

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

In the Matter of the Accusation Against:

**JOEL MICHAEL WEBB
280 Marina Park Way
Sacramento, CA 95831**

**Pharmacy Technician Registration
No. TCH 68284**

Respondent.

Case No. 6118

OAH No. 2018010522

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

[Bus. & Prof. Code § 495]

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on November 28, 2018.

It is so ORDERED on October 29, 2018.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Victor Law, R.Ph.
Board President

1 XAVIER BECERRA
Attorney General of California
2 DAVID E. BRICE
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
4 State Bar No. 154990
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-7914
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
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**
15 **No. TCH 68284**

16 Respondent.

Case No. 6118

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STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL

[Bus. & Prof. Code § 495]

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

20 **PARTIES**

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
22 (Board). She brought this action solely in her official capacity and is represented in this matter by
23 Xavier Becerra, Attorney General of the State of California, by Jeffrey M. Phillips, Deputy
24 Attorney General.

25 2. Respondent Joel Michael Webb (Respondent) is represented in this proceeding by
26 Rothschild Wishek & Sands LLP and attorney Clyde M. Blackmon, whose address is: 765
27 University Avenue, Sacramento, CA 95825.

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1 9. For the purpose of resolving the Accusation without the expense and uncertainty of
2 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
3 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
4 those charges.

5 10. Respondent agrees that his Pharmacy Technician Registration is subject to discipline
6 and he agrees to be bound by the Disciplinary Order below.

7 RESERVATION

8 11. The admissions made by Respondent herein are only for the purposes of this
9 proceeding, or any other proceedings in which the Board or other professional licensing agency is
10 involved, and shall not be admissible in any other criminal or civil proceeding.

11 CONTINGENCY

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

22 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
23 copies of this Stipulated Settlement and Disciplinary Order for Public Reapproval, including
24 Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and
25 effect as the originals.

26 14. This Stipulated Settlement and Disciplinary Order for Public Reapproval is intended by
27 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
28 of their agreement. It supersedes any and all prior or contemporaneous agreements,

1 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
2 Settlement and Disciplinary Order for Public Reapproval may not be altered, amended, modified,
3 supplemented, or otherwise changed except by a writing executed by an authorized representative
4 of each of the parties.

5 15. In consideration of the foregoing admissions and stipulations, the parties agree that
6 the Board may, without further notice or formal proceeding, issue and enter the following
7 Disciplinary Order:

8 **DISCIPLINARY ORDER**

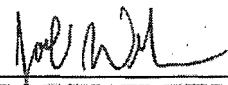
9 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 68284 issued
10 to Respondent Joel Michael Webb (Respondent) shall be publicly reapproved by the Board of
11 Pharmacy under Business and Professions Code section 495 in resolution of Accusation No.
12 6118, attached as exhibit A. Respondent is required to report this reapproval as disciplinary action.

13 **Cost Recovery.** Respondent shall pay \$ 2,681.38 to the Board for its costs associated with
14 the investigation and enforcement of this matter. Respondent shall be permitted to pay these
15 costs in a payment plan approved by the Board, with full and final payment made within one year
16 of the effective date of this decision. If Respondent fails to pay the Board costs as ordered,
17 Respondent shall not be allowed to renew his Pharmacy Technician Registration until Respondent
18 pays costs in full.

19 **ACCEPTANCE**


20 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
21 Reapproval and have fully discussed it with my attorney, Clyde M. Blackmon. I understand the
22 stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this
23 Stipulated Settlement and Disciplinary Order for Public Reapproval voluntarily, knowingly, and
24 intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

25
26 DATED: 4/20/13


27 JOEL MICHAEL WEBB
28 Respondent

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

4
5 DATED: 4/20/18


CLYDE M. BLACKMON
Attorney for Respondent

7
8 ENDORSEMENT

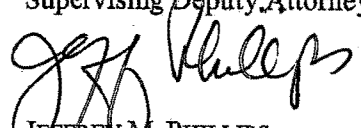
9 The foregoing Stipulated Settlement and Disciplinary Order for Public Reapproval is hereby
10 respectfully submitted for consideration by the Board of Pharmacy of the Department of
11 Consumer Affairs.

12 Dated:

13 4/20/18

Respectfully submitted,

14 XAVIER BECERRA
Attorney General of California
15 DAVID E. BRICE
Supervising Deputy Attorney General

16 
17 JEFFREY M. PHILLIPS
18 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6118

1 XAVIER BECERRA
Attorney General of California
2 DAVID E. BRICE
Supervising Deputy Attorney General
3 JEFFREY M. PHILLIPS
Deputy Attorney General
4 State Bar No. 154990
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 6118

13 **JOEL MICHAEL WEBB**
280 Marina Park Way
Sacramento, CA 95831

ACCUSATION

14 **Pharmacy Technician Registration No. TCH 68284**

15 Respondent.

16
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.

1 4. Code section 4300 states, in pertinent part:

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

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

6 (1) Suspending judgment.

7 (2) Placing him or her upon probation.

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

10 (4) Revoking his or her license.

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

13 5. Code section 4300.1 states:

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

20 6. Code section 4301 states, in pertinent part:

21 The board shall take action against any holder of a license who is guilty
22 of unprofessional conduct or whose license has been issued by mistake.
23 Unprofessional conduct shall include, but is not limited to, any of the following:

24 . . .

25 (h) The administering to oneself, of any controlled substance, or the use
26 of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be
27 dangerous or injurious to oneself, to a person holding a license under this chapter, or
28 to any other person or to the public, or to the extent that the use impairs the ability of
29 the person to conduct with safety to the public the practice authorized by the license.

30

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

36 ///

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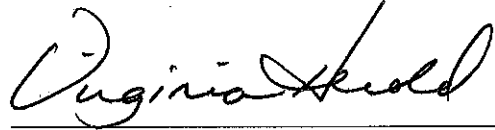
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3. Taking such other and further action as deemed necessary and proper.

DATED:

11/13/17



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

SA2017107097