

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

In the Matter of the Accusation Against:

Case No. 3175

**DENNIS HUGHES**

606-25 ½ Road, #24

Grand Junction, CO 81505

Original Pharmacist No. RPH 26090

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 October 9, 2009.

It is so ORDERED on September 9, 2009.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



KENNETH H. SCHELL  
Board President

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
3 BRIAN G. WALSH, State Bar No. 207621  
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7 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 3175

13 DENNIS HUGHES  
606-25 1/2 Road, #24  
Grand Junction, CO 81505  
Pharmacist License No. RPH 26090

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

14 Respondent.  
15

16 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
17 proceeding that the following matters are true:

18 **PARTIES**

19 1. Virginia Herold (Complainant) is the Executive Officer of the Board of  
20 Pharmacy. She brought this action solely in her official capacity and is represented in this matter  
21 by Edmund G. Brown Jr., Attorney General of the State of California, by Brian G. Walsh,  
22 Deputy Attorney General.

23 2. Dennis Hughes (Respondent) is representing himself in this proceeding  
24 and has chosen not to exercise his right to be represented by counsel.

25 3. On or about July 15, 1969, the Board of Pharmacy (Board) issued  
26 Pharmacist License No. RPH 26090 to Dennis Hughes (Respondent). The license was in full  
27 force and effect at all times relevant to the charges brought in Accusation No. 3175. It expired  
28 on December 31, 2008, and has not been renewed.







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**ENDORSEMENT**

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

DATED: June 22, 2009

EDMUND G. BROWN JR., Attorney General  
of the State of California

KAREN B. CHAPPELLE  
Supervising Deputy Attorney General

Brian G. Walsh  
BRIAN G. WALSH  
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: LA2008600823  
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**Exhibit A**  
**Accusation No. 3175**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 BRIAN G. WALSH, State Bar No. 207621  
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12 In the Matter of the Accusation Against:

Case No. 3175

13 DENNIS HUGHES  
606-25 1/2 Road, #24  
Grand Junction, CO 81505  
Pharmacist License No. RPH 26090  
14

**ACCUSATION**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

- 19 1. Virginia Herold (Complainant) brings this Accusation solely in her official  
20 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
21 2. On or about July 15, 1969, the Board of Pharmacy (Board) issued  
22 Pharmacist License Number RPH 26090 to Dennis Hughes (Respondent). The Pharmacist  
23 License was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on December 31, 2008, unless renewed.

25 **JURISDICTION**

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





1           8.     Section 4301 of the Code states, in pertinent part:

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

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

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

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

13           (i)    The conviction of a crime substantially related to the qualifications,  
14    functions, and duties of a licensee under this chapter. The record of conviction of  
15    a violation of Chapter 13 (commencing with Section 801) of Title 21 of the  
16    United States Code regulating controlled substances or of a violation of the  
17    statutes of this state regulating controlled substances or dangerous drugs shall be  
18    conclusive evidence of unprofessional conduct. In all other cases, the record of  
19    conviction shall be conclusive evidence only of the fact that the conviction  
20    occurred. The board may inquire into the circumstances surrounding the  
21    commission of the crime, in order to fix the degree of discipline or, in the case of  
22    a conviction not involving controlled substances or dangerous drugs, to determine  
23    if the conviction is of an offense substantially related to the qualifications,  
24    functions, and duties of a licensee under this chapter. A plea or verdict of guilty  
25    or a conviction following a plea of nolo contendere is deemed to be a conviction  
26    within the meaning of this provision. The board may take action when the time  
27    for appeal has elapsed, or the judgment of conviction has been affirmed on appeal  
28    or when an order granting probation is made suspending the imposition of  
   sentence, irrespective of a subsequent order under Section 1203.4 of the Penal  
   Code allowing the person to withdraw his or her plea of guilty and to enter a plea  
   of not guilty, or setting aside the verdict of guilty, or dismissing the accusation,  
   information, or indictment.

29           (j)    The revocation, suspension, or other discipline by another state of a  
30    license to practice pharmacy, operate a pharmacy, or do any other act for which a  
31    license is required by this chapter.

32           (k)    Violating or attempting to violate, directly or indirectly, or  
33    assisting in or abetting the violation of or conspiring to violate any provision or  
34    term of this chapter or of the applicable federal and state laws and regulations  
35    governing pharmacy, including regulations established by the board or by any  
36    other state or federal regulatory agency.

37           (l)    Actions or conduct that would have warranted denial of a license.

38     ///



1 FIRST CAUSE FOR DISCIPLINE

2 (Conviction of Substantially-Related Crimes)

3 15. Respondent is subject to disciplinary action under Code sections 490, and  
4 4301, subdivision (I), as a result of his conviction of crimes that are substantially related to the  
5 qualifications, functions, and duties of a pharmacist. On or about November 12, 2002,  
6 Respondent pled guilty and was convicted of one misdemeanor count of possession of a  
7 controlled substance, and one misdemeanor count of retail theft in the criminal proceeding  
8 entitled *State of Utah v. Dennis Hughes* (Third District Court, Salt Lake County,  
9 No. 021909882). As part of Respondent's criminal plea bargain, he agreed to surrender his Utah  
10 license to practice as a Pharmacist and Dispense Controlled Substances. Respondent was  
11 sentenced to 365 days in jail, and placed on probation for three years. The underlying factual  
12 circumstances involved Respondent's arrest on or about July 25, 2002, following a period of  
13 surveillance by the Loss Prevention Department at K-Mart Store #4273 in Salt Lake City, Utah.  
14 At the time of his arrest, Respondent was found with five unaccounted-for Percodan pills and  
15 twelve unaccounted-for Viagra pills in his possession.

16 SECOND CAUSE FOR DISCIPLINE

17 (Furnishing Controlled Substances Without Authorization)

18 16. Respondent is subject to disciplinary action under Code section 4301,  
19 subdivision (j); and section 4301, subdivision (o), in conjunction with section 4059, subdivision  
20 (a), for furnishing controlled substances without authorization. On the following six dates, while  
21 working as a pharmacist at a Von's Pharmacy in Yucca Valley, California (Von's), Respondent  
22 furnished Oxycodone, a controlled substance and a dangerous drug, to patient Beau H., without  
23 authorization from a prescriber: (1) July 22, 2006; (2) July 30, 2006; (3) August 3, 2006;  
24 (4) August 12, 2006; (5) September 3, 2006; and (6) September 17, 2006. Respondent  
25 accomplished the unauthorized furnishing of Oxycodone by adding a fraudulent Oxycodone  
26 prescription to a valid, existing prescription for another controlled substance/another patient. He  
27 would then leave Von's with the unauthorized Oxycodone, but without paying for it.  
28 Investigative evidence substantiated that Respondent furnished a total 460 unauthorized tablets

1 of Oxycodone to patient Beau H., representing a total retail loss to Von's of \$4,446.45.  
2 Respondent admitted illegally furnishing Oxycodone to Beau H., and agreed to pay Von's  
3 \$4,000.00 in restitution.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Fraudulently Obtaining Controlled Substances)**

6 17. Respondent is subject to disciplinary action under Code section 4301,  
7 subdivisions (f) and (g); and subdivisions (j) and (o), in conjunction with Health and Safety Code  
8 section 11173, subdivision (a), for fraudulently obtaining controlled substances. Complainant  
9 now refers to and incorporates the allegations in paragraph 16, as though set forth fully.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Discipline by Another State)**

12 18. Respondent is subject to disciplinary action under section 4301,  
13 subdivision (n), in that on November 21, 2002, in Case No. DOPL 2002-269, the Division of  
14 Occupational and Professional Licensing of the Department of Commerce of the State of Utah  
15 (the Utah Division) issued an order adopting a discipline-related stipulation that was entered into  
16 between the Utah Division and Respondent. The stipulation resolved pending allegations of  
17 unprofessional conduct involving the theft of controlled substances. The terms of the Stipulation  
18 included an express admission by Respondent that there was cause to discipline his Utah  
19 Pharmacist License, and acknowledgment that adoption of the stipulation by the Utah Division  
20 would constitute official disciplinary action. Based on these acknowledgments, Respondent  
21 agreed to surrender his license.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Conduct that Would Have Warranted the Denial of a License)**

24 19. Respondent is subject to disciplinary action under Code section 4301,  
25 subdivision (p), in conjunction with section 480, in that Respondent's conviction of  
26 substantially-related crimes, and the fraudulent underlying behavior, amounted to conduct that  
27 would have warranted the denial of a license. Complainant now refers to and incorporates the  
28 allegations set forth in paragraphs 15-17, as if set forth fully.

1 DISCIPLINARY CONSIDERATIONS

2 To determine the degree of discipline, if any, to be imposed on  
3 Respondent, Complainant alleges that on or about July 1, 1981, the Board filed an accusation  
4 against Respondent in Case No. 1071, alleging numerous violations of the Code and relevant  
5 State and Federal law. In Accusation No. 1071, the Board alleged that Respondent had subjected  
6 his license to discipline by engaging in many forms of unprofessional conduct, including having  
7 unaccounted for shortages of controlled substances, filling prescriptions without the required  
8 verification, and being convicted of possession of a controlled substance. On or about May 10,  
9 1983, Respondent and the Board entered into a stipulation in which Respondent admitted the  
10 underlying allegations, and was placed on probation for a period of three years, with specific  
11 terms and conditions. On July 8, 1983, the Board adopted the stipulation as its decision. That  
12 decision is now final, and is incorporated as if fully set forth.

13 PRAYER

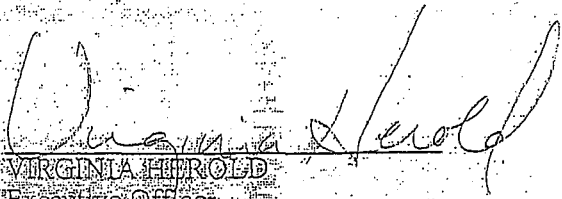
14 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
15 alleged and that following the hearing, the Board issue a decision:

16 1. Revoking or suspending Pharmacist License Number RPH 26090, issued  
17 to Respondent;

18 2. Ordering Dennis Hughes to pay the Board the reasonable costs of the  
19 investigation and enforcement of this case, pursuant to Code section 125.3; and

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

21  
22 DATED: 10/16/08

23 

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