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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.
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28

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 unless otherwise indicated.

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

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

12 5. Section 4301 of the Code states:

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

16 "(n) The revocation, suspension, or other discipline by another state of a license to practice
17 pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter.
18"

19 6. Section 141 of the Code states:

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

27 "(b) Nothing in this section shall preclude a board from applying a specific statutory
28 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.

8
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.P.H., 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.P.H., 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.

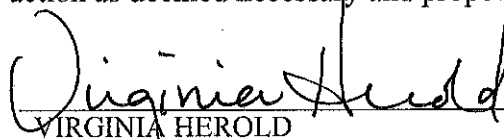
10 **PRAYER**

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



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

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