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

In the Matter of the Accusation Against:

Case No. 4201

KAREN HARTSON 9003 Bridget Leigh Way Bakersfield, CA 93312

Pharmacist License No. RPH 45399

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 September 14, 2012.

It is so ORDERED on August 15, 2012.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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By

STANLEY C. WEISSER Board President

1	KAMALA D. HARRIS Attorney General of California			
2	GLORIA A. BARRIOS Supervising Deputy Attorney General			
3	M. TRAVIS PEERY Deputy Attorney General			
4	State Bar No. 261887 300 So. Spring Street, Suite 1702			
5	Los Angeles, CA 90013 Telephone: (213) 897-0962			
6	Facsimile: (213) 897-2804 Attorneys for Complainant			
7	BEFORE THE			
8	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS			
9	STATE OF CALIFORNIA			
10	In the Matter of the Accusation Against: Case No. 4201			
11	KAREN DENISE HARTSON			
12	9003 Bridge Leigh Way Bakersfield, CA 93312 STIPULATED SURRENDER OF			
13	Pharmacist License No. RPH 45399 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	<u>PARTIES</u>			
19	1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.			
20	She brought this action solely in her official capacity and is represented in this matter by Kamala			
21	D. Harris, Attorney General of the State of California, by M. Travis Peery, Deputy Attorney			
22	General.			
23	2. Karen Denise Hartson (Respondent) is representing herself in this proceeding and ha			
24	chosen not to exercise her right to be represented by counsel.			
25	3. On or about August 10, 1992, the Board of Pharmacy issued Pharmacist License No.			
26	RPH 45399 to Karen Denise Hartson (Respondent). The Pharmacist License was in full force			
27	and effect at all times relevant to the charges brought in Accusation No. 4201 and will expire on			
28	May 31, 2012, unless renewed.			

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JURISDICTION

4. Accusation No. 4201 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 25, 2012. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 4201 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

- Respondent has carefully read, and understands the charges and allegations in
 Accusation No. 4201. Respondent also has carefully read, and understands the effects of this
 Stipulated Surrender of License and Order.
- 6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. 4201, agrees that cause exists for discipline and hereby surrenders her Pharmacist License No. RPH 45399 for the Board's formal acceptance.
- 9. Respondent understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacist License without further process.

CONTINGENCY

- 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.
- 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.
- 13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Order:

<u>ORDER</u>

IT IS HEREBY ORDERED that Pharmacist License No. RPH 45399, issued to Respondent Karen Denise Hartson, is surrendered and accepted by the Board of Pharmacy.

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

- 2. Respondent shall lose all rights and privileges as a Pharmacist in California as of the effective date of the Board's Decision and Order.
- 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was issued, her wall certificate on or before the effective date of the Decision and Order.
- 4. If she ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 4201 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition. Respondent shall not apply for a new license for three (3) years from the effective date of this decision.
- 5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$6,375.50 prior to issuance of a new license.
- 6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 4201 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: May 14,2012

KAREN DENISE HARTSON

Respondent

ENDORSEMENT

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

Dated:

5/16/12

Respectfully submitted,

KAMALA D. HARRIS Attorney General of California GLORIA A. BARRIOS Supervising Deputy Attorney General

M. TRAVIS PEERY

Deputy Attorney General Attorneys for Complainant

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Exhibit A

Accusation No. 4201

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7	Attorneys for Complainant		
8	BEFORE THE BOARD OF PHARMACY		
. 9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
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10	In the Matter of the Accusation Against: Case No. 4201		
11	KAREN DENISE HARTSON		
12	Bakersfield, CA 93312 A C C U S A T I O N		
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17	Complainant alleges:		
18	PARTIES		
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20.	as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.		
21	2. On or about August 10, 1992, the Board of Pharmacy issued Pharmacist License		
22	Number RPH 45399 to Karen Denise Hartson (Respondent). The Pharmacist License was in ful		
23	force and effect at all times relevant to the charges brought herein and will expire on May 31,		
24	2012, unless renewed.		
25	<u>JURISDICTION</u>		
26	3. This Accusation is brought before the Board of Pharmacy (Board), Department of		
27	Consumer Affairs, under the authority of the following laws. All section references are to the		
28	Business and Professions Code unless otherwise indicated.		
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Accusation

STATUTORY PROVISIONS

- 4. Section 118, subdivision (b), provides that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.
- 5. Section 490 provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- 6. Section 4300 provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.
 - 7. Section 4301 states:

"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.

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

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"(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal 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

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

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"No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or 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."

9. Health and Safety Code section 11350, subdivision (a), states:

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

10. Health and Safety Code section 11375, subdivision (b)(2), states:

"Every person who possesses any controlled substance specified in subdivision (c), unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be guilty of an infraction or a misdemeanor."

REGULATORY PROVISIONS

11. 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."

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COST RECOVERY

12.. Section 125.3 states, in pertinent part, that 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.

CONTROLLED SUBSTANCES

- 13. "Tylenol/Codeine," or "Codeine and Acetaminophen," is a Schedule III controlled substance as defined in Health and Safety Code section 11056(e)(2) and is categorized as a dangerous drug pursuant to section 4022.
- 14. "Alprazolam," is a Schedule IV controlled substance as defined in Health and Safety Code section 11057(d)(1) and is categorized as a dangerous drug pursuant to section 4022.
- 15. "Valium" or "Diazepam," is a Schedule IV controlled substance as defined in Health and Safety Code section 11057(d)(9) and is categorized as a dangerous drug pursuant to section 4022.
- 16. "Norco-Vicodin," or "Hydrocodone/Acetaminophen," is a Schedule III controlled substance as defined in Health and Safety Code section 11056(e)(4) and is categorized as a dangerous drug pursuant to section 4022.

FIRST CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

17. Respondent is subject to disciplinary action under sections 4301, subdivision (l), and 490, in conjunction with California Code of Regulations, title 16, section 1770, in that on or about June 23, 2011, after pleading nolo contendere, Respondent was convicted of one misdemeanor count of violating Health and Safety Code section 11375, subdivision (b)(2) [possession of a controlled substance], in the criminal proceeding entitled *The People of California v. Karen Denise Hartson* (Super. Ct. Kern County, 2011, No. SF016211A). Respondent was placed on probation for a period of 3 years with certain terms and conditions and ordered to pay fines and fees totaling \$498.00. The circumstances surrounding the conviction are that on or about October

6, 2010 and November 5, 2010, Respondent possessed Alprazolam and Diazepam, respectively, while working as a pharmacist inside Wasco State Prison and without proper authorization.

SECOND CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substances)

18. Respondent is subject to disciplinary action under section 4301, subdivisions (j) and (o), in that Respondent was found to be in possession of a controlled substance in violation of Code section 4060 and Health and Safety Code section 11350, subdivision (a), as well as Health and Safety Code section 11375, subdivision (b)(2). The circumstances are that from in or about June of 2010 to in or about November of 2010, Respondent stole multiple and various types of controlled substances from Wasco State Prison including hydrocodone-containing medications, codeine containing medications, alprazolam, and diazepam. These medications included drugs which belonged to prisoners incarcerated in the facility and Respondent performed these acts while working as a pharmacist at Wasco State Prison. Respondent was in possession of the stolen controlled substances without a prescription for those medications and narcotics. Complainant hereby incorporates the allegations contained in paragraph 17, above, as though set forth fully.

THIRD CAUSE FOR DISCIPLINE

(Corrupt Acts - Stealing Controlled Substance Medications)

19. Respondent is subject to disciplinary action under section 4301, subdivision (f), in that she engaged in unprofessional conduct by conducting acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. Complainant hereby incorporates the allegations contained in paragraphs 17 and 18, above, as though set forth fully.

FOURTH CAUSE FOR DISCIPLINE

(Unlawful Self-Administration of Controlled Substances)

20. Respondent is subject to disciplinary action under section 4301, subdivision (h), in that she illegally self-administered the controlled substances hydrocodone, alprazolam, and diazepam.

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AGGRAVATING FACTORS

On or about December 6, 2011, Respondent was terminated from the Maximus Diversion Program as a Public Safety Risk. From on or about November 23, 2011 to December 5, 2011, Respondent failed to comply with the program's daily calling in requirement. As a consequence of not calling in daily, Respondent missed two Random Drug Screens. Based on Respondent's history of diverting from the workplace and her decision not to continue complying with the terms of her recovery contract with Maximus, the Pharmacist Recovery Committee unanimously decided that Respondent be closed as a public risk.

DISCIPLINARY CONSIDERATIONS

On or about March 20, 2003, the Board filed Accusation No. 2589 against Respondent alleging that in 2002, she fraudulently appropriated Norco from her employer, unlawfully self-administered controlled substances, unlawfully possessed controlled substances, and violated the law regulating controlled substances. On or about October 22, 2003, a stipulated settlement became effective in Case No. 2589 which placed Respondent's Original Pharmacist License No. 45399 on probation for six (6) years on certain terms and conditions.

PRAYER

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

- 1. Revoking or suspending Pharmacist License Number RPH 45399, issued to Karen Denise Hartson;
- 2. Ordering Karen Denise Hartson to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
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Accusation

DATED: 4/9/12 DATED: 4/9/12 VIRGINA HEROLD Executive Office: Board of Pharmacy Department of Consumer Affairs State of California Compitainant LA2011505274 60698248.dee LA2011505274 60698248.dee LA2011505274 60698248.dee	1	1 3. Taking such other and further action as dec	3. Taking such other and further action as deemed necessary and proper.		
DATED: 4/9/12 VIRGNIA HEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs State of California Complainant	2	,2	/.		
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