000, in the Superior Court of California, County of Los Angeles, (Case No. OIW03809), respondent was convicted on his plea of nolo contendere to one count charging a violation of Penal Code section 240, misdemeanor assault. Upon accepting respondent's plea, the court found respondent guilty of the charged offense.

4. Imposition of sentence was suspended and respondent was placed on summary probation for a period of three years on certain terms and conditions including conditions ordering respondent to pay fines and fees totaling \$1080 and to complete 10 anger management counseling sessions.

5. The facts and circumstances of the offense were that respondent confronted a customer with a weapon after an altercation with this customer regarding the cost of certain prescription drugs. The customer started using profanity and would not leave the pharmacy after being requested to leave by respondent. Respondent then went to the back of the pharmacy and returned with a handgun and pointed it at the customer. The customer called 911. The responding police officers searched the pharmacy and found two loaded handguns in the back of the pharmacy.

6. Respondent testified that the customer entered the pharmacy with three others who provided respondent with prescriptions for Valium, Codeine and Vicodin. The prescriptions were written by a physician whose name respondent did not recognize. Respondent believed that the prescriptions might not be legitimate. Rather than simply refusing to fill them, he inflated the price. An argument ensued between the victim and respondent, which escalated. Respondent told the victim to leave. The victim refused and began using profanity. Respondent then stated that he pulled out a handgun but did not point the handgun at the customer. He merely held the handgun in plain view and told the customer to leave. Even if one accepts respondent's version of the incident, it is nevertheless troubling because he displayed the handgun in the threatening manner in order to intimidate the victim. Even if the victim used profanity while complaining about the price of the drugs, respondent's decision to brandish a handgun was an overreaction that could have escalated the incident with tragic consequences. Based on the underlying facts, the conviction is substantially related to the duties, functions and qualifications of a pharmacist because it occurred in the performance of his duties as a pharmacist and it evidences a potential unfitness to perform his duties in a manner consistent with the public health, safety or welfare.

7. On October 16, 2008, in the Superior Court of California, County of Los Angeles, (Case No. SA068932), respondent was convicted on his plea of nolo contendere to one count charging a violation of Penal Code section 12031, subdivision (a), carrying a loaded firearm (unregistered), a felony that is substantially related to the duties, functions and qualifications of a pharmacist. Upon accepting respondent's plea, the court found respondent guilty of the charged offense. On September 8, 2010, the court issued an order nunc pro tunc wherein count 2 of the felony complaint was deemed a misdemeanor pursuant to Penal Code section 17, subdivision (b). The court then ordered that the plea and finding of guilt be set aside and vacated, a plea of not guilty entered, and the complaint dismissed pursuant to Penal Code section 1203.4.

8. Imposition of sentence was suspended and respondent was placed on formal probation for a period of three years on certain terms and conditions including conditions ordering respondent to pay fines and fees totaling \$220, and to complete 15 anger management counseling sessions.

9. The facts and circumstances underlying the conviction started with an argument between respondent and the victim who was an employee of a business next door to respondent's pharmacy. The victim had illegally parked his car in the parking lot in a manner that blocked respondent's car. Respondent told the victim to move his vehicle. Instead of moving his car immediately, the victim went back into his employer's business to complete an errand. Respondent waited for the victim to return and the two men argued. Respondent went back to the pharmacy to obtain a weapon, which he pointed at the victim. While pointing gun at the victim, respondent told the victim, "I'm going to kill you, you son-of-bitch." The victim then called 911 and the responding police officer conducted a search of respondent's pharmacy and his car. The police officers retrieved three handguns from respondent's vehicle and one handgun inside the pharmacy. All of the handguns were loaded. Based on the underlying facts, the conviction is substantially related to the duties, functions and qualifications of a pharmacist because it evidences a potential unfitness to perform his duties in a manner consistent with the public health, safety or welfare.

10. Respondent testified he was ready to go home when he noticed that the victim had parked his car in manner that prevented respondent from leaving. He told the victim to move his car and when the victim refused to do so an argument ensued. Respondent testified that the victim "became ballistic" so he went back to the pharmacy and the victim followed him. Respondent claimed that he did not point a weapon at the victim, but only closed the pharmacy door in the victim's face. Respondent's testimony was not persuasive. He clearly lost his temper and displayed a loaded handgun in a threatening manner.

11. Complainant submitted certification of costs of investigation totaling \$7,347. This amount is deemed reasonable under Business and Professions Code section 125.3.

12. Respondent has been a pharmacist for 40 years with no previous discipline. He fills about 150 to 200 prescriptions a day. Respondent submitted a number of reference letters attesting to respondent's integrity, professionalism and community leadership.

13. Respondent's pharmacy is located in a high crime neighborhood. He testified that he always had a loaded handgun on the premises for self-defense and to discourage would-be robbers. Respondent testified credibly that there have been two attempted robberies at his pharmacy.

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## LEGAL CONCLUSIONS

1. Grounds exist to suspend or revoke respondent's pharmacist's license for unprofessional conduct pursuant to Business and Professions Code sections 490, 4300 and 4301, subdivisions (j), (l) and (o), based on respondent's convictions and the underlying circumstances set forth in Factual Findings 3 through 10.

2. Grounds exist to suspend or revoke respondent's pharmacist's license for unprofessional conduct pursuant to Business and Professions Code sections 4300, subdivision (a) and 4301, subdivisions (f), based on respondent's conduct involving moral turpitude, set forth in Factual Findings 3 through 10.

3. The Board has the responsibility to protect the public. In discharging this responsibility, the Board has promulgated guidelines which set forth factors to be considered in determining whether the minimum, maximum, or an intermediate penalty is to be imposed in a given case as follows:

1. *Actual or potential harm to the public* – Here, respondent's actions created a potential harm to the public.
2. *Actual or potential harm to any consumer* – Respondent's conduct underlying his assault conviction created a potential harm to a consumer.
3. *Prior disciplinary record, including level of compliance with disciplinary order(s)* – Respondent has no prior discipline.
4. *Prior warning(s), including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s)* – Respondent has not received any prior warnings, citations or fines from the Board
5. *Number and/or variety of current violations* – Respondent committed two violations which are the basis for First Amended Accusation, although one of the violations is ten years old.
6. *Nature and severity of the act(s), offense(s) or crime(s) under consideration* – Respondent's misconduct was serious with the potential for tragic consequences.
7. *Aggravating evidence* – There was no aggravating evidence in this case because respondent simply lost his temper and reacted on the spur of the moment.
8. *Mitigating evidence* – Respondent's pharmacy is located in a high crime area. In fact, he has been the victim of two attempted robberies. Further, respondent is wary of

people presenting fraudulent or illegitimate prescriptions. While not an excuse for his misconduct, these facts establish a certain amount of mitigation for respondent's 2000 assault conviction.

9. *Rehabilitation evidence* – Respondent completed 15 anger management counseling sessions as ordered by the criminal court. However, during the hearing, respondent attempted to minimize his misconduct.
10. *Compliance with terms of any criminal sentence, parole, or probation* – Respondent has completed all terms and conditions of probation for both convictions.
11. *Overall criminal record* – The two convictions that are the subject of these proceedings represent the entirety of respondent's criminal record.
12. *If applicable, evidence of proceedings for case being set aside and dismissed pursuant to Section 1203.4 of the Penal Code* – Respondent's 2008 conviction for possessing a loaded handgun was set aside and the initial criminal complaint was dismissed pursuant to Penal Code section 1203.4.
13. *Time passed since the act(s) or offense(s)* – Respondent's first conviction is ten years old, while his second conviction is only two years old.
14. *Whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct* – While respondent had the intent to brandish the handguns, he did so in a moment of anger. They were not premeditated acts.
15. *Financial benefit to the respondent from the misconduct* – Respondent received no financial benefit from his misconduct.

4. In its guidelines, the Board has established four categories of misconduct. Each category has a range of recommended discipline. A category I violation is relatively minor offense with a minimum penalty of one year probation. A category IV violation is considered the most serious offense, which should result in revocation of a license. Respondent's convictions are considered category II offenses because they did not involve dangerous drugs or controlled substances, but they presented a serious potential for harm. In consideration of all of the facts and circumstances of this case, the public would be adequately protected by placing respondent on probation with strict conditions including a 30-day suspension, and a mental health examination which should be performed during the suspension period.

5. Grounds exist to order respondent to pay the Board \$7,347, under Business and Professions Code section 125.3, for reasonable costs of investigation and prosecution of this matter, based on Factual Finding 11.

## **ORDER**

Pharmacist's License No RPH 27061 issued to respondent Jose Ramon Sardinas is revoked; however, the revocation is stayed and respondent is placed on probation for three years upon the following terms and conditions:

### **1. Suspension**

As part of probation, respondent is suspended from the practice of pharmacy for 30 days beginning the effective date of this decision.

During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a designated representative for any entity licensed by the board.

Subject to the above restrictions, respondent may continue to own or hold an interest in any licensed premises in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

Failure to comply with this suspension shall be considered a violation of probation.

### **2. Mental Health Examination**

Within thirty (30) days of the effective date of this decision, and on a periodic basis as may be required by the board or its designee, respondent shall undergo, at his or her own expense, psychiatric or psychological evaluation by a board-appointed or board-approved licensed mental health practitioner. The approved evaluator shall be provided with a copy of the

board's First Amended Accusation and decision. Respondent shall sign a release authorizing the evaluator to furnish the board with a current diagnosis and a written report regarding the respondent's judgment and ability to function independently as a pharmacist with safety to the public. Respondent shall comply with all the recommendations of the evaluator if directed by the board or its designee.

If the evaluator recommends, and the board or its designee directs, respondent shall undergo psychotherapy. Within thirty (30) days of notification by the board that a recommendation for psychotherapy has been accepted, respondent shall submit to the board or its designee, for prior approval, the name and qualification of a licensed mental health practitioner of respondent's choice. Within thirty (30) days of approval thereof by the board, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved licensed mental health practitioner. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment therewith, submit the name of a replacement licensed mental health practitioner of respondent's choice to the board for its prior approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to the board demonstrating the commencement of psychotherapy with the approved replacement. Failure to comply with any requirement or deadline stated by this paragraph shall be considered a violation of probation.

Upon approval of the initial or any subsequent licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist, at respondent's own expense, until the therapist recommends in writing to the board, and the board or its designee agrees by way of a written notification to respondent, that no further psychotherapy is necessary. Upon receipt of such recommendation from the treating therapist, and before determining whether to accept or reject said recommendation, the board or its designee may require respondent to undergo, at respondent's expense, a mental health evaluation by a separate board-appointed or board-approved evaluator. If the approved evaluator recommends that respondent continue psychotherapy, the board or its designee may require respondent to continue psychotherapy.

Psychotherapy shall be at least once a week unless otherwise approved by the board. Respondent shall provide the therapist with a copy of the board's [accusation or petition to revoke probation] and decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the board concerning respondent's fitness to practice, progress in treatment, and other such information as may be required by the board or its designee.



If at any time the approved evaluator or therapist determines that respondent is unable to practice safely or independently as a pharmacist, the licensed mental health practitioner shall notify the board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the board that practice may be resumed.

### **3. Obey All Laws**

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's pharmacist's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

### **4. Report to the Board**

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

### **5. Interview with the Board**

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its

designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

#### **6. Cooperate with Board Staff**

Respondent shall cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his or her probation. Failure to cooperate shall be considered a violation of probation.

#### **7. Continuing Education**

Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the board or its designee.

#### **8. Notice to Employers**

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 3584 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his or her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 3584, and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify his or her direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions of the decision in case number 3584 in advance of the respondent commencing work at each licensed entity. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his or her direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he or she has read the decision in case number 3584 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgments to the board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

#### **9. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as Designated Representative-in-Charge, or Serving as a Consultant**

During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board nor serve as a consultant unless otherwise specified in this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

#### **10. Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, respondent shall pay to the board its costs of investigation and prosecution in the amount of \$7,347. Respondent shall make said payments as directed by the Board or its designated representative.

There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve respondent of his or her responsibility to reimburse the board its costs of investigation and prosecution.

#### **11. Probation Monitoring Costs**

Respondent shall pay any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

#### **12. Status of License**

Respondent shall, at all times while on probation, maintain an active, current license with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

### **13. License Surrender While on Probation/Suspension**

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his or her license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish his or her pocket and wall license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

### **14. Notification of a Change in Name, Residence Address, Mailing Address or Employment**

Respondent shall notify the board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule if known. Respondent shall further notify the board in writing within ten (10) days of a change in name, residence address, mailing address, or phone number. Failure to timely notify the board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

### **15. Tolling of Probation**

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 100 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Should respondent, regardless of residency, for any reason (including vacation) cease practicing as a pharmacist for a minimum of 100 hours per calendar month in California, respondent must notify the board in writing within ten (10) days of the cessation of practice, and must further notify the board in writing within ten (10) days of the resumption of practice. Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding thirty-six (36) months.

"Cessation of practice" means any calendar month during which respondent is not practicing as a pharmacist for at least 100 hours, as defined by Business and Professions Code section 4000 et seq . "Resumption of practice" means any calendar month during which respondent is practicing as a pharmacist for at least 100 hours as a pharmacist as defined by Business and Professions Code section 4000 et seq.

#### **16. Violation of Probation**

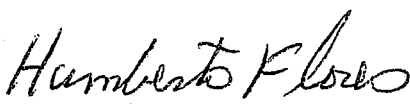
If a respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

#### **17. Completion of Probation**

Upon written notice by the board or its designee indicating successful completion of probation, respondent's license will be fully restored.

DATED: November 17, 2010

  
HUMBERTO FLORES  
Administrative Law Judge  
Office of Administrative Hearings

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
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Telephone: (213) 897-4942  
6 Facsimile: (213) 897-2804

7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against: Case No. 3584

12 **JOSE RAMON SARDINAS**  
38 Village Circle  
13 Manhattan Beach, CA 90266

**ACCUSATION**

14 Original Pharmacist License No. RPH 27061  
Respondent.  
15

16 Complainant allèges:

17 **PARTIES**

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

21 2. On or about November 19, 1970, the Board of Pharmacy issued Original  
22 Pharmacist License Number RPH 27061 to JOSE RAMON SARDINAS. The License was in  
23 full force and effect at all times relevant to the charges brought herein and will expire on May  
24 31, 2010 unless renewed.

25 **JURISDICTION**

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

1           4.     Section 4300 permits the Board to take disciplinary action to suspend or  
2 revoke a license issued by the Board.

3           5.     Section 4301 states, in pertinent part:

4           “The board shall take action against any holder of a license who is guilty of  
5 unprofessional conduct or whose license has been procured by fraud or misrepresentation or  
6 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the  
7 following:

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

11                   ....

12                   “(l) The conviction of a crime substantially related to the qualifications, functions,  
13 and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
14 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
15 substances or of a violation of the statutes of this state regulating controlled substances or  
16 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
17 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
18 The board may inquire into the circumstances surrounding the commission of the crime, in order  
19 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
20 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
21 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty  
22 or a conviction following a plea of nolo contendere is deemed to be a conviction within the  
23 meaning of this provision. The board may take action when the time for appeal has elapsed, or  
24 the judgment of conviction has been affirmed on appeal or when an order granting probation is  
25 made suspending the imposition of sentence, irrespective of a subsequent order under Section  
26 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a  
27 plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information,  
28 or indictment.

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“(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

....

“(p) Actions or conduct that would have warranted the denial of a license.”

6. Section 118, subdivision (b) states:

“The suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.”

7. Section 475 states, in pertinent part:

“(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

....

“(2) Conviction of a crime . . . “

”(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

“(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the 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, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.



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“(3)

“(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license . . . .

8. Section 480 states:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the 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, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.”

....

9. Section 490 states:

“A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has

1 been affirmed on appeal, or when an order granting probation is made suspending the imposition  
2 of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the  
3 Penal Code."

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

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

11 11. Business and Professions Code section 125.3, subdivision (a), states, in  
12 pertinent part: "Except as otherwise provided by law, in any order issued in resolution of a  
13 disciplinary proceeding before any board within the department . . . the board may request the  
14 administrative law judge to direct a licentiate found to have committed a violation or violations  
15 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
16 enforcement of the case."

17 **FIRST CAUSE FOR DISCIPLINE**

18 (Conviction of Substantially Related Crimes)

19 12. Respondent is subject to disciplinary action under sections 4300 and  
20 4301, subdivisions (j), (l), and (o), in conjunction with section 490 and California Code of  
21 Regulations, title 16, section 1770 for unprofessional conduct, in that Respondent has been twice  
22 convicted of a crimes substantially related to the qualifications, functions or duties of a  
23 pharmacist as follows:

24 **ASSAULT (2000 MISDEMEANOR)**

25 A. On or about August 22, 2000, Respondent was convicted on his plea of  
26 nolo contendere, of violating Penal Code section 240, a misdemeanor, pursuant to a plea  
27 agreement, in the Superior Court of the State of California, County of Los Angeles (Inglewood  
28 Courthouse), Case No. OIW03809, entitled *The People of the State of California v. Jose Ramon*

1 *Sardinas*. Imposition of sentence was suspended, and Respondent placed on probation for three  
2 (3) years, ordered to pay enumerated fines, and take Anger Management Training. The probation  
3 order included a provision prohibiting Respondent from "threaten(ing) anyone," and that he "not  
4 possess any dangerous or deadly weapon."

5 B. The circumstances are that on May 3, 2000 at approximately 3:25 PM,  
6 Respondent was arrested by Hawthorne Police Department officers at **Plaza Pharmacy** where  
7 Respondent was employed as a pharmacist, after receiving a 911 call from customer R.H.,  
8 complaining that Respondent had pointed a 9MM semi-automatic handgun at R.H.'s head in a  
9 threatening manner.

10 R.H. (age 47) had entered the store with two others, and inquired about filling a  
11 prescription. Respondent quoted a price for the prescription, which R.H. claimed was too high.  
12 R.H. continued to complain about the price to Respondent, who became irate and demanded he  
13 leave the store. R.H. did not leave, but sat in a chair near the front entrance of the pharmacy, as  
14 he continued to complain in a profane manner to his companions about the high price of the  
15 medication. Respondent went to the back of the store and returned with a handgun. Respondent  
16 pointed the gun into R.H.'s face, and told him to shut up and leave the store. Respondent clicked  
17 the safety off of the gun and continued to exhibit the firearm as R.H. left the pharmacy. Officers  
18 retrieved the 9MM semi-automatic handgun and a second handgun, both loaded, from a back  
19 counter in the pharmacy.

20 **CARRYING LOADED, UNREGISTERED FIREARM (2008 FELONY)**

21 C. On or about October 16, 2008, Respondent was convicted on a plea of  
22 nolo contendere, to one felony count of violating Penal Code section 12031(a)(1) (Carrying a  
23 Loaded Firearm, Not Registered ), pursuant to a plea agreement, in the Superior Court of the  
24 State of California, County of Los Angeles, Case No. SA068932, entitled *The People of the State*  
25 *of California v. Jose Ramon Sardinas*. Imposition of sentence (1 day in jail) was suspended, and  
26 Respondent placed on formal probation for three (3) years, ordered to pay enumerated fines, and  
27 take Anger Management Training. The probation order included a provision requiring that  
28 Respondent not "own, use or possess any dangerous or deadly weapons, including firearms."

1 D. The circumstances are that on August 15, 2008 at approximately 5:40 PM,  
2 Hawthorne Police Department officers arrived at the parking area for **Plaza Pharmacy** where  
3 Respondent was employed as a pharmacist, due to a 911 call from J.B. that Respondent had  
4 pointed a gun at him and threatened him in Spanish, stating: "Te voy a matar Hijo de Puta  
5 (translation: I'm going to kill you, you Son of a Bitch)."

6 The incident began when Respondent observed J.B. (an employee of a business  
7 adjacent to the pharmacy) illegally park his car in a manner that blocked other vehicles.  
8 Respondent yelled to J.B. to move the car. J.B. did not - instead completing a brief errand. When  
9 J.B. returned to the car, Respondent was waiting for him, and the two men argued. Respondent  
10 left to go into the pharmacy, then re-emerged carrying a black handgun, which he pointed at J.B.,  
11 and threatened to kill him. J.B. fled to his office and called 911. Officers responding to J.B.'s  
12 call found Respondent (apparently blocked by J.B.'s vehicle from leaving) sitting in his car in  
13 the parking area. Officers recovered the black handgun from Respondent, and found a second  
14 handgun ( a Colt 357. revolver) inside the pharmacy. Both guns were loaded and unregistered.  
15 Search of the trunk of Respondent's car yielded three additional unloaded and unregistered.  
16 firearms (2 revolvers and a Browning 9 mm semi-automatic handgun).

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Acts Involving Moral Turpitude, Dishonesty, Fraud or Deceit)

19 13. Respondent is subject to disciplinary action under sections 4300,  
20 subdivision (a), and 4301, subdivision (f), on the grounds of unprofessional conduct, as follows:

21 A. On or about August 15, 2008, Respondent committed acts involving moral  
22 turpitude, dishonesty, fraud, deceit, or corruption by acts underlying and resulting in his  
23 conviction for carrying a loaded firearm on October 16, 2008, as more fully set forth in  
24 paragraph 12 above.

25 B. On or about May 3, 2000 Respondent committed acts involving moral  
26 turpitude, dishonesty, fraud, deceit, or corruption by acts underlying and resulting in his  
27 conviction for assault on August 22, 2000, as more fully set forth in paragraph 12 above.

28 ////

1 THIRD CAUSE FOR DISCIPLINE

2 (Conduct Warranting Denial of Licensure)

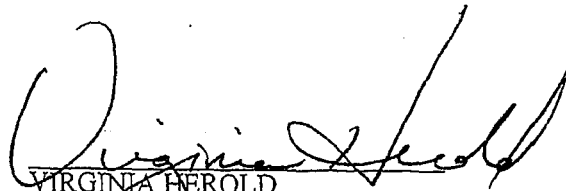
3 14. Respondent is subject to disciplinary action under section 4300,  
4 subdivision (a), and 4301, subdivision (p), on the grounds of unprofessional conduct, in that  
5 Respondent committed acts or conduct which would have warranted denial of a licensure under  
6 sections 475, subdivision (a)(2), and 480, subdivisions (a)(1) by obtaining two criminal  
7 convictions, as more fully set forth in paragraph 12, above.

8 PRAYER

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

- 11 1. Revoking or suspending Original Pharmacist License Number RPH27061,  
12 issued to JOSE RAMON SARDINAS;
- 13 2. Ordering JOSE RAMON SARDINAS to pay the Board of Pharmacy the  
14 reasonable costs of investigation and enforcement of this case, pursuant to Business and  
15 Professions Code section 125.3;
- 16 3. Taking such other and further action as deemed necessary and proper.

17 DATED: 2/10/10

18 

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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