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8	BEFORE THE		
9	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
10	STATE OF CALIFO	URNIA	
11	In the Matter of the Accusation Against:	Case No. 5432	
12	DANIEL AARON LOSSNER		
13	103 Margaret Lane Grass Valley, CA 95945	ACCUSATION	
14	Pharmacy Technician Registration No. TCH 88530		
15	Respondent.		
16			
17	Complainant alleges:		
18	<u>PARTIES</u>		
19	1. Virginia Herold ("Complainant") brings this Accusation solely in her official capacity		
20	as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.		
21	2. On or about January 7, 2009, the Board issued Pharmacy Technician Registration		
22	Number TCH 88530 to Daniel Aaron Lossner ("Respondent"). The pharmacy technician		
23	registration was in full force and effect at all times relevant to the charges brought herein and will		
24	expire on March 31, 2016, unless renewed.		
25	JURISDICTION		
26	3. This Accusation is brought before the Board	d under the authority of the following	
27	laws. All section references are to the Business and Professions Code unless otherwise indicated		
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STATUTORY PROVISIONS

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- Code section 4300 states, in pertinent part:
 - (a) Every license issued may be suspended or revoked.
- (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
 - (1) Suspending judgment.
 - (2) Placing him or her upon probation.
- (3) Suspending his or her right to practice for a period not exceeding one
 - (4) Revoking his or her license.
- (5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper . . .

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.

Code section 4301 states, in pertinent part:

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

- (h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.
- (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 or by any other state or federal regulatory agency

7. Code section 4327 states that "[a]ny person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor."

COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that a Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

BACKGROUND

- 9. On or about December 26, 2013, the Board received a letter from S. S., District Pharmacy Supervisor for Walgreens, stating that Respondent, a pharmacy technician at Walgreens store (#10881) located on Sutton Way in Grass Valley, California, was participating in their "Last Chance Agreement" for alcohol abuse. S. S. reported that Respondent failed to appear for a random test as required by the program, and his employment was terminated on December 10, 2013.
- 10. On or about December 31, 2013, a representative from the Board's Enforcement Unit, sent an email to S. S., requesting further information, specifically, whether Respondent was ever intoxicated while working or if his chemical use had an affect on his ability to safely practice.
- 11. On or about January 6, 2014, S. S. sent an email to the Board's representative, stating that on August 15, 2012, Respondent was sent for alcohol testing after the store manager and pharmacy manager smelled alcohol on his breath. Respondent tested positive with a blood alcohol of .068%. (S. S. provided the Board with a copy of the test on or about June 9, 2014). S. S. also stated that on August 17, 2012, Respondent enrolled in Walgreen's "Last Chance Agreement" for alcohol rehabilitation. Respondent was assessed by a substance abuse professional ("SAP"). On December 9, 2013, Walgreens was notified by the SAP that Respondent was not in compliance with the conditions outlined in the Last Chance Agreement. The SAP explained that Respondent was warned regarding a missed drug test on February 11, 2013, and then did not take a breath alcohol test on November 12, 2013, as required.

12. On or about May 2, 2014, a Board inspector met with Respondent at Raley's Pharmacy Store #213 located in Grass Valley, California. Respondent admitted that one day, while working at Walgreens (Store #10881), he went to lunch and consumed "some beers". Someone smelled alcohol on his breath after he returned to work. The store manager sent Respondent for a breath test, and the test came back positive for alcohol.

FIRST CAUSE FOR DISCIPLINE

(Use of Alcoholic Beverages to an Extent or in a Manner Dangerous or Injurious to Oneself and Others)

13. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (h), for unprofessional conduct, in that on or about August 15, 2012, Respondent used alcoholic beverages to an extent or in a manner dangerous or injurious to himself and others and/or to the extent that such use impaired his ability to conduct his pharmacy technician duties safely, as set forth above.

SECOND CAUSE FOR DISCIPLINE

(Violations of the Pharmacy Law)

14. Respondent is subject to disciplinary action pursuant to Code section 4301, subdivision (o), for unprofessional conduct, in that on or about August 15, 2012, Respondent violated or attempted to violate, directly or indirectly, a provision or term of the Pharmacy Law (Bus. & Prof. Code § 4300, et seq.), specifically, Code section 4327, as follows: Respondent, while on duty as a pharmacy technician at Walgreens Store #10881, sold, dispensed and/or compounded drugs while under the influence of alcoholic beverages, as set forth above.

PRAYER

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

1. Revoking or suspending Pharmacy Technician Registration Number TCH 88530, issued to Daniel Aaron Lossner;

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1	2. Ordering Daniel Aaron Lossner to pay the Board of Pharmacy the reasonable costs of		
2	the investig	the investigation and enforcement of this case, pursuant to Business and Professions Code section	
3	125.3;		
4	3,	Taking such other and further action as deemed necessary and proper.	
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6	DATED: _	7/1/15	VIRGINIA HEROLD
7			VIRGINIA HEROLD Executive Officer Board of Pharmacy
8			Department of Consumer Affairs State of California
9			Complainant
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