

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

In the Matter of the Accusation Against:

Case No. 4124

**DIVINA GRACIA RENA DINULOS  
3 Captain Lane  
Redwood Shores, CA 94065**

**Pharmacist License No. RPH 59466**

Respondent.

**DECISION AND ORDER**

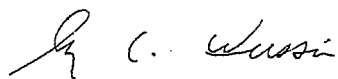
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on June 7, 2012.

It is so ORDERED on May 8, 2012.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

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

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM  
Deputy Attorney General  
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*Attorneys for Complainant*

7  
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9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 4124

11 **DIVINA GRACIA RENA DINULOS**  
12 **3 Captain Lane**  
13 **Redwood Shores, CA 94065**

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

14 **Pharmacist License No. RPH 59466**

15 Respondent.

16  
17 In the interest of a prompt and speedy settlement of this matter, consistent with the public  
18 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,  
19 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will  
20 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

21 PARTIES

22 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought  
23 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,  
24 Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

25 2. Divina Gracia Rena Dinulos (Respondent) is represented in this proceeding by  
26 attorney Edward A. Hinshaw, whose address is: Hinshaw, Marsh, Still & Hinshaw, 12901  
27 Saratoga Avenue, Saratoga, CA 95070-9998.

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**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Pharmacist License No. RPH 59466, issued to Divina Gracia Rena Dinulos (Respondent), is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

**1. Suspension**

As part of probation, Respondent is suspended from the practice of pharmacy for ninety (90) days beginning on 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 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 controlled substances. Respondent shall not resume practice until notified by the board.

During suspension, 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.

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

**2. Tolling of Suspension**

During the period of suspension, Respondent shall not leave California for any period exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess of ten (10) days during suspension shall be considered a violation of probation.

Moreover, any absence from California during the period of suspension exceeding ten (10) days shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days Respondent is absent from California. During any such period of tolling of suspension, Respondent must nonetheless comply with all terms and conditions of probation.

1 Respondent must notify the board in writing within ten (10) days of departure, and must  
2 further notify the board in writing within ten (10) days of return. The failure to provide such  
3 notification(s) shall constitute a violation of probation. Upon such departure and return,  
4 Respondent shall not resume the practice of pharmacy until notified by the board that the period  
5 of suspension has been satisfactorily completed.

6 **3. Obey All Laws**

7 Respondent shall obey all state and federal laws and regulations.

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

- 10 • an arrest or issuance of a criminal complaint for violation of any provision of the  
11 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
substances laws
- 12 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
13 criminal complaint, information or indictment
- 14 • a conviction of any crime
- 15 • discipline, citation, or other administrative action filed by any state or federal agency  
16 which involves Respondent's pharmacist 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.

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

18 **4. Interview with the Board**

19 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews  
20 with the board or its designee, at such intervals and locations as are determined by the board or its  
21 designee. Failure to appear for any scheduled interview without prior notification to board staff,  
22 or failure to appear for two (2) or more scheduled interviews with the board or its designee during  
23 the period of probation, shall be considered a violation of probation.

24 **5. Cooperate with Board Staff**

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

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1           **6. Report to the Board**

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

10           **7. Continuing Education**

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

13           **8. Status of License**

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

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

21           **9. Notification of Change in Employment, Name, Address(es), or Phone(s)**

22           Respondent shall notify the board in writing within ten (10) days of any change of  
23           employment. Said notification shall include the reasons for leaving, the address of the new  
24           employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
25           shall further notify the board in writing within ten (10) days of a change in name, residence  
26           address, mailing address, or phone number.

27           Failure to timely notify the board of any change in employer(s), name(s), address(es), or  
28           phone number(s) shall be considered a violation of probation.

1           **10. Employment Requirement: Tolling of Probation**

2           Except during periods of suspension, Respondent shall, at all times while on probation, be  
3 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.  
4 Any month during which this minimum is not met shall toll the period of probation, i.e., the  
5 period of probation shall be extended by one month for each month during which this minimum is  
6 not met. During any such period of tolling of probation, Respondent must nonetheless comply  
7 with all terms and conditions of probation.

8           Should Respondent, regardless of residency, for any reason (including vacation) cease  
9 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,  
10 Respondent must notify the board in writing within ten (10) days of the cessation of practice, and  
11 must further notify the board in writing within ten (10) days of the resumption of practice. Any  
12 failure to provide such notification(s) shall be considered a violation of probation.

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

16           "Cessation of practice" means any calendar month during which Respondent is  
17 not practicing as a pharmacist as defined by Business and Professions Code section  
18 4000 et seq. for at least forty (40) hours. "Resumption of practice" means any  
19 calendar month during which Respondent is practicing as a pharmacist as defined by  
20 Business and Professions Code section 4000 et seq. for at least forty (40) hours.

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

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

27           **12. No Ownership of Licensed Premises**

28           Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
partnership, or corporation currently or hereinafter licensed by the board.



1 Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the  
2 board within ninety (90) days following the effective date of this decision and shall immediately  
3 thereafter provide written proof to the board. Failure to timely divest any legal or beneficial  
4 interest(s) or provide documentation thereof shall be considered a violation of probation.

5 **13. Notice to Employers**

6 During the period of probation, Respondent shall notify all present and prospective  
7 employers of the decision in case number 4124 and the terms, conditions and restrictions imposed  
8 on Respondent by the decision, as follows:

9 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
10 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,  
11 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's  
12 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
13 individual(s) has/have read the decision in case number 4124, and terms and conditions imposed  
14 thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or  
15 supervisor(s) submit timely acknowledgment(s) to the board.

16 If Respondent works for or is employed by or through a pharmacy employment service,  
17 Respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity  
18 licensed by the board of the terms and conditions of the decision in case number 4124 in advance  
19 of the Respondent commencing work at each licensed entity. A record of this notification must  
20 be provided to the board upon request.

21 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
22 (15) days of Respondent undertaking any employment by or through a pharmacy employment  
23 service, Respondent shall cause her direct supervisor with the pharmacy employment service to  
24 report to the board in writing acknowledging that she has read the decision in case number 4124  
25 and the terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure  
26 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

5 **14. Reimbursement of Board Costs**

6 As a condition precedent to successful completion of probation, Respondent shall pay to the  
7 board its costs of investigation and prosecution in the amount of \$6,942.50. Respondent shall be  
8 permitted to pay these costs in a payment plan approved by the Board or its designee, so long as  
9 full payment is made within fifty-four (54) months of the effective date of this decision. There is  
10 to be no deviation from this schedule absent prior written approval by the Board or its designee.  
11 Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

12 The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility  
13 to reimburse the board its costs of investigation and prosecution.

14 **15. Probation Monitoring Costs**

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

19 **16. Ethics Course**

20 Within sixty (60) calendar days of the effective date of this decision, Respondent shall, at  
21 her own expense, enroll in a course in ethics approved in advance by the board or its designee.

22 Failure to initiate the course during the first year of probation, and complete it within the  
23 second year of probation, shall be considered a violation of probation.

24 Respondent shall submit a certificate of completion to the board or its designee within five  
25 (5) days after completing the course.

26 **17. Community Services Program**

27 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the  
28 board or its designee, for prior approval, a community service program in which Respondent shall  
provide free health-care related services to a community or charitable facility or agency for at  
least one hundred (100) hours per year for all five (5) years of the probation (500 hours total).

1           Within thirty (30) days of board approval thereof, Respondent shall submit documentation  
2 to the board demonstrating commencement of the community service program. A record of this  
3 notification must be provided to the board upon request. Respondent shall report on progress  
4 with the community service program in the quarterly reports. Failure to timely submit,  
5 commence, or comply with the program shall be considered a violation of probation.

6           **18. Mental Health Examination**

7           Within thirty (30) days of the effective date of this decision, and on a periodic basis as may  
8 be required by the board or its designee, Respondent shall undergo, at her own expense,  
9 evaluation(s) by a board-appointed or board-approved licensed mental health practitioner. The  
10 approved evaluator shall be provided with a copy of the board's Accusation and decision.  
11 Respondent shall sign a release authorizing the evaluator to furnish the board with a current  
12 diagnosis and a written report regarding the Respondent's judgment and ability to function  
13 independently as a pharmacist with safety to the public. Respondent shall comply with all the  
14 recommendations of the evaluator if directed by the board or its designee.

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

1           Upon approval of the initial or any subsequent licensed mental health practitioner,  
2 Respondent shall undergo and continue treatment with that therapist, at Respondent's own  
3 expense, until the therapist recommends in writing to the board, and the board or its designee  
4 agrees by way of a written notification to Respondent, that no further psychotherapy is necessary.

5           Upon receipt of such recommendation from the therapist, and before determining whether  
6 to accept or reject the recommendation, the board or its designee may require Respondent to  
7 undergo, at Respondent's expense, a mental health evaluation by a separate board-appointed or  
8 board-approved evaluator. If the approved evaluator recommends that Respondent continue  
9 psychotherapy, the board or its designee may require Respondent to continue psychotherapy.

10           Psychotherapy shall be at least once a week unless otherwise approved by the board or its  
11 designee. Respondent shall provide the therapist with a copy of the board's Accusation and  
12 decision no later than the first therapy session. Respondent shall take all necessary steps to  
13 ensure that the treating therapist submits written quarterly reports to the board concerning  
14 Respondent's fitness to practice, progress in treatment, and other such information as may be  
15 required or later specified by the board or its designee.

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

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

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

5 Failure to comply with any such suspension shall be considered a violation of probation.

6 **19. License Surrender While on Probation/Suspension**

7 Following the effective date of this decision, including during the period of suspension,  
8 should Respondent cease practice due to retirement or health, or be otherwise unable to satisfy the  
9 terms and conditions of probation, Respondent may tender her license to the board for surrender.  
10 The board or its designee shall have the discretion whether to grant the request for surrender or  
11 take any other action it deems appropriate and reasonable.

12 Upon formal acceptance of the surrender of the license, Respondent will no longer be  
13 subject to the terms and conditions of probation. This surrender constitutes a record of discipline  
14 and shall become a part of the Respondent's license history with the board.

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

20 **20. Violation of Probation**

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

26 If Respondent violates probation in any respect, the board, after giving Respondent notice  
27 and an opportunity to be heard, may revoke probation and carry out the order that was stayed.

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1 If a petition to revoke probation or an accusation is filed against Respondent during  
2 probation, the board shall have continuing jurisdiction and the period of probation shall be  
3 automatically extended until the petition to revoke probation or accusation is heard and decided.

4 **21. Completion of Probation**

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

7  
8 ACCEPTANCE

9 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
10 discussed it with my attorney, Edward A. Hinshaw. I understand the stipulation and the effect it  
11 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary  
12 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order  
13 of the Board of Pharmacy.

14  
15 DATED: 3-27-2012   
16 DIVINA GRACIA RENA DINULOS  
17 Respondent

18 I have read and fully discussed with Respondent Divina Gracia Rena Dinulos the terms and  
19 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.  
20 I approve its form and content.

21 DATED: 3-28-2012   
22 EDWARD A. HINSHAW  
23 Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 4/11/2012

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General



JOSHUA A. ROOM  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 4124**



1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 JOSHUA A. ROOM  
Deputy Attorney General  
4 State Bar No. 214663  
455 Golden Gate Avenue, Suite 11000  
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6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*

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13 **Redwood Shores, CA 94065**

**A C C U S A T I O N**

14 **Pharmacist License No. RPH 59466**

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, Department of Consumer Affairs.

20 2. On or about April 10, 2007, the Board of Pharmacy issued Pharmacist License  
21 Number RPH 59466 to Divina Gracia Rena Dinulos (Respondent). The Pharmacist License was  
22 in full force and effect at all times relevant to the charges brought herein and will expire on  
23 September 30, 2012, unless renewed.

24  
25 JURISDICTION

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



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

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

8 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous  
9 drug or dangerous device except upon the prescription of an authorized prescriber.

10 10. Section 4324 of the Code, in pertinent part, makes it unlawful for any person to sign  
11 the name of another, or to falsely make, alter, forge, utter, publish, pass, or attempt to pass, as  
12 genuine, any prescription for any drug, or to possess any drugs secured by any such forgery.

13 11. Health and Safety Code section 11150 provides, in pertinent part, that no person other  
14 than an authorized prescriber shall write or issue a prescription.

15 12. Health and Safety Code section 11157 provides that no person shall issue a  
16 prescription that is false or fictitious in any respect.

17 13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
18 administrative law judge to direct a licentiate found to have committed a violation of the licensing  
19 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

20

21

### DANGEROUS DRUGS

22 14. Section 4022 of the Code states, in pertinent part:

23 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,  
24 except veterinary drugs that are labeled as such, and includes the following:

25 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without  
26 prescription,’ ‘Rx only,’ or words of similar import.

27

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1           “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
2 prescription or furnished pursuant to Section 4006.”

3           15.   **Omeprazole**, sold under brand names including **Prilosec**, is a dangerous drug as  
4 designated by Business and Professions Code section 4022. It is used for treating symptoms of  
5 gastroesophageal reflux disease (GERD), as well as other stomach conditions.

6           16.   **Atenolol**, sold under brand names including **Tenormin**, is a dangerous drug as  
7 designated by Business and Professions Code section 4022. It is used to treat hypertension.

8           17.   **Glimepiride**, sold under brand names including **Amaryl**, is a dangerous drug as  
9 designated by Business and Professions Code section 4022. It is used to treat type 2 diabetes.

10          18.   **Metformin**, sold under brand names including **Fortamet**, is a dangerous drug as  
11 designated by Business and Professions Code section 4022. It is used to treat type 2 diabetes.

12          19.   **Simvastatin**, sold under brand names including **Zocor**, is a dangerous drug as  
13 designated by Business and Professions Code section 4022. It is used to treat high cholesterol.

14          20.   **Oseltamivir**, sold under brand names including **Tamiflu**, is a dangerous drug as  
15 designated by Business and Professions Code section 4022. It is used to prevent/treat influenza.

16          21.   **Carvedilol**, sold under brand names including **Coreg**, is a dangerous drug as  
17 designated by Business and Professions Code section 4022. It is used to treat hypertension.

18          22.   **Amlodipine**, sold under brand names including **Norvasc**, is a dangerous drug as  
19 designated by Business and Professions Code section 4022. It is used to treat hypertension.

20          23.   **Clopidogrel**, sold under brand names including **Plavix**, is a dangerous drug as  
21 designated by Business and Professions Code section 4022. It is used to prevent blood clots.

22          24.   **Losartan**, sold under brand names including **Cozaar**, is a dangerous drug as  
23 designated by Business and Professions Code section 4022. It is used to treat hypertension.

24          25.   **Pioglitazone**, sold under brand names including **Actos**, is a dangerous drug as  
25 designated by Business and Professions Code section 4022. It is used to treat type 2 diabetes.

26          26.   **Azithromycin**, sold under brand names including **Zithromax**, is a dangerous drug as  
27 designated by Business and Professions Code section 4022. It is a macrolide antibiotic drug.

28           ///

FACTUAL BACKGROUND

1  
2       27. From an unknown date on or prior to October 24, 2008 until on or about November  
3 19, 2010, Respondent was employed as a pharmacist at a CVS (previously Longs) Pharmacy in  
4 San Mateo, CA (# 9554; PHY 49313), where she had access to both controlled substances and  
5 dangerous drugs. For at least part of that time, Respondent served as pharmacist-in-charge (PIC).

6       28. Between in or about April 2009 and in or about September 2010, Respondent used  
7 her access to divert, steal or fraudulently procure from her pharmacy employer, and/or fabricate  
8 prescriptions for, dangerous drugs including **omeprazole, atenolol, glimepiride, metformin,**  
9 **simvastatin, cavedilol, amlodipine, Tamiflu, Plavix, Cozaar, Actos, and/or azithromycin.**

10       29. The exact number of instances of diversion, theft, fraudulent procurement and/or false  
11 prescriptions by Respondent, and the full quantity of dangerous drugs taken, are not known, but  
12 investigation(s) conducted by CVS Pharmacy and by Board Inspector(s) revealed:

13           a. In or about November 2010, CVS Loss Prevention investigators followed up on  
14 a return transaction wherein Respondent processed her own return of a diaper product without the  
15 physical product being returned. The investigators reviewed Respondent's purchase history and  
16 noted several purchases/receipt by Respondent of prescription drugs in other persons' names.

17           b. When confronted, Respondent subsequently admitted to CVS investigators  
18 and/or to Board Inspectors that since approximately April 2009 she had created false CVS patient  
19 profiles and repeatedly created and filled fraudulent (unauthorized) prescriptions in the names of  
20 family members, including her brother, uncle, daughter, and husband, and in her own name.

21           c. Respondent did so by creating false patient profiles (with some information true  
22 and some fictitious), and by fabricating purported "call in" prescriptions from randomly-selected  
23 prescribers, which she entered into the CVS system and filled or caused to be filled.

24           d. Further investigation confirmed that Respondent had done at least the following  
25 between in or about April 2009 and in or about September 2010:

- 26           • created a fraudulent prescription for **omeprazole** for patient I.R. (Respondent's  
27 brother) and fraudulently furnished 90 dosage units of this drug to patient I.R.;

28       ///

- 1 • created seven (7) fraudulent prescriptions for patient B.N. (Respondent's uncle) and  
2 pursuant to those prescriptions fraudulently furnished 540 dosage units of **atenolol**, 180  
3 dosage units of **glimepiride**, 360 dosage units of **metformin**, 180 dosage units of  
4 **simvastatin**, 90 dosage units of **carvedilol**, and 90 dosage units of **amlodipine**;  
5 • created a further three (3) fraudulent prescriptions for patient B.N. for **Plavix**,  
6 **Cozaar**, and **Actos**, which prescriptions were never filled;  
7 • created a fraudulent prescription for **Tamiflu** for patient D.D. (Respondent's  
8 daughter) and fraudulently furnished 25 mls of this drug to patient D.D.;  
9 • created a fraudulent prescription for **Tamiflu** for patient H.D. (Respondent's  
10 husband) and fraudulently furnished 20 dosage units of this drug to patient H.D.; and  
11 • created a fraudulent prescription for **azithromycin** for herself and fraudulently  
12 furnished 6 dosage units of this drug to herself.
- 13 e. At least some of these prescriptions were billed to insurance.
- 14 f. At least some of the drugs furnished were mailed or otherwise transported by  
15 Respondent to Respondent's relative(s) in the Philippines.

16  
17 FIRST CAUSE FOR DISCIPLINE

18 (Act(s) Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

19 30. Respondent is subject to discipline under section 4301 (f) of the Code in that  
20 Respondent, as described in paragraphs 27 to 29 above, committed one or more acts involving  
21 moral turpitude, dishonesty, fraud, deceit, or corruption.

22  
23 SECOND CAUSE FOR DISCIPLINE

24 (Making or Signing False Documents(s))

25 31. Respondent is subject to discipline under section 4301 (g) of the Code in that  
26 Respondent, as described in paragraphs 27 to 29 above, made or signed document(s) falsely  
27 representing the existence or nonexistence of a state of facts.



1 DISCIPLINE CONSIDERATIONS

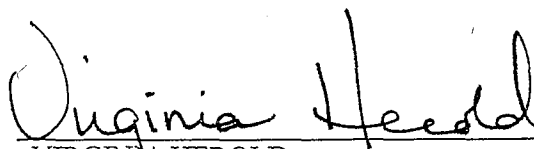
2 36. To determine the appropriate level of discipline, if any, to be imposed on Respondent,  
3 Complainant further alleges that on or about September 25, 2008, Citation No. CI 2008 37874  
4 was issued to Respondent and modified on or about April 16, 2009. As modified, Citation No. CI  
5 2008 37874 included a fine of \$3,250.00, and cited violations of California Code of Regulations,  
6 title 16, sections 1716 and 1707.2 based on a prescription dispensed with Cortisporin ear drops  
7 instead of Cortisporin eye drops as had been prescribed (deviation from prescription), and on  
8 Respondent's failure to conduct a patient consultation for the new prescription. That citation is  
9 now final and is incorporated by reference as if fully set forth herein.

10  
11 PRAYER

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

- 14 1. Revoking or suspending Pharmacist License Number RPH 59466, issued to Divina  
15 Gracia Rena Dinulos (Respondent);
- 16 2. Ordering Respondent to pay the Board the reasonable costs of the investigation and  
17 enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 18 3. Taking such other and further action as is deemed necessary and proper.

19  
20  
21 DATED: 11/16/11

  
22 VIRGINIA HEROLD  
23 Executive Officer  
24 Board of Pharmacy  
25 Department of Consumer Affairs  
26 State of California  
27 Complainant

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