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

12 In the Matter of the Accusation Against:

Case No. 4647

13 **JAMES DOUGLAS BLAIR**
14 **P.O. Box 7092**
Laguna Niguel, CA 92607

A C C U S A T I O N

15 **Pharmacist License No. RPH 30343**

16 Respondent.
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19 Complainant alleges:

20 **PARTIES**

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

23 2. On July 6, 1976, the Board of Pharmacy issued Pharmacist License Number RPH
24 30343 to James Douglas Blair (Respondent). The Pharmacist License was in full force and
25 effect at all times relevant to the charges brought herein and will expire on January 31, 2014,
26 unless renewed.

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1 **JURISDICTION**

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

5 4. Section 4300, subdivision (a), of the Code provides that every license issued by the
6 Board may be suspended or revoked.

7 5. Section 4300.1 of the Code states:

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

12 **STATUTORY PROVISIONS**

13 6. Section 482 of the Code states:

14 Each board under the provisions of this code shall develop criteria to
15 evaluate the rehabilitation of a person when:

- 16 (a) Considering the denial of a license by the board under Section 480; or
- 17 (b) Considering suspension or revocation of a license under Section 490.

18 Each board shall take into account all competent evidence of rehabilitation
19 furnished by the applicant or licensee.

20 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
21 revoke a license on the ground that the licensee has been convicted of a crime substantially
22 related to the qualifications, functions, or duties of the business or profession for which the
23 license was issued.

24 8. Section 493 of the Code states:

25 Notwithstanding any other provision of law, successful completion of any
26 diversion program under the Penal Code, or successful completion of an alcohol
27 and drug problem assessment program under Article 5 (commencing with Section
28 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit
any agency established under Division 2 (commencing with Section 500) of this
code, or any initiative act referred to in that division, from taking disciplinary
action against a licensee or from denying a license for professional misconduct,
notwithstanding that evidence of that misconduct may be recorded in a record

1 pertaining to an arrest. This section shall not be construed to apply to any drug
2 diversion program operated by any agency established under Division 2
3 (commencing with Section 500) of this code, or any initiative act referred to in
that division.

4 9. Section 4301 of the Code states:

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

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9 (f) The commission of any act involving moral turpitude, dishonesty,
10 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.

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12 (l) The conviction of a crime substantially related to the qualifications,
13 functions, and duties of a licensee under this chapter. The record of conviction of
14 a violation of Chapter 13 (commencing with Section 801) of Title 21 of the
15 United States Code regulating controlled substances or of a violation of the
16 statutes of this state regulating controlled substances or dangerous drugs shall be
17 conclusive evidence of unprofessional conduct. In all other cases, the record of
18 conviction shall be conclusive evidence only of the fact that the conviction
19 occurred. The board may inquire into the circumstances surrounding the
20 commission of the crime, in order to fix the degree of discipline or, in the case of
21 a conviction not involving controlled substances or dangerous drugs, to determine
22 if the conviction is of an offense substantially related to the qualifications,
functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
a conviction following a plea of nolo contendere is deemed to be a conviction
within the meaning of this provision. The board may take action when the time
for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
or when an order granting probation is made suspending the imposition of
sentence, irrespective of a subsequent order under Section 1203.4 of the Penal
Code allowing the person to withdraw his or her plea of guilty and to enter a plea
of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
information, or indictment.

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24 **REGULATORY PROVISIONS**

25 10. California Code of Regulations, title 16, section 1769, states:

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27 (b) When considering the suspension or revocation of a facility or a
28 personal license on the ground that the licensee or the registrant has been

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1 convicted of a crime, the board, in evaluating the rehabilitation of such person and
2 his present eligibility for a license will consider the following criteria:

- 3 (1) Nature and severity of the act(s) or offense(s).
4 (2) Total criminal record.
5 (3) The time that has elapsed since commission of the act(s) or
6 offense(s).
7 (4) Whether the licensee has complied with all terms of parole,
8 probation, restitution or any other sanctions lawfully imposed against the licensee.
9 (5) Evidence, if any, of rehabilitation submitted by the licensee.

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

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

18 **COST RECOVERY**

19 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request
20 the administrative law judge to direct a licentiate found to have committed a violation or
21 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
22 and enforcement of the case, with failure of the licentiate to comply subjecting the license to not
23 being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs
24 may be included in a stipulated settlement.

25 **FIRST CAUSE FOR DISCIPLINE**

26 **(November 29, 2012 Criminal Conviction for Unlawful Viewing on February 20, 2012)**

27 13. Respondent subjected his license to discipline under Code sections 490 and 4301,
28 subdivision (I) in that he was convicted of a crime that is substantially related to the
29 qualifications, functions, and duties of a licensed pharmacist. The circumstances are as follows:

30 a. On November 29, 2012, in a criminal proceeding entitled *The People of the*
31 *State of California vs. James Douglas Blair*, in Orange County Superior Court, Harbor Justice
32 Center, Newport Beach Facility, Case Number 12HM10153, Respondent was convicted on his

1 plea of guilty to three counts of violation of Penal Code (PC) section 647, subdivision (j)(1),
2 disorderly conduct (unlawful viewing), a misdemeanor.

3 b. As a result of the conviction, on November 29, 2012, Respondent was
4 sentenced to three years informal probation. Respondent was also ordered to render 30 days of
5 community service and to pay fines and fees.

6 c. The facts that led to the conviction are that on February 20, 2012,
7 Respondent installed a camera inside a female restroom in Hoag Hospital in Newport Beach,
8 California. A female hospital staff member used the restroom where the camera was installed.
9 While seated on the toilet, she noticed a strange object taped to the plumbing pipe under the sink.
10 The staff member took a closer look and realized that the object was a camera. A female security
11 officer responded to the female staff's report and made an inspection of the restroom. The
12 security officer noticed that when she got close to the object for inspection, the camera made
13 some clicking sound as if it was taking pictures. Later that day, Respondent called the hospital's
14 security office and confessed to installing a nanny camera in the female restroom. A video
15 footage of the hallways showed Respondent leaving his office, going into the female restroom
16 hallway, and exiting the restroom hallway a few minutes later and returning to his office.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Unprofessional Conduct - Commission of Any Act Involving Moral Turpitude, Dishonesty,
19 Fraud, Deceit, or Corruption)**

20 14. Respondent has subjected his license to discipline under Code section 4301,
21 subdivision (f), in that he committed acts involving moral turpitude and corruption when he
22 installed a nanny camera in a female restroom to take pictures of female staff members while
23 seated on the toilet, as described in paragraph 13, above.

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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 Pharmacist License Number RPH 30343, issued to James Douglas Blair;
2. Ordering James Douglas Blair to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as deemed necessary and proper.

DATED: _____

9/27/13

Virginia Herold

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

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