

1 KAMALA D. HARRIS  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 KAREN R. DENVER  
Deputy Attorney General  
4 State Bar No. 197268  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5333  
Facsimile: (916) 327-8643  
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. 5468

13 **LORIE E. GARLICK**  
6324 Park Village Street  
Sacramento, CA 95822

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

14 **Original Pharmacist License No. RPH 40211**

15 Respondent.

16  
17 Virginia Herold (“Complainant”) alleges:

18 **PARTIES**

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

21 2. On or about August 20, 1986, the Board issued Original Pharmacist License Number  
22 RPH 40211 to Lorie E. Garlick (“Respondent”). The original pharmacist license was in full force  
23 and effect at all times relevant to the charges brought herein and will expire on November 30,  
24 2015, unless renewed. On May 14, 2015, after an ex parte hearing on the Board’s Petition for  
25 Interim Suspension order, Respondent’s license was suspended pursuant to Business and  
26 Professions Code section 494, pending a noticed hearing. On June 4, 2015, following the noticed  
27 hearing on the Petition for Interim Suspension Order, Respondent’s license was suspended until  
28 an accusation is filed and resolved.

1 **JURISDICTION**

2 3. This Accusation is brought before the Board, Department of Consumer Affairs, under  
3 the authority of the following laws. All section references are to the Business and Professions  
4 Code (“Code”) unless otherwise indicated.

5 4. Section 4300(a) of the Code states, “Every license issued may be suspended or  
6 revoked.”

7 5. Section 4300.1 of the Code states:

8 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
9 by operation of law or by order or decision of the board or a court of law, the  
10 placement of a license on a retired status, or the voluntary surrender of a license by a  
11 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
12 investigation of, or action or disciplinary proceeding against, the licensee or to render  
13 a decision suspending or revoking the license.

14 **STATUTORY PROVISIONS**

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

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

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

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

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

(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.

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

///  
///

///

1 7. Code section 4060 provides in pertinent part:

2 A person shall not possess any controlled substance, except that furnished to a  
3 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
4 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
5 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a  
6 nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to  
7 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist  
8 pursuant to Section 4052.1, 4052.2, or 4052.6.

9 8. Health & Safety Code section 11350(a) states:

10 Except as otherwise provided in this division, every person who possesses  
11 (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of  
12 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of  
13 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section  
14 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled  
15 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon  
16 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to  
17 practice in this state, shall be punished by imprisonment pursuant to subdivision (h)  
18 of Section 1170 of the Penal Code.

19 9. Health & Safety Code section 11170 states that no person shall prescribe, administer,  
20 or furnish a controlled substance for himself.

21 10. Health & Safety Code section 11173(a) states:

22 No person shall obtain or attempt to obtain controlled substances, or procure or  
23 attempt to procure the administration of or prescription for controlled substances, (1)  
24 by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a  
25 material fact.

### 26 **COSTS**

27 11. Code section 125.3 provides, 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  
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
included in a stipulated settlement.

### 29 **CONTROLLED SUBSTANCES**

30 12. "Alprazolam" is a Schedule IV controlled substance, as listed at Health and Safety  
Code section 11057(d)(1), and a dangerous drug, as defined by Code section 4022.

31 13. "Hydrocodone" and "Hydrocodone/acetaminophen" are Schedule III controlled

1 substances and narcotic drugs, as listed at Health and Safety Code section 11056(e), and  
2 dangerous drugs, as defined by Code section 4022.

3 14. "Lorazepam" is a Schedule IV controlled substance, as listed at Health and Safety  
4 Code section 11057(d)(16), and a dangerous drug, as defined by Code section 4022.

5 15. "Tramadol" is a Schedule IV controlled substance, as listed at Code of Federal  
6 Regulations, title 21, section 1308.14(b)(3),<sup>1</sup> and is a dangerous drug, as defined by Code  
7 section 4022.

### 8 **BACKGROUND**

9 16. At the time of the events set forth herein, Respondent was employed as a  
10 pharmacist by Rite Aid.

11 17. In or around March 2015, "S.S.", an asset protection district manager for Rite Aid,  
12 received a report that hydrocodone tablets were missing from Rite Aid, located at 2751 Del Paso  
13 Road, in Sacramento, California. An audit revealed that 1,184 tablets of hydrocodone/  
14 acetaminophen were missing. Video surveillance showed Respondent removing drugs from the  
15 Del Paso Rite Aid cabinet.

16 18. On or about April 27, 2015, Respondent admitted to Rite Aid management that she  
17 diverted controlled substances from Rite Aid stores for her own personal use. Respondent stated  
18 that in or around 2011 while working as a pharmacist at Rite Aid located at 5610 Stockton  
19 Boulevard in Sacramento, California, she began stealing alprazolam, lorazepam, and 50 to 100  
20 hydrocodone tablets each week. In or around October 2014 Respondent transferred to Rite Aid  
21 located at 9133 Kiefer Boulevard in Sacramento, California, where she diverted hydrocodone,  
22 alprazolam, and lorazepam. In or around December 2014, Respondent transferred to the Rite Aid  
23 located on Del Paso Road, where she diverted 400 to 500 tabs of tramadol, and other "benzos".

24 19. On or about April 27, 2015, Respondent was terminated from Rite Aid.

25 ///

26 ///

27 \_\_\_\_\_  
28 <sup>1</sup> Effective August 18, 2014.

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Violation of Laws Regulating Controlled Substances)

3 20. Paragraphs 16 through 19 are incorporated herein as though set forth at length.

4 Respondent is subject to disciplinary action pursuant to Code section 4301(j), for unprofessional  
5 conduct, in that between in or around 2011 and April 2015, while working as a pharmacist at Rite  
6 Aid, Respondent violated the following statutes:

7 a. **Code section 4060 and Health and Safety Code Section 11350(a)**: Respondent  
8 possessed hydrocodone, alprazolam, lorazepam, and Tramadol, controlled substances and  
9 dangerous drugs, without a valid prescription from a physician, dentist, podiatrist, optometrist,  
10 veterinarian, or naturopathic doctor.

11 b. **Health and Safety Code Section 11170**: Respondent furnished hydrocodone,  
12 alprazolam, lorazepam, and Tramadol, controlled substances, to herself.

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Self-Administration of Controlled Substances in a Manner Dangerous or Injurious)

15 21. Paragraphs 16 through 19 are incorporated herein as though set forth at length.

16 Respondent is subject to disciplinary action pursuant to Code section 4301(h), for unprofessional  
17 conduct, in that between in or around 2011 and April 2015, while working as a pharmacist for  
18 Rite Aid, Respondent self-administered hydrocodone, alprazolam, lorazepam, and Tramadol in a  
19 manner dangerous or injurious to herself or others.

20 **THIRD CAUSE FOR DISCIPLINE**

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

22 22. Paragraphs 16 through 19 are incorporated herein as though set forth at length.

23 Respondent is subject to disciplinary action pursuant to Code section 4301(f), for unprofessional  
24 conduct, in that she committed acts of moral turpitude, dishonesty, fraud, deceit, or corruption.  
25 Specifically, between in or around 2011 and April 2015, while working as a pharmacist for Rite  
26 Aid, Respondent stole hydrocodone, alprazolam, lorazepam, and Tramadol from Rite Aid, in  
27 violation of Health & Safety Code section 11173(a).

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Violation of the Pharmacy Law)

3 23. Respondent is subject to disciplinary action pursuant to Code section 4301(o), for  
4 unprofessional conduct, in that Respondent violated laws governing pharmacy, as set forth in  
5 paragraphs 16 through 22, above.

6 **FIFTH CAUSE FOR DISCIPLINE**

7 (Actions/Conduct Warranting Denial of a License)

8 24. Respondent is subject to disciplinary action pursuant to Code section 4301(p), for  
9 actions or conduct that would warrant denial of a license, as set forth in paragraphs 16 through 23,  
10 above.

11 **MATTERS IN AGGRAVATION**

12 25. To determine the degree of discipline to be assessed against Respondent, if any,  
13 Complainant alleges the following:

14 26. In *In the Matter of the Accusation Against: Lorie Elizabeth Garlick*, Case No. 2727,  
15 Respondent entered into a Stipulated Settlement and Disciplinary Order with the Board, effective  
16 July 8, 2004. Respondent's license was revoked, revocation was stayed, Respondent's license was  
17 suspended for 60 days, and she was placed on five years of probation under certain terms and  
18 conditions. Those terms and conditions included restricted and supervised practice, completion of  
19 the Pharmacists Recovery Program, random drug screening, and abstinence from drugs and  
20 alcohol. The basis of the discipline was that between 1998 through January 1999, and April 2000  
21 through May 2003, while working as a pharmacist at various Bel Air pharmacies, Respondent  
22 diverted hydrocodone, alprazolam, lorazepam, and other controlled substances from her  
23 employer.

24 27. In *In the Matter of the Petition to Revoke Probation Against Lorie Elizabeth Garlick*,  
25 Case No. 2917, Respondent entered into a Stipulated Settlement and Disciplinary Order with the  
26 Board, effective December 28, 2006. Respondent's license was revoked, revocation was stayed,  
27 and Respondent was placed on three years probation under certain terms and conditions, which  
28

1 included restricted and supervised practice, completion of the Pharmacists Recovery Program,  
2 random drug screening, and abstinence from drugs and alcohol.

3 **PRAYER**

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

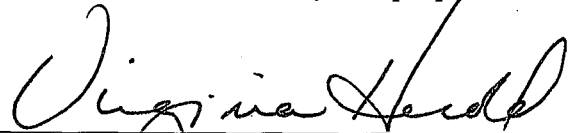
6 1. Revoking or suspending Original Pharmacist License Number RPH 40211, issued to  
7 Lorie Elizabeth Garlick;

8 2. Ordering Lorie Elizabeth Garlick to pay the Board of Pharmacy the reasonable costs  
9 of the investigation and enforcement of this case, pursuant to Business and Professions Code  
10 section 125.3; and,

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

12  
13 DATED: \_\_\_\_\_

6/16/15



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

14  
15  
16 SA2015103453  
17 11910618.docx  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28