BILL LOCKYER, Attorney General
of the State of California
KENT D. HARRIS, State Bar No. 144804
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California Department of Justice
1300 I Street, Suite 125
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Attorneys for Complainant

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

In the Matter of the Petition to Revoke Probation Against: LORIE ELIZABETH GARLICK 7557 Kilarney Ln. #296 Citrus Heights, CA 95610 Pharmacist License No. RPH 40211 Respondent.	Case No. 2917 OAH No. 2006090009 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Virginia Herold is the Interim Executive Officer of the Board of Pharmacy. Patricia Harris was the previous Executive Officer and she brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Kent D. Harris, Deputy Attorney General.

2. Respondent Lorie Elizabeth Garlick (Respondent) is represented in this proceeding by attorney Timothy J. Aspinwall, Esq., whose address is Nossaman, Guthner, Knox & Elliott, LLP, 915 L Street, Suite 1000, Sacramento, CA 95814.

3. On or about August 20, 1986, the Board of Pharmacy issued Pharmacist License No. RPH 40211 to Lorie Elizabeth Garlick (Respondent). The License was in full force and effect at all times relevant to the charges brought in Petition to Revoke Probation No. 2917.

JURISDICTION

4. Petition to Revoke Probation No. 2917 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Petition to Revoke Probation and all other statutorily required documents were properly served on Respondent on March 9, 2006. Respondent timely filed her Notice of Defense contesting the Petition to Revoke Probation. A copy of Petition to Revoke Probation No. 2917 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Petition to Revoke Probation No. 2917. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary 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 Petition to Revoke Probation; 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 to the first cause to revoke probation in that she was Terminated by the PRP, and was subsequently suspended from practice by the Board. Respondent denies the consumption of an alcoholic beverage. Respondent has been suspended from practice since May 20, 2005.

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9. Respondent agrees that her Pharmacist License is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

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 settlement, without notice to or participation by Respondent or her counsel. 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 Settlement 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 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. 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 Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 40211 issued to Respondent Lorie Elizabeth Garlick is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws.** Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state and federal agency which involves Respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or controlled substance.

2. **Reporting to the Board.** Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report **is not** made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the Board.

3. **Interview with the Board.** Upon receipt of reasonable notice, Respondent shall appear in person for interviews with the Board upon request at various intervals at a location to be determined by the Board. Failure to appear for a scheduled interview without prior notification to Board staff shall be considered a violation of probation.

4. **Cooperation with Board Staff.** Respondent shall cooperate with the Board's inspectional program and in the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of her probation. Failure to comply shall be considered a violation of probation.

5. **Continuing Education.** Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

6. **Notice to Employers.** Respondent shall notify all present and prospective employers of the decision in case number 2917 and the terms, conditions and

restrictions imposed on Respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause her direct supervisor, pharmacist-in-charge and/or owner to report to the Board in writing acknowledging the employer has read the decision in case number 2917.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy of the and terms conditions of the decision in case number 2917 in advance of the Respondent commencing work at each pharmacy.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist, whether the Respondent is considered an employee or independent contractor.

7. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this order.

8. **Probation Monitoring Costs.** Respondent shall pay the costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board at the end of each year of probation. Failure to pay such costs shall be considered a violation of probation.

9. **Status of License**. Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

If Respondent's license expires or is canceled by operation of law or otherwise, upon renewal or reapplication, Respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

10. **License Surrender while on Probation/Suspension.** Following the effective date of this decision, should Respondent cease practice due to retirement or health, or

be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender her license to the Board for surrender. The Board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, Respondent shall relinquish her pocket license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

11. **Notification of Employment/Mailing Address Change.** Respondent shall notify the Board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner and work schedule if known. Respondent shall notify the Board in writing within 10 days of a change in name, mailing address or phone number.

12. **Tolling of Probation.** Should Respondent, regardless of residency, for any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in California, Respondent must notify the Board in writing within 10 days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for Respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three years. "Cessation of practice" means any period of time exceeding 30 days in which Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of the Business and Professions Code.

13. **Violation of Probation.** If Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against Respondent during probation, the Board shall have

continuing jurisdiction and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided.

If Respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over Respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

14. **Completion of Probation.** Upon successful completion of probation, Respondent's license will be fully restored.

15. **Restricted Practice.** Notwithstanding any other provision in this Stipulated Settlement and Disciplinary Order, Respondent shall not practice pharmacy unless and until a determination is made by the Pharmacist Recovery Program ("PRP") that it is safe, with or without restrictions, for her to do so. Respondent shall submit proof satisfactory to the Board of compliance with this term of probation.

16. **Rehabilitation Program - Pharmacists Recovery Program (PRP).** Within 30 days of the effective date of this decision, Respondent shall contact the Pharmacists Recovery Program for evaluation and shall successfully participate in and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the Board. The costs for PRP participation shall be borne by the Respondent.

If Respondent is currently enrolled in the PRP, said participation is now mandatory and is no longer considered a self-referral under Business and Professions Code section 4363, as of the effective date of this decision. Respondent shall successfully participate in and complete her current contract and any subsequent addendums with the PRP. Probation shall be automatically extended until Respondent successfully completes her treatment contract. Any person terminated from the program shall be automatically suspended upon notice by the Board. Respondent may not resume the practice of pharmacy until notified by the Board in writing. The Board shall retain jurisdiction to institute action to terminate

probation for any violation of this term.

17. **Random Drug Screening.** Respondent, at her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), Breathalyzer, hair follicle testing, or a drug screening program approved by the Board. The length of time shall be for the entire probation period and the frequency of testing will be determined by the Board. At all times Respondent shall fully cooperate with the Board, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as directed shall constitute a violation of probation. Any confirmed positive drug test may result in the suspension of practice by Respondent, subject to Board review. Respondent may not resume the practice of pharmacy until notified by the Board in writing.

18. **Abstain from Drugs and Alcohol Use.** Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the Board, Respondent shall provide documentation from the licensed practitioner that the prescription was legitimately issued and is a necessary part of the treatment of the Respondent.

19. **Supervised Practice.** Respondent shall practice only under the supervision of a pharmacist not on probation with the Board. Respondent shall not practice until the supervisor is approved by the Board. The supervision shall be, as required by the Board, either:

Continuous - 75% to 100% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

Daily Review - Supervisor's review of probationer's daily activities within 24hours.

Within 30 days of the effective date of this decision, Respondent shall have her supervisor submit notification to the Board in writing stating the supervisor has read the decision in case number 2917 and is familiar with the level of supervision as determined by

the Board. If Respondent changes employment, Respondent shall have her new supervisor, within 15 days after employment commences, submit notification to the Board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number 2917 and is familiar with the level of supervision as determined by the Board. Within 10, days of leaving employment, Respondent shall notify the Board in writing.

20. **No Supervision.** Respondent shall not supervise any ancillary personnel, including, but not limited to, registered pharmacy technicians or exemptees, of any entity licensed by the Board.

21. **No Ownership of Premises.** Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within 90 days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the Board.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Timothy J. Aspinwall. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: Oct. 13, 2006.

Lorie Elizabeth Garlick

LORIE ELIZABETH GARLICK
Respondent

I have read and fully discussed with Respondent Lorie Elizabeth Garlick the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: October 17, 2006.

TIMOTHY J. ASPINWALL
Attorney for Respondent

ENDORSEMENT

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

DATED: 10/25/06

BILL LOCKYER, Attorney General
of the State of California

ARTHUR D. TAGGART
Lead Supervising Deputy Attorney General

KENT D. HARRIS
Deputy Attorney General

Attorneys for Complainant

Matter ID Number: 03585110SA2005103950
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BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition to Revoke Probation Against: LORIE ELIZABETH GARLICK 7557 Kilarney Ln. #296 Citrus Heights, CA 95610 Pharmacist License No. RPH 40211 Respondent.	Case No. 2917 OAH No. 2006090009

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 December 28, 2006.

It is so ORDERED November 28, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
WILLIAM POWERS
Board President

Exhibit A

Petition to Revoke Probation No. 2917

BILL LOCKYER, Attorney General
of the State of California
KENT D. HARRIS, State Bar No. 144804
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
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Attorneys for Complainant

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

In the Matter of the Petition to Revoke Probation Against: LORIE ELIZABETH GARLICK 7557 Kilarney Ln. #295 Citrus Heights, CA 95610 Pharmacist License No. RPH 40211 Respondent.	Case No. 2917 **PETITION TO REVOKE PROBATION**

Complainant alleges:

PARTIES

1. Patricia F. Harris (Complainant) brings this Petition to Revoke Probation solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

2. On or about August 20, 1986, the Board of Pharmacy issued Pharmacist License No. RPH 40211 to Lorie Elizabeth Garlick (Respondent). The license was in effect at all times relevant to the charges brought herein.

JURISDICTION

3. In a disciplinary action entitled "In the Matter of Accusation Against Lorie Elizabeth Garlick," Case No. 2727, the Board of Pharmacy, issued a decision, effective July 8, 2004, in which Respondent's Pharmacist License was revoked. However, the revocation was

stayed and Respondent's license was placed on probation for a period of five (5) years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated by reference.

4. Business and Professions Code section 125.3 provides in pertinent part that the Board may request reimbursement of its reasonable costs of investigation and enforcement in this case.

FIRST CAUSE TO REVOKE PROBATION

(Failure to successfully participate and complete Pharmacist Recovery Program)

5. At all times after the effective date of Respondent's probation, Condition 18 stated in pertinent part:

> "Respondent ...shall successfully participate in and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the Board."

6. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 18, referenced above. The facts and circumstances regarding this violation are as follows:

A. On or about May 18, 2005 respondent was terminated from the PRP program after testing positive for Ethyl Glucuronide (alcohol). The program administrator (Maximus) cited respondents' multiple failures to self report her usage relapses as rendering their program ineffective to offer any assurances of safety in her practice as a pharmacist. This was the last in a series of "positive" tests which occurred during respondents' participation in PRP, both before and after the imposition of the pending probation.[1]

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1. As a result of her termination from the PRP, respondents' license was automatically suspended. Said license remains suspended as of the date of this petition.

SECOND CAUSE TO REVOKE PROBATION

(Abstain from Drugs and Alcohol Use)

7. At all times after the effective date of Respondent's probation, Condition 20 stated:

> "Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs ...except where the drugs are lawfully prescribed..."

8. Respondent's probation is subject to revocation because she failed to comply with Probation Condition 20, referenced above. The facts and circumstances regarding this violation are as follows:

B. On or about May 9, 2005, and again on May 17, 2005, respondent tested positive for Ethyl Glucuronide (alcohol).

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 the probation that was granted by the Board of Pharmacy in Case No. 2727 and imposing the disciplinary order that was stayed thereby revoking Pharmacist License No. RPH 40211 issued to Lorie Elizabeth Garlick ;

2. Revoking or suspending Pharmacist License No. RPH 40211, issued to Lorie Elizabeth Garlick;

3. Ordering respondent to reimburse the Board for its reasonable costs of investigation and enforcement pursuant to Business and Professions Code section 125.3;

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

DATED: 3/6/06

P. F. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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Exhibit A

Decision and Order

Board of Pharmacy Case No. 2727

BILL LOCKYER, Attorney General
of the State of California
KENT D. HARRIS, State Bar No. 144804
Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **LORIE ELIZABETH GARLICK** 7557 Kilarney Lane, Apt. 296 Citrus Heights, California 95610 Original Pharmacist License No. 40211 Respondent.	Case No. 2727 OAH No. N2004030112 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

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

PARTIES

1. Patricia F. Harris ("Complainant") is the Executive Officer of the Board of Pharmacy ("Board"). She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Kent D. Harris, Deputy Attorney General.

2. Respondent Lorie Elizabeth Garlick ("Respondent") is represented in this proceeding by attorney John Haluck, of La Follette, Johnson, De Haas, Fesler, Schroeder, Ames, whose address is 655 University Avenue, Suite 11[illegible], Sacramento, CA 95825.

3. On or about August 20, 1986, the Board issued Original Pharmacist License No. 40211 to Respondent. Respondent's pharmacist license was in full force and effect at all times relevant to the charges brought in Accusation No. 2727 and will expire on November 30, 2005, unless renewed.

JURISDICTION

4. Accusation No. 2727 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on February 19, 2004. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2727 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2727. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary 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. 2727.

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9. Respondent agrees that her pharmacist license is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. 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 Settlement 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 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. 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 Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Original Pharmacist License No. 40211 issued to Respondent Lorie Elizabeth Garlick is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. **Actual Suspension - Pharmacist.** Upon the effective date of the Board's Decision and Order adopting this Stipulated Settlement and Disciplinary Order, license number 40211 issued to Respondent is suspended for a period of sixty (60) calendar days. However, Respondent shall be given credit toward that suspension for each day she can demonstrate to the

satisfaction of the Board's staff that she has refrained from practicing pharmacy pursuant to her participation in the Pharmacists Recovery Program ("PRP").

During suspension, Respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous drugs and devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs and devices or controlled substances.

Respondent shall not engage in any activity that requires the professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the Board. Subject to the above restrictions, Respondent may continue to own or hold an interest in any pharmacy in which she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

2. **Obey All Laws.** Respondent shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy.

Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime

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- discipline, citation, or other administrative action filed by any state and federal agency which involves Respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution or billing or charging for any drug, device or controlled substance.

3. **Reporting to the Board.** Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the Board.

4. **Interview with the Board.** Upon receipt of reasonable notice, Respondent shall appear in person for interviews with the Board upon request at various intervals at a location to be determined by the Board. Failure to appear for a scheduled interview without prior notification to Board staff shall be considered a violation of probation.

5. **Cooperation with Board Staff.** Respondent shall cooperate with the Board's inspectional program and in the Board's monitoring and investigation of Respondent's compliance with the terms and conditions of her probation. Failure to comply shall be considered a violation of probation.

6. **Continuing Education.** Respondent shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

7. **Notice to Employers.** Respondent shall notify all present and prospective employers of the decision in case number 2727 and the terms, conditions and restrictions imposed on Respondent by the decision. Within thirty (30) days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause her direct supervisor, pharmacist-in-charge and/or owner to report to the Board in writing acknowledging the employer has read the decision in case number 2727.

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If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy of the and terms conditions of the decision in case number 2727 in advance of the Respondent commencing work at each pharmacy.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist, whether the Respondent is considered an employee or independent contractor.

8. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this order.

9. **Reimbursement of Board Costs.** Within thirty (30) calendar days of the effective date of the Board's Decision and Order adopting this Stipulated Settlement and Disciplinary Order, Respondent shall pay to the Board its costs of investigation and prosecution in the amount of $5,000.00.

Alternatively, Respondent may pay that amount in forty (40) equal monthly payments of $125.00 per month. The first payment shall be due on the first day of the month following the month in which the Board's Decision and Order becomes effective. The remaining payments shall be due by the first day of the following thirty-nine (39) consecutive months.

Failure to make a timely payment shall constitute a violation of probation.

The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility to reimburse the Board its costs of investigation and prosecution.

10. **Probation Monitoring Costs.** Respondent shall pay the costs associated with probation monitoring as determined by the Board each and every year of probation. Such costs shall be payable to the Board at the end of each year of probation. Failure to pay such costs shall be considered a violation of probation.

11. **Status of License**. Respondent shall, at all times while on probation, maintain an active current license with the Board, including any period during which suspension or probation is tolled.

If Respondent's license expires or is canceled by operation of law or otherwise, upon renewal or re-application, Respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

12. **License Surrender while on Probation/Suspension.** Following the effective date of this decision, should Respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender her license to the Board for surrender. The Board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, Respondent shall relinquish her pocket license to the Board within ten (10) days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

13. **Notification of Employment/Mailing Address Change.** Respondent shall notify the Board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner and work schedule if known. Respondent shall notify the Board in writing within ten (10) days of a change in name, mailing address or phone number.

14. **Tolling of Probation.** Should Respondent, regardless of residency, for any reason cease practicing pharmacy for a minimum of eighty (80) hours per calendar month in California, Respondent must notify the Board in writing within ten (10) days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for

Respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three (3) years. "Cessation of practice" means any period of time exceeding thirty (30) days in which Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of the Business and Professions Code.

15. **Violation of Probation.** If Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided.

If Respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over Respondent, and probation shall automatically be extended until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty which was stayed.

16. **Completion of Probation.** Upon successful completion of probation, Respondent's license will be fully restored.

17. **Restricted Practice.** Notwithstanding any other provision in this Stipulated Settlement and Disciplinary Order, Respondent shall not practice pharmacy unless and until a determination is made by the Pharmacists Recovery Program ("PRP") that it is safe, with or without restrictions, for her to do so. Respondent shall submit proof satisfactory to the Board of compliance with this term of probation.

18. **Rehabilitation Program - Pharmacists Recovery Program (PRP).** Within thirty (30) days of the effective date of this decision, Respondent shall contact the Pharmacists Recovery Program for evaluation and shall successfully participate in and complete the treatment contract and any subsequent addendums as recommended and provided by the PRP and as approved by the Board. The costs for PRP participation shall be borne by the Respondent.

If Respondent is currently enrolled in the PRP, said participation is now mandatory and is no longer considered a self-referral under Business and Professions Code section 4363, as of the effective date of this decision. Respondent shall successfully participate in and complete her current contract and any subsequent addendums with the PRP. Probation shall be automatically extended until Respondent successfully completes her treatment contract. Any person terminated from the program shall be automatically suspended upon notice by the Board. Respondent may not resume the practice of pharmacy until notified by the Board in writing. The Board shall retain jurisdiction to institute action to terminate probation for any violation of this term.

19. **Random Drug Screening.** Respondent, at her own expense, shall participate in random testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or a drug screening program approved by the Board. The length of time shall be for the entire probation period and the frequency of testing will be determined by the Board. At all times Respondent shall fully cooperate with the Board, and shall, when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances. Failure to submit to testing as directed shall constitute a violation of probation. Any confirmed positive drug test shall result in the immediate suspension of practice by Respondent. Respondent may not resume the practice of pharmacy until notified by the Board in writing.

20. **Abstain from Drugs and Alcohol Use.** Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon request of the Board, Respondent shall provide documentation from the licensed practitioner that the prescription was legitimately issued and is a necessary part of the treatment of the Respondent.

21. **Supervised Practice.** Respondent shall practice only under the supervision of a pharmacist not on probation with the Board. Respondent shall not practice until the supervisor is approved by the Board. During the first three (3) years of probation, the

supervision shall occur during 100% of the work week. Thereafter, the supervision shall be, as required by the Board, either:

Continuous - 75% to 100% of a work week.

Substantial - At least 50% of a work week.

Partial - At least 25% of a work week.

Daily Review - Supervisor's review of probationer's daily activities within 24 hours.

Within thirty (30) days of the effective date of this decision, Respondent shall have her supervisor submit notification to the Board in writing stating the supervisor has read the decision in case number 2727 and is familiar with the level of supervision as determined by the Board.

If Respondent changes employment, Respondent shall have her new supervisor, within 15 days after employment commences, submit notification to the Board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number 2727 and is familiar with the level of supervision as determined by the Board.

Within ten (10) days of leaving employment, Respondent shall notify the Board in writing.

22. **No Supervision.** Respondent shall not supervise any ancillary personnel, including, but not limited to, registered pharmacy technicians or exemptees, of any entity licensed by the Board.

23. **Tolling of Suspension.** If Respondent leaves California to reside or practice outside this state, for any period exceeding ten (10) days (including vacation), Respondent must notify the Board in writing of the dates of departure and return. Periods of residency or practice outside the state - or any absence exceeding a period of ten (10) days shall not apply to the reduction of the suspension period.

Respondent shall not practice pharmacy upon returning to this state until notified by the Board that the period of suspension has been completed.

///

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, John Haluck. I understand the stipulation and the effect it will have on my pharmacist license. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: April 27, 2004.

LORIE ELIZABETH GARLICK
Respondent

I have read and fully discussed with Respondent Lorie Elizabeth Garlick the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: April 27, 2004.

JOHN HALUCK
Attorney for Respondent

ENDORSEMENT

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

DATED: 5/3/04.

BILL LOCKYER, Attorney General
of the State of California

KENT D. HARRIS
Deputy Attorney General

Attorneys for Complainant

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

In the Matter of the Accusation Against: **LORIE ELIZABETH GARLICK** 7557 Kilarney Lane, Apt. 296 Citrus Heights, California 95610 Original Pharmacist License No. 40211 Respondent.	Case No. 2727 OAH No. N2004030112

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 8, 2004.

It is so ORDERED June 8, 2004.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
JOHN D. JONES
Board President

Exhibit A

Accusation No. 2727

BILL LOCKYER, Attorney General
of the State of California
RONALD L. DIEDRICH, State Bar No. 95146
Supervising Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-5333
Facsimile: (916) 327-8643
E-mail: ron.diedrich@doj.ca.gov

Attorneys for Complainant

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

In the Matter of the Accusation Against: **LORIE ELIZABETH GARLICK** 7557 Kilarney Lane, Apt. 296 Citrus Heights, California 95610 Original Pharmacist License No. 40211 Respondent.	Case No. 2727 **ACCUSATION**

Complainant alleges:

PARTIES

1. Patricia F. Harris ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Pharmacy ("Board"), Department of Consumer Affairs.

2. On or about August 20, 1986, the Board issued Original Pharmacist License Number 40211 to Lorie Elizabeth Garlick ("Respondent"). Respondent's pharmacist license was in full force and effect at all times relevant to the charges brought herein and will expire on November 30, 2005, unless renewed.

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JURISDICTION

3. The Accusation is brought before the Board under the authority of the following Business and Professions Code ("Code") sections:

a. Code section 4300, subdivision (a), provides that "[e]very license issued [by the Board] may be suspended or revoked [by the Board]."

b. Code section 4301 provides in pertinent part that "[t]he Board shall take action against any holder of a license who is guilty of unprofessional conduct . . . ."

STATUTORY PROVISIONS

(Unprofessional Conduct)

4. Code section 4301, provides, in relevant part, that unprofessional conduct shall include, but not be limited to, 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.
>
> (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.

(Possession of a Controlled Substance)

5. Code section 4060 provides in pertinent part that:

> No person shall possess any controlled substance, except that furnished upon the prescription of a physician, dentist, podiatrist, or veterinarian, 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. . . .

6. Health & Safety Code section 11350, subdivision (a), provides:

> (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.

(Self-Administration or Furnishing of a Controlled Substance)

7. Health and Safety Code section 11170 states that "[n]o person shall prescribe, administer, or furnish a controlled substance for himself."

(Practicing Pharmacy While Under the Influence)

8. Code section 4327 provides that "[a]ny 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."

(Controlled Substances & Dangerous Drugs)

9. "Norco" (hydrocodone/Acetaminophen) is a Schedule III controlled substance and narcotic drug, as listed at Health and Safety Code section 11056, subdivision (e), and a dangerous drug, as defined by Code section 4022.

10. "Vicodin" (hydrocodone/Acetaminophen) is a Schedule III controlled substance and narcotic drug, as listed at Health and Safety Code section 11056, subdivision (e), and a dangerous drug, as defined by Code section 4022.

11. "Ativan" (lorazepam) is a Schedule IV controlled substance, as listed at Health and Safety Code section 11057, subdivision (d), and a dangerous drug, as defined by Code section 4022.

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

///

(Cost Recovery)

13. Code section 125.3 provides, 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.

FIRST CAUSE FOR DISCIPLINE

(Corrupt Acts)

14. Respondent is subject to disciplinary action under Code section 4301, subdivision (f), in that Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

15. From 1998 thru January 1999, the exact dates of which are unknown, Respondent unlawfully, dishonestly and/or fraudulently appropriated Norco, Vicodin and/or other hydrocodone containing medications from her employer, while employed as a licensed pharmacist for Bel Air Pharmacy in Antelope, California.

16. From April 2000 thru May 2003, the exact dates of which are unknown, Respondent unlawfully, dishonestly and/or fraudulently appropriated Norco, Vicodin and/or other hydrocodone containing medications, as well as other controlled substances and dangerous drugs, such as Ativan and Xanax, from her employer, while employed by the Bel Air Pharmacy Corporation and working as a licensed pharmacist at various Bel Air pharmacies in the Sacramento area, including stores in Fair Oaks, Gold River and Folsom, California.

SECOND CAUSE FOR DISCIPLINE

(Self-Administration)

17. Respondent is also subject to disciplinary action under Code section 4301, subdivision (h), in that Respondent administered to herself a controlled substance, or used a dangerous drug to the extent or in a manner as to be dangerous or injurious to herself, to a person holding a pharmacist license, or to any other person or to the public, and/or to the extent that the use impaired his ability to safely conduct the practice of pharmacy.

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18. From 1998 to May 2003, the exact dates of which are unknown, on multiple occasions, Respondent administered to herself Norco, Vicodin and/or other hydrocodone containing medications. Respondent did not have a valid prescription for theses drugs.

THIRD CAUSE FOR DISCIPLINE

(Violation of the Law Regulating Controlled Substances - Possession)

19. Respondent is also subject to disciplinary action under Code section 4301, subdivision (j), in that Respondent violated Code section 4060, which is a statute regulating controlled substances.

20. From 1998 to May 2003, the exact dates of which are unknown, on multiple occasions, Respondent was in possession off Norco, Vicodin, other hydrocodone containing medications, Ativan and/or Xanax, all of which are controlled substances, without a valid prescription for said drugs.

FOURTH CAUSE FOR DISCIPLINE

(Violation of the Law Regulating Controlled Substances - Possession/Narcotics)

21. Respondent is also subject to disciplinary action under Code section 4301, subdivision (j), in that Respondent violated Health and Safety Code section 11350, subdivision (a), which is a statute regulating controlled substances.

22. From 1998 to May 2003, the exact dates of which are unknown, on multiple occasions, Respondent was in possession off Norco, Vicodin, and/or other hydrocodone containing medications, which are controlled substances and narcotic drugs, without a valid prescription for said drugs.

FIFTH CAUSE FOR DISCIPLINE

(Violation of the Law Regulating Controlled Substances - Self-Administration/Furnish)

23. Respondent is also subject to disciplinary action under Code section 4301, subdivision (j), in that Respondent violated Health and Safety Code section 11170, which is a statute regulating controlled substances.

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24. From 1998 to May 2003, the exact dates of which are unknown, on multiple occasions, Respondent unlawfully administered and/or furnished to herself Norco, Vicodin and/or other hydrocodone containing medications.

SIXTH CAUSE FOR DISCIPLINE

(Violation of Pharmacy Law - Practicing Pharmacy While Under the Influence)

25. Respondent is also subject to disciplinary action under Code section 4301, subdivision (o), in that Respondent violated or attempting to violate, directly or indirectly, Code section 4327, a provision of law governing the practice of pharmacy.

26. From 1998 to May 2003, the exact dates of which are unknown, on multiple occasions, Respondent, while on duty as a pharmacist, sold, dispensed or compounded drugs while under the influence of Norco, Vicodin and/or other hydrocodone containing medications.

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 Original Pharmacist License Number 40211, issued to Lorie Elizabeth Garlick;

2. Ordering Lorie Elizabeth Garlick 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,

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

DATED: 2/11/04

P. F. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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BILL LOCKYER, Attorney General
of the State of California
KENT D. HARRIS, State Bar No. 144804
Deputy Attorney General
California Department of Justice
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, CA 94244-2550
Telephone: (916) 324-7859
Facsimile: (916) 327-8643

Attorneys for Complainant

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

In the Matter of the Petition to Revoke Probation Against: LORIE GARLICK Respondent.	Case No. 2917 **REQUEST FOR DISCOVERY** [Gov. Code § 11507.6]

TO RESPONDENT:

Under section 11507.6 of the Government Code of the State of California, parties to an administrative hearing, including the Complainant, are entitled to certain information concerning the opposing party's case. A copy of the provisions of section 11507.6 of the Government Code concerning such rights is included among the papers served.

PURSUANT TO SECTION 11507.6 OF THE GOVERNMENT CODE, YOU ARE HEREBY REQUESTED TO:

1. Provide the names and addresses of witnesses to the extent known to the Respondent, including, but not limited to, those intended to be called to testify at the hearing, and

2. Provide an opportunity for the Complainant to inspect and make a copy of any of the following in the possession or custody or under control of the Respondent:

a. A statement of a person, other than the Respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or

omission of the Respondent as to this person is the basis for the administrative proceeding;

b. A statement pertaining to the subject matter of the proceeding made by any party to another party or persons;

c. Statements of witnesses then proposed to be called by the Respondent and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

d. All writings, including but not limited to reports of mental, physical and blood examinations and things which the Respondent now proposes to offer in evidence;

e. Any other writing or thing which is relevant and which would be admissible in evidence, including but not limited to, any patient or hospital records pertaining to the persons named in the pleading;

f. Investigative reports made by or on behalf of the Respondent pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this Request for Discovery, "statements" include written statements by the person, signed, or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

YOU ARE HEREBY FURTHER NOTIFIED that nothing in this Request for Discovery should be deemed to authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as attorney's work product.

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Your response to this Request for Discovery should be directed to the undersigned attorney for the Complainant at the address on the first page of this Request for Discovery **within 30 days after service** of the Petition to Revoke Probation.

Failure without substantial justification to comply with this Request for Discovery may subject the Respondent to sanctions pursuant to sections 11507.7 and 11455.10 to 11455.30 of the Government Code.

DATED: 3/9/06

BILL LOCKYER, Attorney General
of the State of California

KENT D. HARRIS
Deputy Attorney General

Attorneys for Complainant

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BILL LOCKYER, Attorney General
of the State of California
KENT D. HARRIS, State Bar No. 144804
Deputy Attorney General
California Department of Justice
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Telephone: (916) 324-7859
Facsimile: (916) 327-8643

Attorneys for Complainant

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

In the Matter of the Petition to Revoke Probation Against: LORIE GARLICK Respondent.	Case No. 2917 **STATEMENT TO RESPONDENT** [Gov. Code §§ 11504, 11505(b)]

TO RESPONDENT:

Enclosed is a copy of the Petition to Revoke Probation that has been filed with the Board of Pharmacy of the Department of Consumer Affairs (Board), and which is hereby served on you.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the Board, represented by Deputy Attorney General Kent D. Harris, within fifteen (15) days after a copy of the Petition to Revoke Probation was personally served on you or mailed to you, you will be deemed to have waived your right to a hearing in this matter and the Board may proceed upon the Petition to Revoke Probation without a hearing and may take action thereon as provided by law.

The request for hearing may be made by delivering or mailing one of the enclosed forms entitled "Notice of Defense," or by delivering or mailing a Notice of Defense as provided in section 11506 of the Government Code, to

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///

Kent D. Harris
Deputy Attorney General
1300 I Street, Suite 125
P.O. Box 944255
Sacramento, California 94244-2550.

You may, but need not, be represented by counsel at any or all stages of these proceedings.

The enclosed Notice of Defense, if signed and filed with the Board, shall be deemed a specific denial of all parts of the Petition to Revoke Probation, but you will not be permitted to raise any objection to the form of the Petition to Revoke Probation unless you file a further Notice of Defense as provided in section 11506 of the Government Code within fifteen (15) days after service of the Petition to Revoke Probation on you.

If you file any Notice of Defense within the time permitted, a hearing will be held on the charges made in the Petition to Revoke Probation.

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the Office of Administrative Hearings, 560 J Street, Suite 340/360, Sacramento, California 95814, within ten (10) working days after you discover the good cause. Failure to notify the Office of Administrative Hearings within ten (10) days will deprive you of a postponement.

Copies of sections 11507.5, 11507.6, and 11507.7 of the Government Code are enclosed.

If you desire the names and addresses of witnesses or an opportunity to inspect and copy the items mentioned in section 11507.6 of the Government Code in the possession, custody or control of the Board you may send a Request for Discovery to the above designated Deputy Attorney General.

NOTICE REGARDING STIPULATED SETTLEMENTS

It may be possible to avoid the time, expense and uncertainties involved in an administrative hearing by disposing of this matter through a stipulated settlement. A stipulated settlement is a binding written agreement between you and the government regarding the matters

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charged and the discipline to be imposed. Such a stipulation would have to be approved by the Board of Pharmacy but, once approved, it would be incorporated into a final order.

Any stipulation must be consistent with the Board's established disciplinary guidelines; however, all matters in mitigation or aggravation will be considered. A copy of the Board's Disciplinary Guidelines will be provided to you on your written request to the state agency bringing this action.

If you are interested in pursuing this alternative to a formal administrative hearing, or if you have any questions, you or your attorney should contact Deputy Attorney General Kent D. Harris at the earliest opportunity.

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

In the Matter of the Petition to Revoke Probation Against: LORIE GARLICK Respondent.	Case No. 2917 **NOTICE OF DEFENSE** [Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Petition to Revoke Probation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Petition to Revoke Probation.

DATED: _____

Respondent's Name _____

Respondent's Signature _____

Respondent's Mailing Address _____

City, State and Zip Code _____

Respondent's Telephone Number _____

Check appropriate box:

☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Petition to Revoke Probation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

10228059.wpd

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

In the Matter of the Petition to Revoke Probation Against: LORIE GARLICK Respondent.	Case No. 2917 **NOTICE OF DEFENSE** [Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Petition to Revoke Probation; Statement to Respondent; Government Code sections 11507.5, 11507.6 and 11507.7, Complainant's Request for Discovery; and two copies of a Notice of Defense.

I hereby request a hearing to permit me to present my defense to the charges contained in the Petition to Revoke Probation.

DATED: _____

Respondent's Name _____

Respondent's Signature _____

Respondent's Mailing Address _____

City, State and Zip Code _____

Respondent's Telephone Number _____

Check appropriate box:

☐ I do not consent to electronic reporting.

The hearing in this case will be electronically reported/recorded, unless you check the above-left box to indicate that you do not consent to electronic recording, in which case the hearing will be reported by a stenographic reporter. If you do not check this box, you may withdraw your consent to electronic recording at any point up to fifteen (15) calendar days prior to the date set for hearing, by a written statement served on the Office of Administrative Hearings and on counsel for Complainant. If the box is not checked, and no written withdrawal of consent is served on the Office of Administrative Hearing and on counsel for Complainant by fifteen (15) calendar days prior to the hearing, you waive any right to stenographic reporting.

☐ I am represented by counsel, whose name, address and telephone number appear below:

Counsel's Name _____

Counsel's Mailing Address _____

City, State and Zip Code _____

Counsel's Telephone Number _____

☐ I am not now represented by counsel. If and when counsel is retained, immediate notification of the attorney's name, address and telephone number will be filed with the Office of Administrative Hearing and a copy sent to counsel for Complainant so that counsel will be on record to receive legal notices, pleadings and other papers.

The agency taking the action described in the Petition to Revoke Probation may have formulated guidelines to assist the administrative law judge in reaching an appropriate penalty. You may obtain a copy of the guidelines by requesting them from the agency in writing.

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COPY OF GOVERNMENT CODE SECTIONS 11507.5, 11507.6 AND 11507.7
PROVIDED PURSUANT TO GOVERNMENT CODE SECTIONS 11504 AND 11505

SECTION 11507.5: Exclusivity of discovery provisions

The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

SECTION 11507.6: Request for discovery

After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

SECTION 11507.7: Petition to compel discovery; Order; Sanctions

(a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed or refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

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DECLARATION OF SERVICE BY CERTIFIED MAIL AND FIRST CLASS MAIL
(Separate Mailings)

Case Name: **In the Matter of the Petition to Revoke Probation Against: Lorie Elizabeth Garlick**

No.: **2917**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On March 9, 2006, I served the attached **Petition to Revoke Probation, Statement to Respondent, Request for Discovery, Notice of Defense (2 copies), and Government Code sections** by placing a true copy thereof enclosed in a sealed envelope as certified mail with postage thereon fully prepaid and return receipt requested, and another true copy of the **Petition to Revoke Probation, Statement to Respondent, Request for Discovery, Notice of Defense (2 copies), and Government Code sections** was enclosed in a second sealed envelope as first class mail with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at Sacramento addressed as follows:

Tim Aspinwall, Attorney at Law
Nossaman, Guthner, Knox & Elliott, LLP
915 L Street, Suite 1000
Sacramento, California 95814-3705
Attorney for Respondent
Mail Cert. No. 7160 3901 9848 9138 5389

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on March 9, 2006, at Sacramento, California.

Mary Anne Snyder
Declarant

Mary Anne Snyder
Signature

cc: Patricia Harris, Board of Pharmacy

7160 3901 9848 9138 5389

TO: Timothy J. Aspinwall
Nossaman, Guthner, Knox & Elliott, LLP
915 L Street, Suite 1000
Sacramento, CA 95814-3701

SENDER: Kent D. Harris, DAG

REFERENCE: Garlick/PetToRevokeProb

PS Form 3800, June 2000

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	Certified Fee	
	Return Receipt Fee	
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POSTMARK OR DATE
03/09/06

2. Article Number
7160 3901 9848 9138 5389

3. Service Type **CERTIFIED MAIL**

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

1. Article Addressed to:

Timothy J. Aspinwall
Nossaman, Guthner, Knox & Elliott, LLP
915 L Street, Suite 1000
Sacramento, CA 95814-3701

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) Georgette Mayberry
B. Date of Delivery 3/10/06
C. Signature
X Georgette Mayberry
☐ Agent ☐ Addressee
D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

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Garlick/PetTo RevokeProb
Kent D. Harris, DAG

PS Form 3811, July 2001 Domestic Return Receipt