

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

In the Matter of the Accusation Against:

DEMAR LEWIS, III
16363 e. Freemont Avenue #1631
Aurora, CO 80016

Pharmacist License No. RPH 37541

Respondent.

Case No. 4658

OAH No. 2014020154

DECISION AND ORDER

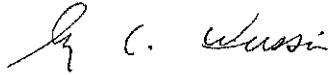
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on December 24, 2014.

It is so ORDERED on December 17, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 LESLIE A. WALDEN
Deputy Attorney General
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 4658

11 **DEMAR LEWIS, III**
12 **16363 E. Freemont Avenue #1631**
13 **Aurora, CO 80016**

OAH No. 2014020154

14 **Pharmacist License No. RPH 37541**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL**

15 Respondent.

[Bus. & Prof. Code § 495]

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17
18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21
22 **PARTIES**

23 1. VIRGINIA HEROLD (Complainant) is the Executive Officer of the Board of
24 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
25 by Kamala D. Harris, Attorney General of the State of California, by Leslie A. Walden, Deputy
26 Attorney General.

27 2. Respondent Demar Lewis, III (Respondent) represented by attorney Edward O. Lear,
28 Century Law Group LLP, 5200 W. Century Blvd., Ste. 345, Los Angeles, California 90045.

3. On or about February 9, 1983, the Board of Pharmacy issued Pharmacist License No. RPH 37541 to Demar Lewis, III (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 4658 and will expire on June 30, 2016, unless renewed.

JURISDICTION

4. Accusation No. 4658 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 18, 2013. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 4658 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, and understands the charges and allegations in Accusation No. 4658. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reprimand.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation.

No. 4658.

1 9. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
2 to be bound by the Disciplinary Order below.

3 CONTINGENCY

4 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
5 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
6 communicate directly with the Board regarding this stipulation and settlement, without notice to
7 or participation by Respondent. By signing the stipulation, Respondent understands and agrees
8 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the
9 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
10 Order, the Stipulated Settlement and Disciplinary Order for Public Reapproval shall be of no force
11 or effect, except for this paragraph, it shall be inadmissible in any legal action between the
12 parties, and the Board shall not be disqualified from further action by having considered this
13 matter.

14 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
15 copies of this Stipulated Settlement and Disciplinary Order for Public Reapproval, including
16 Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and
17 effect as the originals.

18 12. This Stipulated Settlement and Disciplinary Order for Public Reapproval is intended by
19 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
20 of their agreement. It supersedes any and all prior or contemporaneous agreements,
21 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
22 Settlement and Disciplinary Order for Public Reapproval may not be altered, amended, modified,
23 supplemented, or otherwise changed except by a writing executed by an authorized representative
24 of each of the parties.

25 13. In consideration of the foregoing admissions and stipulations, the parties agree that
26 the Board may, without further notice or formal proceeding, issue and enter the following
27 Disciplinary Order;
28

1 DISCIPLINARY ORDER

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 37541 issued to Respondent
3 Demar Lewis, III (Respondent) shall, by way of letter from the Board's Executive Officer, be
4 publicly reprovved. The letter shall be in the same form as the letter attached as Exhibit B to this
5 stipulation.


6 IT IS FURTHER ORDERED that Respondent shall pay \$2,180.05 to the Board for its costs
7 associated with the investigation and enforcement of this matter. Respondent shall be permitted
8 to pay these costs in a payment plan approved by the Board. If Respondent fails to pay the Board
9 costs as ordered, Respondent shall not be allowed to renew his Pharmacist License until
10 Respondent pays costs in full.

11 ACCEPTANCE

12 I have carefully read the Stipulated Settlement and Disciplinary Order for Public Repraval.
13 I understand the stipulation and the effect it will have on my Pharmacist License. I enter into
14 this Stipulated Settlement and Disciplinary Order for Public Repraval voluntarily, knowingly, and
15 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

16
17 DATED: _____

9/8/14

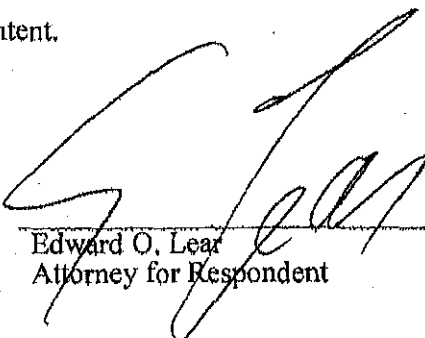

18 DEMAR LEWIS, III
19 Respondent

20 ///

21 ///

1 I have read and fully discussed with Respondent Demar Lewis, III the terms and conditions
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public
3 Reapproval, I approve its form and content.

4
5
6 DATED: 9/9/14


Edward O. Lear
Attorney for Respondent


8
9 **ENDORSEMENT**

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

13
14 Dated: 9/9/14

Respectfully submitted,

15 KAMALA D. HARRIS
Attorney General of California
16 MARC D. GREENBAUM
Supervising Deputy Attorney General

17 
18 LESLIE A. WALDEN
19 Deputy Attorney General
20 Attorneys for Complainant

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22 LA2013509186
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Exhibit A

Accusation No. 4658

1 KAMALA D. HARRIS
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 LESLIE A. WALDEN
Deputy Attorney General
4 State Bar No. 196882
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-3465
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4658

11 **DEMAR LEWIS, III**
12 **265 Chateaux Elise, #G**
13 **Santa Barbara, CA 93109**

A C C U S A T I O N

14 **Pharmacist License No. RPH 37541**

15 Respondent.

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 February 9, 1983, the Board of Pharmacy issued Pharmacist License
23 Number RPH 37541 to Demar Lewis, III (Respondent). The Pharmacist License was in full force
24 and effect at all times relevant to the charges brought herein and will expire on June 30, 2014,
25 unless renewed.
26
27
28

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

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

5. Section 4301 of the Code states:

"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:

"(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter."

6. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a

1 disciplinary action taken against the licensee by another state, an agency of the federal
2 government, or another country."

3 COST RECOVERY

4 7. Section 125.3 of the Code states, in pertinent part, that the Board may request the
5 administrative law judge to direct a licensee found to have committed a violation or violations of
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case.

9 CAUSE FOR DISCIPLINE

10 (Out of State Discipline)

11 8. Respondent is subject to disciplinary action under section 4301, subdivision (n) and
12 section 141 of the Code in that he was previously disciplined by the Colorado Board of
13 Pharmacy (CBP), which ultimately resulted in an order by the CBP relinquishing and cancelling
14 his license to practice pharmacy. The circumstances are as follows:

15 a) On or about June 17, 2004, in the case entitled *In the Matter of Disciplinary*
16 *Proceedings Regarding the License to Practice Pharmacy in the State of Colorado of Demar*
17 *Lewis, R.PH., License NO 13773, Case No. RG PG DLRAU*, Respondent was found by the CBP
18 to be in violation of Colorado pharmacy law for numerous violations of record keeping, labeling
19 and dispensing practices. The action taken by CBP resulted in the suspension of Respondent's
20 license for 14 days followed by three (3) years probation. Respondent was further restricted from
21 serving as a pharmacist manager, supervisor or consultant at any Colorado outlet, was required to
22 take and pass jurisprudence and professional competency examinations, and provide a complete
23 copy of the disciplinary order to each pharmacy manager and immediate pharmacy supervisor at
24 each location that he practiced.

25 (b) On or about September 1, 2005, in the matter entitled *In the Matter of*
26 *Disciplinary Proceedings Regarding the License to Practice Pharmacy in the State of Colorado*
27 *of Demar Lewis, R.PH., License NO 13773, Case No. RG PG DLVBB*, Respondent was found by
28 the CBP to be in violation of the terms and conditions of his probation under the order taken on

1 June 17, 2004 in Case No. RG PG DLRAU. As a result, the CBP suspended his license for three
2 months, followed by five (5) years probation with certain terms and conditions.

3 (c) On or about April 1, 2008, in the matter entitled *In the Matter of Disciplinary*
4 *Proceedings Regarding the License to Practice Pharmacy in the State of Colorado of Demar*
5 *Lewis III, R.PH., License NO 13773, Case No.PH 2007-0008*, Respondent was found by the CBP
6 to be in violation of the terms and conditions of his probation under the order taken September 1,
7 2005 in Case No. RG PG DLVBB. As a result, through a Stipulation and Final Agency Order,
8 the CBP ordered Respondent's license relinquished and cancelled, which has the same force and
9 effect as a revocation ordered by the Board.

10 **PRAYER**

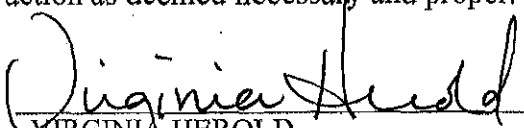
11 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
12 and that following the hearing, the Board of Pharmacy issue a decision:

13 1. Revoking or suspending Pharmacist License Number RPH 37541, issued to Demar
14 Lewis, III

15 2. Ordering Demar Lewis, III to pay the Board of Pharmacy the reasonable costs of the
16 investigation and enforcement of this case, pursuant to Business and Professions Code section
17 125.3;

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

19 DATED: 9/6/13

20 
21 VIRGINIA HEROLD
22 Executive Officer
23 Board of Pharmacy
24 Department of Consumer Affairs
25 State of California
26 Complainant

24 LA2013509186
25 51353558.doc

Exhibit B

Letter of Public Reproval in Case No. 4658



California State Board of Pharmacy

1625 N. Market Blvd, N219, Sacramento, CA 95834
Phone: (916) 574-7900
Fax: (916) 574-8618
www.pharmacy.ca.gov

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
GOVERNOR EDMUND G. BROWN JR.

December 17, 2014

Demar Lewis, III
265 Chateaux Elise, #G
Santa Barbara, CA 93109

Re: LETTER OF PUBLIC REPROVAL
In the Matter of the Accusation Against:
Demar Lewis, III, Pharmacist License No. RPH 37541

Dear Mr. Lewis:

On September 6, 2013, the Board of Pharmacy, Department of Consumer Affairs, State of California, filed an Accusation against your Pharmacist License. The Accusation alleged that you engaged in unprofessional conduct under Business and Professions Code sections 4301, subdivision (n), and 141 based on the fact that you were disciplined by another state agency. Specifically, you committed the following violations:

1) On June 17, 2004, you were found by the Colorado Board of Pharmacy (CBP) to be in violation of record keeping, labeling and dispensing practices in the matter entitled *In the Matter of Disciplinary Proceedings Regarding the License to Practice Pharmacy in the State of Colorado of Demar Lewis, R.P.H., License No. 12772, Case No. RG PG DLRAU*.

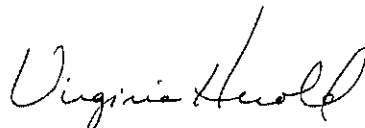
2) On September 1, 2005, you were found by the CBP to be in violation of your probation in the matter entitled *In the Matter of Disciplinary Proceedings Regarding the License to Practice Pharmacy in the State of Colorado of Demar Lewis, R.P.H., License No. 12772, Case No. RG PG DLRAU*. The CBP suspended your license for three (3) months, followed by a five (5) years probation.

3) On or about April 1, 2008, *In the Matter of Disciplinary Proceedings Regarding the License to Practice Pharmacy in the State of Colorado of Demar Lewis, R.P.H., License No. 12772, Case No. PH 2007-0008*, you were found by the CBP to be in violation of your probation terms set forth in the Order of September 1, 2005 in the matter entitled *In the Matter of Disciplinary Proceedings Regarding the License to Practice Pharmacy in the State of Colorado of Demar Lewis, R.P.H., License No. 12772, Case No. RG PG DLRAU*. As a result, your license was relinquished and cancelled.

Taking into consideration that these events occurred several years ago, and that other mitigating circumstances exists, a determination that you are safe to practice as a pharmacist has been made. The Board has decided that the charges warrant a public reproval.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Pharmacy, Department of Consumer Affairs issues this letter of public reproof.

Sincerely,

A handwritten signature in cursive script, reading "Virginia Herold". The signature is written in dark ink and is positioned above the typed name.

VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs