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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2413

11 JOHN DAVID ERICKSON
P.O. Box 615
12 Oakdale, CA 95631

OAH No. N2002 020236

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

13 Pharmacist License No. RPH 49340

14 Respondent.

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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. Patricia F. Harris (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 Bill Lockyer, Attorney General of the State of California, by Kent D. Harris, Deputy Attorney
22 General.

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

25 3. On or about March 26, 1997, the Board of Pharmacy issued Pharmacist
26 License No. RPH 49340 to John David Erickson. The License was in full force and effect at all
27 times relevant to the charges brought in Accusation No. 2413 and will expire on June 30, 2002,
28 unless renewed.

1 16. Respondent may not apply for new licensure for at least three (3) years.
2 After the three (3) years, respondent understands and agrees that if he ever applies for licensure
3 or petitions for reinstatement in the State of California, the Board shall treat it as a new
4 application for licensure. Respondent must comply with all the laws, regulations and procedures
5 for licensure in effect at the time the application or petition is filed, and all of the charges and
6 allegations contained in Accusation, No. 2413 shall be deemed to be true, correct, and admitted
7 by Respondent when the licensing agency determines whether to grant or deny the application or
8 petition.

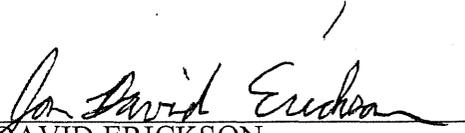
9 17. Respondent shall pay the Board its costs of investigation and enforcement
10 in the amount of \$5,990.00 prior to issuance of a new or reinstated license.

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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: April 22, 2002.



JOHN DAVID ERICKSON
Respondent

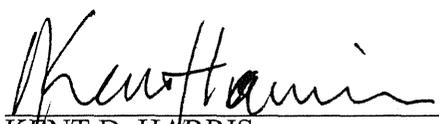
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ENDORSEMENT

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: 4/23/02

BILL LOCKYER, Attorney General
of the State of California



KENT D. HARRIS
Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number: 03583110-SA2001AD0905
Stipulation for surrender 10/12/01

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

In the Matter of the Accusation Against:

JOHN DAVID ERICKSON
P.O. Box 615
Oakdale, CA 95631

Pharmacist License No. RPH 49340

Respondent.

Case No. 2413

OAH No. N2002 020236

DECISION AND ORDER

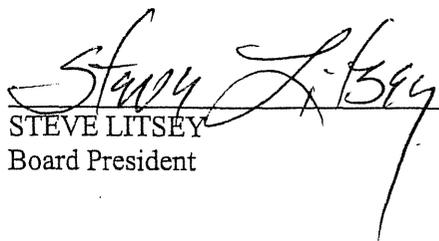
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on July 4, 2002.

It is so ORDERED June 4, 2002.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By:


STEVE LITSEY
Board President

1 BILL LOCKYER, Attorney General
of the State of California
2 KENT D. HARRIS, State Bar No. 144804
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8 BEFORE THE
BOARD OF PHARMACY
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11 In the Matter of the Accusation Against:

Case No. 2413

12 JOHN DAVID ERICKSON
P.O. Box 615
13 Oakdale, CA 95631

A C C U S A T I O N

14 Pharmacist License No. RPH 49340

15 Respondent.
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17 Complainant alleges:

18 PARTIES
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20 1. Patricia F. Harris ("Complainant") brings this Accusation solely in her official
21 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
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23 2. On or about March 26, 1997, the Board of Pharmacy issued Pharmacist
24 License Number RPH 49340 to John David Erickson ("Respondent"). The Pharmacist License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 June 30, 2002, unless renewed.
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2 JURISDICTION

3 3. This Accusation is brought before the Board of Pharmacy ("Board"), under the
4 authority of the following sections of the Business and Professions Code ("Code").

5 4. Section 490 of the Code provides that a Board may suspend or Revoke a
6 license when the licensee has been convicted of a crime which is substantially related to the
7 qualifications, functions, or duties of the licensee.

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

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

13 (a) Gross immorality.

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

17 (h) The administering to oneself, of any controlled substance, or the use of any
18 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or
19 injurious to oneself, to a person holding a license under Chapter 9 (commencing with Section
20 4000) of the Business and Professions Code, or to any other person or to the public, or to the
21 extent that the use impairs the ability of the person to conduct with safety to the public the
22 practice authorized by the license.

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

25 (k) The conviction of more than one misdemeanor or any felony involving the use,
26 consumption, or self-administration of any dangerous drug or alcoholic beverage, or any
27

1 combination of those substances.

2 (l) The conviction of a crime substantially related to the qualifications, functions,
3 and duties of a licensee under Chapter 9 (commencing with Section 4000) of the Business and
4 Professions Code. The record of conviction of a violation of Chapter 13 (commencing with
5 Section 801) of Title 21 of the United States Code regulating controlled substances or of a
6 violation of the statutes of this state regulating controlled substances or dangerous drugs shall be
7 conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall
8 be conclusive evidence only of the fact that the conviction occurred. The board may inquire into
9 the circumstances surrounding the commission of the crime, in order to fix the degree of
10 discipline or, in the case of a conviction not involving controlled substances or dangerous drugs,
11 to determine if the conviction is of an offense substantially related to the qualifications,
12 functions, and duties of a licensee under Chapter 9 (commencing with Section 4000) of the
13 Business and Professions Code. A plea or verdict of guilty or a conviction following a plea of
14 nolo contendere is deemed to be a conviction within the meaning of this provision. The board
15 may take action when the time for appeal has elapsed, or the judgment of conviction has been
16 affirmed on appeal or when an order granting probation is made suspending the imposition of
17 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the
18 person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the
19 verdict of guilty, or dismissing the accusation, information, or indictment.

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

21 6. Section 4060 of the Code states:

22 No person shall possess any controlled substance, except that furnished to a
23 person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished
24 pursuant to a drug order issued by a physician assistant pursuant to Section 3502.1 or a nurse
25 practitioner pursuant to Section 2836.1. This section shall not apply to the possession of any
26 controlled substance by a manufacturer, wholesaler, pharmacy, physician, podiatrist, dentist,
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1 veterinarian, physician assistant, or nurse practitioner, when in stock in containers correctly
2 labeled with the name and address of the supplier or producer.

3 Nothing in this section authorizes a nurse practitioner or a physician assistant to order his or her
4 own stock of dangerous drugs and devices.

5 7. Ambien is the trade name for the drug *Zolpidem Tartrate*, a non-barbiturate
6 sedative hypnotic used for short term treatment of insomnia. This drug is classified as a
7 Schedule IV controlled substance (H&S 11057(d).

8 8. Hydrocodone/APAP is a generic narcotic analgesic combination available in
9 varying strengths, used for relief of moderate to severe pain. Commonly known trade names are
10 Lortab, Vicodin, and Anexsia. This drug is classified as a Schedule III controlled substance
11 (H&S 11056(e).

12 FACTS

13 9. Between the dates of June, 1998 and December, 1998, while working as a
14 pharmacist at Rite Aid Pharmacies in Oakdale and Tracy, California, respondent diverted for
15 personal and family use approximately 2200 tablets of Ambien, 10 mg., and approximately 500
16 tablets of Hydrocodone/APAP 10/500, without having a valid prescription therefor.

17 10. On or about January 19, 2000, respondent was employed at Raley's pharmacy
18 in Oakdale, where he diverted approximately 8881 Ambien 10 mg (valued at \$24,019.10) for
19 personal and family use, without a valid prescription.

20 11. On or about August 3, 2000, respondent was convicted on his plea of Nolo
21 Contendere of one count of violating Penal Code section 503 (Embezzlement, a felony) in the
22 case of *People v. Jon David Erickson*, Superior Court of Stanislaus County, case no.1002757.
23 The conviction was based on the diversion of drugs set forth in paragraph 10 above.

24 12. On or about February 6, 2001 and February 22, 2001, respondent tested
25 positive for Ambien in his system and was suspended from the Pharmacist Recovery Program
26 (PRP).

1 FIFTH CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct: Conviction of drug related and substantially related crimes)

3 18. Respondent is subject to disciplinary action under sections 490 and 4301(k)
4 and (l) by virtue of the facts set forth in paragraph 11 above.

5
6 EIGHTH CAUSE FOR DISCIPLINE

7 (Possession of Controlled Substance Without a Valid Prescription)

8 19. Respondent is subject to disciplinary action under section 4060 by virtue of
9 the facts set forth in paragraphs 9 through 13 above.

10
11 PRAYER

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

14 1. Revoking or suspending Pharmacist License Number 6RPH 49340, issued to
15 John David Erickson;

16 2. Ordering John David Erickson to pay the Board of Pharmacy the reasonable
17 costs of the investigation and enforcement of this case, pursuant to Business and Professions
18 Code section 125.3;

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

20
21 DATED: 12/28/01

22
23 P. J. Harris
24 PATRICIA F. HARRIS
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California

Complainant