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7

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

11
12 In the Matter of the First Amended Accusation
Against:

13 **LEON JASON KECK**
14 648 Matthew Way
Arroyo Grande, CA 93420

15 **Pharmacist License No. RPH 43833**

16 Respondent.
17

Case No. 5716

OAH No. 2017040227

FIRST AMENDED ACCUSATION

18
19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her
22 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
23 Affairs.
- 24 2. On or about August 22, 1990, the Board of Pharmacy issued Pharmacist License
25 Number RPH 43833 to Leon Jason Keck (Respondent). The Pharmacist License was in full force
26 and effect at all times relevant to the charges brought herein, and will expire on September 30,
27 2018, unless renewed.

28 ///

JURISDICTION

1
2 3. This First Amended Accusation is brought before the Board of Pharmacy (Board),
3 Department of Consumer Affairs, under the authority of the following laws. All section
4 references are to the Business and Professions Code (Code), unless otherwise indicated.

5 4. Section 4300 of the Code provides in pertinent part, that every license issued by the
6 Board is subject to discipline, including suspension or revocation.

7 5. Section 4300.1 of the Code states:

8 “The expiration, cancellation, forfeiture, or suspension of a board-issued license by
9 operation of law or by order or decision of the board or a court of law, the placement of a license
10 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
11 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
12 proceeding against, the licensee or to render a decision suspending or revoking the license.”

13 6. Section 4301 of the Code states in pertinent part:

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

17

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

23

24 (j) The violation of any of the statutes of this state of any other state, or of the United States
25 regulating controlled substances and dangerous drugs.”

26 7. Section 4327 of the Code states:

27 “Any person who, while on duty, sells, dispenses or compounds any drug while under the
28 influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor.”

1 8. California Code of Regulations, title 16, section 1714, subdivision (d) states:

2 "Each pharmacist while on duty shall be responsible for the security of the prescription
3 department, including provisions for effective control against theft or diversion of dangerous
4 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy
5 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist."

6 9. California Code of Regulations, title 16, section 4113, subdivision (c) states:

7 "The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state
8 and federal laws and regulations pertaining to the practice of pharmacy."

9 **COST RECOVERY**

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 *(Sale, Dispensing or Compounding While Under the Influence of Alcohol)*

16 11. Respondent is subject to disciplinary action under section 4301, for violation of
17 section 4327, in that, Respondent was under the influence of alcoholic beverages while on duty
18 working as a pharmacist compounding and dispensing medications. The circumstances are as
19 follows:

20 12. On or about, November 26, 2014, Respondent was found to be intoxicated while on
21 duty as pharmacist-in-charge at Sav-On Pharmacy #6304, located at 1132 W. Branch Street,
22 Arroyo Grande, California. Two patrons of Sav-On Pharmacy complained to the store manager
23 that Respondent was acting irregularly and was possibly inebriated. Respondent was observed by
24 management to be moving slowly and appeared to be falling asleep on his feet. He was also
25 observed struggling with a transaction at the register and taking a significant amount of time to
26 process the transaction. When confronted by management to inquire what was wrong,
27 Respondent was slurring his words and staggering, had trouble putting sentences together and his
28 eyes were bloodshot. Respondent admitted to drinking 3/4 bottle of vodka on his lunch break and

1 that he had an addiction to alcohol. Respondent refused to take a breathalyzer test. Respondent
2 was immediately suspended and then terminated following an investigation.

3 **SECOND CAUSE FOR DISCIPLINE**

4 *(Unprofessional Conduct-Impairment Due to Self Use of Alcoholic Beverages)*

5 13. Respondent is subject to disciplinary action under section 4301, subdivision (h), on
6 the grounds of unprofessional conduct, in that, Respondent was found to be impaired due to the
7 consumption of alcohol while working as a pharmacist as set forth above in paragraphs 11 and 12.

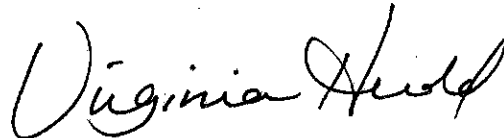
8 **PRAYER**

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

- 11 1. Revoking or suspending Pharmacist License Number RPH 43833, issued to Leon
12 Jason Keck;
- 13 2. Ordering Leon Jason Keck to pay the Board of Pharmacy the reasonable costs of the
14 investigation and enforcement of this case, pursuant to Business and Professions Code section
15 125.3; and
- 16 3. Taking such other and further action as deemed necessary and proper.

17
18 DATED: _____

8/8/17



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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Attorney General of California
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ACCUSATION

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16 Respondent.
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20 oneself, to a person holding a license under this chapter, or to any other person or to the public, or
21 to the extent that the use impairs the ability of the person to conduct with safety to the public the
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24 (j) The violation of any of the statutes of this state of any other state, or of the United States
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- 17 3. Taking such other and further action as deemed necessary and proper.

18
19 DATED: 11/3/16

Virginia Herold

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