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

In the Matter of the Petition for Reinstatement of Pharmacist License by: **TRACEY MOORE** 5684 Moonstone Loop, S.E. Salem, OR 97306-3517 Pharmacist License No. RPH 37248 Petitioner.	Case No. 2187 OAH No. N2006040645

DECISION AND ORDER

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

This Decision shall become effective on June 7, 2006.

It is so ORDERED May 31, 2006.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
STANLEY GOLDENBERG, R.Ph.
Board President

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

In the Matter of the Petition for Reinstatement of Pharmacist License by: TRACEY MOORE Pharmacist License No. RPH 37248 Petitioner.	Case No. 2187 OAH No. N2006040645

DECISION

The Board of Pharmacy heard this matter on April 27, 2006, in Sacramento, California. Board members present and participating were Stanley Goldenberg, R.Ph., President; William Powers, Vice President; Marian Balay; Ruth Conroy, Pharm.D.; David J. Fong, Pharm.D.; Clarence Hiura, Pharm.D.; John Jones, R.Ph.; and Andrea Zinder.[1] Administrative Law Judge Karen J. Brandt, Office of Administrative Hearings, presided.

Char Sachson, Deputy Attorney General, represented the Office of the Attorney General.

Tracey Moore (petitioner) appeared on her own behalf.

The matter was submitted on April 27, 2006.

FACTUAL FINDINGS

1. On October 31, 1983, the Board of Pharmacy (Board) issued Pharmacist License No. RPH 37248 to petitioner.

[1] Board member Kenneth H. Schell, Pharm.D., recused himself from this matter and did not take part in the deliberations.

2. On May 5, 2000, the Board's Executive Officer issued an Accusation against petitioner that accused her of, among other things, illegally taking Cyclert, Darvocet-N, Soma, Valium and Vicodin from the pharmacy where she worked from August 1996 to October 1997; and for consuming controlled substances, dangerous drugs and alcohol to the extent that she was a danger to herself or others or she was impaired in her ability to practice pharmacy safely.

3. To settle the Accusation, petitioner entered into a Stipulated Settlement and Disciplinary Order (Stipulation), which was adopted by the Board effective April 25, 2001. In the Stipulation, petitioner admitted the truth of all the allegations contained in the Accusation, and agreed that her license would be revoked, but that the revocation would be stayed and she would be placed on probation for three years subject to stipulated terms and conditions. Pursuant to the terms and conditions, petitioner agreed, among other things, that she would pay to the Board its costs of investigation and prosecution in the amount of $4,615.00 by paying $129.00 per month during the three years of her probation. The Stipulation provided that if petitioner failed "to pay the costs as specified by the Board and on or before the date(s) determined by the Board, the Board shall, without affording [petitioner] notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed."

4. Effective April 10, 2004, the Board revoked petitioner's pharmacist license for failing to make timely payments in accordance with the terms of the Stipulation.[2]

5. In her petition and at hearing, petitioner admitted her past drug and alcohol abuse. From August 1996 to October 1997, petitioner was the Pharmacist-in-Charge at CPC San Luis Rey Hospital Pharmacy. On October 14, 1997, she was confronted at work about her illegal use of narcotics. On December 18, 1997, she entered the Turning Point Home, a long-term women's residential program. While in the program, she attended Alcoholics Anonymous meetings; participated in groups pertaining to the physical, psychological, behavioral and social aspects of recovery from alcoholism, relapse prevention, and recovery planning; and engaged in one-on-ones with peers and staff. She successfully completed that program on August 19, 1998. Petitioner asserted that she has remained clean and sober since 1997. There was no evidence to indicate that petitioner has engaged in any illegal drug use since that time.

6. From June 1998 to September 2001, petitioner worked as a Toxicology Case Manager for the California Poison Control Center, San Diego Division. From July 2001 to February 2002, she worked as a retail pharmacist for Rite Aide in Mammoth, California. From November 2002 to March 2003, she worked in Longs Drugs in Placerville, California.

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[2] At hearing, petitioner contested whether the Board properly revoked her license for failure to pay costs. An inquiry into whether petitioner's license was properly revoked is beyond the scope of this proceeding. The only relevant issue for review during this proceeding is whether petitioner submitted adequate information to establish that she has been sufficiently rehabilitated to warrant reinstatement of her license.

7. Petitioner has been licensed to practice pharmacy in Oregon since 1994. In July 2004, the Oregon Board of Pharmacy issued a Notice of Proposed Action; Answer Required, which sought to discipline petitioner's Oregon license in light of the revocation of her California license. In August 2004, she entered into a Consent Order with the Oregon Board of Pharmacy, which placed her Oregon license on probation for five years, subject to certain terms and conditions, including participation in Oregon's Pharmacist Recovery Network (PRN).

8. Petitioner entered into an Oregon PRN Program Treatment Contract, which provided, among other things, that she had to: (a) abstain from the use of alcohol and psychoactive drugs; (b) attend a minimum of four AA/NA meetings per week until March 11, 2005, and then three meetings every week for five years; and (c) submit body fluid samples on a random basis 30 times a year.

Petitioner has been working in Oregon as a pharmacist for Target since February 21, 2006. From May 2005 through January 2006, she worked as a pharmacist for Wal-Mart in Oregon.

Edwin Schneider, R.Ph., Program Director of the Oregon PRN, submitted a letter dated January 9, 2006, which stated that petitioner has continued to perform her PRN contract in good faith: her urine analyses have all been clean, her meeting logs were current, her quarterly reports were current, her personal disclosures were complete, and her annual reviews were timely. In addition, she had started and maintains one of their peer group meetings in her area, which was very helpful to them. Dr. Schneider described petitioner as a "joy to work with."

9. Petitioner submitted five letters of support from pharmacists who know her professionally and personally. All attested both to her honesty in admitting and confronting her drug addiction and to her competence as a pharmacist. Two of these pharmacists are themselves recovering addicts. Both commended petitioner for her commitment not only to maintaining her own sobriety, but also to assisting other drug-dependent pharmacists succeed in their recoveries.

10. Petitioner also submitted letters from a Christian counselor, a therapist and a diversion group facilitator, who worked with petitioner in the past and described the substantial efforts she has made to remain clean and sober.

11. Petitioner has been treated for chronic depression and ADHD since she was nine years old.

12. Petitioner submitted certificates that indicated that she had taken 56 hours of continuing education in 2004 and 2005. Thirty of those hours were for Board-approved education taken in 2005.

13. Petitioner submitted her final cost recovery payment on September 16, 2005, and has now fully paid all the costs assessed against her.

14. Petitioner is currently 49 years old. She has three children, ages 20, 23, and 25, with whom she reconnected after she became clean and sober. She would like to be reinstated in California so that she could move to the San Diego area to take care of her mother, who is dying of Alzheimer's.

LEGAL CONCLUSIONS

1. Although petitioner's license was revoked in April 2004, her record of rehabilitation goes back to 1997. She had already successfully completed treatment at the Turning Point Home before she was placed on probation by the Board in April 2001. The information presented to the Board indicates that petitioner was an active participant in her rehabilitation efforts and has maintained her sobriety since 1997. In her petition and at hearing, petitioner took full responsibility for her past misconduct. Given petitioner's rehabilitation, it would not be contrary to the public interest or welfare to issue her a conditional probationary license at this time.

2. In order to ensure that petitioner has the requisite knowledge and skill to practice pharmacy safely, before her license will be reinstated, she must first take and pass the California Pharmacist Jurisprudence Examination (CPJE).

3. In addition, before petitioner's license will be reinstated, she must undergo, at her own expense, a psychiatric evaluation by a Board-appointed or Board-approved psychiatrist or psychologist. Petitioner's license will not be reinstated and petitioner shall not engage in the practice of pharmacy until notified in writing by the Board that the psychiatrist or psychologist has recommended that petitioner is psychologically fit to practice pharmacy safely, and the Board has approved that recommendation.

4. Cause for reinstating petitioner's license pursuant to the terms and conditions set forth below was established.

ORDER

The petition of petitioner Tracey Moore for reinstatement of her revoked pharmacy license is hereby GRANTED, conditioned upon: (1) her taking and passing the California Pharmacist Jurisprudence Examination (CPJE); and (2) the Board receiving and approving the recommendation of a Board-appointed or Board-approved psychiatrist or psychologist that petitioner is psychologically fit to practice pharmacy safely, in accordance with paragraph 1 below. Upon passing the CPJE examination and the mental health examination, and issuance of a pharmacy license, petitioner's license shall be revoked, the revocation shall

be stayed, and petitioner will be placed on probation for a period of five (5) years on the following terms and conditions:

1. **Mental Health Examination:** Within 30 days of the effective date of this decision, and on a periodic basis as may be required by the Board, petitioner shall undergo, at her own expense, psychiatric evaluation(s) by a Board-appointed or Board-approved psychiatrist or psychologist. Petitioner shall sign a release authorizing the evaluator to furnish the Board with a current diagnosis and a written report regarding the petitioner's judgment and ability to function independently as a pharmacist with safety to the public. Petitioner shall comply with all the recommendations of the evaluator if directed by the Board.

Petitioner's license will not be reinstated and petitioner shall not engage in the practice of pharmacy until notified in writing by the Board that a Board-appointed or Board-approved psychiatrist or psychologist has recommended that petitioner is psychologically fit to practice pharmacy safely, and the Board has approved that recommendation.

If the psychiatrist or psychotherapist recommends, and the Board directs, petitioner shall undergo psychotherapy. Petitioner shall, within 30 days of written notice of the need for psychotherapy, submit to the Board for its prior approval, the recommended program for ongoing psychotherapeutic care. Petitioner shall undergo and continue psychotherapy, at petitioner's own expense, until further notice from the Board. Petitioner shall have the treating psychotherapist or psychiatrist submit written quarterly reports to the Board as directed.

If petitioner is determined to be unable to practice safely, upon notification, petitioner shall immediately cease practice and shall not resume practice until notified by the Board.

If recommended by the psychiatrist or psychotherapist and approved by the Board, petitioner shall be suspended from practicing pharmacy until the treating psychotherapist recommends, in writing, stating the basis therefor, that petitioner can safely practice pharmacy, and the Board approves said recommendation.

During suspension, petitioner 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. Petitioner shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall petitioner 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 controlled substances.

Petitioner shall not engage in any activity that requires the professional judgment of a pharmacist. Petitioner shall not direct or control any aspect of the practice of pharmacy.

Petitioner shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the Board. Subject to the above restrictions, petitioner may continue to own or hold an interest in any pharmacy in which she or she holds an interest at the time this decision becomes effective unless otherwise specified in this order.

2. **Rehabilitation Program – Pharmacists Recovery Program (PRP)**: Within 30 days of the effective date of this decision, petitioner 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 petitioner.

If petitioner 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. Petitioner shall successfully participate in and complete her current contract and any subsequent addendums with the PRP. Probation shall be automatically extended until petitioner successfully completes her treatment contract. Any person terminated from the program shall be automatically suspended upon notice by the Board. Petitioner 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.

3. **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.

4. **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.

5. **Obey All Laws**: Petitioner shall obey all federal and state laws and regulations substantially related to or governing the practice of pharmacy. Petitioner shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

a. 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;

b. a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment;

c. a conviction of any crime; and

d. discipline, citation, or other administrative action filed by any state and/or federal agency which involves petitioner's pharmacy 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.

6. **Reporting to the Board**: Petitioner shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Petitioner 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.

7. **Interview with the Board**: Upon receipt of reasonable notice, petitioner 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.

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

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

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

If petitioner works for or is employed by or through a pharmacy employment service, petitioner must notify the direct supervisor, pharmacist-in-charge and/or owner at every

pharmacy of the terms and condition of the two decisions in advance of petitioner commencing work at the pharmacy.

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

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

12. **Probation Monitoring Costs**: Petitioner 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.

13. **Status of License**: Petitioner 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 petitioner's license expires or is cancelled by operation of law or otherwise, upon renewal or reapplication, petitioner's license shall be subject to all terms and conditions of this probation not previously satisfied.

14. **License Surrender while on Probation**: Following the effective date of this decision, should petitioner cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, petitioner 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, petitioner will no longer be subject to the terms and conditions of probation.

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

15. **Notification of Employment/Mailing Address Change**: Petitioner shall notify the Board in writing within ten (10) days of a 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. Petitioner shall notify the Board in writing within ten (10 days) of a change in name, mailing address or phone number.

16. **Tolling of Probation**: Should petitioner, regardless of residency, for any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in California, petitioner 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 petitioner'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 petitioner is not engaged in the practice of pharmacy as defined in Section 4052 of the Business and Professions Code.

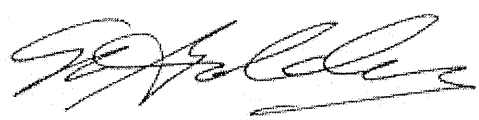
17. **Violation of Probation**: If petitioner violates probation in any respect, the Board, after giving petitioner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against petitioner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

If petitioner has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over petitioner, 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.

18. **Petition for Modification of Terms of Probation**: Upon successful completion of two (2) years of the five (5) years of probation hereby imposed, petitioner may petition the Board for termination or modification of the terms of her probation.

19. **Completion of Probation**: Upon successful completion of probation, petitioner's license will be fully restored.

DATED: May 31, 2006



STANLEY GOLDENBERG, R.Ph.
President
Board of Pharmacy

California State Board of Pharmacy
400 R Street, Suite 4070, Sacramento, CA 95814
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STATE AND CONSUMER SERVICES AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
GRAY DAVIS, GOVERNOR

April 10, 2003

FIRST CLASS AND CERTIFIED MAIL

Tracy L. Moore
Elmwood Pharmacy
2900 College Avenue
Berkeley CA 94705

RE: Administrative Case 2187

Dear Ms. Moore:

This letter is in regard to the above referenced administrative case and your non-compliance with the terms and conditions of your probation.

Pursuant to Term 13 on page 6 of the stipulated settlement and disciplinary order, respondent shall pay to the Board its costs of investigation and prosecution in the amount of $4,615.00. Respondent shall make monthly payments of $129.00. If respondent fails to pay the costs as specified by the Board, the Board shall, without affording the respondent notice and the opportunity to be heard, revoke probation and carry out the order that was stayed. Our records indicate that you are four months behind in payments.

As such, effective April 10, 2003, your pharmacist license, RPH 37248, is hereby revoked, for failure to make timely payments as directed by the Board of Pharmacy.

Should you have any questions regarding this matter, please contact Susan Cappello, enforcement analyst at (916) 445-5014 ext. 4055.

Sincerely,

John D. Jones
Board President

BILL LOCKYER, Attorney General
of the State of California
SHERRY LEDAKIS, State Bar No. 131767
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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: TRACEY LYNN MOORE 14156 Mango Drive Del Mar, CA 92014-2925 Pharmacist License No. RPH 37248 Respondent.	Case No. 2187 OAH No. L-2000070139 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER**

PARTIES

1. Complainant Patricia F. Harris is the Executive Officer of the Board of Pharmacy. 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 Sherry Ledakis, Deputy Attorney General.

2. Respondent Tracey Lynn Moore ("respondent") is represented in this proceeding by attorney William R. Winship, Jr., Esq., whose address is Attorney at Law, 591 Camino de la Reina, Suite 300, San Diego, California 92108.

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3. On or about October 31, 1983, the Board of Pharmacy issued original Pharmacist License Number RPH 37248 to Tracey Lynn Moore. Said licence will expire on October 31, 2001, unless renewed.

JURISDICTION

4. On May 15, 2000, Accusation No. 2187, was filed before the Board of Pharmacy of the Department of Consumer Affairs, ("Board"), and is currently pending against respondent. The Accusation, together with all other statutorily required documents, was duly served on respondent on May 25, 2000, and respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2187 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read and discussed with her counsel the nature of the charges and allegations in the Accusation and 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 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 understands that the charges and allegations in the Accusation, if proven at a hearing, constitute cause for imposing discipline upon her original Pharmacist License No. RPH37248.

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9. Respondent admits the truth of each and every charge and allegation in Accusation No. 2187.

10. Respondent agrees that her original Pharmacist License No. RPH 37248 is subject to discipline and she agrees to be bound by the Board's imposition of discipline as set forth in the Order below.

CIRCUMSTANCES IN MITIGATION

11. Respondent Tracey Lynn Moore has never been the subject of any prior disciplinary action. She is admitting responsibility at an early stage in these proceedings. She has obtained and is currently actively participating in the Board's Pharmacy Recovery Program. She is also currently employed with the Poison Control Center.

RESERVATION

12. The admissions made by respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Pharmacy or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

13. This stipulation shall be subject to the approval of the Board. Respondent understands and agrees that the Board of Pharmacy's staff and counsel for Complainant may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by respondent or her counsel. If the Board fails to adopt this stipulation as its Order, except for this paragraph the Stipulated Settlement and Disciplinary Order shall be of no force or effect, 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.

14. The parties agree that facsimile copies of this Stipulated Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as the original Stipulated Settlement and Disciplinary Order and signatures.

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15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board shall, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that original Pharmacist License Number RPH 37248 issued to respondent Tracey Lynn Moore is revoked. However, the revocation is stayed and respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Participation in the Pharmacist Recovery Program.** Respondent's participation in the Pharmacist Recovery Program is now mandatory as of the effective date of this decision. Respondent shall successfully participate in and complete her current contract and any subsequent addendums with the Pharmacist Recovery Program. Respondent shall remain in the Pharmacist Recovery Program permanently, or until such time as the Program determines that participation is no longer required.

2. **Random Fluid Testing**. Respondent shall immediately submit, with or without prior notice, to biological fluid testing, at respondent's expense, upon the request of the Board or its designee. The length and frequency of this testing requirement will be determined by the Board.

3. **Abstain From Drug Use**. Respondent shall abstain completely from the personal use or possession of controlled substances and dangerous drugs. This order does not apply in instances where medications are lawfully prescribed to the respondent for a legitimate illness or condition by a physician, dentist or podiatrist and where respondent, upon request of the Board or its designee, provides documentation from the treating physician, dentist or podiatrist that the prescription was legitimately issued and is a necessary part of respondent's treatment.

4. **Abstain from Alcohol Use**. Respondent shall abstain completely from the use of alcoholic beverages.

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

6. **Reporting to the Board.** Respondent shall report to the Board or its designee quarterly. The report shall be made either in person or in writing, as directed. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is completed.

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

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

9. **Peer Review.** Respondent shall submit to peer review as deemed necessary by the Board.

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

11. **Notice to Employers.** Respondent shall notify all present and prospective employers of the decision in case No. 2187, 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 fifteen (15) days of respondent undertaking new employment, respondent shall cause her employer to report to the Board in writing acknowledging the employer has read the decision in case No. 2187. If respondent works for or is employed by or through a pharmacy employment service, respondent must notify the pharmacist-in-charge and/or owner at every pharmacy at which she is to employed or used of the fact and terms of the decision in case number 2187 in advance of the respondent commencing work at the pharmacy. "Employment" within the meaning of this provision shall include any full-time, part-time, temporary or relief service or

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pharmacy management service as a pharmacist, whether the respondent is considered an employee or independent contractor.

12. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge.** 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 pharmacy licensed by the Board.

13. **Reimbursement of Board Costs.** Respondent shall pay to the Board its costs of investigation and prosecution in the amount of $ 4615.00. Respondent shall make said payments as follows: Respondent shall make monthly payments in the amount of $129.00 per month during the three years of probation. If respondent fails to pay the costs as specified by the Board and on or before the date(s) determined by the Board, the Board shall, without affording the respondent notice and the opportunity to be heard, revoke probation and carry out the disciplinary order that was stayed.

14. **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.

15. **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 by operation of law or otherwise, upon renewal or reapplication, respondent's license shall be subject to all terms of this probation not previously satisfied.

16. **Notification of Employment/Mailing Address Change.** Within ten (10) days of a change in employment -- either leaving or commencing employment -- respondent shall so notify the Board in writing, including the address of the new employer; within ten (10) days of a change of mailing address, respondent shall notify the Board in writing. If respondent works for or is employed through a pharmacy employment service, respondent shall, as requested,

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provide to the Board or its designee with a work schedule, indicating dates and location of employment.

17. **Tolling of Probation.** If respondent leaves California to reside or practice outside this state, respondent must notify the Board in writing of the dates of departure and return within ten (10) days of departure or return. Periods of residency, except such periods where the respondent is actively practicing pharmacy within California, or practice outside California shall not apply to reduction of the probationary period. Should respondent, regardless of residency, for any reason cease practicing pharmacy in California, respondent must notify the Board in writing within ten (10) days of cessation of the practice of pharmacy or resuming the practice of pharmacy. "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. It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a period exceeding a consecutive period of [three] years.

18. **Tolling of Suspension.** If respondent leaves California to reside or practice outside this state, or 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 notification by the Board the period of suspension has been completed.

19. **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 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 met 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.

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed the terms and conditions and other matters contained therein with my attorney William R. Winship, Jr., Esq. I understand the effect this stipulation will have on my original Pharmacist License Number RPH 37248. I enter into this Stipulated Settlement voluntarily, knowingly and intelligently and on the advice of counsel and agree to be bound by the Disciplinary Order and Decision of the Board of Pharmacy. I further agree that a facsimile

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copy of this Stipulated Settlement and Disciplinary Order, including facsimile copies of signatures, may be used with the same force and effect as the originals.

DATED: 12/19/2000.

Tracey Lynn Moore
TRACEY LYNN MOORE
Respondent

I have read and fully discussed with respondent Tracey Lynn Moore the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 12/19/00.

WILLIAM R. WINSHIP, JR., ESQ.
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: January 3, 2001.

BILL LOCKYER, Attorney General
of the State of California

Sherry Ledakis
SHERRY LEDAKIS
Deputy Attorney General

Attorneys for Complainant

DOJ Docket Number: 03583110-SD1999AD0230
Stipulation 11/9/00

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

In the Matter of the Accusation Against: TRACEY LYNN MOORE 14156 Mango Drive Del Mar CA 92014-2925 Pharmacist License No. RPH 37248 Respondent,	Case No. 2187 OAH No. L-2000070139

DECISION AND ORDER

The attached Stipulated Settlement Agreement and Order is hereby adopted by the Board of Pharmacy of the Department of Consumer Affairs, as its Decision in the above-entitled matter.

This decision shall become effective on the April 25, 2001.

It is so ORDERED on March 26, 2001.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
ROBERT H. ELSNER
Board President

Exhibit A:

Accusation Case No. 2187

BILL LOCKYER, Attorney General
of the State of California
SHERRY L. LEDAKIS, State Bar No. 131767
Deputy Attorney General
Department of Justice
110 West A Street, Suite 1100
Post Office Box 85266
San Diego, California 92186-5266
Telephone: (619) 645-2078

Attorneys for Complainant

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

In the Matter of the Accusation Against: TRACEY LYNN MOORE 14156 Mango Drive Del Mar, CA 92014-2925 Pharmacist License No. RPH 37248 Respondent.	NO. 2 1 8 7 **ACCUSATION**

Complainant Patricia Florian Harris, who as causes for disciplinary action, alleges:

PARTIES

1. Complainant is the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, State of California, (hereinafter "Board") and makes and files this Accusation solely in her official capacity as such, and not otherwise.

License Status

2. On or about October 31, 1983, the Board issued to Tracey Lynn Moore (hereinafter "respondent") original Pharmacist License No. RPH 37248. Said license will expire on October 31, 2001, unless renewed.

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3. **Drug Classifications**

A. Cylert (Pemoline) is a dangerous drug per Business & Professions Code Section 4022 and a Scheduled IV controlled substance per Health & Safety Code section 11057. It is a central nervous system stimulant used to treat attention deficit disorder.

B. Darvocet-N (Propoxyphenenapsylate/Acetaminophen) is a dangerous drug per Business and Professions Code Section 4022, and a Scheduled IV controlled substance per Health and Safety Code Section 11057 (c)(2). It is a combination narcotic/nonnarcotic analgesic.

C. Soma (Carisoprodol) is a dangerous drug per Business and Professions Code Section 4022, and not a controlled substance. It is a muscle relaxant.

D. Valium (Diazepam) is a dangerous drug per Business and Professions Code Section 4022, and a Scheduled IV controlled substance per Health and Safety Code Section 11057. It is an anti-anxiety agent and an anticonvulsant.

E. Vicodin (Hydrocodone 5mg/Acetaminophen 500 mg) is a dangerous drug per Business and Professions Code Section 4022 and a Scheduled III controlled substance per Health and Safety Code Section 11056. It is a narcotic analgesic combination used to treat moderate pain.

JURISDICTION

4. This Accusation is made in reference to the following sections of the California Business and Professions Code (hereinafter "Code"):

A. Code section 4300 provides in part:

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

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

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

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

"(4) Revoking his or her license.

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

". . ."

B. Code section 4301 provides in part:

"The Board shall take action against any holder of a license who is guilty of unprofessional conduct . . .. Unprofessional conduct shall include, but is not 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 a misdemeanor or not.

"(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

"(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

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chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board.

". . ."

C. Code section 4081 provides in part:

"(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every . . ., pharmacy, . . . who maintains a stock of dangerous drugs or dangerous devices.

"(b) The owner, officer, and partner of any pharmacy, . . . shall be jointly responsible, with the pharmacist-in-charge or exemptee, for maintaining the records and inventory described in this section.

". . ."

D. Code section 4113 provides in part:

". . .

"(b) The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy."

5. This Accusation is also made in reference to the following sections of the California Health and Safety Code:

A. Health and Safety Code Section 11158 provides in part:

"(a) . . . Except as provided in Section 11159 or when dispensed directly to an ultimate user by a practitioner, other than a pharmacist or pharmacy, no controlled substance classified in Schedule II, IV, or V may be dispensed without a prescription meeting the requirements of this chapter."

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B. Health and Safety Code Section 11170 provides:

"No person shall prescribe, administer, or furnish a controlled substance for himself."

C. Health and Safety Code Section 11171 provides:

"No person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by this division."

D. Health and Safety Code Section 11173 provides in part:

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

"(b) No person shall make a false statement in any prescription, order, report, or record, required by this division.

". . ."

E. Health and Safety Code Section 11350 provides in part:

"(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), (c), or (g) of Section 11055, 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.

"(b) Except as otherwise provided in this division, every person who possesses any controlled substance specified in subdivision (e) of Section 11054 shall be punished by imprisonment in the county jail for not more than one year or in the state prison.

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"(c) Except as otherwise provided in this division, whenever a person who possesses any of the controlled substances specified in subdivision (a) or (b), the judge may, in addition to any punishment provided for pursuant to subdivision (a) or (b), assess against that person a fine not to exceed seventy dollars ($70) with proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendant's ability to pay, and no defendant shall be denied probation because of his or her inability to pay the fine permitted under this subdivision.

"(d) Except in unusual cases in which it would not serve the interest of justice to do so, whenever a court grants probation pursuant to a felony conviction under this section, in addition to any other conditions of probation which may be imposed, the following conditions of probation shall be ordered:

"(1) For a first offense under this section, a fine of at least one thousand dollars ($1,000) or community service.

"(2) For a second or subsequent offense under this section, a fine of at least two thousand dollars ($2,000) or community service.

"(3) If a defendant does not have the ability to pay the minimum fines specified in paragraphs (1) and (2), community service shall be ordered in lieu of the fine."

F. Health and Safety Code Section 11377 provides:

"(a) Except as otherwise provided in subdivision (b) or in Article 7 (commencing with Section 4211) of Chapter 9 of Division 2 of the Business and Professions Code, every person who possesses any controlled substance which is (1) classified in Schedule III, IV, or V, and which is not a narcotic drug, (2) specified in subdivision (d) of section 11054, except paragraph (13), (14), (15), and (20) of subdivision (d) (3) specified in paragraph (2) or (3) of subdivision (f) of Section 11054, or (4) specified in subdivision (d), (e), or (f) of section 11055,

unless upon the prescription of a physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished by imprisonment in a county jail for a period of not more than one year or in the state prison.

"(b)(1) Any person who violates subdivision (a) by unlawfully possession a controlled substance specified in subdivision (f) of Section 11056, and who has not previously been convicted of such a violation involving a controlled substance specified in subdivision (f) of Section 11056, is guilty of a misdemeanor.

"(2) Any person who violates subdivision (a) by unlawfully possessing a controlled substance specified in subdivision (g) of Section 11056 is guilty of a misdemeanor.

"(c) In addition to any fine assessed under subdivision (b), the judge may assess a fine not to exceed seventy dollars ($70) against any person who violates subdivision (a), with the proceeds of this fine to be used in accordance with Section 1463.23 of the Penal Code. The court shall, however, take into consideration the defendants ability to pay, and no defendant shall be denied probation because of his or inability to pay the fine permitted under this subdivision."

6. This Accusation is also made in reference to the following section of Title 21 of the Code of Federal Regulations (hereinafter "Regulation") as follows:

A. Regulation 1304.11 provides in part:

"(a) General requirements. Each inventory shall contain a complete and accurate record of all controlled substances on hand on the date the inventory is taken, and shall be maintained in written, typewritten, or printed form at the registered location. An inventory taken by use of an oral recording device must be promptly transcribed. Controlled substances shall be deemed to be "on hand" if they are in the possession of or under the control of the registrant, including substances returned by a customer, offered by a customer but not yet invoiced, stored in a warehouse on behalf of the registrant, and substances in the possession

of employees of the registrant and intended for distribution as complimentary samples. A separate inventory shall be made for each registered location and each independent activity registered, except as provided in paragraph (e)(4) of this section . . .

". . .

"(c) Biennial inventory date. After the initial inventory is taken, the registrant shall take a new inventory of all stocks of controlled substances on hand at least every two years. The biennial inventory may be taken on any date which is within two years of the previous biennial inventory date.

". . ."

COST RECOVERY

7. Business and Professions Code section 125.3 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding, a board may request that the administrative law judge direct a licensee 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, including charges imposed by the Attorney General. Under section 125.3, subdivision (c), a certified copy of the actual costs or a good-faith estimate of costs where actual costs are not available, including investigative and enforcement costs, and charges imposed by the Attorney General, up to the date of the hearing, signed by the designated representative of the entity bringing the proceeding shall be prima facie evidence of reasonable costs of investigation and prosecution of the case.

CHARGES AND ALLEGATIONS AGAINST RESPONDENT

8. From in or about August 1996, to October 1997, Respondent was the Pharmacist-in-Charge at CPC San Luis Rey Hospital Pharmacy (hereinafter "Pharmacy"). The following events took place at the Pharmacy between 1996 and 1997:

A. On October 23, 1997, Inspector Nurse from the Board of Pharmacy, received voice mail messages from a nursing supervisor and pharmacist at CPC San Luis Rey Hospital indicating there were shortages of controlled substances discovered at the hospital's pharmacy.

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B. On October 27, 1997, Inspector Nurse conducted an inspection of the Pharmacy. Present during the inspection were registered pharmacist RPH S.R., and pharmacy technician TCH L.Z. They told Inspector Nurse that TCH L.Z. and respondent worked regularly scheduled hours at the Pharmacy and that RPH S.R. worked relief hours only when respondent had a scheduling conflict.

C. TCH L.Z. told Inspector Nurse she first noticed orders for Soma 350 mg. appearing on purchase invoices when she was not aware of any prescriptions for Soma for hospital patients. Furthermore, these orders were placed on Tuesday evenings for Wednesday delivery. TCH L.Z. did not work on Wednesdays. TCH L.Z. also thought there were shortages of Cylert 37.5 mg and Darvocet N 100. She reported these irregularities to RPH S.R. and the hospital administration.

D. Respondent was confronted by J.M., the Director of Nursing, and admitted taking the missing drugs. At the time of Inspector Nurse's inspection, respondent was on leave of absence and not expected to return.

E. During the October 27, 1997, inspection of the Pharmacy there was not a bi-annual inventory.

F. On January 15, 1998, Inspector Nurse returned to the Pharmacy and obtained several documents concerning the acquisition and disposition of drugs.

G. On December 28, 1998, Inspector Nurse obtained copies of the Perpetual Inventory of Controlled Substances for the time period between August 1996, and October 1997.

H. An audit of the records by Inspector Nurse revealed that between February 1997 and October 1997, 3900 Soma 350 mg. were purchased, with no prescriptions dispensed and 79 tablets were in the pharmacy's inventory on October 27, 1997. This left a shortage of 3,821 tablets.

I. The summary of acquisitions and dispositions of Cylert 37.5mg chewtabs revealed a starting inventory on August 26, 1996, of 91 tablets. Four hundred (400) tablets were purchased, and only 100 of those 400 had been entered onto the Perpetual Inventory. Pharmacy records revealed that thirty-two (32) tablets had been dispensed, and fifteen (15) tablets had been

returned to the pharmacy. Inventory was eight (8) tablets. This left a balance of 466 unaccounted for tablets.

J. The summary of acquisitions and dispositions of Cylert 37.5 tablets revealed a starting inventory on August 26, 1996, of 46 tablets. Seven hundred (700) tablets were purchased between August 26, 1996 and October 17, 1997. Only 200 tablets were logged into the Perpetual Inventory, 65 tablets had been dispensed per prescription, and 29 tablets had been returned to the pharmacy. There were 105 tablets in the inventory leaving a shortage of 605 Cylert 37.5mg tablets.

K. On May 16, 1997, 21 Cylert 37.5 tablets were listed on the Perpetual Inventory as being expired. On September 6, 1997, 112 tablets were listed as expired. There were no Cylert tablets in the pharmacy expired medication box awaiting destruction.

L. On September 6, 1997, the Perpetual Inventory showed 10 Cylert 37.5 tablets had been dispensed to the Adult Unit of the Hospital. This unit never received the drugs.

M. The summary of acquisition and disposition records of Valium 10 mg revealed a count on March 11, 1997, of 202 tablets. The summary revealed 1600 tablets had been purchased, 1794 dispensed, 142 returned to the pharmacy, 6 expired, and 4 wasted tablets. On October 28, 1997, the inventory had 96 tablets, leaving a shortage of 44 tablets.

N. The Perpetual Inventory of Valium 10 mg tablets indicated that 30 Valium tablets had been logged out to the same nursing unit twice. The nursing unit only received 30 tablets, not 60. This additional 30 missing tablets created a total shortage of 74 tablets.

O. The summary of acquisitions and dispositions of Vicodin revealed a starting inventory of 142 tablets as of August 7, 1996, subsequent purchases of 400 tablets, 517 tablets actually dispensed, 81 tablets returned, and 1 wasted tablet, leaving 105 unaccounted for tablets. The actual inventory was 118 tablets as of October 27, 1998, leaving an overage of Vicodin of 13 tablets.

P. The nursing records indicate that on May 8, 1997, 29 Vicodin tablets had been dispensed to the nursing unit, but not signed out on the Perpetual Inventory log.

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Q. On August 7, 1997, 26 Vicodin tablets had been returned to the pharmacy, but not entered into the Perpetual Inventory of the pharmacy.

R. On January 3, 1997, the Perpetual Inventory for Darvocet N 100 mg summary showed 106 tablets as being destroyed. A review of a copy of the RX Returns Transfer of Scheduled Medication Inventory Form showed 98 tablets had been returned, not 106.

FIRST CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, Deceit or Corruption)

9. Respondent has subjected her Pharmacist License No. RPH 37248 to disciplinary action under Business and Professions Code Section 4301 for unprofessional conduct, as defined by Code Section 4301(f), in that she has committed an act or acts of dishonesty, fraud, deceit or corruption, as more particularly alleged hereinafter:

A. Paragraphs 8 and 8A through and including paragraph 8R, above, are hereby realleged and incorporated by reference as if fully set forth herein; and

B. Respondent stole drugs from the Pharmacy and altered and falsified pharmacy records to cover up the thefts.

SECOND CAUSE FOR DISCIPLINE

(Falsification of Pharmacy Records)

10. Respondent has further subjected her Pharmacist License No. RPH 37248 to disciplinary action under Business and Professions Code Section 4301 for unprofessional conduct, as defined by Code Section 4301(g), in that she knowingly made or signed a certificate or other document that falsely represented the existence or nonexistence of a state of facts, as more particularly alleged above in paragraphs 8 and 8A through and including paragraph 8R.

THIRD CAUSE FOR DISCIPLINE

(Self-Use of Controlled Substances)

11. Respondent has further subjected her Pharmacist License No. RPH 37248 to disciplinary action under Business and Professions Code Section 4301 for unprofessional conduct, as defined by Code section 4301(h) and Health and Safety Code section 11170, in that she administered controlled substances to herself, or used a dangerous drug or drug(s) or

alcoholic beverages to the extent or in a manner as to be dangerous or injurious to herself, or to another person or to the public, or to the extent her use impaired her ability to conduct with safety to the public the practice authorized by her pharmacy license, as more particularly alleged above in paragraphs 8 and 8A through and including paragraph 8R.

FOURTH CAUSE FOR DISCIPLINE

(Violation of State and Federal Drug Laws)

12. Respondent has further subjected her Pharmacist License No. RPH 37248 to disciplinary action under Business and Professions Code Section 4301 for unprofessional conduct, as defined by Code sections 4301(j) and 4301(o), in that she violated the statutes of this state and the statutes of the United States regulating controlled substances and dangerous drugs, as more particularly alleged above in paragraphs 8 and 8A through and including paragraph 8R.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Records of the Acquisition and Disposition of Dangerous Drugs)

13. Respondent has further subjected her Pharmacist License No. RPH 37248 to disciplinary action under Business and Professions Code Section 4301 for unprofessional conduct, as defined by Code section 4081(a), in that she failed to keep records of the acquisition and disposition of dangerous drugs as more particularly alleged above in paragraphs 8 and 8A through and including paragraph 8R above.

SIXTH CAUSE FOR DISCIPLINE

(Fraud, Deceit, Misrepresentations)

14. Respondent has further subjected her Pharmacist License No. RPH 37248 to disciplinary action under Business and Professions Code Section 4301 for unprofessional conduct, as defined by Health and Safety Code section 11173, in that she obtained controlled substances, by fraud, deceit, misrepresentation, or subterfuge; or by the concealment of a material fact, and she made false statements in reports, or records, as more particularly alleged above in paragraphs 8 and 8A through and including paragraph 8R above.

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SEVENTH CAUSE FOR DISCIPLINE

(Respondent Was Responsible for Pharmacy's Compliance with Laws)

15. Respondent has further subjected her Pharmacist License No. RPH 37248 to disciplinary action under Business and Professions Code Section 4301 for unprofessional conduct, as defined by Code section 4113, in that she as the Pharmacist-In-Charge, was responsible for the pharmacy's compliance with all state and federal statutes and regulations regulating the practice of pharmacy, as more particularly alleged above in paragraphs 8 and 8A through and including paragraph 8R above.

EIGHTH CAUSE FOR DISCIPLINE

(Dispensed Controlled Substances Without a Prescription)

16. Respondent has further subjected her Pharmacist License No. RPH 37248 to disciplinary action under Business and Professions Code Section 4301 for unprofessional conduct, as defined by Health and Safety Code section 11158, in that she dispensed controlled substances without a prescription, as more particularly alleged in paragraphs 8 and 8A through and including paragraph 8R.

NINTH CAUSE FOR DISCIPLINE

(Unlawful Possession of Designated Controlled Substances)

17. Respondent has further subjected her Pharmacist License No. RPH 37248 to disciplinary action under Business and Professions Code Section 4301 for unprofessional conduct, as defined by Health and Safety Code Section 11350, in that she was unlawfully in possession of narcotic controlled substances without a prescription, as more particularly alleged above in paragraphs 8 and 8A through and including 8R.

TENTH CAUSE FOR DISCIPLINE

(Unauthorized Possession of Controlled Substances)

18. Respondent has further subjected her Pharmacist License No. RPH 37248 to disciplinary action under California Business and Professions Code Section 4301 for unprofessional conduct, as defined by Health and Safety Code Section 11377, in that she had

unauthorized possession of controlled substances, as more particularly alleged above in paragraphs 8 and 8A through and including 8R.

ELEVENTH CAUSE FOR DISCIPLINE

(Failure to Maintain a Biennial Inventory)

19. Respondent has further subjected her Pharmacist License No. RPH 37248 to disciplinary action under Business and Professions Code Section 4301 for unprofessional conduct, as defined by Title 21 of the Code of Federal Regulations Section 310.515, in that she failed to maintain a biennial inventory of controlled substances, as alleged above in paragraphs 8 and 8A through and including paragraph 8R.

PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters alleged herein, and that following said hearing, that the Board issue a decision:

1. Revoking, suspending, or otherwise imposing discipline upon Pharmacist License No. RPH 37248 heretofore issued to respondent Tracey Lynn Moore;
2. Awarding the Board costs as provided by statute; and,
3. Taking such other and further action as the Board deems proper.

DATED: 5/15/00

P. F. Harris

Patricia Florian Harris
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California

Complainant

03583110-SD98AD0148