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

In the Matter of the Petition to Revoke  
Probation Against:

**JENNIFER W. HOERRNER**  
**10307 W. Broad Street #285**  
**Glen Allen, VA 23060**  
**Pharmacist License No. RPH 52366**

Respondent.

Case No. 3575

**DEFAULT DECISION AND ORDER**

[Gov. Code, §11520]

**FINDINGS OF FACT**

1. On or about March 24, 2010, Complainant Virginia Herold, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Petition to Revoke Probation No. 3575 against Jennifer W. Hoerrner (Respondent) before the Board.
2. On or about March 26, 2001, the Board issued Pharmacist License No. RPH 52366 to Respondent. The Pharmacist License expired on March 31, 2007, and has not been renewed.
3. On or about April 1, 2010, Teresa Sutton, an employee of the Department of Justice, served by Certified and First Class Mail a copy of the Petition to Revoke Probation No. 3575, Statement to Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is:

10307 W. Broad Street #285  
Glen Allen, VA 23060.

2 A copy of the Petition to Revoke Probation is attached as Exhibit A, and is incorporated  
3 herein by reference.

4 4. Service of the Petition to Revoke Probation was effective as a matter of law under the  
5 provisions of Government Code section 11505, subdivision (c).

6 5. On or about April 15, 2010, the aforementioned documents were returned by the U.S.  
7 Postal Service marked "Attempted Not Known."

8 6. Business and Professions Code section 118 states, in pertinent part:

9 (b) The suspension, expiration, or forfeiture by operation of law of a license  
10 issued by a board in the department, or its suspension, forfeiture, or cancellation by  
11 order of the board or by order of a court of law, or its surrender without the written  
12 consent of the board, shall not, during any period in which it may be renewed,  
13 restored, reissued, or reinstated, deprive the board of its authority to institute or  
continue a disciplinary proceeding against the licensee upon any ground provided by  
law or to enter an order suspending or revoking the license or otherwise taking  
disciplinary action against the license on any such ground.

14 7. Government Code section 11506 states, in pertinent part:

15 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
16 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
17 of the accusation not expressly admitted. Failure to file a notice of defense shall  
constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
may nevertheless grant a hearing.

18 8. Respondent failed to file a Notice of Defense within 15 days after service upon her of  
19 the Petition to Revoke Probation, and therefore waived her right to a hearing on the merits of  
20 Petition to Revoke Probation No. 3575.

21 9. California Government Code section 11520 states, in pertinent part:

22 (a) If the respondent either fails to file a notice of defense or to appear at the  
23 hearing, the agency may take action based upon the respondent's express admissions  
24 or upon other evidence and affidavits may be used as evidence without any notice to  
respondent.

25 10. Pursuant to its authority under Government Code section 11520, the Board finds  
26 Respondent is in default. The Board will take action without further hearing and, based on the  
27 evidence on file herein, finds that the allegations in Petition to Revoke Probation No. 3575 are  
28 true.

11. The total outstanding stipulated costs for the investigation and enforcement in connection with Accusation Number 2724 are two thousand dollars (\$2,000.00).

**DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondent Jennifer W. Hoerrner has subjected her Pharmacist License No. RPH 52366 to discipline.
2. A copy of the Petition to Revoke Probation is attached.
3. The agency has jurisdiction to adjudicate this case by default.
4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacist License based upon the following violations alleged in the Petition to Revoke Probation:
  - a. Violation of Term 13 of Stipulation - Tolling in Excess of Three Years; and
  - b. Violation of Term 10 of Stipulation - Failure to Renew License.

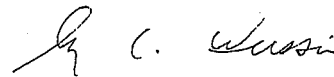
**ORDER**

IT IS SO ORDERED that Pharmacist License No. RPH 52366, heretofore issued to Respondent Jennifer W. Hoerrner, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on August 5, 2010.

It is so ORDERED June 6, 2010.



---

STANLEY C. WEISSER, BOARD PRESIDENT  
FOR THE BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS

Attachment:

Exhibit A: Petition to Revoke Probation No. 3575

50626553.DOC

DOJ docket number: LA2010500944

**Exhibit A**  
**Petition to Revoke Probation No. 3575**

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 GLORIA A. BARRIOS  
Supervising Deputy Attorney General  
3 LINDA L. SUN  
Deputy Attorney General  
4 State Bar No. 207108  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-6375  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

10 In the Matter of the Petition to Revoke  
11 Probation Against,

Case No. 3575

12 **JENNIFER W. HOERRNER**  
13 **10307 W. Broad Street #285**  
**Glen Allen, VA 23060**  
14 **Pharmacist License No. RPH 52366**

PETITION TO REVOKE PROBATION

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

21 2. On or about March 26, 2001, the Board issued Pharmacist License Number RPH  
22 52366 to Jennifer W. Hoerrner (Respondent). The Pharmacist License expired on March 31,  
23 2007, and has not been renewed.

24 **PRIOR DISCIPLINE**

25 3. In a disciplinary action entitled "*In the Matter of Accusation Against Jennifer W.*  
26 *Hoerrner*," Case No. 2724, the Board issued a decision, effective September 2, 2005, in which  
27 Respondent's Pharmacist License was revoked. However, the revocation was stayed and  
28 Respondent's Pharmacist License was placed on probation for a period of three (3) years with

1 certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated  
2 by reference.

### 3 JURISDICTION

4 4. Business and Professions Code (Code) section 4300, subdivision (a) provides:

5 "Every license issued may be suspended or revoked."

6 5. Code section 4300, subdivision (d) provides:

7 "The board may initiate disciplinary proceedings to revoke or suspend any  
8 probationary certificate of licensure for any violation of the terms and conditions of probation.

9 Upon satisfactory completion or probation, the board shall convert the probationary certificate to  
10 a regular certificate, free of conditions."

### 11 FIRST CAUSE TO REVOKE PROBATION

#### 12 (Tolling in Excess of Three Years)

13 6. At all times after the effective date of Respondent's probation, Condition 13 stated:

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

24 "Cessation of practice" means any period of time exceeding 30 days in  
25 which Respondent is not engaged in the practice of pharmacy as defined  
26 in Section 4052 of the Business and Professions Code."

27 7. Respondent's probation is subject to revocation under Code section 4300, subdivision  
28 (d), because she failed to comply with Probation Condition 13, referenced above. The facts and  
circumstances regarding this violation are as follows:

A. In a letter dated December 6, 2005, Respondent informed the Board that effective  
December 1, 2005, Respondent had moved out of California to reside in Virginia.

1 B. Respondent's probation has remained tolled for more than three years since December  
2 1, 2005.

3 **SECOND CAUSE TO REVOKE PROBATION**

4 **(Failure to Renew License)**

5 8. At all times after the effective date of Respondent's probation, Condition 10 stated:

6 "Status of License. Respondent shall, at all times while on probation, maintain  
7 an active current license with the Board, including any period during which  
8 suspension or probation is tolled.

9 If Respondent's license expires or is cancelled by operation of law or otherwise,  
10 upon renewal or reapplication, Respondent's license shall be subject to all terms  
and conditions of this probation not previously satisfied."

11 9. Respondent's probation is subject to revocation under Code section 4300, subdivision  
12 (d), because she failed to comply with Probation Condition 10, referenced above. The facts and  
13 circumstances regarding this violation are as follows:

14 A. Respondent's license expired on March 31, 2007, and has not been renewed since.

15 **PRAYER**

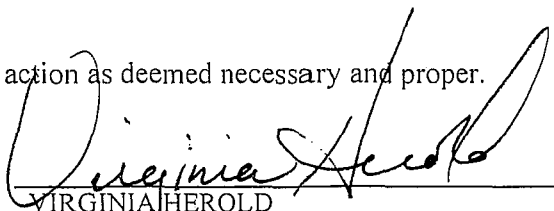
16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Board of Pharmacy issue a decision:

18 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 2724  
19 and imposing the disciplinary order that was stayed thereby revoking Pharmacist License No.  
20 RPH 52366 issued to Jennifer W. Hoerrner;

21 2. Revoking or suspending Pharmacist License No. RPH 52366, issued to Jennifer W.  
22 Hoerrner;

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

24 DATED 3/24/10

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

LA2010500944

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**Exhibit A**  
**Decision and Order No. 2724**



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

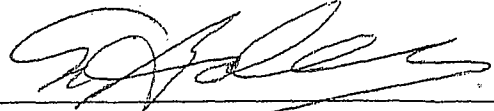
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

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

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

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

10 In the Matter of the Accusation Against:

11 MORRIS HYMAN CODY  
20350 Ventura Blvd., #220  
12 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)**

20  
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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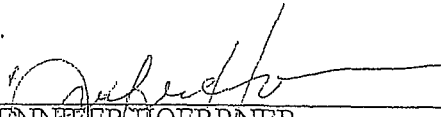


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ACCEPTANCE

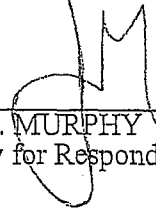
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, John P. Murphy. I understand the Stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, 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

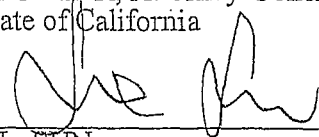
BILL LOCKYER, Attorney General  
of the State of California  
  
\_\_\_\_\_  
LINDA L. SUN  
Deputy Attorney General  
Attorneys for Complainant

Exhibit A: Accusation  
Exhibit B: Public Letter

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  
BOARD OF PHARMACY  
9 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

10

11 In the Matter of the Accusation Against:

Case No. 2724

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.

2 . . . .

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."

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10. Section 125.3, subdivision (a), states, in pertinent part:

"Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department . . . the board may request the administrative law judge to direct a licentiate 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."

RESPONDENT MORRIS HYMAN CODY

11. Respondent Cody is a licensed pharmacist in California and a partner of Morris Cody and Associates, Inc. (MCA) since 1971, a company located at 6345 Balboa Boulevard, Building 4, Suite 188, Encino. MCA offers review courses to applicants who qualify to take the Board's pharmacist licensure examination. As part of the review course, students enrolled in MCA are provided with test booklets which contain sample test questions and answers.

FIRST CAUSE FOR DISCIPLINE

(Subverting Licensing Examination)

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

a. From in or before January 2001 to about June 2002, Respondent Cody obtained and received examination questions from candidates who took the Board's pharmacist licensure examinations; had unauthorized reproduction of portions of the actual licensure examinations; used the unlawfully obtained questions for the purpose of instructing or preparing other applicants for the Board's pharmacist licensure examinations; and distributed or had unauthorized possession of portions of previously administered examinations.

b. These portions of illegally obtained licensure examination questions were reconstructed and reproduced in at least two of MCA's test booklets compiled during the time period as mentioned above and distributed to the students of MCA for preparation for the upcoming Board pharmacist licensure examinations.

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SECOND CAUSE FOR DISCIPLINE

(Violating Confidentiality of Pharmacist Licensure Examination)

13. Respondent Cody is subject to disciplinary action under section 4301, subdivision (o) of the Code, on the grounds of unprofessional conduct for violating California Code of Regulations, title 16, section 1723.1, in that Respondent Cody assisted in, abetted and/or conspired with students at MCA and/or candidates of the Board's pharmacist licensure examinations to convey, expose or otherwise compromise all or part of the Board's qualifying examination. The circumstances are as more fully set forth in paragraph 12 above.

THIRD CAUSE FOR DISCIPLINE

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

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

FOURTH CAUSE FOR DISCIPLINE

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

15. Respondent Cody is subject to disciplinary action under section 4301, subdivision (p) of the Code, on the grounds of unprofessional conduct, in that Respondent Cody's conduct would have warranted denial of a license pursuant to sections 496 and 123 of the Code. The circumstances are as more fully set forth in paragraph 12 above.

PRIOR DISCIPLINE

16. To determine the degree of penalty to be imposed on Respondent Cody, if any, Complainant makes the following allegations:

a. On June 3, 1988, Board Accusation No. 1399 was filed against Codyfore Corporation, d.b.a. Bay Rex Pharmacy in which Respondent Cody was President and against Respondent Cody's Pharmacist License No. PS 25302.

b. In or about May, 1989, Respondent Cody, individually and on behalf of

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 Hoerrner 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 Hoerrner is subject to disciplinary action under section 4301,  
10 subdivision (f) of the Code, on the grounds of unprofessional conduct, in that Respondent  
11 Hoerrner 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 Hoerrner is subject to disciplinary action under section 4301,  
16 subdivision (p) of the Code, on the grounds of unprofessional conduct, in that Respondent  
17 Hoerrner'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 Hoerrner;

27 C. Ordering Morris Hyman Cody and Jennifer Hoerrner 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

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5

*P. F. Harris*

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PATRICIA F. HARRIS  
Executive Officer  
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:

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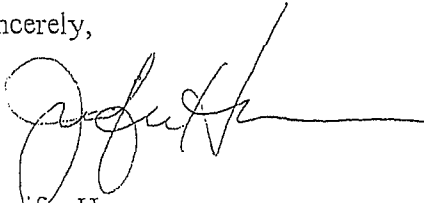
Recently, I was disciplined by the California Board of Pharmacy for sharing confidential examination information.

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