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8

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

12 In the Matter of the Accusation Against:  
13 RENE E R. VOSHAK E  
1865 Herndon Avenue  
Clovis, California 93611  
14 Original Pharmacist License No. RPH 45674  
15 Respondent.  
16

Case No. 3226

**DEFAULT DECISION  
AND ORDER**  
[Gov. Code, §11520]

17 FINDINGS OF FACT

18 1. On or about March 19, 2009, Complainant Virginia Herold (Complainant),  
19 in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department  
20 of Consumer Affairs, filed Accusation No. 3226 against Renee R. Voshake (Respondent) before  
21 the Board.

22 2. On or about August 25, 1992, the Board issued Original Pharmacist  
23 License No. RPH 45674 (License) to Respondent. The License was in full force and effect at all  
24 times relevant to the charges brought herein and scheduled to expire on November 30, 2009,  
25 unless renewed.

26 3. On or about March 26, 2009, Constance A. Ward, an employee of the  
27 Department of Justice, served by Certified and First Class Mail a copy of the Accusation No.  
28 3226 (Accusation), Statement to Respondent, Notice of Defense, Request for Discovery, and

1 Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record  
2 with the Board, which was and is: 1865 Herndon Avenue, Clovis, California 93611. A copy of the  
3 Accusation is attached as exhibit A, and is incorporated herein by reference.

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

6 5. Government Code section 11506 states, in pertinent part:

7 (c) The respondent shall be entitled to a hearing on the merits if the  
8 respondent files a notice of defense, and the notice shall be deemed a specific  
9 denial of all parts 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.

10 6. Respondent failed to file a Notice of Defense within 15 days after service  
11 upon her of the Accusation, and therefore waived her right to a hearing on the merits of the  
12 Accusation.

13 7. Government Code section 11520 states, in pertinent part:

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

17 8. Pursuant to its authority under Government Code section 11520, the Board  
18 finds Respondent is in default. The Board will take action without further hearing and, based on  
19 the evidence on file herein, finds that the allegations in the Accusation are true.

20 9. The total cost for investigation and enforcement in connection with the  
21 Accusation are \$2,968.50 as of May 18, 2009.

#### 22 DETERMINATION OF ISSUES

23 1. Based on the foregoing findings of fact, Respondent Renee R. Voshake  
24 has subjected her Original Pharmacist License No. RPH 45674 to discipline.

25 2. A copy of the Accusation is attached.

26 3. The agency has jurisdiction to adjudicate this case by default.

27 4. The Board of Pharmacy is authorized to revoke Respondent's License  
28 based upon the following violations alleged in the Accusation:

1 a. Respondent violated Business and Professions Code (Code) section  
2 4301, subd. (f) in that Respondent engaged in acts involving moral turpitude, dishonesty,  
3 fraud, deceit or corruption by stealing for personal use at least 1,090 tablets of

4 hydrocodone 10/325 from various Longs Drugs Store's pharmacies in California between  
5 June of 2007 and February of 2008.

6 b. Respondent violated Code section 4301, subds. (j) and (o) in that  
7 Respondent unlawfully possessed controlled substances and/or dangerous drugs as  
8 detailed above in subparagraph 4.a. Respondent did not have a prescription for the  
9 controlled substances or dangerous drugs in violation of Code section 4060 and/or Health  
10 and Safety Code section 11350, subd. (a).

11 c. Respondent violated Code section 4301, subds. (j) and (o) in that  
12 Respondent unlawfully furnished dangerous drugs as detailed above in subparagraphs 4.a.  
13 and 4.b.

14 d. Respondent violated Code section 4301, subd. (h) in that  
15 Respondent unlawfully self-administered controlled substances and/or dangerous drugs.  
16 Between June of 2007 and February of 2008, Respondent self-administered hydrocodone-  
17 containing medications. Respondent did not have a prescription or other legal authority  
18 to self-administer the controlled substance or dangerous drug.

19 e. Respondent violated Code section 4301, subd. (o) for violating  
20 Code section 4327 in that Respondent worked as a pharmacist while under the influence  
21 of a dangerous drug. Between June of 2007 and February of 2008, Respondent, while on  
22 duty as a pharmacist at various Longs Drug Store pharmacies in California, worked while  
23 under the influence of hydrocodone-containing medications.

24 ORDER

25 IT IS SO ORDERED that Original Pharmacist License No. RPH 45674,  
26 heretofore issued to Respondent Renee R. Voshake, is revoked.

27 Pursuant to Government Code section 11520, subdivision (c), Respondent may  
28 serve a written motion requesting that the Decision be vacated and stating the grounds relied on

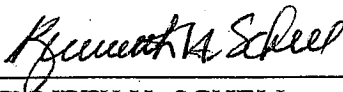
1 within seven (7) days after service of the Decision on Respondent. The agency in its discretion  
2 may vacate the Decision and grant a hearing on a showing of good cause, as defined in the  
3 statute.

4 This decision shall become effective on October 9, 2009.

5 It is so ORDERED on September 9, 2009.

6 BOARD OF PHARMACY  
7 DEPARTMENT OF CONSUMER AFFAIRS  
8 STATE OF CALIFORNIA

9  
10 By



11 KENNETH H. SCHELL  
12 Board President

13 Attachment:

14 Exhibit A: Accusation No. 3226  
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Exhibit A

Accusation No. 3226

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 GEOFFREY S. ALLEN, State Bar No. 193338  
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9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**  
11

12 In the Matter of the Accusation Against:

Case No. 3226

13 **RENEE R. VOSHAKÉ**  
1865 Herndon Ave.  
14 Clovis, California 93611

**A C C U S A T I O N**

15 Original Pharmacist License No. RPH 45674

16 Respondent.

17  
18 Complainant alleges:

19 PARTIES

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

22 2. On or about August 25, 1992, the Board of Pharmacy issued Original  
23 Pharmacist License Number RPH 45674 (License) to Renee R. Voshake (Respondent). The  
24 License was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on November 30, 2009, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board of Pharmacy (Board),  
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 4300 of the Code states, in pertinent part:

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

4 (b) The board shall discipline the holder of any license issued by the board,  
5 whose default has been entered or whose case has been heard by the board and  
6 found guilty, by any of the following methods:

7 (1) Suspending judgment.

8 (2) Placing him or her upon probation.

9 (3) Suspending his or her right to practice for a period not  
10 exceeding one year.

11 (4) Revoking his or her license.

12 (5) Taking any other action in relation to disciplining him or her as  
13 the board in its discretion may deem proper.

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(e) The proceedings under this article shall be conducted in accordance  
with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the  
Government Code, and the board shall have all the powers granted therein. The  
action shall be final, except that the propriety of the action is subject to review by  
the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

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

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

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

.....  
(h) The administering to oneself, of any controlled substance, or the use of  
any dangerous drug or of alcoholic beverages to the extent or in a manner as to be  
dangerous or injurious to oneself, to a person holding a license under this chapter;  
or to any other person or to the public, or to the extent that the use impairs the  
ability of the person to conduct with safety to the public the practice authorized by  
the license.

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

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

4 6. Section 4022 of the Code states:

5 "Dangerous drug" or "dangerous device" means any drug or device unsafe  
6 for self-use in humans or animals, and includes the following:

7 (a) Any drug that bears the legend: "Caution: federal law prohibits  
8 dispensing without prescription," "Rx only," or words of similar import.

9 (b) Any device that bears the statement: "Caution: federal law  
10 restricts this device to sale by or on the order of a \_\_\_\_\_," "Rx only," or  
11 words of similar import, the blank to be filled in with the designation of the  
12 practitioner licensed to use or order use of the device.

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

15 7. Section 4059, subd. (a), of the Code states:

16 A person may not furnish any dangerous drug, except upon the  
17 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
18 naturopathic doctor pursuant to Section 3640.7. A person may not furnish any  
19 dangerous device, except upon the prescription of a physician, dentist, podiatrist,  
20 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

21 8. Section 4060 of the Code states:

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

Nothing in this section authorizes a certified nurse-midwife, a nurse  
practitioner, a physician assistant, or a naturopathic doctor, to order his or her  
own stock of dangerous drugs and devices.

9. Section 4327 of the Code states, "Any person who, while on duty, sells,  
dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic  
beverages shall be guilty of a misdemeanor."



1. 10. Health and Safety Code section 11350, subd. (a), states:

2 Except as otherwise provided in this division, every person who possesses  
3 (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of  
4 subdivision (f) of [Health and Safety Code] Section 11054, specified in paragraph  
5 (14), (15), or (20) of subdivision (d) of [Health and Safety Code] Section 11054,  
6 or specified in subdivision (b) or (c) of [Health and Safety Code] Section 11055,  
7 or specified in subdivision (h) of [Health and Safety Code] Section 11056, or (2)  
8 any controlled substance classified in Schedule III, IV, or V which is a narcotic  
9 drug, unless upon the written prescription of physician, dentist, podiatrist, or  
10 veterinarian licensed to practice in this state shall be punished by imprisonment in  
11 the state prison.

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

### 16 DRUGS

17 12. Hydcodone 10/325 is a compound consisting of 10 mg. hydrocodone  
18 bitartrate also known as dihydrocodeinone, a Schedule III controlled substance as designated by  
19 Health and Safety Code section 11056(e)(4), and 325 mg. acetaminophen per tablet, and is a  
20 dangerous drug within the meaning of Code section 4022, in that under federal law it requires a  
21 prescription.

### 22 FIRST CAUSE FOR DISCIPLINE

23 (Corrupt Acts - Stealing Controlled Substances and Dangerous Drugs)

24 13. Respondent is subject to disciplinary action under Code section 4301,  
25 subd. (f) in that Respondent engaged in acts involving moral turpitude, dishonesty, fraud, deceit  
26 or corruption. The circumstances are as follows:

27 14. Between June of 2007 and February of 2008, on exact dates known only to  
28 Respondent, Respondent while on duty as a pharmacist stole for personal use at least 1,090  
tablets of hydcodone 10/325 from vairous Longs Drugs Store's pharmacies in California.

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///



1 the influence of a dangerous drug.

2 22. Between June of 2007 and February of 2008, on exact dates known only to  
3 Respondent, Respondent, while on duty as a pharmacist at various Longs Drug Store pharmacies  
4 in California, worked while under the influence of hydrocodone-containing medications.

5 PRAYER

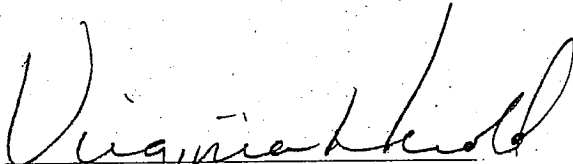
6 WHEREFORE, Complainant requests that a hearing be held on the matters herein  
7 alleged, and that following the hearing, the Board of Pharmacy issue a decision:

8 1. Revoking or suspending Original Pharmacist License Number RPH  
9 45674, issued to Renee R. Voshake.

10 2. Ordering Renee R. Voshake to pay the Board of Pharmacy the reasonable  
11 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
12 Code section 125.3;

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

14  
15 DATED: 3/19/09

16  
17 

18 VIRGINIA HEROLD  
19 Executive Officer  
20 Board of Pharmacy  
21 Department of Consumer Affairs  
22 State of California  
23 Complainant

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