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

12 In the Matter of the Accusation Against:
13 KAREN D. GODFREY
543 S. Willowspring Drive
14 Encinitas, CA 92024
15 Pharmacy Technician Reg. No. TCH 35412
16 Respondent.

Case No. 3204

A C C U S A T I O N

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18 Complainant alleges:

19 PARTIES

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
22 2. On or about December 11, 2000, the Board of Pharmacy issued Pharmacy
23 Technician Registration Number TCH 35412 to Karen D. Godfrey (Respondent). The Pharmacy
24 Technician Registration was in full force and effect at all times relevant to the charges brought
25 herein and will expire on January 31, 2010, unless renewed.

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1 if the conviction is of an offense substantially related to the qualifications,
2 functions, and duties of a licensee under this chapter. A plea or verdict of guilty
3 or a conviction following a plea of nolo contendere is deemed to be a conviction
4 within the meaning of this provision. The board may take action when the time
5 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
6 or when an order granting probation is made suspending the imposition of
7 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal
8 Code allowing the person to withdraw his or her plea of guilty and to enter a plea
9 of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,
10 information, or indictment.

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6. Section 4060 of the Code states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

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

8. Section 492 of the Code states:

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 ([Healing Arts] 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 pertaining to an arrest.

9. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a

1 person who holds a license, upon the ground that the applicant or the licensee has
2 been convicted of a crime substantially related to the qualifications, functions, and
3 duties of the licensee in question, the record of conviction of the crime shall be
4 conclusive evidence of the fact that the conviction occurred, but only of that fact,
5 and the board may inquire into the circumstances surrounding the commission of
6 the crime in order to fix the degree of discipline or to determine if the conviction
7 is substantially related to the qualifications, functions, and duties of the licensee in
8 question.

9 As used in this section, "license" includes "certificate," "permit,"
10 "authority," and "registration."

11 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
12 request the administrative law judge to direct a licentiate found to have committed a violation or
13 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
14 and enforcement of the case.

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

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

23 12. California Code of Regulations, title 16, section 1769, states:

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25 (b) When considering the suspension or revocation of a facility or a
26 personal license on the ground that the licensee or the registrant has been
27 convicted of a crime, the board, in evaluating the rehabilitation of such person and
28 his present eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation,
restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

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1 **DRUGS**

2 13. Cocaine is a Schedule II controlled substance as designated by Health and
3 Safety Code section 11055, subdivision (b)(6), and is a dangerous drug pursuant to Business &
4 Professions Code section 4022.

5 14. Marijuana is a Schedule I controlled substance as designated by Health
6 and Safety Code section 11054, subdivision (d)(13), and is a dangerous drug pursuant to
7 Business & Professions Code section 4022.

8 15. Methamphetamine is a Schedule II controlled substance as designated by
9 Health and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to
10 Business and Professions Code section 4022.

11 16. Section 4022 of the Code states:

12 "Dangerous drug" or "dangerous device" means any drug or device unsafe
13 for self-use in humans or animals, and includes the following:

14 (a) Any drug that bears the legend: "Caution: federal law prohibits
15 dispensing without prescription," "Rx only," or words of similar import.

16 (b) Any device that bears the statement: "Caution: federal law
17 restricts this device to sale by or on the order of a _____," "Rx only," or
18 words of similar import, the blank to be filled in with the designation of the
19 practitioner licensed to use or order use of the device.

20 (c) Any other drug or device that by federal or state law can be
21 lawfully dispensed only on prescription or furnished pursuant to Section 4006.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(September 18, 2006 Criminal Conviction for Possession of a
24 Controlled Substance on May 20, 2005)**

25 17. Respondent has subjected her license to discipline under sections 490 and
26 4301, subdivision (l) of the Code in that she was convicted of a crime that is substantially related
27 to the qualifications, duties, and functions of a pharmacy technician. The circumstances are as
28 follows:

29 a. On or about June 21, 2005, in a criminal proceeding entitled
30 *People of the State of California v. Karen D. Godfrey*, San Diego County Superior Court (North
31 County), case number SCN195199, Respondent was convicted on her plea of guilty of violating

1 Health and Safety Code section 11350, subdivision (a), possession of a controlled substance, to
2 wit, cocaine, a felony.

3 b. As a result of the conviction, on or about June 21, 2005,
4 Respondent was sentenced to one day in the county jail (with credit for time served), three years
5 formal probation, and payment of fines, fees and restitution in the amount of \$600. Respondent
6 was further ordered to complete a drug treatment program, attend AA/NA or other self help
7 group, totally abstain from alcohol and drugs, and other standard terms and conditions.

8 c. At a hearing on or about September 18, 2006, Respondent's formal
9 probation was revoked and she was ordered to serve 270 days in the county jail, to be served
10 concurrently with the sentence imposed in case number SCN206343. (See paragraph 21, below.)

11 d. The facts that led to the conviction were that on or about the
12 morning of May 20, 2005, the San Diego County Sheriff's Department Street Narcotic and Gang
13 Detail served a search warrant at the Cardiff home of Respondent. As the deputies made entry
14 into the residence, a pit bull exited the open door and began barking loudly, which compromised
15 the team. The team shouted loudly, identifying themselves and demanding entry. Respondent
16 was detained, handcuffed, and placed on the floor in the hallway outside the master bedroom. It
17 was determined that Respondent and a second person were the only occupants of the house.

18 e. During a search of the living room, detectives found plastic
19 wrapping in a large trash bag. Based on their training and experience, the detectives recognized
20 the plastic wrapping as the method for which large amounts of drugs from Mexico are packaged
21 and transported. An empty prescription bottle with Respondent's name contained white residue
22 that tested positive for cocaine.

23 f. In the master bedroom, detectives found .37 grams of cocaine, a
24 large spoon with residue, numerous zip baggies with cocaine residue, a small zip baggie with an
25 unknown capsule, and a plastic bottle containing one Diazepam and six Alprazolam pills. In a
26 red purse on the bed were documents in the name of Respondent, drug transaction pay/owe
27 sheets, and a copper scour pad. (Copper scour pads, or "Brillo" pads are used as a filter and to
28 hold the crack cocaine rock in place in the pipe.) On top of the bed was a 9mm handgun

1 magazine with 10 rounds. A bulk quantity of plastic zip baggies were found throughout the
2 bedroom. Additional pay/owe sheets and a cell phone were found on a dresser. A glass crack
3 smoking pipe was found on the floor next to the bed. Thirty-one 25-caliber bullets were found in
4 a plastic container on a shelf, and another copper scour pad was found in a cup under the
5 bedroom window.

6 g. In the kitchen, detectives found more pay/owe sheets along with
7 documents in Respondent's name in a purse on a table. Drug packaging was found on the
8 kitchen counter. A second bedroom was searched. It was empty except for a plastic cart with
9 drawers and a chair. On top of the cart was assorted drug paraphernalia (smoking cans, burnt
10 spoons, cans of water, mirror, etc.). Inside the top drawer was a baggie containing 16.85 grams
11 of marijuana, a small baggie containing .78 grams of a white powder, a plastic bottle containing
12 one unknown pill, drug packaging, and white residue in the corner of the drawer.

13 h. Respondent initiated a conversation with the detectives. She stated
14 that a lot of people come and go from the residence and she did not have control over it. Her
15 boyfriend suffered a stroke three months earlier, and she was left with the house while he
16 recuperated at his ex-wife's house. Respondent stated that she had not worked in three years and
17 was unable to keep up with the rent and bills. Respondent stated that she began using illegal
18 drugs 1 ½ years earlier; she started with methamphetamine and progressed to crack cocaine. Her
19 drug lifestyle included a large number of people coming and going, but she looked the other way.
20 Respondent ended the interview by stating "Charge me with it all!" Respondent was booked into
21 the Vista Detention Facility.

22 i. A felony complaint was filed on or about May 24, 2005 charging
23 Respondent with maintaining a place for the purpose of unlawfully selling, giving away, and
24 using a controlled substance (Health & Saf. Code, § 11366); two counts of possession of a
25 controlled substance (cocaine and methamphetamine) (Health & Saf. Code, § 11350, subd. (a));
26 possession of paraphernalia used for narcotics (Health & Saf. Code, § 11364); under the
27 influence of a controlled substance (methamphetamine) (Health & Saf. Code, § 11550, subd. (a));
28 possession of less 28.5 grams of marijuana (Health & Saf. Code, § 11357, subd. (b)).

1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(March 2, 2006 Criminal Conviction for Possession of**
3 **Controlled Substances for Sale on January 24, 2006)**

4 21. Respondent has subjected her license to discipline under sections 490 and
5 4301, subdivision (l) of the Code in that she was convicted of a crime that is substantially related
6 to the qualifications, duties, and functions of a pharmacy technician. The circumstances are as
7 follows:

8 a. On or about March 2, 2006, in a criminal proceeding entitled
9 *People of the State of California v. Karen D. Godfrey*, San Diego County Superior Court (North
10 County), case number CN206343, Respondent was convicted on her plea of guilty of violating
11 Health and Safety Code section 11351, unlawful possession of controlled substances for sale, to
12 wit, cocaine, a felony.

13 b. As a result of the conviction, on or about September 18, 2006,
14 Respondent was sentenced to serve 270 days in the county jail, with credit for 56 days, to be
15 served concurrently with the sentence imposed in case number SCN195199. (See paragraph 17,
16 above.) Respondent was further sentenced to three years formal probation until September 17,
17 2009, and ordered to pay fees, fines, and restitution in the amount of \$459, plus probation costs.

18 c. The facts that led to the conviction were that on or about the
19 afternoon of January 24, 2006, a deputy from the San Diego County Sheriff's Department was on
20 patrol in Encinitas when he observed Respondent make an unsafe lane change while driving her
21 vehicle. After stopping Respondent, she provided the deputy with an expired driver's license.
22 Respondent admitted that she had drugs in the car. A search revealed a black shaving kit type
23 bag on the driver's side floorboard. Inside the center pouch of the shaving kit was a ziplock
24 baggie containing approximately 10.45 grams of a white powdery substance that tested positive
25 for cocaine. In a side pouch of the kit was another ziplock baggie containing 22.58 grams of a
26 white powdery substance that Respondent later admitted was Borax, a cutting agent used by drug
27 dealers to increase the quantity of cocaine, thereby increasing the profit from its sale. Also in the
28 shaving kit was an electronic scale covered in cocaine, several spoons with cocaine residue, a

1 glass pipe used for smoking cocaine, and small pieces of steel wool used to hold the cocaine in
2 the pipe. There were two prescription bottles for Respondent for the drug Alprazolam. Inside a
3 brown purse on the driver's floor were numerous, detailed pay/owe sheets that indicated
4 Respondent was involved in selling drugs in moderately large amounts and very frequently.

5 d. Respondent was arrested and taken to the sheriff's station. During
6 a search of her person, a female deputy found a small bundle of cocaine in Respondent's back
7 pocket. A detective noted that Respondent appeared to be under the influence of a controlled
8 substance; she had dilated pupils, red watery eyes, and a red, flushed face. Respondent admitted
9 that the shaving kit and the drugs belonged to her and that she had been selling cocaine for at
10 least two weeks. Respondent admitted to selling about three ounces of cocaine per day, and
11 confirmed that the documents found in her purse were pay/owe sheets for drug transactions.
12 Respondent told the detective that she had been living in various motels in the Encinitas area. A
13 search of Respondent's current motel revealed documents, mail, credit cards, check book and
14 other items in Respondent's name. The detective also found more empty ziplock baggies, two
15 spoons with cocaine residue, medication bottles, and pay/owe sheets.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct - Illegal Possession of Controlled Substance on January 24, 2006)**

18 22. Respondent is subject to disciplinary action under sections 4301,
19 subdivision (j) and 4060 of the Code in that on or about January 24, 2006, Respondent possessed
20 a controlled substance and dangerous drug without a prescription in violation of the statutes of
21 this state as detailed in paragraph 21, above. Respondent offered the following facts as the basis
22 for her guilty plea in case number CN206343: "Possessed a useable amount of cocaine for
23 purpose of sale."

24 **SEVENTH CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct - Illegal Use of Controlled Substance on January 24, 2006)**

26 23. Respondent is subject to disciplinary action under sections 4301,
27 subdivisions (h) and (j) of the Code, in that on or about January 24, 2006, while being
28 interviewed by detectives from the San Diego County Sheriff's Department, Respondent

1 exhibited signs and symptoms consistent with being under the influence of a controlled
2 substance, as detailed in paragraph 21, above.

3 **EIGHTH CAUSE FOR DISCIPLINE**

4 **(Conviction of More Than One Felony Involving Dangerous Drugs)**

5 24. Respondent is subject to disciplinary action under section 4301,
6 subdivisions (k) of the Code, in that Respondent suffered two separate convictions involving
7 dangerous drugs. On or about June 21, 2005, in a criminal proceeding entitled *People of the*
8 *State of California v. Karen D. Godfrey*, San Diego County Superior Court (North County), case
9 number SCN195199, Respondent was convicted on her plea of guilty of violating Health and
10 Safety Code section 11350, subdivision (a), possession of a controlled substance, to wit, cocaine,
11 a felony. On or about March 2, 2006, in a criminal proceeding entitled *People of the State of*
12 *California v. Karen D. Godfrey*, San Diego County Superior Court (North County), case number
13 CN206343, Respondent was convicted on her plea of guilty of violating Health and Safety Code
14 section 11351, unlawful possession of controlled substances for sale, to wit, cocaine, a felony.
15 (See paragraphs 17 and 21, above.)

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PRAYER

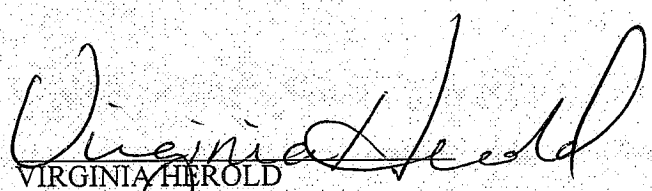
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician Registration Number TCH 35412, issued to Karen D. Godfrey;

2. Ordering Karen D. Godfrey 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: 11/7/08


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

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