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

In the Matter of the First Amended Accusation Against:

Case No. 4142

**JOSHUA COX
5100 Mule Skinner Road
Placerville, CA 95667**

**DEFAULT DECISION AND
ORDER**

Pharmacist License No. RPH 51774

[Gov. Code, §11520]

Respondent.

FINDINGS OF FACT

1. On or about September 21, 2011, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 4142 against Joshua Cox (Respondent) before the Board of Pharmacy. On or about March 2, 2012, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed First Amended Accusation No. 4142 against Joshua Cox (Respondent) before the Board of Pharmacy. (First Amended Accusation No. 4142 attached as Exhibit A.)

2. On or about August 29, 2000, the Board of Pharmacy (Board) issued Pharmacist License No. RPH 51774 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 4142 and expired on May 31, 2012.

3. On or about March 8, 2012, Respondent was served by First Class Mail copies of the First Amended Accusation No. 4142, Statement to Respondent, Notice of Defense, Request for

1 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
2 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
3 is required to be reported and maintained with the Board, which was and is:

4 Joshua Cox
5 5100 Mule Skinner Road
6 Placerville, CA 95667.

7 4. Service of the First Amended Accusation No. 4142 was effective as a matter of law
8 under the provisions of Government Code section 11505, subdivision (c) and/or Business &
9 Professions Code section 124.

10 5. Government Code section 11506 states, in pertinent part:

11 (c) The respondent shall be entitled to a hearing on the merits if the respondent
12 files a notice of defense, and the notice shall be deemed a specific denial of all parts
13 of the accusation not expressly admitted. Failure to file a notice of defense shall
14 constitute a waiver of respondent's right to a hearing, but the agency in its discretion
15 may nevertheless grant a hearing.

16 6. Respondent failed to file a Notice of Defense within 15 days after service upon him
17 of the First Amended Accusation, and therefore waived his right to a hearing on the merits of
18 First Amended Accusation No. 4142.

19 7. California Government Code section 11520 states, in pertinent part:

20 (a) If the respondent either fails to file a notice of defense or to appear at the
21 hearing, the agency may take action based upon the respondent's express admissions
22 or upon other evidence and affidavits may be used as evidence without any notice to
23 respondent.

24 8. Pursuant to its authority under Government Code section 11520, the Board finds
25 Respondent is in default. The Board will take action without further hearing and, based on the
26 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as
27 taking official notice of all the investigatory reports, exhibits and statements contained therein on
28 file at the Board's offices regarding the allegations contained in Interim Suspension Order No.
4142, finds that the charges and allegations in Interim Suspension Order No. 4142, are separately
and severally, found to be true and correct by clear and convincing evidence.

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1 Health and Safety Code sections regulating controlled substances and dangerous drugs.

2 The circumstances are as follows:

3 i Respondent violated Health and Safety Code section 11350 in that from
4 approximately February 2011 to July 2011, he possessed a Schedule III controlled
5 substance, Hydrocodone 10/325, without the benefit of a written prescription. In addition,
6 on or about May 21, 2011, Respondent possessed Phentermine, Lunesta, Clonazepam, and
7 Xanax, Schedule IV drugs, without the benefit of a written prescription.

8 ii. Respondent violated Health and Safety Code section 11170 in that from
9 approximately February 2011 to July, 2011, he administered a Schedule III controlled
10 substance, Hydrocodone 10/325, to himself without the benefit of a written prescription.

11 iii. Respondent has violated Health and Safety Code section 11173(a) in that on or
12 about May 16 through 18, 2011, he obtained a Schedule III controlled substance,
13 Hydrocodone 10/325, from his employer through the use of subterfuge and deceit.

14 d. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
15 (o), as this section interacts with Code section 4327 as follows. Between approximately
16 October, 2010 and May of 2011, Respondent illegally consumed and was under the
17 influence of hydrocodone and other controlled substances while he was on duty as a
18 pharmacist, and while he was involved with the preparation, compounding, dispensing, and
19 sale of prescriptions and providing patient care to the public as a licensed pharmacist.

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ORDER

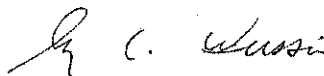
IT IS SO ORDERED that Pharmacist License No. RPH 51774, heretofore issued to Respondent Joshua Cox, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 4, 2013.

It is so ORDERED ON December 5, 2012

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____
STANLEY C. WEISSER
Board President

10777230.DOC
DOJ Matter ID:SA2011101749

Attachment:
Exhibit A: First Amended Accusation

Exhibit A

First Amended Accusation

1 KAMALA D. HARRIS
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2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 LORRIE M. YOST
Deputy Attorney General
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5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 445-2271
Facsimile: (916) 327-8643
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:

12 **JOSHUA COX**

Case No. 4142

13 **5100 Mule Skinner Road**
14 **Placerville, CA 95667**
15 **Pharmacist License No. RPH 51774**

Respondent.

FIRST AMENDED ACCUSATION

16
17
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 29, 2000, the Board of Pharmacy issued Pharmacist License
23 Number RPH 51774 to Joshua Cox (Respondent). The Pharmacist License was in full force and
24 effect at all times relevant to the charges brought herein and will expire on May 31, 2012, unless
25 renewed.

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JURISDICTION

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

4. Section 4300 of the Code states in pertinent part that every license issued may be suspended or revoked.

5. Section 118, subdivision (b), of the Code provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

STATUTORY REFERENCES

6. Section 4301 of the Code 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:

.....

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

.....

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

.....

1 (Violation Of Any Of The Statutes Of This State, Of Any Other State, Or Of The United States
2 Regulating Controlled Substances And Dangerous Drugs.)

3 19. Respondent is subject to disciplinary action under section 4301 subdivision (j), in
4 conjunction with Health and Safety Code sections 11350, 11170, and 11173 subdivision (a), in
5 that he has engaged in acts of unprofessional conduct. The circumstances are as follows:

6 20. Respondent has violated the following Health and Safety Code sections regulating
7 controlled substances and dangerous drugs:

8 a) Respondent has violated Health and Safety Code section 11350 in that from
9 approximately February 2011 to July 2011, he possessed a Schedule III controlled
10 substance, Hydrocodone 10/325, without the benefit of a written prescription. In
11 addition, on or about May 21, 2011, Respondent possessed Phentermine, Lunesta,
12 Clonazepam, and Xanax, Schedule IV drugs, without the benefit of a written
13 prescription.

14 b) Respondent has violated Health and Safety Code section 11170 in that from
15 approximately February 2011 to July, 2011, he administered a Schedule III controlled
16 substance, Hydrocodone 10/325, to himself without the benefit of a written prescription.

17 c) Respondent has violated Health and Safety Code section 11173(a) in that on or about
18 May 16 through 18, 2011, he obtained a Schedule III controlled substance,
19 Hydrocodone 10/325, from his employer through the use of subterfuge and deceit.

20 **FOURTH CAUSE FOR DISCIPLINE**

21 (Performing the Duties of a Pharmacist While Under the Influence of a Dangerous Drug)

22 21. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and
23 (o), as this section interacts with Code section 4327 as follows. Between approximately October,
24 2010 and May of 2011, Respondent illegally consumed and was under the influence of
25 hydrocodone and other controlled substances while he was on duty as a pharmacist, and while he
26 was involved with the preparation, compounding, dispensing, and sale of prescriptions and
27 providing patient care to the public as a licensed pharmacist.

28 **PRAYER**

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

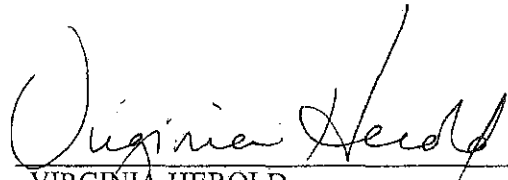
3 1. Revoking or suspending Pharmacist License Number RPH 51774, issued to Joshua
4 Cox;

5 2. Ordering Joshua Cox to pay the Board of Pharmacy the reasonable costs of the
6 investigation and enforcement of this case, pursuant to Business and Professions Code section
7 125.3;

8 3. Taking such other and further action as deemed necessary and proper.

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DATED: 3/2/12



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

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