

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

**In the Matter of the Accusation Against:**

**JOHN DAVID BODTKER, Respondent**

**Pharmacist License No. RPH 62197**

**Agency Case No. 6479**

**DECISION AND ORDER**

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

This Decision shall become effective at 5:00 p.m. on March 4, 2020.

It is so ORDERED on February 3, 2020.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

Greg Lippe  
Board President

1 XAVIER BECERRA  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 KEVIN W. BELL  
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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. 6479

13 **JOHN DAVID BODTKER**  
**5168 Honpie Road**  
**Placerville, CA 95667**

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

14 **Pharmacist License No. RPH 62197**

15 Respondent.

16  
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Anne Sodergren (Complainant) is the Interim Executive Officer of the Board of  
21 Pharmacy (Board). She brought this action solely in her official capacity and is represented in  
22 this matter by Xavier Becerra, Attorney General of the State of California, by Kevin W. Bell,  
23 Deputy Attorney General.

24 2. John David Bodtker (Respondent) is representing himself in this proceeding and has  
25 chosen not to exercise his right to be represented by counsel.

26 3. On or about February 10, 2009, the Board issued Pharmacist License No. RPH 62197  
27 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the  
28 charges brought in Accusation No. 6479 and will expire on June 30, 2020, unless renewed.

1 **JURISDICTION**

2 4. Accusation No. 6479 was filed before the Board, and is currently pending against  
3 Respondent. The Accusation and all other statutorily required documents were properly served  
4 on Respondent on September 23, 2019. Respondent timely filed his Notice of Defense contesting  
5 the Accusation. A copy of the Accusation is attached as Exhibit A and incorporated by reference.

6 **ADVISEMENT AND WAIVERS**

7 5. Respondent has carefully read, and understands the charges and allegations in  
8 Accusation No. 6479. Respondent also has carefully read, and understands the effects of this  
9 Stipulated Surrender of License and Order.

10 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
11 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at  
12 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
13 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel  
14 the attendance of witnesses and the production of documents; the right to reconsideration and  
15 court review of an adverse decision; and all other rights accorded by the California  
16 Administrative Procedure Act and other applicable laws.

17 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
18 every right set forth above.

19 **CULPABILITY**

20 8. Respondent admits the truth of each and every charge and allegation in Accusation  
21 No. 6479, agrees that cause exists for discipline and hereby surrenders his Pharmacist License  
22 No. RPH 62197 for the Board's formal acceptance.

23 9. Respondent understands that by signing this stipulation he enables the Board to issue  
24 an order accepting the surrender of his Pharmacist License without further process.

25 **CONTINGENCY**

26 10. This stipulation shall be subject to approval by the Board. Respondent understands  
27 and agrees that counsel for Complainant and the staff of the Board may communicate directly  
28 with the Board regarding this stipulation and surrender, without notice to or participation by

1 Respondent. By signing the stipulation, Respondent understands and agrees that he may not  
2 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers  
3 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the  
4 Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this  
5 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not  
6 be disqualified from further action by having considered this matter.

7 11. The parties understand and agree that Portable Document Format (PDF) and facsimile  
8 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures  
9 thereto, shall have the same force and effect as the originals.

10 12. This Stipulated Surrender of License and Order is intended by the parties to be an  
11 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
12 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
13 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order  
14 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
15 executed by an authorized representative of each of the parties.

16 13. In consideration of the foregoing admissions and stipulations, the parties agree that  
17 the Board may, without further notice or formal proceeding, issue and enter the following Order:

18 **ORDER**

19 IT IS HEREBY ORDERED that Pharmacist License No. RPH 62197, issued to Respondent  
20 John David Bodtker, is surrendered and accepted by the Board.

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

25 2. Respondent shall lose all rights and privileges as a Pharmacist in California as of the  
26 effective date of the Board's Decision and Order.

27 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was  
28 issued, his wall certificate on or before the effective date of the Decision and Order.



**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: 11/6/19

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
KENT D. HARRIS  
Supervising Deputy Attorney General



KEVIN W. BELL  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 6479**

1 XAVIER BECERRA  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 KEVIN W. BELL  
Deputy Attorney General  
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 6479

13 **JOHN DAVID BODTKER**  
14 **5168 Honpie Road**  
**Placerville, CA 95667**

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

15 **Pharmacist License No. RPH 62197**

16 Respondent.

17  
18 Complainant alleges:

19 **PARTIES**

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

23 2. On or about February 10, 2009, the Board issued Pharmacist License Number RPH  
24 62197 to John David Bodtker (Respondent). The Pharmacist License was in full force and effect  
25 at all times relevant to the charges brought herein, and was cancelled on January 4, 2019.

26 **JURISDICTION**

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

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

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

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

6 "(1) Suspending judgment.

7 "(2) Placing him or her upon probation.

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

9 "(4) Revoking his or her license.

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

12 **STATUTORY AND REGULATORY PROVISIONS**

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

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

17 . . . .

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

23 . . . .

24 "(l) The conviction of a crime substantially related to the qualifications,  
25 functions, and duties of a licensee under this chapter. . . .the record of conviction shall  
26 be conclusive evidence only of the fact that the conviction occurred. The board may  
27 inquire into the circumstances surrounding the commission of the crime, in order to  
28 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. ....

...”

6. Section 4300.1 of the Code states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license  
by operation of law or by order or decision of the board or a court of law, the  
placement of a license on a retired status, or the voluntary surrender of a license by a

1 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
2 investigation of, or action or disciplinary proceeding against, the licensee or to render  
3 a decision suspending or revoking the license."

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7. Section 490 of the Code states in pertinent part:

"(a) In addition to any other action that a board is permitted to take against a licensee, a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

"(b) Notwithstanding any other provision of law, a board may exercise any authority to discipline a licensee for conviction of a crime that is independent of the authority granted under subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the licensee's license was issued.

"(c) A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken 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 the provisions of Section 1203.4 of the Penal Code.

..."

8. Section 493 of the Code states:

"Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

### **COST RECOVERY**

9. Business and Professions Code section 125.3 states that:

"(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board upon request of the entity bringing the proceedings, the administrative law judge may 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."

///  
3

1 **STATEMENT OF FACTS**

2 10. On or about February 4, 2018, just after midnight, as the Defendant was driving his  
3 vehicle eastbound on U.S. 50, he was seen “weaving all over the road” using all lanes. At one  
4 point, he swerved all the way over to the left and collided with the center dividing wall, then  
5 swerved back across all lanes to the right, travelled through a fence, and came to rest on a dirt  
6 embankment and in a ditch. Soon after the collision, the Defendant was contacted by a CHP  
7 officer, who noticed that the Defendant had an “extremely unsteady gait” and could not walk  
8 without assistance. As the officer spoke to the Defendant, he noticed that the Defendant had  
9 droopy eyes, slow mumbled speech, and that he would occasionally lose his balance. The  
10 Defendant was unable to complete a series of Field Sobriety Tests administered by the officer. A  
11 subsequent blood test of the Defendant revealed the presence of several prescription and non-  
12 prescription drugs, including Meprobamate, Lorazepam, Delta-9-THC, and 11-nor-carboxy-THC.

13 11. On or about May 7, 2018, in the matter of *The People of the State of California vs.*  
14 *John David Bodtker*, Sacramento County Superior Court case no. 18M1008795, Respondent was  
15 charged with a violation of California Vehicle Code section 23152(F), Driving Under the  
16 Influence of Alcohol and Drugs. On or about November 26, 2018, Respondent entered a plea of  
17 No Contest to a misdemeanor violation of Vehicle Code section 23103.5, a “Wet Reckless.”

18 **FIRST CAUSE FOR DISCIPLINE**

19 (Use of a Dangerous Drug and Alcoholic Beverage)

20 12. Respondent is subject to disciplinary action under section 4301(h) in that Respondent  
21 used dangerous drugs and alcohol to the extent and in a manner as to be dangerous or injurious to  
22 himself as set forth in paragraph 10 above and incorporated herein as if set forth in full.

23 **SECOND CAUSE FOR DISCIPLINE**

24 (Conviction of a Crime)

25 13. Respondent is subject to disciplinary action under sections 490 and 4301(l) in that  
26 Respondent was convicted of a crime substantially related to the qualifications, functions, or  
27 duties of a pharmacist technician as set forth in paragraphs 10 and 11 above and incorporated  
28 herein as if set forth in full.

1 **DISCIPLINE CONSIDERATIONS**

2 14. To determine the degree of discipline, if any, to be imposed on Respondent,  
3 Complainant alleges that on or about January 20, 2016, in a prior action, the Board of Pharmacy  
4 issued Citation Number CI 20115 68747 and ordered Respondent to Pay a fine of \$250.00. That  
5 Citation is now final and is incorporated by reference as if fully set forth.

6 **PRAYER**

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

9 1. Revoking or suspending Pharmacist License Number RPH 62197, issued to John  
10 David Bodtker;

11 2. Ordering John David Bodtker to pay the Board of Pharmacy the reasonable costs of  
12 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
13 125.3; and,

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

15  
16  
17 DATED: March 12, 2019



18 ANNE SODERGREN  
19 Interim Executive Officer  
20 Board of Pharmacy  
21 Department of Consumer Affairs  
22 State of California  
23 *Complainant*

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