

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 ALVARO MEJIA
Deputy Attorney General
4 State Bar No. 216956
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-0083
6 Facsimile: (213) 897-2804

7 *Attorneys for Complainant*

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. 3594

12 **AMANDA R. HUGHES**
13 **aka AMANDA RENEE HUGHES**
14 **10175 Caminito Volar**
San Diego, CA 92126-4104

A C C U S A T I O N

15 **Pharmacy Technician Registration**
16 **No. TCH 61994**

17 Respondent.

18
19
20 Complainant alleges:

21 **PARTIES**

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

24 2. On or about April 6, 2005, the Board of Pharmacy ("Board") issued Pharmacy
25 Technician Registration No. TCH 61994 to Amanda R. Hughes, aka Amanda Renee Hughes
26 ("Respondent"). The Pharmacy Technician Registration was in full force and effect at all times
27 relevant to the charges brought herein and will expire on June 30, 2012, unless renewed.

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 ("Code") unless otherwise
4 indicated.

5 4. Section 4011 of the Code provides that the Board shall administer and enforce both
6 the Pharmacy Law [Bus. & Prof. Code, s 4000 et seq.] and the Uniform Controlled Substances
7 Act [Health & Safety Code, s 11000 et seq.].

8 5. Section 4300, subdivision (a), of the Code provides that every license issued by the
9 Board may be suspended or revoked.

10 6. Section 118, subdivision (b), of the Code states:

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

18 **STATUTORY PROVISIONS**

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

22 8. Section 4063 of the Code states:

23 "No prescription for any dangerous drug or dangerous device may be refilled except upon
24 authorization of the prescriber. The authorization may be given orally or at the time of giving the
25 original prescription. No prescription for any dangerous drug that is a controlled substance may
26 be designated refillable as needed."

27 9. Section 4300 of the Code provides, in pertinent part, that every license issued by the
28 Board is subject to discipline, including suspension or revocation.

1 10. Section 4301 of the Code states:

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

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. In all other cases, the
20 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
21 The board may inquire into the circumstances surrounding the commission of the crime, in order
22 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
23 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
24 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
25 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
26 of this provision. The board may take action when the time for appeal has elapsed, or the
27 judgment of conviction has been affirmed on appeal or when an order granting probation is made
28 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of

1 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
2 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
3 indictment.

4

5 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
6 violation of or conspiring to violate any provision or term of this chapter or of the applicable
7 federal and state laws and regulations governing pharmacy, including regulations established by
8 the board or by any other state or federal regulatory agency.

9”

10 REGULATORY PROVISIONS

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

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

18 DRUG STATUTES

19 12. Health and Safety Code section 11157 state:

20 “No person shall issue a prescription that is false or fictitious in any respect.”

21 13. Health and Safety Code section 11170 provides that no person shall prescribe,
22 administer, or furnish a controlled substance for himself or herself.

23 14. Health and Safety Code section 11173, subdivision (a), provides that no person shall
24 obtain or attempt to obtain controlled substances or a prescription therefore, (1) by fraud, deceit,
25 misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

26 COST RECOVERY

27 15. Section 125.3 of the Code states, in pertinent part, that the Board may request the
28 administrative law judge to direct a licentiate found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

4 16. Section 4021 of the Code state:

5 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with
6 Section 11053) of Division 10 of the Health and Safety Code.”

7 17. Section 4022 of the Code state, in pertinent part:

8 “‘Dangerous drug’ of ‘dangerous device’ means any drug or device unsafe for self-use,
9 except veterinary drugs that are labeled as such, and include the following:

10 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
11 prescription,’ ‘Rx only,’ or words of similar import. . . .

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

14 18. “**Tylenol #3 with Codeine**,” is a trade name for codeine with the non-narcotic
15 ingredient acetaminophen. It is a Schedule III controlled substance as designated by Health and
16 Safety Code section 11056, subdivision (e)(2) and is categorized as a “dangerous drug” pursuant
17 to Business and Professions Code section 4022.

18 **WALGREENS PHARMACY**

19 19. In and between the years 2005 through March 16, 2007, Respondent was employed as
20 a pharmacy technician at Walgreens, 15480 Main Street, Hesperia, California 92345. In or about
21 February 2007, Walgreens Pharmacy (Hesperia location) initiated an internal pharmacy
22 investigation regarding the alteration of prescriptions for Acetaminophen with Codeine. On or
23 about March 6, 2007, Walgreens personnel confronted Respondent regarding the alteration of
24 prescriptions and Respondent admitted altering prescriptions for Acetaminophen with Codeine in
25 2005 and 2006. On or about March 6, 2007, Walgreens terminated Respondent’s employment as
26 a pharmacy technician.

27 ///

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

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

3 20. Respondent is subject to disciplinary action under Code sections 490, 4300, and 4301,
4 subdivision (l), in that on or about May 1, 2007, Respondent sustained a conviction of a crime
5 substantially related to the qualifications, functions, and duties of a registered pharmacy
6 technician, as follows:

7 a. On or about May 1, 2007, after pleading nolo contendere, Respondent was convicted
8 of violating Business and Professions Code section 4324(a) [forged prescriptions], a
9 misdemeanor, in the criminal proceeding entitled *The People of the State of California v. Amanda*
10 *Renee Hughes* (Super. Ct. San Bernardino County, 2007, No. MVI700646). The Court placed
11 Respondent on informal probation for thirty-six (36) months. On or about June 9, 2008, the
12 Court expunged the conviction, pursuant to Penal Code section 1203.4.

13 b. Complainant refers to and by this reference incorporates the allegations set for above
14 in paragraph 20 as though set forth fully.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Unauthorized Refills)**

17 21. Respondent is subject to disciplinary action under Code section 4063, in conjunction
18 with Code sections 4300 and 4301, subdivisions (j) and/or (o), in that in and between October
19 2005 through in or about February 2007, Respondent attempted to refill and/or refilled
20 prescriptions, as evidenced by her patient profile, from Dr. Waleed, which were not authorized.
21 Specifically, Respondent refilled and/or attempted to refill prescriptions on the following dates:

- 22 a. October 25, 2005 b. May 29, 2006 c. August 3, 2006
23 d. August 4, 2006 e. August 14, 2006 f. September 8, 2006.
24 g. October 2, 2006 h. February 28, 2007.

25 ///
26 ///
27 ///
28 ///

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Fraudulent Prescription)**

3 22. Respondent is subject to disciplinary action under Health and Safety Code section
4 11157 and Code section 4324, in conjunction with Code sections 4300 and 4301, subdivisions
5 (g), (j) and/or (o), in that in and between October 2005 through in or about February 2007,
6 Respondent attempted to refill prescriptions, as evidenced by her patient profile, from Dr.
7 Waleed, which were not authorized. Specifically, forged a prescription and obtained
8 Acetaminophen with Codeine on three (3) separated dates: October 25, 2006, May 29, 2006, and
9 October 2, 2006. Complainant refers to and by this reference incorporates the allegations set
10 forth above in paragraphs 20-22, inclusive, as though set forth fully.

11 **FORTH CAUSE FOR DISCIPLINE**

12 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

13 23. Respondent is subject to disciplinary action under Code sections 4300 and 4301,
14 subdivision (f), on the ground of unprofessional conduct, in that Respondent committed acts
15 involving moral turpitude, dishonesty, fraud, deceit and/or corruption. Complainant refers to and
16 by this reference incorporates the allegations set forth above in paragraphs 20-22, inclusive, as
17 though set forth fully.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 **(Violating Drug Statutes)**

20 24. Respondent is subject to disciplinary action under Code sections 4300 and 4301,
21 subdivisions (j) and/or (o), on the grounds of unprofessional conduct, for violating provisions of
22 the Health and Safety Code as follows:

23 a. Health and Safety Code section 11170 for prescribing, administering and/or
24 furnishing controlled substances for herself.

25 b. Health and Safety Code section 11173, subdivision (a), for obtaining controlled
26 substances by fraud, deceit, or subterfuge.

27 Complainant refers to and by this reference incorporates the allegations set forth above in
28 paragraphs 20-22, inclusive, as though set forth fully.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PRAYER

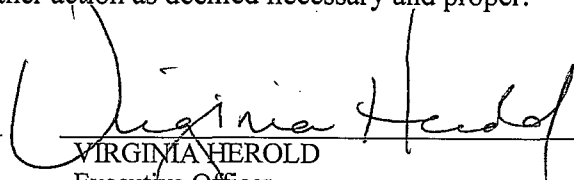
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Pharmacy Technician Registration No. TCH 61994, issued to Amanda R. Hughes, aka Amanda Renee Hughes;

2. Ordering Amanda R. Hughes, aka Amanda Renee Hughes, to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 7/27/11



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

DOJ Matter ID: LA2010500659
60628857.docx