BILL LOCKYER, Attorney General
of the State of California
JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-1299
Facsimile: (415) 703-5480

Attorneys for Complainant

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

In the Matter of the Accusation Against: VERONICA VICTORIA GARCIA 443 Jackie Drive San Jose, CA 95111-2239 Pharmacy Technician License No. TCH 47709 Respondent.	Case No. 2983 OAH No. **DEFAULT DECISION AND ORDER** [Gov. Code, §11520]

FINDINGS OF FACT

1. On or about March 19, 2003, the Board of Pharmacy (Board) issued Pharmacy Technician License No. TCH 47709 to Veronica Victoria Garcia (Respondent). The Pharmacy Technician License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2006, unless renewed.

2. On or about August 15, 2006, Complainant Virginia Herold, in her official capacity as Interim Executive Officer, Board of Pharmacy, Department of Consumer Affairs, filed Accusation No. 2983 against Veronica Victoria Garcia (Respondent) before the Board.

3. On or about August 17, 2006, Fe M. Domingo, a Department of Justice employee, served, by Certified and First Class Mail, a copy of Accusation No. 2983, a Statement to Respondent, a Notice of Defense, a Request for Discovery, and Government Code sections 11507.5, 11507.6, and 11507.7, to Respondent's address of record with the Board, which was and is 443 Jackie Drive, San Jose, CA 95111-2239. A copy of the Accusation, the accompanying documents, and proof of service are attached as Exhibit A, and incorporated herein by reference.

4. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505, subdivision (c).

5. Government Code section 11506 states, in pertinent part:

"(c) The respondent shall be entitled to a hearing on the merits if the respondent files a notice of defense, and the notice shall be deemed a specific denial of all parts of the accusation not expressly admitted. Failure to file a notice of defense shall constitute a waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless grant a hearing."

6. Respondent failed to file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore has waived her right to a hearing in this matter on the merits of Accusation No. 2983.

7. California Government Code section 11520 states, in pertinent part:

"(a) If the respondent either fails to file a notice of defense or to appear at the hearing, the agency may take action based upon the respondent's express admissions or upon other evidence and affidavits may be used as evidence without any notice to respondent."

8. Pursuant to its authority under Government Code section 11520, the Board finds Respondent is in default. The Board will take action without further hearing and, based on Respondent's express admissions by way of default and the evidence before it, contained in exhibits A and B finds that the allegations in Accusation No. 2983 are true.

9. The total costs for investigation and enforcement of this case pursuant to Business and Professions Code section 125.3 are $2,131.00 as of September 12, 2006.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Veronica Victoria Garcia has subjected her Pharmacy Technician License No. TCH 47709 to discipline.

2. A copy of the Accusation and the related documents and Declaration of Service are attached.

3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy Technician License based upon the following violations alleged in the Accusation:

a. In violation of Business and Professions Code section 4301(l), by reference to California Code of Regulations, title 16, section 1770, on or about October 30, 2001, in a criminal case titled *People v. Veronica Victoria Garcia*, Case No. CC125969 in Santa Clara County Superior Court, Respondent was convicted by plea of guilty of violating Vehicle Code section 12500(a) [driving a motor vehicle without valid driver's license], a misdemeanor.

b. In violation of Business and Professions Code section 4301(l), by reference to California Code of Regulations, title 16, section 1770, on or about May 4, 2005, in a criminal case titled *People v. Veronica Victoria Garcia*, Case No. CC476115 in Santa Clara County Superior Court, Respondent was convicted by plea of guilty of (1) a violation of Vehicle Code section 10851(a) [theft or unauthorized use of a vehicle], a felony, and (2) a violation of Penal Code section 496d [buying or receiving a stolen motor vehicle], a felony.

c. In violation of Business and Professions Code section 4301(l), by reference to California Code of Regulations, title 16, section 1770, on or about July 12, 2005, in a criminal case titled *People v. Veronica Victoria Garcia*, Case No. CC593354 in Santa Clara County Superior Court, Respondent was convicted by plea of guilty of (1) a violation of Health and Safety Code section 11377(a) [possession of controlled substance - **methamphetamine**], a felony, with an enhancement under Penal Code section 12022.1 for being out of custody on bail pursuant to a felony conviction under Vehicle Code section 10851(a) [theft or unauthorized use of a vehicle] at the time of offense, (2) a violation of Health and Safety Code section 11550(a) [using/being under the influence of controlled substance - **methamphetamine**], a misdemeanor; and (3) a violation of Health and Safety Code section 11364 [possession of drug paraphernalia].

d. In violation of Business and Professions Code section 4301(l), by reference to California Code of Regulations, title 16, section 1770, on or about August 3, 2005, in a criminal case titled *People v. Veronica Victoria Garcia*, Case No. CC467571 in Santa Clara County Superior Court, Respondent was convicted by plea of guilty of (1) a violation of Health and Safety Code section 11377(a) [possession of a controlled substance - **methamphetamine**], a felony, and (2) a violation of Health and Safety Code section 11550(a) [using or being under the influence of a controlled substance - **methamphetamine**], a misdemeanor.

e. In violation of Business and Professions Code section 4301(f), the foregoing were acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

f. In violation of Business and Professions Code section 4301(h), (j), and/or (o), and/or Health and Safety Code section 11170, the latter two convictions listed above involved self-administration of **methamphetamine**, a controlled substance and dangerous drug.

g. In violation of Business and Professions Code section 4301(j) and/or (o), pursuant to the latter two convictions listed above Respondent possessed, conspired to possess, and/or assisted in or abetted the possession without prescription of **methamphetamine**, a controlled substance and dangerous drug, in violation of Code section 4060.

h. In violation of Business and Professions Code section 4301(j) and/or (o), pursuant to the latter two convictions listed above Respondent possessed, conspired to possess, and/or assisted in or abetted the possession without prescription of **methamphetamine**, a controlled substance and dangerous drug, in violation of Health and Safety Code section 11377.

i. In violation of Business and Professions Code section 4301(j) and/or (o), pursuant to the latter two convictions listed above Respondent possessed, conspired to possess, and/or assisted in or abetted the possession without prescription of **methamphetamine**, a controlled substance and dangerous drug, in violation of Code section 11550.

j. In violation of Business and Professions Code section 4301, the foregoing were acts of "unprofessional conduct" not becoming the profession of pharmacy.

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ORDER

IT IS ORDERED that Pharmacy Technician License No. TCH 47709, heretofore issued to Respondent Veronica Victoria Garcia, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined by statute.

This Decision shall become effective on November 15, 2006.

It is so ORDERED October 16, 2006

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By William Powers
WILLIAM POWERS
Board President

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DOJ docket number:SF2006401148

Attachments:

Exhibit A: Accusation No.2983, Related Documents, and Declaration of Service

Exhibit A

Accusation No. 2983,
Related Documents and Declaration of Service

BILL LOCKYER, Attorney General
of the State of California
JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-1299
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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: VERONICA VICTORIA GARCIA 443 Jackie Drive San Jose, CA 95111-2239 Pharmacy Technician License No. TCH 47709 Respondent.	Case No. 2983 OAH No. **ACCUSATION**

Complainant alleges:

PARTIES

1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity as the Interim Executive Officer, Board of Pharmacy, Department of Consumer Affairs.

2. On or about March 19, 2003, the Board of Pharmacy issued Pharmacy Technician License Number TCH 47709 to Veronica Victoria Garcia (Respondent). The License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2006, unless renewed.

JURISDICTION

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

4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code, § 11000 et seq.].

5. Section 4300(a) of the Code provides that every license issued by the Board may be suspended or revoked.

6. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated. Section 4402(a) of the Code provides that any license that is not renewed within three years following its expiration may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end of the three-year period.

STATUTORY PROVISIONS

7. Section 4301 of the Code provides, in pertinent part, that the Board shall take action against any holder of a license who is guilty of "unprofessional conduct," defined to include, but not be limited to, any of the following:

. . .

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

. . .

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

. . .

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

. . .

"(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. . . .

. . .

"(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.

. . .

8. California Code of Regulations, title 16, section 1770 provides in pertinent part that a crime or act shall be considered substantially related to the qualifications, functions or duties of a licensee or registrant "if to a substantial degree it evidences present or potential unfitness of a licensee or registrant to perform the functions authorized by his license or registration in a manner consistent with the public health, safety, or welfare."

9. Section 4060 of the Code provides, in pertinent part, that no person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, or veterinarian, or furnished pursuant to a drug order issued by a certified nurse-midwife, a nurse practitioner, or a physician assistant.

10. Health and Safety Code section 11170 provides that no person shall prescribe, administer, or furnish a controlled substance for himself or herself.

11. Health and Safety Code section 11377, in pertinent part, makes it unlawful for any person to possess, *inter alia*, the controlled substances in Schedule II (Health and Safety Code section 11055), subdivisions (d), (e), or (f), unless prescribed by an authorized prescriber.

12. Health and Safety Code section 11550, in pertinent part, makes it unlawful for any person to use or be under the influence of, *inter alia*, any of the controlled substances in Schedule II (Health and Safety Code section 11055), subdivisions (d)(1) or (d)(2).

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation of the licensing act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

14. Section 4021 of the Code states:

"'Controlled substance' means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

15. Section 4022 of the Code states, in pertinent part:

"'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

"(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without prescription,' 'Rx only,' or words of similar import.

. . .

"(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006."

16. **Methamphetamine** is a Schedule II controlled substance as designated by Health and Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions Code section 4022. It is a stimulant drug.

FIRST CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

17. Respondent is subject to discipline under Code section 4301(l) through or by reference to California Code of Regulations, title 16, section 1770, in that on or about October 30, 2001, in a criminal case titled *People v. Veronica Victoria Garcia*, Case No. CC125969 in Santa Clara County Superior Court, Respondent was convicted by plea of guilty of violating Vehicle Code section 12500(a) [driving a motor vehicle without valid driver's license], a misdemeanor. The conviction was entered in Santa Clara County Superior Court as follows:

a. On or about September 13, 2001, Respondent was in a traffic accident. A responding San Jose Police Department officer cited Respondent for violating Vehicle Code section 14601.1(a) [driving a motor vehicle with a suspended driver's license], a misdemeanor.

b. On or about October 30, 2001, Respondent pleaded guilty to an amended count of violating Vehicle Code section 12500(a) [driving a motor vehicle without valid driver's license], a misdemeanor. Respondent was ordered to pay fees and fines.

SECOND CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

18. Respondent is subject to discipline under Code section 4301(l) through or by reference to California Code of Regulations, title 16, section 1770, in that on or about May 4, 2005, in a criminal case titled *People v. Veronica Victoria Garcia*, Case No. CC476115 in Santa Clara County Superior Court, Respondent was convicted by plea of guilty of two offenses: (1) a violation of Vehicle Code section 10851(a) [theft or unauthorized use of a vehicle], a felony; and (2) a violation of Penal Code section 496d [buying or receiving a stolen motor vehicle], a felony. The conviction was entered in Santa Clara County Superior Court as follows:

a. On or about December 17, 2004, Respondent was arrested along with a co-defendant by officers of the Santa Clara County Sheriff's Office.

b. On or about March 4, 2005, a criminal Information filed in Santa Clara County Superior Court charged Respondent and her co-defendant with a total of five counts. The two counts pertaining to Respondent were Count 1, a violation of Vehicle Code section 10851(a) [theft or unauthorized use of a vehicle], a felony, and Count 3, a violation of Penal Code section 496d [buying or receiving a stolen motor vehicle], a felony.

c. On or about May 4, 2005, Respondent pleaded guilty to Counts 1 and 3.

d. On or about July 11, 2005, imposition of sentence by the Superior Court was suspended for a period of 3 years/36 months, in favor of an order of formal probation under the supervision of the Probation Office for a period of 3 years/36 months on terms and conditions including 90 days in county jail with 21 days credit for time served, reporting, search, testing, and substance abuse treatment requirements, and payment of fines, fees, and restitution.

THIRD CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

19. Respondent is subject to discipline under Code section 4301(l) through or by reference to California Code of Regulations, title 16, section 1770, in that on or about July 12, 2005, in a criminal case titled *People v. Veronica Victoria Garcia*, Case No. CC593354 in Santa Clara County Superior Court, Respondent was convicted by plea of guilty of three offenses: (1) a violation of Health and Safety Code section 11377(a) [illegal possession of controlled substance - **methamphetamine**], a felony, with an enhancement under Penal Code section 12022.1 for being out of custody on bail pursuant to a felony conviction under Vehicle Code section 10851(a) [theft or unauthorized use of a vehicle] at the time of offense; (2) a violation of Health and Safety Code section 11550(a) [using/being under the influence of controlled substance - **methamphetamine**], a misdemeanor; and (3) a violation of Health and Safety Code section 11364 [possession of drug paraphernalia]. The conviction was entered in Santa Clara County Superior Court as follows:

a. On or about May 29, 2005, Respondent was stopped by a San Jose Police Department officer for driving without a front license plate. The officer noted that Respondent appeared to be under the influence of a controlled substance, and when asked Respondent stated that she had recently smoked **methamphetamine**. Respondent also admitted to the officer that she had **methamphetamine** and a pipe for smoking in her car. The officer recovered both, and a subsequent search of Respondent's person revealed additional **methamphetamine** on her person.

b. On or about June 2, 2005, a Felony Complaint filed in Santa Clara County Superior Court charged Respondent with the three Counts listed in Paragraph 19, above.

c. On or about July 12, 2005, Respondent pleaded guilty to all three Counts, and further admitted the enhancement pursuant to Penal Code section 12022.1.

d. On or about July 12, 2005, Respondent was deemed Prop 36 eligible, and imposition of sentence by the Superior Court was suspended for a period of 2 years/24 months, in favor of an order of formal probation for a period of 2 years/24 months on terms and conditions including reporting, search, testing, and substance abuse treatment requirements, registration pursuant to Health and Safety Code section 11590, and payment of fines, fees, and restitution.

e. On or about November 2, 2005, Respondent's service of probation for this offense and conviction was made co-terminous with that for Case No. CC467571 (Paragraph 20).

FOURTH CAUSE FOR DISCIPLINE

(Conviction of Substantially Related Crime)

20. Respondent is subject to discipline under Code section 4301(l) through or by reference to California Code of Regulations, title 16, section 1770, in that on or about August 3, 2005, in a criminal case titled *People v. Veronica Victoria Garcia*, Case No. CC467571 in Santa Clara County Superior Court, Respondent was convicted by plea of guilty of two offenses: (1) a violation of Health and Safety Code section 11377(a) [illegal possession of a controlled substance - **methamphetamine**], a felony; and (2) a violation of Health and Safety Code section 11550(a) [using or being under the influence of a controlled substance - **methamphetamine**], a misdemeanor. The conviction was entered in Santa Clara County Superior Court as follows:

a. On or about September 18, 2004, Respondent was stopped by San Jose Police Department officers for driving with a broken tail light. When asked, Respondent said she could not provide a driver's license. The officer(s) noted that Respondent appeared to be under the influence of a controlled substance. After consenting to a search of the vehicle, Respondent admitted to having **methamphetamine** in her purse. This was recovered by the officers. During a subsequent interview, Respondent admitted to smoking **methamphetamine** earlier in the day.

b. On or about September 28, 2004, a Felony Complaint filed in Santa Clara County Superior Court charged Respondent with the two Counts listed in Paragraph 20, above.

c. On or about March 17, 2005, Respondent pleaded guilty to both Counts.

d. On or about March 17, 2005, Respondent was granted a Deferred Entry of Judgment pursuant to Penal Code section 1000, contingent on payment of fees, entry into a drug treatment program, and registration pursuant to Health and Safety Code section 11590.

e. On or about August 3, 2005, the Deferred Entry of Judgment previously granted to Respondent was terminated on two grounds: (1) her failure to enter or complete drug treatment/diversion classes; and/or (2) the new charges in Case No. CC593354 (Paragraph 19). A judgment of conviction was entered for the two Counts listed in Paragraph 20, above.

f. On or about November 2, 2005, imposition of sentence by the Superior Court was suspended for a period of 2 years/24 months, in favor of an order of formal probation for 2 years/24 months (through at least November 2, 2007) on terms and conditions including reporting, search, testing, and substance abuse treatment requirements, registration pursuant to Health and Safety Code section 11590, and payment of fines, fees, and restitution.

FIFTH CAUSE FOR DISCIPLINE

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

21. Respondent is subject to discipline under Code section 4301(f) in that, as described in Paragraphs 17-20 above, Respondent committed numerous acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

SIXTH CAUSE FOR DISCIPLINE

(Unlawful Self-Administration of Dangerous Drugs / Controlled Substances)

22. Respondent is subject to discipline under Code section 4301(h), (j), and/or (o), and/or Health and Safety Code section 11170, in that Respondent, as described in Paragraphs 19-20 above, self-administered **methamphetamine**, a controlled substance and dangerous drug.

SEVENTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substance)

23. Respondent is subject to discipline under Code section 4301(j) and/or 4301(o) in that Respondent, as described in Paragraphs 19-20 above, possessed, conspired to possess, and/or assisted in or abetted the possession without prescription of **methamphetamine**, a controlled substance and dangerous drug, in violation of Code section 4060.

EIGHTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Controlled Substance)

24. Respondent is subject to discipline under Code section 4301(j) and/or 4301(o) in that Respondent, as described in Paragraphs 19-20 above, possessed, conspired to possess, and/or assisted in or abetted the possession without prescription of **methamphetamine**, a controlled substance and dangerous drug, in violation of Health and Safety Code section 11377.

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NINTH CAUSE FOR DISCIPLINE

(Unlawful Use/Being Under Influence of Controlled Substance)

25. Respondent is subject to discipline under Code section 4301(j) and/or 4301(o) in that Respondent, as described in Paragraphs 19-20 above, used, conspired to use, and/or assisted in or abetted the use or being under the influence of **methamphetamine**, a controlled substance and dangerous drug, in violation of Health and Safety Code section 11550.

TENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

26. Respondent is subject to disciplinary action under section 4301 of the Code in that Respondent, by way of the conduct described in Paragraphs 17-20 above, engaged in "unprofessional conduct" not becoming the profession of pharmacy.

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:

A. Revoking or suspending Pharmacy Technician License No. TCH 47709, issued to Veronica Victoria Garcia (Respondent);

B. Ordering Respondent to pay the Board reasonable costs of investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

C. Taking such other and further action as is deemed necessary and proper.

DATED: 8/15/06

VIRGINIA HEROLD
Interim 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
JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-1299
Facsimile: (415) 703-5480

Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 2983
VERONICA VICTORIA GARCIA	**STATEMENT TO RESPONDENT**
Respondent.	[Gov. Code §§ 11504, 11505(b)]

TO RESPONDENT:

Enclosed is a copy of the Accusation 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 Joshua A. Room, within fifteen (15) days after a copy of the Accusation 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 Accusation 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

Joshua A. Room
Deputy Attorney General
455 Golden Gate Avenue, Suite 11000
San Francisco, California 94102.

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 Accusation, but you will not be permitted to raise any objection to the form of the Accusation 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 Accusation on you.

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

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the Office of Administrative Hearings, 1515 Clay Street, Suite 206, Oakland, California 94612, 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 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 Joshua A. Room 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 Accusation Against:	Case No. 2983
VERONICA VICTORIA GARCIA	**NOTICE OF DEFENSE**
Respondent.	[Gov. Code §§ 11505 and 11506]

I, the undersigned Respondent in the above-entitled proceeding, hereby acknowledge receipt of a copy of the Accusation; 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 Accusation.

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

In the Matter of the Accusation Against: VERONICA VICTORIA GARCIA Respondent.	Case No. 2983 **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 Accusation; 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 Accusation.

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 Accusation 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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BILL LOCKYER, Attorney General
of the State of California
JOSHUA A. ROOM, State Bar No. 214663
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-1299
Facsimile: (415) 703-5480

Attorneys for Complainant

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

In the Matter of the Accusation Against:	Case No. 2983
VERONICA VICTORIA GARCIA	**REQUEST FOR DISCOVERY**
Respondent.	[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.

///

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 Accusation.

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: 8/17/06

BILL LOCKYER, Attorney General
of the State of California

JOSHUA A. ROOM
Deputy Attorney General

Attorneys for Complainant

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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
(Certified and First Class Mail)

In the Matter of the Accusation Against: *Veronica Victoria Garcia*
Agency Case No. **2983**

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 August 17, 2006, I served the attached **Accusation, Statement to Respondent, Notice of Defense (2), Request for Discovery, and Discovery Statutes** 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 **same** document(s) 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 455 Golden Gate Avenue, Suite 11000, San Francisco, CA 94102-7004, addressed as follows:

VERONICA VICTORIA GARCIA
443 Jackie Drive
San Jose, CA 95111-2239

Certified Article Number
7160 3901 9848 5187 4748
SENDERS RECORD

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 August 17, 2006 at San Francisco, California.

FE M. DOMINGO
Typed Name

FM Domingo
Signature

7160 3901 9848 5187 4748

TO: VERONICA VICTORIA GARCIA
443 Jackie Drive
San Jose, CA 95111-2239

SENDER: JAR

REFERENCE: Acc Pkt

PS Form 3800, June 2000

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