

1 KAMALA D. HARRIS
Attorney General of California
2 ARTHUR D. TAGGART
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) 324-6292
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3863

12 **Kimberly Renee Hodges**
13 **3487 Cortland Ave.**
Fresno, CA 93726

A C C U S A T I O N

14 **Pharmacy Technician Registration**
15 **No. TCH 67493**

16 Respondent.

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, Department of Consumer Affairs.

21 2. On or about March 17, 2006, the Board of Pharmacy issued Pharmacy Technician
22 License Number TCH 67493 to Kimberly Rene Hodges (Respondent). The Pharmacy Technician
23 License was in full force and effect at all times relevant to the charges brought herein and will
24 expire on September 30, 2011, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, under the authority of the following laws. All section references are to the
28 Business and Professions Code unless otherwise indicated.

1 4. Section 480 of the Business and Professions Code provides, in pertinent part, that a
2 board may deny a license if the applicant has been convicted of a crime substantially related to
3 the qualifications, functions or duties of the business or profession for which application is made,
4 has committed any act involving dishonesty, fraud or deceit, has committed any act which if done
5 by a licentiate would be grounds for suspension or revocation of a license, or has knowingly made
6 a false statement of fact required to be revealed in the application.

7 5. Section 4301 of the Code states:

8 "The board shall take action against any holder of a license who is guilty of unprofessional
9 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

10 Unprofessional conduct shall include, but is not limited to, any of the following:

11 ...

12 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
13 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
14 whether the act is a felony or misdemeanor or not.

15 ...

16 "(j) The violation of any of the statutes of this state, or any other state, or of the United
17 States regulating controlled substances and dangerous drugs.

18 "(k) The conviction of more than one misdemeanor or any felony involving the use,
19 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
20 combination of those substances.

21 "(l) The conviction of a crime substantially related to the qualifications, functions, and
22 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
23 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
24 substances or of a violation of the statutes of this state regulating controlled substances or
25 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
26 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
27 The board may inquire into the circumstances surrounding the commission of the crime, in order
28 to fix the degree of discipline or, in the case of a conviction not involving controlled substances

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

10 . . .

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

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

19 **DRUGS**

20 7. **Hydrocodone** - Hydrocodone bitartrate is semisynthetic narcotic analgesic, a
21 dangerous drug as defined in section 4022, a Schedule III controlled substance and narcotic as
22 defined by section 11056, subdivision (e) of the Health and Safety Code, and a Schedule III
23 controlled substance as defined by section 1308.13 (e) of Title 21 of the Code of Federal
24 Regulations. It is also known by its trade name Vicodin.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Corrupt Acts - stealing controlled substances and/or dangerous drugs)**

3 8. Respondent is subject to disciplinary action under section 4301, subsection (f) in that
4 she committed acts involving moral turpitude, dishonesty, fraud, deceit, and/or corruption. The
5 circumstances are as follows:

6 9. On or about from January 2009 to February 2010, on multiple occasions, with the
7 exact dates of which being unknown, Respondent, while working as a registered pharmacy
8 technician, and while employed by Target Pharmacy T0358, located at 900 Shaw Avenue, Clovis,
9 CA, fraudulently, dishonestly, with deceit and/ or corruption appropriated approximately 22,000
10 tablets of controlled substances containing hydrocodone, a Schedule III controlled substance and
11 narcotic. On or about February 6, 2010, Respondent was arrested for stealing Hydrocodone from
12 her employer, Target Pharmacy T0358, located at 900 Shaw Avenue, Clovis. During her
13 interview with the police, Respondent admitted that she had been stealing Hydrocodone from the
14 pharmacy and giving it to an acquaintance named "J," in exchange for U.S. currency.
15 Respondent admitted to removing six (6) 500 count bottles of Hydrocodone (total of 3,000 pills)
16 from her employer, Target Pharmacy, and provided them to "J," without authorization or consent
17 from her employer.

18 **SECOND CAUSE FOR DISCIPLINE**

19 **(Unlawful Possession of Controlled Substances and/or Dangerous Drugs)**

20 10. Respondent is subject to disciplinary action under section 4032 (j) and (o) in that she
21 violated or attempted to violate and/ or assisting in or abetted the violation of or conspired to
22 violate the statutes of this state and/or the United States regulating controlled substances and
23 dangerous drugs by unlawfully possessing the controlled substance Hydrocodone bitartrate,
24 without a valid authorization, as alleged in paragraph 9.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Criminal Conviction)**

27 11. Respondent is subject to discipline pursuant to Code section 4301, subdivisions (k)
28 and (l), on the grounds of unprofessional conduct, in that Respondent has been convicted of the

1 following crimes that are substantially related to the qualifications, functions, and duties of a
2 registered pharmacy technician:

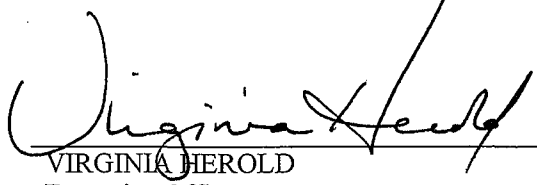
3 a. On or about November 17, 2010, in the Superior Court, County of Fresno, California,
4 in the matter entitled *People vs. Kimberly Rene Hodges*, Case No. F10900639, Respondent was
5 convicted by the court following her plea of no contest to a violation of Health and Safety Code
6 section 11352(a) (sale or offer to sell controlled substances), a felony. The circumstances of the
7 crime are that on January 19, 2010, Respondent did unlawfully transport, import into this state,
8 sell, furnish, administer or give away, and/or offer to transport, import into the State, sell, furnish,
9 administer or give away a controlled substance, to wit, Hydrocodone Bitartrate (Vicodin).

10
11 PRAYER

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

- 14 1. Revoking or suspending Pharmacy Technician License Number TCH 67493, issued
15 to Kimberly Rene Hodges
- 16 2. Ordering Kimberly Rene Hodges to pay the Board of Pharmacy the reasonable costs
17 of the investigation and enforcement of this case, pursuant to Business and Professions Code
18 section 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.

20
21 DATED: 10/28/11


22 VIRGINIA HEROLD
23 Executive Officer
24 Board of Pharmacy
25 Department of Consumer Affairs
26 State of California
27 Complainant

28 SA2010102848
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