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

11 In the Matter of the Accusation Against:

Case No. 2186

12 **JERENE H. WEBB**
13 **dba WEBB's PHARMACY**
231 West Vernon Avenue
14 Los Angeles, CA 90037

OAH No. L-2001050186

15 Original Pharmacy Permit Number PHY 37521

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR
JERENE H. WEBB and WEBB's
PHARMACY**

16 and

17 **JERENE H. WEBB**
3214 West 83rd Street
18 Inglewood, CA 90305

19 Original Pharmacist License No. RPH 24913

20 and

21 **DEMICA LENAY CASTILLO**
1071 East 48th Street, #102
22 Los Angeles, CA 90011

23 Original Pharmacy Technician
Registration No. TCH 1514

24 Respondents.

25
26 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
27 above-entitled proceedings that the following matters are true:

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1 PARTIES

2 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
3 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
4 by Bill Lockyer, Attorney General of the State of California, by Desiree A. O'Brien, Deputy
5 Attorney General.

6 2. Respondents Jerene H. Webb and Jerene H. Webb doing business as
7 Webb's Pharmacy ("Respondents") are representing themselves in this proceeding and have
8 chosen not to exercise their right to be represented by counsel.

9 3. On or about February 15, 1967, the Board of Pharmacy issued Original
10 Pharmacist License No. RPH 24913 to Jerene H. Webb. On or about November 14, 1991, the
11 Board of Pharmacy issued Original Pharmacy Permit Number PHY 37521 to Jerene H. Webb
12 dba Webb's Pharmacy. The pharmacist license and pharmacy permit were in full force and
13 effect at all times relevant to the charges brought in Accusation No. 2186.

14 JURISDICTION

15 4. Accusation No. 2186 was filed before the Board of Pharmacy of the
16 Department of Consumer Affairs, (Board), and is currently pending against Respondents. The
17 Accusation, together with all other statutorily required documents were properly served on
18 Respondents on June 6, 2000, and Respondents timely filed their Notice of Defense contesting
19 the Accusation. A copy of Accusation No. 2186 is attached as exhibit A and incorporated herein
20 by reference.

21 ADVISEMENT AND WAIVERS

22 5. Respondents have carefully read, and understand the charges and
23 allegations in Accusation No. 2186. Respondents have also carefully read, and understand the
24 effects of this Stipulated Settlement and Disciplinary Order.

25 6. Respondents are fully aware of their legal rights in this matter, including
26 the right to a hearing on the charges and allegations in the Accusation; the right to be represented
27 by counsel at their own expense; the right to confront and cross-examine the witnesses against
28 them; the right to present evidence and to testify on their own behalf; the right to the issuance of

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Original Pharmacist License Number RPH
3 24913 issued to Respondent Jerene H. Webb, and Original Pharmacy Permit Number PHY
4 37521 issued to Jerene H. Webb dba Webb's Pharmacy are revoked. However, the revocations
5 are stayed and the pharmacist license and the pharmacy permit are each, separately, placed on
6 probation for a period of one year on the following terms and conditions.

7 In addition, it is ordered that Original Pharmacist License Number RPH 24913
8 issued to Respondent Jerene H. Webb, and Original Pharmacy Permit Number PHY 37521
9 issued to Jerene H. Webb dba Webb's Pharmacy are each and separately suspended from the
10 practice of pharmacy for a period of 90 days. However, the suspensions are stayed on the
11 following terms and conditions:

- 12 1. **Obey All Laws.** Respondent shall obey all federal and state laws and
13 regulations substantially related or governing the practice of pharmacy.
- 14 2. **Reporting to the Board.** Respondent shall report to the Board or its
15 designee quarterly. The report shall be made either in person or in writing, as directed. If the
16 final probation report is not made as directed, probation shall be extended automatically until
17 such time as the final report is made.
- 18 3. **Interview with the Board.** Upon receipt of reasonable notice,
19 Respondent shall appear in person for interviews with the Board or its designee upon request at
20 various intervals at a location to be determined by the Board or its designee. Failure to appear
21 for a scheduled interview without prior notification to Board staff shall be considered a violation
22 of probation.
- 23 4. **Cooperation with Board Staff.** Respondent shall cooperate with the
24 Board's inspection program and in the Board's monitoring and investigation of the Respondent's
25 compliance with the terms and conditions of his probation. Failure to cooperate shall be
26 considered a violation of probation.
- 27 5. **Peer Review.** Respondent shall submit to peer review as deemed
28 necessary by the Board.

1 6. **Continuing Education.** Respondent shall provide evidence of efforts to
2 maintain skill and knowledge as a pharmacist as directed by the Board.

3 7. **Notice to Employers.** Respondent shall notify all present and prospective
4 employers of the decision in case No. 2186 and the terms, conditions and restrictions imposed on
5 Respondent Webb by the decision. Within thirty (30) days of the effective date of this decision,
6 and within fifteen (15) days of Respondent Webb undertaking new employment, Respondent
7 Webb shall cause his employer to report to the Board in writing acknowledging the employer has
8 read the decision in case No. 2186.

9 If Respondent Webb works for or is employed by or through a pharmacy
10 employment service, Respondent must notify the pharmacist-in-charge and/or owner at every
11 pharmacy at which he is to be employed or used of the fact and terms of the decision in case number
12 2186 in advance of the Respondent commencing work at the pharmacy.

13 "Employment" within the meaning of this provision shall include any full-time,
14 part-time, temporary or relief service or pharmacy management service as a pharmacist, whether
15 the Respondent is considered an employee or independent contractor.

16 8. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
17 **Charge.** Respondent shall not supervise any intern pharmacist or perform any of the duties of a
18 preceptor, nor shall Respondent be the pharmacist-in-charge of any pharmacy licensed by the
19 Board.

20 9. **No Ownership of Premises.** Respondent shall not own, have any legal
21 or beneficial interest in, or serve as a manager, administrator, member, officer, director,
22 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
23 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any
24 entity licensed by the Board within 90 days following the effective date of this decision and shall
25 immediately thereafter provide written proof thereof to the Board.

26 10. **Reimbursement of Board Costs.** Respondent Webb shall pay to the
27 Board its costs of investigation and prosecution in the amount of \$6,000.00. Respondent shall
28 make said payments as follows: An initial payment in the amount of \$500.00 shall be due to the

1 Board on the effective date of the decision and order adopting this stipulation. Thereafter, by the
2 same date each month, respondent shall make consecutive payments in the sum of \$500.00 each
3 for a period of 11 months until the entire sum of \$6,000.00 has been paid in full. If Respondent
4 fails to pay the costs as specified by the Board on or before the date(s) determined by the Board,
5 the Board shall, without affording the Respondent notice and the opportunity to be heard, revoke
6 probation and carry out the disciplinary order that was stayed. At its option, the Board may elect
7 to extend the period of probation until such time as the sum of \$6,000.00 has been paid in full.

8 11. **Probation Monitoring Costs.** Respondent shall pay the costs associated
9 with probation monitoring as determined by the Board each and every year of probation. Such
10 costs shall be payable to the Board at the end of each year of probation. Failure to pay such costs
11 shall be considered a violation of probation.

12 12. **Status of License.** Respondent Webb shall, at all times while on
13 probation, maintain an active current license with the Board, including any period during which
14 suspension or probation is tolled. If Respondent's license expires by operation of law or
15 otherwise, upon renewal or re-application, Respondent's license shall be subject to all terms of
16 this probation not previously satisfied.

17 13. **Notification of Employment/Mailing Address Change.** Within ten (10)
18 days of a change in employment -- either leaving or commencing employment -- Respondent
19 Webb shall so notify the Board in writing, including the address of the new employer; within ten
20 (10) days of a change of mailing address, Respondent Webb shall notify the Board in writing. If
21 Respondent works for or is employed through a pharmacy employment service, Respondent
22 shall, as requested, provide to the Board or its designee with a work schedule, indicating dates
23 and location of employment.

24 14. **Tolling of Probation.** If Respondent Webb leaves California to reside or
25 practice outside this state, Respondent must notify the Board in writing of the dates of departure
26 and return within ten (10) days of departure or return. Periods of residency, except such periods
27 where the Respondent is actively practicing pharmacy within California, or practice outside
28 California shall not apply to reduction of the probationary period.

1 Should Respondent Webb, regardless of residency, for any reason cease practicing
2 pharmacy in California, Respondent Webb must notify the Board in writing within ten (10) days
3 of cessation of the practice of pharmacy or resuming the practice of pharmacy. "Cessation of
4 practice" means any period of time exceeding thirty (30) days in which Respondent Webb is not
5 engaged in the practice of pharmacy as defined in section 4052 of the Business and Professions
6 Code.

7 It is a violation of probation for Respondents' probation to remain tolled pursuant
8 to the provisions of this condition for a period exceeding a consecutive period of [three] years.

9 15. **Tolling of Suspension.** If Respondent Webb leaves California to reside or
10 practice outside this state, or for any period exceeding ten (10),days (including vacation),
11 Respondent Webb must notify the Board in writing of the dates of departure and return. Periods
12 of residency or practice outside the state - or any absence exceeding a period of ten (10) days
13 shall not apply to the reduction of the suspension period.

14 Respondent Webb shall not practice pharmacy upon returning to this state until
15 notification by the Board the period of suspension has been completed.

16 16. **Violation of Probation.** If Respondents violate probation in any respect,
17 the Board, after giving Respondents notice and an opportunity to be heard, may revoke probation
18 and carry out the disciplinary order which was stayed. If a petition to revoke probation or an
19 accusation is filed against Respondents during probation, the Board shall have continuing
20 jurisdiction, and the period of probation shall be extended, until the petition to revoke probation
21 is heard and decided. If a Respondents has not complied with any term or condition of
22 probation, the Board shall have continuing jurisdiction over Respondents, and probation shall
23 automatically be extended until all terms and conditions have been met or the Board has taken
24 other action as deemed appropriate to treat the failure to comply as a violation of probation, to
25 terminate probation, and to impose the penalty which was stayed.

26 17. **Completion of Probation.** Upon successful completion of probation,
27 Respondents' license and/or permit will be fully restored.

28 ///

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

In the Matter of the Accusation Against:

JERENE H. WEBB
dba WEBB's PHARMACY
231 West Vernon Avenue
Los Angeles, CA 90037

Original Pharmacy Permit Number PHY 37521

and

JERENE H. WEBB
3214 West 83rd Street
Inglewood, CA 90305

Original Pharmacist License No. RPH 24913

and

DEMICA LENAY CASTILLO
1071 East 48th Street, #102
Los Angeles, CA 90011

Original Pharmacy Technician
Registration No. TCH 151 4

Respondents.

Case No. 2186

OAH No. L-2001050186

DECISION AND ORDER

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

This Decision shall become effective on March 29, 2002.

It is so ORDERED February 27, 2002.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STEVE LITSEY
Board President

1 BILL LOCKYER, Attorney General
of the State of California
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3 300 S. Spring Street, Suite 500
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4 Telephone: (213)897-2578

5 Attorneys for Complainant

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

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11 In the Matter of the Accusation) Case No. 2186
Against:)

12

JERENE H. WEBB,) ACCUSATION
13 dba WEBB'S PHARMACY)
231 West Vernon Avenue)
14 Los Angeles CA 90037)

15

Original Pharmacy Permit No.)
PHY 37521)

16

and)

17

JERENE H. WEBB)
18 3214 West 83rd Street)
Inglewood, CA 90305)

19

Original Pharmacist License No.)
20 RPH 24913)

21

and)

22

DEMICA LENAY CASTILLO)
1071 East 48th Street, #102)
23 Los Angeles CA 90011)

24

Original Pharmacy Technician)
Registration No. TCH 1514)

25

Respondents.)

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1 Patricia F. Harris, causes for discipline, alleges:

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3 1. Complainant Patricia F. Harris makes and files
4 this Accusation in her official capacity as Executive Officer of
5 the Board of Pharmacy (the "Board"), Department of Consumer
6 Affairs, State of California.

7 2. On November 14, 1991, the Board issued Original
8 Pharmacy Permit Number PHY 37521 to Jerene H. Webb, to do
9 business as Webb's Pharmacy ("Respondent Webb's Pharmacy"), to
10 practice pharmacy in California. The license was in full force
11 and effect until November 23, 1998, at which time the business
12 was sold.

13 Further, Jerene H. Webb, was the Pharmacist-in-Charge
14 from November 14, 1991 through November 23, 1998. On February
15 15, 1967, the Board issued Original Pharmacist License Number RPH
16 24913 to Jerene H. Webb ("Respondent Webb"), to practice pharmacy
17 in California. Said registration was in full force and effect at
18 all times pertinent herein. Said license will expire on November
19 30, 2001, unless renewed.

20 On November 6, 1992, the Board issued Original Pharmacy
21 Technician Registration No. TCH 1514 to Demica Lenay Castillo
22 ("Respondent Castillo"), to act as a pharmacy technician in
23 California. The registration was in full force and effect at all
24 times pertinent herein. Said registration will expire on
25 November 30, 2000, unless renewed.

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STATUTES AND REGULATIONS

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2 3. Business and Professions Code^{1/} section 118(b)
3 provides that the suspension, expiration, or forfeiture by
4 operation of law of a license does not deprive the Board of
5 authority or jurisdiction to institute or continue with
6 disciplinary action against the license or to order suspension or
7 revocation of the license, during the period within which the
8 license may be renewed, restored, reissued or reinstated.

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

15 5. Section 4300 of the Code (formerly section 4350)
16 permits the Board to take disciplinary action to suspend or
17 revoke a license.

18 6. Pursuant to section 4301(formerly section 4350.5)
19 the Board shall take action against any holder of a license who
20 is guilty of unprofessional conduct. Unprofessional conduct
21 includes, but is not limited to:

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

26
27 1. All further statutory references will be to the
Business and Professions Code unless otherwise specified.

1 (h) The administering to oneself, of any controlled
2 substance, or the use of any dangerous drug or of alcoholic
3 beverages to the extent or in a manner as to be dangerous or
4 injurious to oneself, to a person holding a license under this
5 chapter, or to any other person or to the public, or to the
6 extent that the use impairs the ability of the person to conduct
7 with safety to the public the practice authorized by the license,
8 which is also in violation of Health and Safety Code section
9 11550.

10 (i) Knowingly selling, furnishing, giving away, or
11 administering or offering to sell, furnish, give away, or
12 administer any controlled substance, which is also in violation
13 of Health and Safety Code section 11379(a).

14 (j) The violation of any of the statutes of California
15 or of the United States regulating controlled substances and
16 dangerous drugs.

17 (o) The violation of or attempting to violate,
18 directly or indirectly, or assisting in or abetting the violation
19 of or conspiring to violate any provision or term of the
20 California Pharmacy Law (sections 4000 et seq.) or other of the
21 applicable federal and state laws and regulations governing
22 pharmacy, including regulations established by the Board.

23 (p) Actions or conduct that would have warranted denial
24 of a license.

25 7. CONTROLLED SUBSTANCE

26 A. "Valium" is a trade name for Diazepam, which is
27 designated by Health and Safety Code section 11057(d)(8) as a

1 Schedule IV controlled substance and by Business and Professions
2 Code 4022 as a dangerous drug.

3 B. "Dalmane" is a trade name for Flurazepam, which is
4 designated by Health and Safety Code section 11057(d)(12) as a
5 Schedule IV depressant controlled substance and by Business and
6 Professions Code 4022 as a dangerous drug.

7 8. Under Code section 4081(a), all records of
8 manufacture and of sale, acquisition or disposition of dangerous
9 drugs shall be at all times open to inspection by authorized
10 officers of the law during business hours and shall be preserved
11 for at least three (3) years from the date of making. Section
12 4081(a) further provides that a pharmacy which maintains a stock
13 of dangerous drugs must maintain a current inventory.
14 Section 4081(b) further provides that the owner or officer of any
15 pharmacy shall be jointly responsible for maintaining the records
16 and inventory required under section 4081.

17 9. Section 1718 of Title 16, California Code of
18 Regulations (hereinafter the "Board of Regulations") provides
19 that "current inventory" within the meaning of Code section 4081
20 includes the complete accountability for all the pharmacy's
21 acquisitions and dispositions. Board of Regulations 1718 further
22 provides that the controlled substance inventories required by
23 Title 21, Code of Federal Regulations, section 1304 shall be
24 available for inspection upon the request for at least three (3)
25 years after the date of the inventory.

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1 10. RESPONDENT WEBB'S PHARMACY AND RESPONDENT WEBB

2 Respondent Webb's Pharmacy and Respondent Webb are
3 subject to discipline pursuant to sections 4300 and 4301,
4 subdivisions (f), (j), (o) and (p) for unprofessional conduct as
5 defined in Title 16, California Code of Regulations, section 1718,
6 for failing to keep a complete, accurate and current inventory or
7 complete accountability of dangerous drugs, by reason of the
8 following:

9 A. On January 13, 1998, inspectors of the Board
10 conducted an onsite inspection of Webb's Pharmacy. Respondent
11 Webb gave the inspector a copy of the most recent DEA Inventory
12 dated May 5, 1997. The inspector asked to see the last Drug
13 Utilization Report for the drugs in question from May 5, 1997
14 until January 13, 1998.

15 B. On January 14, 1998, Respondent Webb called the
16 inspector to report that he had run a Drug Utilization Report for
17 Valium/Diazepam and had discovered over 400 tablets missing.

18 C. On March 3, 1998, Respondent Webb called the
19 inspector to inform him that he had discovered another drug
20 missing from the subject pharmacy. Said discovery was made while
21 attempting to reconcile the subject pharmacy's records and
22 inventory pursuant to the January 21, 1998 pharmacy inspection
23 corrections. Respondent Webb estimated that 13 bottles of 500
24 capsules of name brand Dalmane/Flurazepam 30 mg were missing.

25 D. A drug audit of the subject pharmacy revealed
26 that 1793 tablets of Valium/Diazepam 10 mg and 6642 capsules of

27 \\

1 Dalmane/Flurazepam 30 mg could not be accounted for by records of
2 acquisition or disposition during the 6 month audit period.

3 11. Section 4113(b) of the Code provides that the
4 pharmacist-in-charge shall be responsible for a pharmacy's
5 compliance with all state and federal laws and regulations
6 pertaining to the practice of pharmacy.

7 12. Section 4115(b) of the Code does not authorize
8 the performance of any tasks specified in subdivision (a) by a
9 pharmacy technician without a pharmacist on duty, not does this
10 section authorize the use of a pharmacy technician to perform
11 tasks specified in subdivision (a) except under the direct
12 supervision and control of a pharmacist.

13 13. RESPONDENT CASTILLO

14 Respondent Castillo has subjected her license to
15 discipline pursuant to Business and Professions Code section 4300
16 and 4301, subdivisions (h), (i), (j), and (o), for unprofessional
17 conduct and for violating sections 11550 and 11379(a) of the
18 Health and Safety Code, as they relate to:

19 A. Business and Professions Code sections 4059,
20 4301(h), and Health and Safety Code 11170, in that Respondent
21 Castillo furnished controlled substances to herself without a
22 prescription.

23 B. Business and Professions Code section 4060,
24 4301(i), and Health and Safety Code section 11170, in that on or
25 about January 21, 1998, during an inspection by the Board, of the
26 subject pharmacy, and while in the presence of Respondent Webb
27 and Respondent Castillo, Respondent Castillo admitted to taking

1 an unknown quantity of Valium/Diazepam 10 mg from the subject
2 Pharmacy for her personal use and provided some to her dying
3 aunt.

4 C. Business and Professions Code sections 4301(o)
5 and (j), in that Respondent Castillo conspired, to remove
6 controlled substances from the subject Pharmacy in Los Angeles
7 without a prescription or authorization.

8 WHEREFORE, Complainant prays that a hearing be held and
9 that following said hearing the Board of Pharmacy make its Order:

10 1. Revoking or suspending Original Pharmacy Permit
11 No. PHY 37521 issued to Respondent Jerene H. Webb to do business
12 as Webb Pharmacy.

13 2. Revoking or suspending Original Pharmacist License
14 No. RPH 24913 issued to Respondent Jerene H. Webb.

15 3. Revoking or suspending Original Pharmacy
16 Technician Registration No. TCH 1514 issued to Respondent Demica
17 Lenay Castillo.

18 4. Issue an Order compelling Respondents to reimburse
19 the Board for the reasonable costs of its investigation,
20 enforcement, and prosecution of this matter, up to the day of
21 hearing.

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5. Taking such other and further action as the Board
deems necessary and proper.

DATED: 5/16/00

P. J. Harris
PATRICIA F. HARRIS,
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California

Complainant