

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

In the Matter of the First Amended Accusation  
Against:

Case No. 3443

**DEBBIE GAYLE CHAMBERS HAYES**

P.O. Box 6026

Lake Isabella, CA 93240

Pharmacist License No. RPH 36954

Respondent.

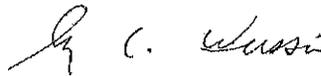
**DECISION AND ORDER**

The attached Stipulated Surrender of License and 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 April 18, 2013.

It is so ORDERED on March 19, 2013.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STANLEY C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
4 State Bar No. 164015  
300 So. Spring Street, Suite 1702  
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6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

8 **BEFORE THE**  
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9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the First Amended Accusation  
11 Against:

Case No. 3443

12 **DEBBI GAYLE CHAMBERS HAYES**  
13 **P.O. Box 6026**  
**Lake Isabella, CA 93240**  
14 **Pharmacist License No. RPH 36954**

OAH No. L-2010081070

**STIPULATED SURRENDER OF**  
**LICENSE AND DISCIPLINARY ORDER**

15 Respondent.

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 PARTIES

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
21 She brought this action solely in her official capacity and is represented in this matter by Kamala  
22 D. Harris, Attorney General of the State of California, by Gregory J. Salute, Supervising Deputy  
23 Attorney General.

24 2. Respondent Debbi Gayle Chambers Hayes (Respondent) is represented in this  
25 proceeding by attorney Phyllis Hix, Esq., whose address is: 112 Buena Vista Drive, Kernville,  
26 Ca. 93238.

27 3. On or about August 16, 1982, the Board of Pharmacy issued Pharmacist License No.  
28 RPH 36954 to Debbi Gayle Chambers Hayes. The Pharmacist License was in full force and

1 effect at all times relevant to the charges brought herein and will expire on August 31, 2012,  
2 unless renewed.

3 JURISDICTION

4 4. First Amended Accusation No. 3443 was filed before the Board of Pharmacy (Board),  
5 Department of Consumer Affairs, and is currently pending against Respondent. The First  
6 Amended Accusation and all other statutorily required documents were properly served on  
7 Respondent on June 29, 2010. Respondent timely filed her Notice of Defense contesting the First  
8 Amended Accusation. A copy of First Amended Accusation No. 3443 is attached as Exhibit A  
9 and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and understands the  
12 charges and allegations in First Amended Accusation No. 3443. Respondent has also carefully  
13 read, fully discussed with counsel, and understands the effects of this Stipulated Surrender and  
14 Disciplinary Order.

15 6. Respondent is fully aware of her legal rights in this matter, including the right to a  
16 hearing on the charges and allegations in the First Amended Accusation; the right to be  
17 represented by counsel at her own expense; the right to confront and cross-examine the witnesses  
18 against her; the right to present evidence and to testify on her own behalf; the right to the issuance  
19 of subpoenas to compel the attendance of witnesses and the production of documents; the right to  
20 reconsideration and court review of an adverse decision; and all other rights accorded by the  
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
23 every right set forth above.

24 CULPABILITY

25 8. Respondent understands that the charges and allegations in First Amended  
26 Accusation No. 3443, if proven at a hearing, constitute cause for imposing discipline upon her  
27 Pharmacist License.  
28



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

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Pharmacist License No. RPH 36954, issued to Respondent  
9 Debbi Gayle Chambers Hayes, is surrendered and accepted by the Board of Pharmacy.

10 IT IS HEREBY FURTHER ORDERED that collection of the Board's costs of  
11 investigation and prosecution in the amount of \$26,386.50 is hereby waived unless and until  
12 Respondent ever applies or is reissued any type of license by the Board upon which full payment  
13 of costs shall become due and payable.

14 The surrender of Respondent's Pharmacist License by the Board shall constitute the  
15 imposition of discipline against Respondent. This stipulation constitutes a record of the discipline  
16 and shall become a part of Respondent's license history with the Board.

17 Respondent shall lose all rights and privileges as a pharmacist in California as of the  
18 effective date of the Board's Decision and Order.

19 Respondent shall cause to be delivered to the Board both her wall license certificate and, if  
20 one was issued, pocket license on or before the effective date of the Decision and Order.

21 If Respondent ever applies for licensure or petitions for reinstatement in the State of  
22 California, the Board shall treat it as a new application for licensure. Respondent must comply  
23 with all the laws, regulations and procedures for licensure in effect at the time the application or  
24 petition is filed, and all of the charges and allegations contained in First Amended Accusation No.  
25 3443 shall be deemed to be true, correct and admitted by Respondent when the Board determines  
26 whether to grant or deny the application or petition.

27 Should Respondent ever apply or reapply for a new license or certification, or petition for  
28 reinstatement of a license, by any other health care licensing agency in the State of California, all

1 of the charges and allegations contained in First Amended Accusation, No. 3443 shall be deemed  
2 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any  
3 other proceeding seeking to deny or restrict licensure.

4 Respondent may not apply, reapply, or petition for any licensure or registration of the  
5 Board for three (3) years from the effective date of the Decision and Order.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
8 discussed it with my attorney, Phyllis Hix, Esq. I understand the stipulation and the effect it will  
9 have on my Pharmacist License. I enter into this Stipulated Surrender and Disciplinary Order  
10 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
11 Board of Pharmacy. I understand that pursuant to Government Code section 11415.60  
12 subsection (c) and *Frankel v. Board of Dental Exam'rs* (1996) 46 Cal.App. 4th 534, once I  
13 execute this stipulation I am bound by the terms of this stipulation and I cannot withdraw  
14 my assent to the stipulation before the Board has had a chance to act on this stipulation.

15  
16 DATED: 3-18-11

Debbi Gayle Chambers Hayes  
DEBBI GAYLE CHAMBERS HAYES  
Respondent

17  
18  
19  
20  
21 I have read and fully discussed with Respondent Debbi Gayle Chambers Hayes the terms  
22 and conditions and other matters contained in the above Stipulated Surrender and Disciplinary  
23 Order. I approve its form and content.

24 DATED: 3-18-11

Phyllis Hix  
Phyllis Hix, Esq.  
Attorney for Respondent

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ENDORSEMENT

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

Dated: 2-11-2013

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
KAREN B. CHAPPELLE  
Supervising Deputy Attorney General



GREGORY J. SALUTE  
Supervising Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**First Amended Accusation No. 3443**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 Karen B. Chappelle  
Supervising Deputy Attorney General  
3 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
4 State Bar No. 164015  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2520  
6 Facsimile: (213) 897-2804

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 First Amended Accusation  
Against:  
12 **DEBBI GAYLE CHAMBERS HAYES**  
13 **P.O. Box 6026**  
14 **Lake Isabella, CA 93240**  
15 **Pharmacist License No. RPH 36954**  
16 Respondents.

Case No. 3443

**FIRST AMENDED ACCUSATION**

17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in  
20 her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
21 Affairs.  
22 2. On or about August 16, 1982, the Board of Pharmacy (Board) issued  
23 Pharmacist License No. RPH 36954 to Debbi Gayle Chambers Hayes (Respondent Hayes). The  
24 Pharmacist License was in full force and effect at all times relevant to the charges brought herein  
25 and will expire on August 31, 2010, unless renewed.  
26  
27  
28

1 **JURISDICTION**

2 3. This Accusation is brought before the Board, under the authority of the following  
3 laws. All section references are to the Business and Professions Code unless otherwise indicated.

4 **STATUTORY PROVISIONS**

5 4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a  
6 license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the  
7 period within which the license may be renewed, restored, reissued or reinstated.

8 5. Section 490 states, in pertinent part:

9 "(a) In addition to any other action that a board is permitted to take against a licensee,  
10 a board may suspend or revoke a license on the ground that the licensee has been convicted of a  
11 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
12 or profession for which the license was issued.

13 (b) Notwithstanding any other provision of law, a board may exercise any authority to  
14 discipline a licensee for conviction of a crime that is independent of the authority granted under  
15 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
16 of the business or profession for which the licensee's license was issued.

17 (c) A conviction within the meaning of this section means a plea or verdict of guilty  
18 or a conviction following a plea of nolo contendere. Any action that a board is permitted to take  
19 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
20 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
21 made suspending the imposition of sentence, irrespective of a subsequent order under the  
22 provisions of Section 1203.4 of the Penal Code."

23 6. Section 4300 states, in pertinent part, that every license issued by the Board is  
24 subject to discipline, including suspension or revocation.

25 7. Section 4301 states, in pertinent part:

26 "The board shall take action against any holder of a license who is guilty of  
27 unprofessional conduct or whose license has been procured by fraud or misrepresentation or

28 ///

1 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the  
2 following:

3 . . . .

4 (c) Gross Negligence.

5 . . . .

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

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

11 . . . .

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

14 . . . .

15 (l) The conviction of a crime substantially related to the qualifications, functions, and  
16 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
17 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
18 substances or of a violation of the statutes of this state regulating controlled substances or  
19 dangerous drugs shall be conclusive evidence of unprofessional conduct. . . A plea or verdict of  
20 guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the  
21 meaning of this provision.

22 . . . .

23 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting  
24 the violation of or conspiring to violate any provision or term of this chapter or of the applicable  
25 federal and state laws and regulations governing pharmacy, including regulations established by  
26 the board or by any other state or federal regulatory agency.”

27 ///

28 ///

**REGULATORY PROVISIONS**

8. California Code of Regulations, title 16, section 1770, states, in pertinent part:

"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."

9. California Code of Regulations, title 16, section 1714, subdivisions (b) and (d), state:

"(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice of pharmacy."

...

"(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of dangerous drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist."

10. California Code of Regulations, title 16, section 1718, states: "Current Inventory" as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332. The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory."

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1 grossly negligent while serving as the Director of Pharmacy and pharmacy consultant at KVHD  
2 and its skilled nursing facility in the following respects:

3 a. Respondent wrote physician orders for psychotropic medications (Depakote,  
4 Risperdal, Seroquel, and Zyprexa) to residents of KVHD without a protocol in place and without  
5 obtaining the physician's oral or written authorization prior to writing the order. This resulted in  
6 the chemical restraining of eight elderly residents (M.B., J.S., A.Z., J.W., V.K., E.D., L.Z. and  
7 O.T.<sup>1</sup>) who suffered physical and emotional harm.

8 b. Respondent knowingly took medication orders from KVDH Director of Nursing  
9 Gwen Hughes, R.N. prior to obtaining a physician's oral or written authorization when  
10 Respondent knew or should have known that Ms. Hughes had no independent authority to  
11 authorize or prescribe medication orders for the residents of KVDH.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Failure to Maintain Safety and Security of the Pharmacy)**

14 14. Respondent Hayes is subject to disciplinary action under sections 4301,  
15 subdivisions (j) and (o) and California Code of Regulations, title 16, section 1714 subdivision (d),  
16 as follows:

17 a. Respondent Hayes was pharmacist-in-charge (PIC) of Mesa Clinical Pharmacy  
18 (Mesa Pharmacy) located at 12608 Mt. Mesa Road, Lake Isabella, Ca. 93240 from approximately  
19 March 14, 2008 to approximately February 20, 2009. Respondent Hayes failed to maintain the  
20 security of the prescription department of Mesa Pharmacy including provisions for effective  
21 control against theft or diversion of dangerous drugs in that on and between March 17, 2008 and  
22 August 31, 2008, Mesa Pharmacy lost 1407 tablets of the following Schedule II controlled  
23 substances:

24 Adderall 20 mg	200
25 Adderall XR 10 mg	70
26 Adderall XR 20 mg	170

27 <sup>1</sup> The true names of the patients are being withheld due to privacy concerns but will be  
28 identified and provided in discovery, if such a request is made.

1	Adderall XR 30 mg	70
2	generic Adderall 5 mg	340
3	generic Adderall 10 mg	70
4	generic Adderall 20 mg	140
5	Concerta 54 mg	151
6	Focalin XR 10 mg	40
7	Focalin XR 20 mg	100
8	Methlphenidate 5 mg	46
9	Methylphenidate 20 mg	10
10	<b>Total Missing</b>	<b>1407</b>

11 Mesa Pharmacy has no records of acquisition and disposition to account for the above  
12 mentioned loss. Further, multiple on-call pharmacists at Mesa Pharmacy were given a key  
13 allowing access to Mesa Pharmacy after hours to obtain emergency medications for the board and  
14 care patients.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct)**

17 15. Respondent Hayes is also subject to disciplinary action under sections 4306.5, in that  
18 in committing the acts alleged in paragraphs 14-16, Respondent committed acts which constitute  
19 unprofessional conduct. Paragraphs 14-16 are hereby incorporated by reference as though fully  
20 set forth herein.

21 **MATTERS IN AGGRAVATION**

22 16. To determine the degree of penalty to be imposed, if any, Complainant makes the  
23 following allegations:

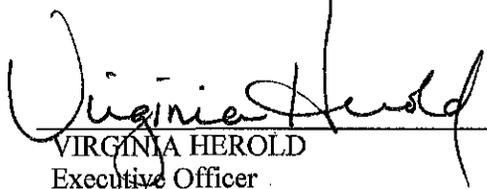
24 a. On or about January 18, 2006, Respondent Hayes was issued  
25 Citation No. CI 2005 30861 which alleged that on or about June 16, 2005 Debbi Gayle Chambers  
26 Hayes, RPH 36954, Pharmacist-In-Charge at Kern Valley Healthcare District, HPE 32729, allowed  
27 the compounding of injectable sterile drug products without the pharmacy being licensed by the  
28 board in violation of Business and Professions Code section 4127.1.



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

DATED: 6/22/10



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

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1 EDMUND G. BROWN JR.  
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2 Karen B. Chappelle  
Supervising Deputy Attorney General  
3 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
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Case No. 3443

11 **DEBBI GAYLE CHAMBERS HAYES**

**ACCUSATION**

12 P.O. Box 6026  
13 Lake Isabella, CA 93240

14 Pharmacist License No. RPH 36954

15 Respondents.

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about August 16, 1982, the Board of Pharmacy (Board) issued  
21 Pharmacist License No. RPH 36954 to Debbi Gayle Chambers Hayes (Respondent Hayes). The  
22 Pharmacist License was in full force and effect at all times relevant to the charges brought herein  
23 and will expire on February 28, 2011, unless renewed.

24 **JURISDICTION**

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

28

STATUTORY PROVISIONS

1  
2           4. Section 118, subdivision (b) provides, in pertinent part, that the expiration of a  
3 license shall not deprive the Board jurisdiction to proceed with a disciplinary action during the  
4 period within which the license may be renewed, restored, reissued or reinstated.

5           5. Section 490 states, in pertinent part:

6           "(a) In addition to any other action that a board is permitted to take against a licensee,  
7 a board may suspend or revoke a license on the ground that the licensee has been convicted of a  
8 crime, if the crime is substantially related to the qualifications, functions, or duties of the business  
9 or profession for which the license was issued.

10           (b) Notwithstanding any other provision of law, a board may exercise any authority to  
11 discipline a licensee for conviction of a crime that is independent of the authority granted under  
12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties  
13 of the business or profession for which the licensee's license was issued.

14           (c) A conviction within the meaning of this section means a plea or verdict of guilty  
15 or a conviction following a plea of nolo contendere. Any action that a board is permitted to take  
16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or  
17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is  
18 made suspending the imposition of sentence, irrespective of a subsequent order under the  
19 provisions of Section 1203.4 of the Penal Code."

20           6. Section 4060 states, in pertinent part:

21           "No person shall possess any controlled substance, except that furnished to a person  
22 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic  
23 doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified  
24 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a  
25 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,  
26 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
27 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not  
28 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,

1 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified  
2 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly  
3 labeled with the name and address of the supplier or producer.”

4 7. Section 4300 states, in pertinent part, that every license issued by the Board is  
5 subject to discipline, including suspension or revocation.

6 8. Section 4301 states, in pertinent part:

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

19 (l) The conviction of a crime substantially related to the qualifications, functions, and  
20 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
21 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
22 substances or of a violation of the statutes of this state regulating controlled substances or  
23 dangerous drugs shall be conclusive evidence of unprofessional conduct. . . A plea or verdict of  
24 guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the  
25 meaning of this provision.

26 .....

27 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting  
28 the violation of or conspiring to violate any provision or term of this chapter or of the applicable

1 federal and state laws and regulations governing pharmacy, including regulations established by  
2 the board or by any other state or federal regulatory agency.”

3 **REGULATORY PROVISIONS**

4 9. California Code of Regulations, title 16, section 1770, states, in pertinent part:

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

11 10. California Code of Regulations, title 16, section 1714, subdivisions (b) and (d),  
12 state:

13 "(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and  
14 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.  
15 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice  
16 of pharmacy.”

17 "(d) Each pharmacist while on duty shall be responsible for the security of the prescription  
18 department, including provisions for effective control against theft or diversion of dangerous  
19 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy  
20 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.”

21 11. California Code of Regulations, title 16, section 1715, states, in pertinent part:

22 " (a) The pharmacist-in-charge of each pharmacy as defined under section 4029 or  
23 section 4037 of the Business and Professions Code shall complete a self-assessment of the  
24 pharmacy's compliance with federal and state pharmacy law. The assessment shall be performed  
25 before July 1 of every odd-numbered year. The primary purpose of the self-assessment is to  
26 promote compliance through self-examination and education.  
27

1 (d) Each self-assessment shall be kept on file in the pharmacy for three years after it  
2 is performed.”

3 12. California Code of Regulations, title 16, section 1718, states: “Current  
4 Inventory” as used in Sections 4081 and 4332 of the Business and Professions Code shall be  
5 considered to include complete accountability for all dangerous drugs handled by every licensee  
6 enumerated in Sections 4081 and 4332. The controlled substances inventories required by Title  
7 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the  
8 date of the inventory.”

9 **COST RECOVERY**

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

14 **FIRST CAUSE FOR DISCIPLINE**

15 ***(Conviction of Substantially Related Crime)***

16 14. Respondent is subject to disciplinary action under sections 4301, subdivisions  
17 (f) and (l) and 490, in conjunction with California Code of Regulations, title 16, section 1770, in  
18 that, Respondent was convicted of a crime substantially related to the qualifications, functions or  
19 duties of a pharmacist.

20 a. On or about August 14, 2009, after pleading *nolo contendere*, Respondent  
21 Hayes was convicted of one felony count of violating Penal Code section 182, subdivision (a)(5)  
22 [conspiracy to commit any act injurious to the public health, to public morals, or to pervert or  
23 obstruct justice, or the due administration of the laws] in the criminal proceeding entitled *The*  
24 *People of the State of California v. Debbi Gayle Chambers Hayes* (Super. Ct. Kern County, Case  
25 No. BF126665B). Respondent was placed on probation for three years with terms and conditions.

26 b. The circumstances surrounding the conviction are that on or about August 1,  
27 2006, through January 31, 2007, Respondent Hayes, as the Director of Pharmacy for Kern Valley  
28 Healthcare District skilled nursing facility (KVHD), conspired with other health care practitioners

1 at KVHD to order and administer psychotropic medications without psychotic indications that  
2 resulted in the neglect and assault of eight elderly patients at the facility.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Failure to Maintain Safety and Security of the Pharmacy)**

5 15. Respondent Hayes is subject to disciplinary action under sections 4301,  
6 subdivisions (j) and (o) and California Code of Regulations, title 16, section 1714 subdivision (d),  
7 as follows:

8 a. Respondent Hayes was pharmacist-in-charge (PIC) of Mesa Clinical Pharmacy  
9 (Mesa Pharmacy) located at 12608 Mt. Mesa Road, Lake Isabella, Ca. 93240 from approximately  
10 March 14, 2008 to approximately February 20, 2009. Respondent Hayes failed to maintain the  
11 security of the prescription department of Mesa Pharmacy including provisions for effective  
12 control against theft or diversion of dangerous drugs in that on and between March 17, 2008 and  
13 August 31, 2008, Mesa Pharmacy lost 1407 tablets of the following Schedule II controlled  
14 substances:

15	Adderall 20 mg	200
16	Adderall XR 10 mg	70
17	Adderall XR 20 mg	170
18	Adderall XR 30 mg	70
19	generic Adderall 5 mg	340
20	generic Adderall 10 mg	70
21	generic Adderall 20 mg	140
22	Concerta 54 mg	151
23	Focalin XR 10 mg	40
24	Focalin XR 20 mg	100
25	Methylphenidate 5 mg	46
26	Methylphenidate 20 mg	10
27	<b>Total Missing</b>	<b>1407</b>

1 Mesa Pharmacy has no records to account for the above mentioned loss. Further, multiple  
2 on-call pharmacists at Mesa Pharmacy were given a key allowing access to Mesa Pharmacy after  
3 hours to obtain emergency medications for the board and care patients.

4 **MATTERS IN AGGRAVATION**

5 16. To determine the degree of penalty to be imposed, if any, Complainant makes the  
6 following allegations:

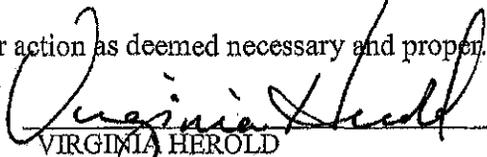
7 a. On or about January 18, 2006, Respondent Hayes was issued  
8 Citation No. CI 2005 30861 which alleged that on or about June 16, 2005 Debbi Gayle Chambers  
9 Hayes, RPH 36954, Pharmacist-In-Charge at Kern Valley Healthcare District, HPE 32729, allowed  
10 the compounding of injectable sterile drug products without the pharmacy being licensed by the  
11 board in violation of Business and Professions Code section 4127.1.

12 **PRAYER**

13  
14 *WHEREFORE*, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Board issue a decision:

- 16 1. Revoking or suspending Pharmacist License No. 36954, issued to Respondent Hayes;  
17 2. Ordering Respondent Hayes to pay the Board the reasonable costs of the investigation  
18 and enforcement of this case, pursuant to Business and Professions Code section 125.3; and  
19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: 1/4/10

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

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27 60481414.doc