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3 California Department of Justice
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6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 MORRIS HYMAN CODY
20350 Ventura Blvd., #220
Woodland Hills, CA 91364

13 Pharmacist License No. RPH 25302

14 and

15 JENNIFER HOERRNER
15585 Corte Montanoso
16 San Diego, CA 92127

17 Pharmacist License No. RPH 52366

18 Respondents.

Case No. 2724

OAH No. L-2004060710

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

(Jennifer Hoerrner Only)

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

23 **PARTIES**

24 1. Patricia F. Harris ("Complainant") is the Executive Officer of the Board of
25 Pharmacy, Department of Consumer Affairs ("Board"). She brought this action solely in her
26 official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State
27 of California, by Linda L. Sun, Deputy Attorney General.

28 ///

1 federal controlled substances laws

- 2 • a plea of guilty or nolo contendere in any state or federal criminal
- 3 proceeding to any criminal complaint, information or indictment
- 4 • a conviction of any crime
- 5 • discipline, citation, or other administrative action filed by any state and
- 6 federal agency which involves Respondent's license or which is related
- 7 to the practice of pharmacy or the manufacturing, obtaining, handling or
- 8 distribution or billing or charging for any drug, device or controlled
- 9 substance.

10 2. **Reporting to the Board.** Respondent shall report to the Board
11 quarterly. The report shall be made either in person or in writing, as directed. Respondent
12 shall state under penalty of perjury whether there has been compliance with all the terms and
13 conditions of probation. If the final probation report **is not** made as directed, probation shall
14 be extended automatically until such time as the final report is made and accepted by the
15 Board.

16 3. **Interview with the Board.** Upon receipt of reasonable notice,
17 Respondent shall appear in person for interviews with the Board upon request at various
18 intervals at a location to be determined by the Board. Failure to appear for a scheduled
19 interview without prior notification to Board staff shall be considered a violation of probation.

20 4. **Cooperation with Board Staff.** Respondent shall cooperate with the
21 Board's inspectional program and in the Board's monitoring and investigation of Respondent's
22 compliance with the terms and conditions of her probation. Failure to comply shall be
23 considered a violation of probation.

24 5. **Continuing Education.** Respondent shall provide evidence of efforts
25 to maintain skill and knowledge as a pharmacist as directed by the Board.

26 6. **Notice to Employers.** Respondent shall notify all present and
27 prospective employers of the decision in Case No. 2724, and the terms, conditions and
28 restrictions imposed on Respondent by the decision. Within thirty (30) days of the effective

1 date of this decision, and within fifteen (15) days of Respondent undertaking new
2 employment, Respondent shall cause her direct supervisor, pharmacist-in-charge and/or owner
3 to report to the Board in writing acknowledging the employer has read the decision in Case
4 No. 2724.

5 If Respondent works for or is employed by or through a pharmacy employment
6 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
7 every pharmacy of the terms and conditions of the decision in Case No. 2724 in advance of
8 Respondent commencing work at each pharmacy.

9 "Employment" within the meaning of this provision shall include any full-time, part-
10 time, temporary, relief or pharmacy management service as a pharmacist, whether the
11 Respondent is considered an employee or independent contractor.

12 7. **No Preceptorships, Supervision of Interns, or Serving as a**
13 **Consultant.** Respondent shall not supervise any intern pharmacist or perform any of the
14 duties of a preceptor or consultant.

15 8. **Reimbursement of Board Costs.** Respondent shall pay to the Board
16 its costs of investigation and prosecution in the amount of two-thousand dollars (\$2,000) in
17 installments as determined by the Board during the period of probation.

18 The filing of bankruptcy by Respondent shall not relieve Respondent of her
19 responsibility to reimburse the Board its costs of investigation and prosecution.

20 9. **Probation Monitoring Costs.** Respondent shall pay the costs
21 associated with probation monitoring as determined by the Board each and every year of
22 probation. Such costs shall be payable to the Board at the end of each year of probation.
23 Failure to pay such costs shall be considered a violation of probation.

24 10. **Status of License.** Respondent shall, at all times while on probation,
25 maintain an active current license with the Board, including any period during which
26 suspension or probation is tolled.

27 If Respondent's license expires or is cancelled by operation of law or otherwise,
28 upon renewal or reapplication, Respondent's license shall be subject to all terms and

1 conditions of this probation not previously satisfied.

2 11. **License Surrender while on Probation/Suspension.** Following the
3 effective date of this decision, should Respondent cease practice due to retirement or health,
4 or be otherwise unable to satisfy the terms and conditions of probation, Respondent may
5 tender her license to the Board for surrender. The Board shall have the discretion whether to
6 grant the request for surrender or take any other action it deems appropriate and reasonable.
7 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject
8 to the terms and conditions of probation.

9 Upon acceptance of the surrender, Respondent shall relinquish her pocket
10 license to the Board within (ten) 10 days of notification by the Board that the surrender is
11 accepted. Respondent may not reapply for any license from the Board for three (3) years from
12 the effective date of the surrender. Respondent shall meet all requirements applicable to the
13 license sought as of the date the application for that license is submitted to the Board.

14 12. **Notification of Employment/Mailing Address Change.** Respondent
15 shall notify the Board in writing within ten (10) days of any change of employment. Said
16 notification shall include the reasons for leaving and/or the address of the new employer,
17 supervisor or owner and work schedule if known. Respondent shall notify the Board in
18 writing within ten (10) days of a change in name, mailing address or phone number.

19 13. **Tolling of Probation.** Should Respondent, regardless of residency, for
20 any reason cease practicing pharmacy for a minimum of forty (40) hours per calendar month
21 in California, Respondent must notify the Board in writing within ten (10) days of cessation of
22 the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time
23 shall not apply to the reduction of the probation period. Upon petition by the Respondent, the
24 Board shall have the discretion to determine whether it is a violation of probation for
25 Respondent's probation to remain tolled pursuant to the provisions of this condition for a
26 period exceeding three years.

27 "Cessation of practice" means any period of time exceeding 30 days in which

28 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of

1 the Business and Professions Code.

2 14. **Public Letter.** Respondent has written and signed a Board-approved
3 letter attached hereto as Exhibit B, and agrees that the Board may publish it in the Board's
4 newsletter and send it to all pharmacy schools in the State of California. Respondent
5 relinquishes all rights in and to said letter.

6 15. **Video Tape.** Within thirty (30) days from the effective date of the
7 decision, Respondent shall provide the Board an audio/video recording, in a format as
8 designated by the Board, of Respondent reading the content of the letter described in
9 paragraph 14, which the Board may send to all pharmacy schools in the State of California.
10 Respondent relinquishes all rights in and to said audio/video recording.

11 16. **Violation of Probation.** If Respondent violates probation in any
12 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
13 probation and carry out the disciplinary order which was stayed. If a petition to revoke
14 probation or an accusation is filed against Respondent during probation, the Board shall have
15 continuing jurisdiction and the period of probation shall be extended, until the petition to
16 revoke probation or accusation is heard and decided.

17 If Respondent has not complied with any term or condition of probation, the
18 Board shall have continuing jurisdiction over Respondent, and probation shall automatically
19 be extended until all terms and conditions have been satisfied or the Board has taken other
20 action as deemed appropriate to treat the failure to comply as a violation of probation, to
21 terminate probation, and to impose the penalty which was stayed.

22 17. **Completion of Probation.** Upon successful completion of probation,
23 Respondent's license will be fully restored.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, John P. Murphy. I understand the Stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 5/4/05



JENNIFER HOERRNER
Respondent

I have read and fully discussed with Respondent Jennifer Hoerrner the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 5-1-05

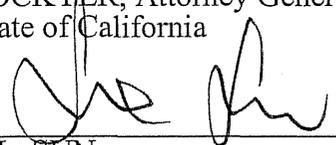


JOHN P. MURPHY
Attorney for Respondent

ENDORSEMENT

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

DATED: 5-9-05

BILL LOCKYER, Attorney General
of the State of California


LINDA L. SUN
Deputy Attorney General
Attorneys for Complainant

Exhibit A: Accusation
Exhibit B: Public Letter

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

In the Matter of the Accusation Against:

JENNIFER HOERRNER
15585 Corte Montanoso
San Diego, CA 92127

Pharmacist License No. RPH 52366

Respondent.

Case No. 2724

OAH No. L-2004060710

DECISION AND ORDER

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

This Decision shall become effective on September 2, 2005.

It is so ORDERED August 3, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

Exhibit A
Accusation No. 2724

1 BILL LOCKYER, Attorney General
of the State of California
2 LINDA L. SUN, State Bar No. 207108
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-6375
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 272A

12 MORRIS HYMAN CODY
20350 Ventura Blvd., #220
13 Woodland Hills, CA 91364

ACCUSATION

14 Pharmacist License No. RPH 25302

15 and

16 JENNIFER HOERRNER
15585 Corte Montanoso
17 San Diego, CA 92127

18 Pharmacist License No. RPH 52366

19 Respondents.

20
21 Complainant alleges:

22 PARTIES

23 1. Patricia F. Harris (Complainant) brings this Accusation solely in her
24 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
25 Affairs (Board).

26 2. On or about November 28, 1967, the Board issued Pharmacist License No.
27 RPH 25302 to Morris Hyman Cody (Respondent Cody). The Pharmacist License was in full
28 force and effect at all times relevant to the charges brought herein and will expire on February

1 28, 2005, unless renewed.

2 3. On or about March 26, 2001, the Board issued Pharmacist License No.
3 RPH 52366 to Jennifer Hoerrner (Respondent Hoerrner). The Pharmacist License was in full
4 force and effect at all times relevant to the charges brought herein and will expire on March 31,
5 2005, unless renewed.

6
7 JURISDICTION

8 4. This Accusation is brought before the Board under the authority of the
9 following laws. All section references are to the Business and Professions Code unless otherwise
10 indicated.

11 5. Section 496 states:

12 "A board may deny, suspend, revoke, or otherwise restrict a license on the ground
13 that an applicant or licensee has violated Section 123 pertaining to subversion of licensing
14 examinations."

15 6. Section 123 states:

16 "It is a misdemeanor for any person to engage in any conduct which subverts or
17 attempts to subvert any licensing examination or the administration of an examination, including,
18 but not limited to:

19 "(a) Conduct which violates the security of the examination materials; removing
20 from the examination room any examination materials without authorization; the unauthorized
21 reproduction by any means of any portion of the actual licensing examination; aiding by any
22 means the unauthorized reproduction of any portion of the actual licensing examination; paying
23 or using professional or paid examination-takers for the purpose of reconstructing any portion of
24 the licensing examination; obtaining examination questions or other examination material,
25 except by specific authorization either before, during, or after an examination; or using or
26 purporting to use any examination questions or materials which were improperly removed or
27 taken from any examination for the purpose of instructing or preparing any applicant for
28 examination; or selling, distributing, buying, receiving, or having unauthorized possession of any

1 portion of a future, current, or previously administered licensing examination.

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3 "In addition to any other penalties, a person found guilty of violating this section,
4 shall be liable for the actual damages sustained by the agency administering the examination not
5 to exceed ten thousand dollars (\$10,000) and the costs of litigation."

6 7. Section 4300 states, in pertinent part:

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

8 8. Section 4301 states:

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

13

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

17

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

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

23 9. California Code of Regulations, title 16, section 1723.1 states:

24 "Board of Pharmacy Examination questions are confidential, and any applicant for
25 any license, permit or exemption certificate issued by the Board who removes all or part of any
26 qualifying examination from the examination room or area, or who conveys or exposes all or part
27 of any qualifying examination to any other person may be disqualified as a candidate for the
28 license, permit or exemption certificate for which the applicant applies."

1 Codyfore Corporation, d.b.a. Bay Rex Pharmacy, entered into a stipulation in which Respondent
2 Cody's Pharmacist License No. PS 25302 was subject to a 10 day stayed suspension and a 2 year
3 probation.

4 c. The Board adopted the Stipulation as its Decision which became effective
5 on August 24, 1989.

6 **RESPONDENT JENNIFER HOERRNER**

7 17. Respondent Hoerrner was a former student of MCA and a candidate for
8 the Board's pharmacist licensure examination administered in January 2001. On or about
9 January 9, 2001, before the commencement of the Board's examination, Respondent Hoerrner
10 signed the examination instruction sheet acknowledging the confidentiality nature of the
11 examination questions. On or about March 26, 2001, the Board issued Pharmacist License No.
12 RPH 52366 to Respondent Hoerrner.

13 **FIRST CAUSE FOR DISCIPLINE**

14 (Subverting Licensing Examination)

15 18. Respondent Hoerrner is subject to disciplinary action under sections 4300,
16 subdivision (a) and 496 for violating section 123 of the Code, in that Respondent Hoerrner
17 engaged in acts which subverted the Board's pharmacist licensure examinations as follows:

18 a. On or about March 25, 2001, Respondent Hoerrner wrote Respondent
19 Cody a letter and without the Board's authorization, revealed more than 30 questions from the
20 January 2001 Board examination in the letter.

21 b. These portions of illegally removed licensure examination questions were
22 subsequently reconstructed and reproduced in at least one of MCA's test booklets compiled
23 between March 2001 to June 2002 and distributed to the students of MCA for preparation for the
24 upcoming Board pharmacist licensure examinations..

25 **SECOND CAUSE FOR DISCIPLINE**

26 (Violating Confidentiality of Pharmacist Licensure Examination)

27 19. Respondent Hoerrner is subject to disciplinary action under section 4301,
28 subdivision (o) of the Code, on the grounds of unprofessional conduct for violating California

1 Code of Regulations, title 16, section 1723.1, in that while an applicant for the Board's
2 pharmacist licensure examination in January 2001, Respondent Hoerner illegally removed part
3 of the qualifying examination questions, conveyed and exposed part of that qualifying
4 examination to Respondent Cody. The circumstances are as more fully set forth in paragraph 18
5 above.

6 THIRD CAUSE FOR DISCIPLINE

7 (Unprofessional Conduct: Acts Involving
8 Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

9 20. Respondent Hoerner is subject to disciplinary action under section 4301,
10 subdivision (f) of the Code, on the grounds of unprofessional conduct, in that Respondent
11 Hoerner committed acts involving moral turpitude, dishonesty, fraud, deceit or corruption. The
12 circumstances are as more fully set forth in paragraph 18 above.

13 FOURTH CAUSE FOR DISCIPLINE

14 (Unprofessional Conduct: Conduct Which Would Have Warranted Denial of License)

15 21. Respondent Hoerner is subject to disciplinary action under section 4301,
16 subdivision (p) of the Code, on the grounds of unprofessional conduct, in that Respondent
17 Hoerner's conduct would have warranted denial of a license pursuant to sections 496 and 123 of
18 the Code and California Code of Regulations, title 16, section 1723.1. The circumstances are as
19 more fully set forth in paragraph 18 above.

20 PRAYER

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

23 A. Revoking or suspending Pharmacist License No. RPH 25302, issued to
24 Morris Hyman Cody;

25 B. Revoking or suspending Pharmacist License No. RPH 52366, issued to
26 Jennifer Hoerner;

27 C. Ordering Morris Hyman Cody and Jennifer Hoerner to pay the Board of
28 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to

1 Business and Professions Code section 125.3;

2 D. Taking such other and further action as deemed necessary and proper.

3 DATED: 4/20/04

4

5

P. F. Harris

6

PATRICIA F. HARRIS

7

Executive Officer

8

Board of Pharmacy

Department of Consumer Affairs

State of California

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Complainant

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Exhibit B
Letter from Jennifer Hoerrner

JENNIFER HOERRNER

Pharmacy Students & Examinees
State Of California

Dear Students & Examinees:

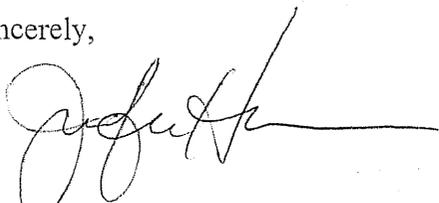
Recently, I was disciplined by the California Board of Pharmacy for sharing confidential examination information.

Like most of you, I took an examination preparation course in order to update my knowledge. One of the teachers who worked at the school asked students to share with him any exam questions that they recalled. Naively, I shared this information which I later realized was a great mistake as the exam information was confidential.

I violated the Business and Professions Code and now have a record of discipline. This experience has taught me several lessons. Also, it has reminded me that it is important to read what I sign and reinforced my commitment to uphold the integrity of the profession.

I have learned from this mistake and that it is important that the integrity and confidentiality of the pharmacist licensure examination is protected. If you discover yourself in a similar situation, never share confidential exam questions and contact the Board of Pharmacy if you have any concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jennifer Hoerrner', with a long horizontal line extending to the right.

Jennifer Hoerrner