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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 **JOEL MICHAEL WEBB**
13 **280 Marina Park Way**
Sacramento, CA 95831
14 **Pharmacy Technician Registration No. TCH 68284**
15 Respondent.

Case No. 6118

ACCUSATION

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (“Complainant”) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy (“Board”), Department of Consumer Affairs.
21 2. On or about March 17, 2006, the Board issued Pharmacy Technician Registration
22 Number TCH 68284 to Joel Michael Webb (“Respondent”). The pharmacy technician
23 registration was in full force and effect at all times relevant to the charges brought in the
24 Accusation and will expire on June 30, 2019, unless renewed.

25 **JURISDICTION/STATUTORY PROVISIONS**

- 26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code (“Code”) unless otherwise
28 indicated.

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4. Code section 4300 states, in pertinent part:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper . . .

5. Code section 4300.1 states:

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

6. Code section 4301 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 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

(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.

....

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency . . .

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1 7. Code section 4327 states that “[a]ny person who, while on duty, sells, dispenses or
2 compounds any drug while under the influence of any dangerous drug or alcoholic beverages
3 shall be guilty of a misdemeanor.”

4 COST RECOVERY

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

9 FACTUAL ALLEGATIONS

10 9. On or about August 15, 2016, the Board received a Notification of Theft, Diversion
11 or Self-Use by Licensed Individual from S. C., the pharmacist-in-charge for Kaiser Hospital
12 Morse 1st Floor Pharmacy located in Sacramento, California. S. C. reported that Respondent, a
13 pharmacy technician employed by the pharmacy, arrived at work intoxicated on July 26, 2016.

14 10. On or about February 6, 2017, a Board Inspector conducted an investigative/routine
15 inspection at the pharmacy and spoke with L. Y., the Director of Pharmacy. L. Y. stated that on
16 July 26, 2016, an employee reported to her that Respondent smelled of alcohol. L. Y. brought
17 Respondent into her office for an interview and could smell alcohol on his breath from across the
18 room where he was sitting. Respondent admitted that he had consumed alcohol before coming to
19 work on July 26, 2016. Respondent claimed that he had his last beer around midnight.
20 Respondent submitted to a breathalyzer and drug test. His breathalyzer test was positive, but his
21 drug test was negative. Respondent was immediately removed from work. Later, the Board
22 Inspector interviewed Respondent. Respondent admitted that he had a drinking problem and had
23 been hospitalized on July 2, 2016, for pancreatitis due to his drinking. Respondent attempted to
24 stop drinking on his own on July 1, 2016. Respondent ended up relapsing on July 25, 2016, and
25 came to work on July 26, 2016, after he had been drinking.

26 11. On or about February 9, 2017, the Board Inspector received a copy of Respondent’s
27 breathalyzer test results. The test results showed that Respondent had a .020 percent BAC (blood
28 alcohol) at 11:58 a.m. on July 26, 2016, and a .016 BAC at 12:13 p.m. on July 26, 2016.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Use of Alcoholic Beverages to an Extent or in a Manner**
3 **Dangerous or Injurious to Oneself and Others)**

4 12. Respondent is subject to disciplinary action pursuant to Code section 4301,
5 subdivision (h), for unprofessional conduct, in that on or about July 26, 2016, Respondent used
6 alcoholic beverages to an extent or in a manner dangerous or injurious to himself and others
7 and/or to the extent that such use impaired his ability to conduct his pharmacy technician duties
8 safely, as set forth above.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Violations of the Pharmacy Law)**

11 13. Respondent is subject to disciplinary action pursuant to Code section 4301,
12 subdivision (o), for unprofessional conduct, in that on or about July 26, 2016, Respondent
13 violated or attempted to violate, directly or indirectly, a provision or term of the Pharmacy Law
14 (Bus. & Prof. Code § 4300, et seq.), specifically, Code section 4327, as follows: Respondent,
15 while on duty as a pharmacy technician at Kaiser Hospital Morse 1st Floor Pharmacy, sold,
16 dispensed and/or compounded drugs while under the influence of alcoholic beverages, as set forth
17 above.

18 **PRAYER**

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

- 21 1. Revoking or suspending Pharmacy Technician Registration Number TCH 68284,
22 issued to Joel Michael Webb;
- 23 2. Ordering Joel Michael Webb to pay the Board of Pharmacy the reasonable costs of
24 the investigation and enforcement of this case, pursuant to Business and Professions Code section
25 125.3; and

26 ///

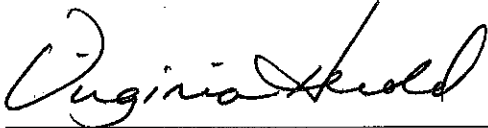
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3. Taking such other and further action as deemed necessary and proper.

DATED: 11/13/17



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

SA2017107097