

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

**In the Matter of the First Amended Accusation Against:**

**PATRICK ROSS WEHMEIER,  
Pharmacist License No. RPH 67093,**

**Respondent.**

**Agency Case No. 7182**

**OAH No. 2022050428**

**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge 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 October 5, 2022.

It is so ORDERED on September 6, 2022.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh".

Seung W. Oh, Pharm.D.  
Board President

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**PROPOSED DECISION**

Julie Cabos-Owen, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on July 13, 2022. Anne Sodergren (Complainant) was represented by Deputy Attorney General Nancy Calero. Patrick Ross Wehmeier (Respondent) was represented by Armond Marcarian, Attorney at Law.

At the hearing, the First Amended Accusation was amended by interlineation at paragraph 17, line 23 to change the number "11" to "12."

At the hearing, the ALJ was provided with Exhibits 4, 8, A, and B, which contain confidential information protected from disclosure to the public. Redaction of the documents to obscure this information was not practicable and would not provide adequate privacy protection. To prevent the disclosure of confidential information, the ALJ issued a Protective Order providing that the Exhibits 4, 8, A, and B shall be placed under seal following their use in preparation of the Proposed Decision. These exhibits shall remain under seal and shall not be opened, except by order of the Board of Pharmacy, by OAH, or by a reviewing court. A reviewing court, parties to this matter, their attorneys, or a government agency decision maker or designee under Government Code section 11517 may review the documents subject to this order provided that such documents are protected from release to the public.

Testimony and documents were received in evidence. The ALJ left the record open until July 29, 2022. Respondent was given until close of business (5:00 p.m.) on July 22, 2022, to submit work evaluations which were to be uploaded to CaseLines as Exhibit E. Complainant was given until close of business on July 29, 2022, to submit any written objections or response to any Exhibit E. Respondent failed to timely submit any work evaluations by July 22, 2022. However, on July 27, 2022, Respondent filed and served employment evaluations which were marked for identification as Exhibit E. On July 29, 2022, Complainant filed a response to Exhibit E. Complainant's response, which was marked for identification as Exhibit 11, indicated Complainant had no objection to the admission of Exhibit E as administrative hearsay. Exhibit E was admitted into evidence as administrative hearsay.

The record closed and the matter was submitted for decision on July 29, 2022.

## **FACTUAL FINDINGS**

### **Jurisdictional Matters**

1. On January 27, 2022, Complainant filed the Accusation while acting in her official capacity as Executive Officer of the California Board of Pharmacy (Board), Department of Consumer Affairs. On June 20, 2022, Complainant filed the First Amended Accusation.

2. Respondent timely filed a Notice of Defense requesting a hearing.

### **Respondent's California License and Out-Of-State License Discipline**

3. On June 29, 2012, the Board issued Pharmacist License Number RPH 67093 to Respondent. His Pharmacist License is scheduled to expire on April 30, 2024. The license has no history of prior discipline.

4. Respondent was previously licensed as pharmacist in the state of Missouri.

5. The Missouri Board of Pharmacy (Missouri Board) and Respondent entered into a Settlement Agreement, effective April 18, 2018 (2018 Settlement Agreement), stipulating that Respondent's Missouri pharmacist license was subject to discipline for use of alcoholic beverages to an extent impairing his ability to perform licensed work and for "incompetence, misconduct, gross negligence, fraud, misrepresentation, or dishonesty in the performance of the functions or duties of [a pharmacist]." (Exhibit 3, p. A28.)

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6. In the 2018 Settlement Agreement, Respondent stipulated "that the factual allegations contained in this Settlement Agreement are true." (Exhibit 3, p. A24.) The Joint Stipulation of Facts included the following:

6. Respondent worked as a floater pharmacist for CVS from May 23, 2016, until he was suspended on May 30, 2016 and eventually terminated on June 13, 2016.

7. Respondent worked a partial second shift on May 26, 2016[.] Pharmacy staff reported the following:

A. Respondent only completed about three hours of his shift because he said he was having a migraine.

B. Respondent was "out of it and not focused" and walked out of the pharmacy every 30 minutes to go to his car.

C. Respondent left the store towards the parking lot six times between 8:15 am and 11:30 am.

8. On May 27, 2016, Respondent called CVS and said he had a seizure and had to go the emergency room. He did not work that day.

9. Respondent worked at CVS . . . on May 28, 2016. Pharmacy staff reported the following:

A. Respondent was scheduled to arrive at 7:00 am, but did not arrive until 7:20 am.

B. Respondent looked disheveled, his clothes were wrinkled, he could not focus, his eyes were red, he said things and then forgot them, and he left the pharmacy every 5 to 10 minutes.

C. By 9:00 am, Respondent left work because he felt sick and requested that the CVS Pharmacy Supervisor not be told.

D. Respondent did not process any prescriptions that day.

10. Respondent worked at CVS . . . . Pharmacy staff reported the following:

A. Two pharmacists reported to the CVS Pharmacy Supervisor that they smelled alcohol on Respondent's breath at 7:15 am and that he had already been out to his car before she arrived at the store at 7:45 am.

B. Respondent was sweating profusely.

C. Respondent was given administrative work to do so he was not filling prescriptions while they waited for the CVS Pharmacy Supervisor to arrive.

D. The pharmacists re-verified the three prescriptions he had verified that day.

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11. On May 30, 2016, Respondent admitted verbally and in writing to the CVS Pharmacy Supervisor that he was an alcoholic and that he went out to his car to drink alcohol.
12. On August 1, 2016, Respondent advised Board Inspector Dan Vandersand in writing that he was coerced into making the written statement to CVS on May 30, 2016 and that he wished to retract the statement.
13. On September 6, 2016, Respondent met with Inspector Vandersand.
14. During this meeting, Respondent advised Inspector Vandersand that starting in 2014 or 2015, he had two or three drinks at the end of his shifts at 9:00 pm and then would have three or four more drinks around 4:00 am to help him fall back to sleep because he had trouble sleeping.
15. Respondent also admitted to losing his driver's license in 2013 for refusing to take a breathalyzer test after he was stopped for suspicion of driving while intoxicated.
16. Respondent also advised Inspector Vandersand that his drinking was to self-medicate from the stress of the job and his father having pancreatic cancer.
17. Respondent also admitted that he did not process any prescriptions on May 28, 2016, because he knew he had consumed too much alcohol.

18. Respondent told Inspector Vandersand he probably had two or three drinks the night of May 27, 2016 and three or four more drinks around 4:00 am on May 28, 2016.

19. Respondent also told Inspector Vandersand that while working at Wal-Mart Pharmacy in 2015 he was sent home from work in a cab for drinking and someone had to cover his shift.

20. On November 8, 2016, Respondent attended a meeting with Board representatives.

21. During this meeting, he denied being an alcoholic.

22. He admitted to drinking two glasses of wine most nights to help him sleep.

23. He further stated that he lied in the signed statement to CVS about being an alcoholic and going to his car to drink alcohol in order to keep his job and to keep the information from being reported to the Board.

24. On around March 21, 2017, the Board requested that Respondent submit to a chemical dependency evaluation and a mental health assessment to determine his fitness to practice pharmacy.

25. Respondent underwent such an assessment in May 2017, the results of which concluded that Respondent had a



severe alcohol use disorder and alcohol dependency,  
among others.

(Exhibit 3, pp. A25-A28.)

7. In the 2018 Settlement Agreement, Respondent agreed that his Missouri pharmacist license would be placed on probation for five years, until April 17, 2023, under terms and conditions including that he abstain from alcohol, participate in the Missouri Board's drug testing program through First Lab, follow recommendations of his treatment provider, and submit progress reports from his chemical dependency provider.

8. Effective September 29, 2021, Respondent and the Missouri Board entered into another Settlement Agreement (2021 Settlement Agreement) following Respondent's violation of his probationary terms. In the 2021 Settlement Agreement, Respondent stipulated the factual allegations in the 2021 Settlement Agreement were true, including the following:

5. Respondent did not call in to FSSolutions (formerly known as FirstLab's Professional Health Monitoring Program) on 43 occasions between November 19, 2020 and March 3, 2021.

6. Respondent was selected to test on November 23, 2020 and February 9, 2021 and missed both tests.

7. Respondent was recommended to attend no less than four (4) AA meetings per week by his initial evaluator.

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8. Respondent did not submit any support group attendance records after June 20, 2020.
9. Respondent suffered an alcohol relapse in November 2020 and again in January 2021. He went to in-patient treatment in both instances.
10. Respondent was unable to comply with the Board's drug testing while he was in in-patient treatment and would have failed the tests prior to his in-patient treatments because he was drinking a bottle of alcohol per day for five to seven days prior to entering treatment.
11. Respondent did not submit semi-annual progress reports from a chemical dependency provider in June and December 2020.
12. Respondent violated [the 2018 Settlement] Agreement by consuming alcohol during the term of the Agreement[;] [¶] by failing to comply with the terms of FSSolutions drug testing program, including calling in and missing drug tests[;] [¶] by failing to submit semi-annual chemical dependency provider progress reports to the [Missouri] Board[;] [¶] [and] by failing to submit support group attendance documentation to the [Missouri] Board.

(Exhibit 5, pp. A92-A93.)

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9. In the 2021 Settlement Agreement, Respondent agreed that his Missouri pharmacist license would continue on probation for five years, until September 2026, under the same terms and conditions, including that he abstain from alcohol, participate in the Missouri Board's drug testing program, follow recommendations of his treatment provider, and submit progress reports from his chemical dependency provider.

10. In June 2022, Respondent surrendered his Missouri pharmacist license. At the hearing, Respondent testified he surrendered his Missouri license because he was no longer living or working in Missouri, and he did not want to keep incurring the expense of being on probation. He admitted that, prior to his surrender, he did not inform the Missouri Board he had relapsed again in 2022 (as detailed further below). He also admitted, despite the 2021 Settlement Agreement to abide by probationary terms, he eventually "decided [he] did not want to go back to Missouri, and [he] stopped" complying with the probationary terms.

11. On January 19, 2018, after the Missouri Board had been informed of Respondent's 2016 violations, but before Respondent signed the 2018 Settlement Agreement, Respondent applied to the Board of Pharmacy for the State of Oregon (Oregon Board) for a pharmacist license. Effective December 30, 2019, Respondent entered into a Stipulated Consent Order with the Oregon Board (Oregon Consent Order), agreeing to "disciplinary action" which consisted of withdrawing his application for licensure and not applying for licensure for five years. (Exhibit 6, p. A105.) In the Oregon Consent Order, Respondent stipulated that his "conduct, as admitted, violated [Oregon statutes] and that legal cause exists . . . for disciplinary action by the [Oregon] Board." (Exhibit 6, p. A105.) Respondent stipulated the following facts were true and the basis for disciplinary action:

[Respondent] was sent requests for information regarding his criminal history on 1/23/2018 and 6/15/2018.

[Respondent] failed to provide the requested information.

On or about 2/13/2001, [Respondent] was arrested for Stealing Under \$750, Possession of False ID and Unlawful Use of Weapon (felony).

On or about 10/16/2012, [Respondent] was arrested for Driving While Intoxicated, Possession Open Container and Failure to Maintain Lane.

On or about 6/25/2013, [Respondent] was arrested for Driving While Intoxicated, Possession Open Container and Fail to Obey Electric Signal.

On or about 1/14/2017, applicant was arrested for Operating Motor Vehicle While Intoxicated.

(Exhibit 6, p. A105.)

12. Pharmacists in California must renew their pharmacist licenses every two years. In about January or February 2020, Respondent completed and submitted an online application for renewal of his California pharmacist license. In that application, Respondent was asked whether he had been subject to any disciplinary action. (The specific question asked on the application was never entered into evidence. However, Respondent admitted the general subject area of inquiry in his testimony and in his April 25, 2022, letter of explanation to the Board.)

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13. Respondent's answer of "No" was false, because he had been subject to 2018 and 2019 disciplinary actions by the Missouri Board and the Oregon Board.

14. At the hearing, Respondent insisted he did not intend to mislead the Board regarding his discipline in Missouri or his application withdrawal in Oregon. According to Respondent, when he was hired by Costco in December 2018, he was informed the Costco legal department was drafting a letter to alert the Board that he was on probation in Missouri. Respondent explained he believed Costco had already reported his Missouri discipline to the Board, so he checked "No," in response to the question about new disciplinary action.

15. In his April 25, 2022 letter to Board after receipt of the Accusation, Respondent provided the same explanation:

Upon my hire, my manager alerted me that the Costco legal department sent a letter to the California Board of Pharmacy regarding my probationary status in Missouri. As a result, I checked "no" when asked if there was any new disciplinary action taken on my 2020 Pharmacist license renewal application.

(Exhibit 8, p. A109.)

16. Respondent did not submit a copy of the letter Costco purportedly sent to the Board.

17. Respondent's explanation did not excuse his failure to answer the renewal application question truthfully and to independently report his disciplinary actions to the Board as required.

## **Respondent's Alcohol Abuse Disorder and Rehabilitation Efforts**

18. After Respondent was terminated from his employment at CVS in June 2016, he completed three 30-day in-patient substance abuse treatment programs in Missouri. He did not recall the exact dates of his participation in those programs. However, he recalled completing a treatment program at Harris House in St. Louis, Missouri, and a program at CenterPointe Hospital in Wentzville, Missouri.

19. After his termination from CVS in June 2016, Respondent briefly worked at another pharmacy in Wentzville, Missouri. At hearing Respondent testified he stopped working there because he "did not like it."

20. After he commenced his Missouri probation in April 2018, but before he settled his Oregon licensure case in December 2019, Respondent moved to California in December 2018 and began working for Costco as a pharmacy manager.

21. Respondent testified he relapsed "two times" during his employment at Costco. This was not completely accurate. As detailed below, Respondent relapsed more than two times after beginning his employment with Costco. However, while he remains employed by Costco, Respondent has been on paid medical leave since the second relapse. His subsequent relapses occurred during this medical leave.

22. In November and December 2020, Respondent relapsed and began drinking alcohol. After his 2020 relapse, Respondent took a leave of absence from Costco. In January 2021, he went to Missouri to complete a 30-day inpatient treatment program at Harris House. He completed that program February 26, 2021. This relapse was partly the basis of the 2021 Settlement Agreement to extend his Missouri probation until 2026.

23. Respondent returned to work at Costco after returning from Missouri after February 2021.

24. In early November 2021, Respondent relapsed and began drinking alcohol again. Respondent took another leave of absence from Costco, and he testified he has remained on medical leave since then.

25. Respondent completed an inpatient rehabilitation program at Valley Recovery Center (VRC) from November 5, 2021, through December 5, 2021. After his discharge from that program, he began attending an outpatient program through VRC called Inneractions, three times per week, from 9:00 a.m. to 12:30 p.m.

26. Respondent admitted he was "not working [his] program to the best of [his] ability," and he began drinking again.

27. Respondent testified that he relapsed next in April 2022. At the hearing, Respondent submitted medical records documenting an earlier relapse in February 2022 that Respondent did not mention in his testimony.

28. Records from Authentic Recovery Center (ARC) in Los Alamitos, California documented an admission date of February 23, 2022. Respondent's stated reason for admission to the detox facility was: "I had 60 days sober and then started drinking 10 days ago, definitely wanna stop." (Exhibit B, pp. B35, B51, B59.) A history and physical conducted February 24, 2022, noted Respondent last used alcohol on February 23, 2022, after 10 days of "daily, all day" use. (*Id.* at p. B42, B52, B59.) He reported he had previously used the medication Naltrexone (brand name Vivitrol), that was "helpful for a few weeks." (*Id.* at p. B43.) Respondent's goal was reportedly, "To get back to Inneractions and to detox." (*Id.* at p. B60.)

29. Respondent was discharged from ARC on March 2, 2022, with discharge instructions recommending aftercare referral to VRC/Inneractions.

30. Regarding his April 2022 relapse, Respondent testified he was drinking for about five days before again enrolling in the inpatient treatment program at VRC on April 12, 2022.

31. Respondent completed a 60-day inpatient rehabilitation program at VRC from April 12, 2022, through June 11, 2022. After his discharge from VRC, Respondent began attending an outpatient program at Inneractions, five days per week (Monday through Friday), from 9:00 a.m. to 12:30 p.m.

32. Respondent continues to participate in the outpatient program five days per week attending individual and group therapy.

33. Respondent continues having mild cravings to consume alcohol, but not the severe, overwhelming, and lengthy cravings he experienced previously. He believes his monthly injection of Vivitrol is “really helpful.” Respondent explained that, if he were to consume alcohol, the Vivitrol would make him nauseated.

34. Sirisat Khalsa, M.D., testified on Respondent’s behalf. Dr. Khalsa began treating Respondent in February 2022, and she diagnosed Respondent with alcohol use disorder. Dr. Khalsa manages and adjusts Respondent’s medications, but she does not provide psychotherapy. She is aware of Respondent’s April 2022 relapse. Since then, she adjusted Respondent’s medications to address Respondent’s panic attacks. Dr. Khalsa observed that Respondent has been responding very well to the medications. Respondent reported an improved mood and a greater ability to participate in group and individual therapy to work on psychiatric issues that



accompany his substance abuse. Dr. Khalsa observed Respondent is willing to remain in treatment, and he is motivated to stay sober.

35. Joseph Mistrulli, the Program Director and Case Director at Inneractions, testified on Respondent's behalf. He noted that, since Respondent's most recent admission into program, he has been attending all group sessions and actively participating. Mr. Mistrulli opined that, if Respondent "continues to do the things he is doing, there is very strong chance that he will stay sober."

36. Contrary to Respondent's prior denials to the Missouri Board investigator, Respondent now admits he suffers from alcohol use disorder. He noted he was previously "in denial a lot of time about how big a problem this was," but he now realizes "it is something [he has] to battle every day and recognize it as a chronic disease, . . . and [he needs] a whole lifestyle change." Respondent acknowledged, "I have fallen many times, and it is going to take all I've got to control this." He is willing to do everything he can to maintain his sobriety.

37. Respondent admitted, in 2016 he was "in denial when [he] made that mistake of practicing while impaired." Respondent expressed remorse, stating, "'I did mess up in 2016 and made a horrible decision and put people in danger, and I really regret that.'" He readily admits he is "still an alcoholic and relapsed since then." However, in his testimony and in his April 25, 2022 letter, Respondent assured the Board, "Although I have relapsed since the events at CVS, I have never practiced while impaired again." (Exhibit 8, p. A109.) Respondent promised the Board, if he ever relapsed again, he would not report to work and would not endanger patients.

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38. Respondent maintains he has never received a bad evaluation while working at Costco. He submitted positive work evaluations from December 2018 through September 2020 (just prior to his first relapse while working at Costco).

39. Around October 2021, Respondent moved in with the woman he had been dating. She owns the house in which they live, and she pays the mortgage. Respondent receives periodic disability checks, and that is his sole source of income. Respondent testified his father borrowed money to help pay his attorney's fees.

40. Respondent's girlfriend, Khine Zan, testified on his behalf. She described Respondent as "gentle," and she confirmed, "right now he is trying very hard to be sober."

## **Costs**

41. Complainant submitted, as evidence of the costs of prosecution of the Accusation, a Certification of Prosecution Costs/Declaration of Nancy Calero, certifying that the Department of Justice, Office of the Attorney General billed the Board \$10,141.25 for legal services provided through July 8, 2022.

42. The evidence established that Complainant incurred total prosecution costs of \$10,141.25, all of which are deemed reasonable.

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## LEGAL CONCLUSIONS

1. Business and Professions Code section 4301 requires the Board to impose discipline on any pharmacy licensee who is guilty of unprofessional conduct. Unprofessional conduct includes:

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

(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. [¶] . . . [¶]

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter that would be grounds for revocation, suspension, or other discipline under this chapter. Any disciplinary action taken by the board pursuant to this section shall be coterminous with action taken by another slate, except that the term of any discipline taken by the board may exceed that of another

state, consistent with the board's enforcement guidelines.

The evidence of discipline by another state is conclusive proof of unprofessional conduct. [¶] . . . [¶]

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

2. To "knowingly" make a false statement does not require the intent to deceive. "The evil therefore is in not in the intent to do harm, but in falsely certifying facts which are not true. . . ." (*Brown v. State Department of Health* (1978) 86 Cal.App.3d 548, 555.) Similarly, the term "willfully" means "'a purpose or willingness to commit the act' without regard to motive, intent to injure, or knowledge of the act's prohibited character. [Citation.]" (*In re Jerry R.* (1994) 29 Cal.App.4th 1432, 1438.) The term implies "that the person knows what he is doing, intends to do what he is doing, and is a free agent. . . . Stated another way, the term 'willful' requires only that the prohibited act occur intentionally." (*Ibid.*) By answering "no" to the renewal application question about discipline and failing to disclose his Missouri and Oregon discipline of which he was aware, Respondent knowingly signed a document that falsely represented the nonexistence of a state of facts.

3. Cause exists to discipline Respondent's pharmacist license, pursuant to Business and Professions Code section 4301, subdivision (g), for knowingly signing a document that falsely represents the nonexistence of a state of facts, as set forth in Factual Findings 3 through 17, and Legal Conclusion 2.

4. Cause exists to discipline Respondent's pharmacist license, pursuant to Business and Professions Code section 4301, subdivision (h), for the use of alcoholic beverages to the extent or in a manner as to be dangerous to the public, or to the

extent that the use impaired his ability to practice pharmacy safely, as set forth in Factual Findings 3 through 17.

5. Cause exists to discipline Respondent's pharmacist license, pursuant to Business and Professions Code section 4301, subdivision (n), for incurring discipline by the state of Missouri, on his license to practice pharmacy, for violations that would also be grounds for revocation, suspension, or other discipline in California, as set forth in Factual Findings 4 through 10.

6. Cause exists to discipline Respondent's pharmacist license, pursuant to Business and Professions Code section 4301, subdivision (n), for incurring discipline by the state of Oregon, as set forth in Factual Finding 11. Respondent stipulated to "disciplinary action" in Oregon which consisted of withdrawing his application for a license to practice pharmacy for violations (i.e., nondisclosure of criminal history) that would also be grounds for revocation, suspension, or other discipline in California.

7. Cause exists to discipline Respondent's pharmacist license, pursuant to Business and Professions Code section 4301, subdivision (p), for actions or conduct that would have warranted denial of a California pharmacist license, as set forth in Factual Findings 3 through 17.

8. Pursuant to Business and Professions Code section 125.3, Complainant is entitled to recover reasonable costs of investigation and enforcement of this matter in the amount of \$10,141.25, as set forth in Factual Findings 41 and 42. However, to ensure that cost awards do not deter licentiates with potentially meritorious claims or defenses from exercising their right to a hearing, the Board must use its discretion to reduce or eliminate costs by considering the following factors: the licentiate's ability to obtain dismissal or reduction of the charges; the licentiate's subjective good faith

belief in the merits of his or her position; whether the licentiate raised a colorable challenge to the proposed discipline; the licentiate's financial ability to pay; and whether the scope of the investigation was appropriate in light of the alleged misconduct. (*Zuckerman v. State Board of Chiropractic Examiners (Zuckerman)* (2002) 29 Cal.4th 32, 45.) In this case, Complainant established all causes for discipline against Respondent. However, given Respondent's decreased income, the costs will be reduced by 50 percent, and Respondent shall pay the Board the reasonable costs for investigation and enforcement totaling \$5,070.63.

9. Pursuant to the Board's Disciplinary Guidelines, in determining the appropriate discipline in a case, factors such as the following should be considered: (1) actual or potential harm to the public; (2) actual or potential harm to any consumer; (3) prior disciplinary record, including level of compliance with disciplinary order(s); (4) prior warning(s), including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s); (5) number and/or variety of current violations; (6) nature and severity of the act(s), offense(s) or crime(s) under consideration; (7) aggravating evidence; (8) mitigating evidence; (9) rehabilitation evidence; (10) compliance with terms of any criminal sentence, parole, or probation; (11) overall criminal record; (12) if applicable, evidence of proceedings for case being set aside and dismissed pursuant to Section 1203.4 of the Penal Code; (13) time passed since the act(s) or offense(s); (14) whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct; (15) financial benefit to the respondent from the misconduct; (16) other licenses held by the respondent and license history of those licenses; and (17) Uniform Standards Regarding Substance-Abusing Healing Arts Licensees.

10. Respondent was disciplined by the Missouri Board in 2018 for reporting to work intoxicated in 2016, and Respondent admits he placed patients in danger. This is a very concerning violation, and it is compounded by Respondent's failure to successfully complete his 2018 Missouri probation, relapsing November 2020 through January 2021. It is further compounded by Respondent's continued failure to maintain his sobriety after the Missouri Board gave him a second chance in the 2021 Settlement Agreement. Instead, Respondent relapsed in November 2021, February 2022, and April 2022, finally surrendering his Missouri license in June 2022.

11. Respondent expressed remorse for his violations and for placing patients in danger. Remorse for one's conduct and the acceptance of responsibility are the cornerstones of rehabilitation. (See *In the Matter of Brown* (1993) 2 Cal. State Bar Ct. Rptr. 309.) Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (See *Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933; *In the Matter of Brown, supra*.)

12. However, mere remorse does not demonstrate rehabilitation. A truer indication of rehabilitation is sustained conduct over an extended period of time. (*In re Menna* (1995) 11 Cal.4th 975, 991.) Respondent has a history of licensure and employment in California without patient or employer complaint. However, given Respondent's increasingly frequent relapses, the most recent which occurred only two months ago, he presents a higher risk of recidivism. Although Respondent is working diligently on his rehabilitation and maintaining his sobriety, he was discharged from inpatient treatment only one month ago. At this point, the Board cannot be assured of Respondent's sufficient rehabilitation such that he would be able to successfully participate in Board-ordered probation which would require Respondent to work as a pharmacist while also attending treatment sessions and submitting to testing. He

would also have the added stress of paying a significant amount of probation costs and reimbursing prosecution costs. Moreover, Respondent's prior inability to complete his Missouri probation, even after a second chance, does not bode well for his successful participation in probation in California.

13. Also disturbing is Respondent's lack of candor with the Missouri Board, the Oregon Board, and this Board. In January 2018, before signing the 2018 Settlement Agreement in Missouri, Respondent applied to the Oregon Board for a pharmacist license, and he did not disclose his criminal history. Additionally, the timing of Respondent's Oregon application is suspect, since he knew he was under investigation in Missouri, but he applied in Oregon just prior to being subjected to any Missouri discipline and the need for disclosure. Furthermore, in his 2020 license renewal application in California, Respondent chose not to disclose his Missouri or Oregon discipline, and his explanation for non-disclosure was not convincing. Respondent continued his evasiveness, opting against reporting his most recent relapse to the Missouri Board, and testifying in the current hearing he relapsed in April 2022 but not mentioning his February 23, 2022 admission to ARC for alcohol abuse. Respondent's inability to be completely forthright weighs further against his successful participation in Board-ordered probation.

14. Administrative actions regarding a state-issued license are not for the primary purpose of punishing an individual. (*Camacho v. Youde* (1979) 95 Cal.App.3d 161, 165.) Rather, in issuing and disciplining licenses, a state agency is primarily concerned with protection of the public, maintaining the integrity and high standards of the profession, and preserving public confidence in licensure. (*Ibid*; see also *Fahmy v. Medical Bd. of California* (1995) 38 Cal.App.4th 810, 817.)

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15. Respondent has failed to establish he is sufficiently rehabilitated such that he is safe to practice as a pharmacist even with probationary terms in place. Consequently, revocation of Respondent's pharmacist license is necessary to protect the public. The time away from the practice of pharmacy will afford Respondent the opportunity to focus on the hard work of recovery and to achieve the level of rehabilitation essential to safely practice as a licensed pharmacist.

### **ORDER**

1. Pharmacist License Number RPH 67093, issued to Respondent Patrick Ross Wehmeier, is hereby revoked.

2. If Respondent later applies for a new pharmacist license or reinstatement of his revoked license, Respondent shall reimburse the Board \$5,070.63 for its prosecutorial costs in this case, before reinstatement or issuance of any pharmacist license or as the Board in its discretion may otherwise order.

DATE: 08/02/2022

*Julie Cabos-Owen*

JULIE CABOS-OWEN

Administrative Law Judge

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

12 In the Matter of the Accusation Against:

Case No. 7182

13 **PATRICK ROSS WEHMEIER**  
14 **2 La Cumbre Circle**  
**Santa Barbara, CA 93105**

**FIRST AMENDED ACCUSATION**

15 **Pharmacist License No. RPH 67093**

16 Respondent.  
17

18 **PARTIES**

19 1. Anne Sodergren (Complainant) brings this First Amended Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of  
21 Consumer Affairs.

22 2. On or about June 29, 2012, the Board issued Pharmacist License Number RPH 67093  
23 to Patrick Ross Wehmeier (Respondent). The Pharmacist License was in full force and effect at  
24 all times relevant to the charges brought herein and will expire on April 30, 2022, unless renewed.

25 **JURISDICTION AND STATUTORY PROVISIONS**

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

1           4.     Section 4300 of the Code provides in pertinent part, that every license issued by the  
2 Board is subject to discipline, including suspension or revocation.

3           5.     Section 4300.1 of the Code states:

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

10          6.     Section 4301 of the Code states:

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

14           . . . .

15           (g) Knowingly making or signing any certificate or other document that falsely  
16 represents the existence or nonexistence of a state of facts.

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

22           . . . .

23           (n) The revocation, suspension, or other discipline by another state of a license  
24 to practice pharmacy, operate a pharmacy, or do any other act for which a license is  
25 required by this chapter that would be grounds for revocation, suspension, or other  
26 discipline under this chapter. Any disciplinary action taken by the board pursuant to  
27 this section shall be coterminous with action taken by another state, except that the  
28 term of any discipline taken by the board may exceed that of another state, consistent  
with the board's enforcement guidelines. The evidence of discipline by another state  
is conclusive proof of unprofessional conduct.

          . . . .

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

### **REGULATORY PROVISIONS**

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

          For the purpose of denial, suspension, or revocation of a personal or facility  
license pursuant to Division 1.5 (commencing with Section 475) of the Business and  
Professions Code, a crime or act shall be considered substantially related to the  
qualifications, functions or duties of a licensee or registrant if to a substantial degree  
it evidences present or potential unfitness of a licensee or registrant to perform the

functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare.

### **COST RECOVERY**

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

### **FACTUAL ALLEGATIONS**

#### **Missouri Board of Pharmacy**

9. On or about April 18, 2018, in the Stipulated Consent Order titled: *In re: Patrick Wehmeier, R. Ph. License No. 2007027808, Complaint No. 2016-004174, Settlement Agreement Between the Missouri Board of Pharmacy and Patrick Wehmeier*, Respondent was disciplined by the Missouri Board of Pharmacy (Missouri Board) and was placed on probation for five (5) years. Respondent and the Missouri Board stipulated to the following facts: On or about July 20, 2016, the Missouri Board received an electronic Pharmacist Disciplinary Action Report from CVS Pharmacy, 7334 Lindbergh Boulevard, St. Louis, MO 63125, stating that during the training phase of his employment, Respondent smelled like alcohol upon arrival at 7:00 a.m. On or around June 13, 2016, Respondent was terminated from CVS.

10. On or around May 2017, Respondent underwent a chemical dependency evaluation and a mental health assessment to determine his fitness to practice pharmacy. The results concluded that Respondent “had a severe alcohol use disorder and alcohol dependency, among others.”

11. On or about September 29, 2021, Respondent and the Missouri Board entered into a subsequent stipulation agreement titled: *In re: Patrick Wehmeier, R. Ph. License No.: 2007027808, Complaint No. 2021-000629, Settlement Agreement Between the Missouri Board of Pharmacy and Patrick Wehmeier*. As a result, Respondent’s pharmacist license number 2007027808 was placed on probation for a period of five (5) years. Respondent and the Missouri Board jointly stipulated to the following facts:

- Respondent failed to call in to FSSolutions on 43 occasions between

November 19, 2020 and March 3, 2021.

- Respondent was selected to test on November 23, 2020 and February 9, 2021 and missed both tests.
- Respondent failed to submit any support group attendance records after June 20, 2020.
- Respondent suffered an alcohol relapse in November 2020, and again in January 2021. He went to in-patient treatment in both instances.
- Respondent failed to comply with the Board's drug testing while he was in in-patient treatment and would have failed the tests prior to his in-patient treatments because he was drinking a bottle of alcohol per day for five to seven days prior to entering treatment.
- Respondent failed to submit semi-annual progress reports from a chemical dependency provider in June and December 2020.

#### Oregon Board of Pharmacy

12. On or about December 30, 2019, in the Stipulated Consent Order titled: *In the Matter of the Pharmacist License Application of Patrick Ross Wehmeier, Applicant, Case No. 2019-0296*, Respondent was disciplined by the Oregon State Board of Pharmacy (Oregon Board). Pursuant to Oregon Revised Statute 689.405, subdivisions (1)(a) and (e)(B), the Oregon Board determined that legal cause existed for disciplinary action. The Oregon Board sent requests to Respondent for information regarding his criminal history. Respondent failed to provide the requested information. As a result, the parties entered into a stipulation whereby Respondent withdrew his application and agreed to not apply for any license with the Oregon Board for a period of five (5) years.

#### California Board of Pharmacy

13. On or about February 24, 2020, the California Board received Respondent's renewal application. On the application, Respondent marked "No" to the formal license disciplinary action and failed to disclose that his Missouri pharmacist license was placed on probation for five (5) years, effective April 18, 2018.

### **FIRST CAUSE FOR DISCIPLINE**

#### **(Failure to Disclose Discipline on Renewal Application)**

14. Respondent is subject to disciplinary action under Code section 4301, subdivision (g), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of

unprofessional conduct, in that upon renewal of his license, Respondent marked “No” on his renewal application and failed to disclose he was disciplined by the Missouri Board. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 12, as though set forth fully.

## **SECOND CAUSE FOR DISCIPLINE**

### **(Use of Alcoholic Beverage While on Duty)**

15. Respondent is subject to disciplinary action under section 4301, subdivision (h), on the grounds of unprofessional conduct, in that Respondent was found to be impaired due to the consumption of alcohol while working as a pharmacist. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 9 and 10, as though set forth fully.

## **THIRD CAUSE FOR DISCIPLINE**

### **(Discipline by the Missouri State Board of Pharmacy)**

16. Respondent is subject to disciplinary action under Code section 4301, subdivision (n), on the grounds of unprofessional conduct, in that Respondent was disciplined by the Missouri Board. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 9 and 10, as though set forth fully.

## **FOURTH CAUSE FOR DISCIPLINE**

### **(Discipline by the Oregon State Board of Pharmacy)**

17. Respondent is subject to disciplinary action under Code section 4301, subdivision (n), on the grounds of unprofessional conduct, in that Respondent was disciplined by the Oregon Board. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraph 11, as though set forth fully.

## **FIFTH CAUSE FOR DISCIPLINE**

### **(Unprofessional Conduct Based on Acts that Would Warrant Denial of License)**

18. Respondent is subject to disciplinary action under Code sections 4300, 4301, subdivision (p), in that Respondent’s conducted as alleged in preceding paragraphs 9 through 10, would have warranted denial of a pharmacist license.

**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 67093, issued to Patrick Ross Wehmeier;
2. Ordering Patrick Ross Wehmeier 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; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 6/20/2022

Signature on File

ANNE SODERGREN  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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