

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

In the Matter of the Petition for Interim  
Suspension Order Against:

LORIE E. GARLICK  
Sacramento, California 95822

Original Pharmacist License No. RPH 40211

Respondent.

Case No. 5468

OAH No. 2015050183

**DECISION ON PETITION FOR INTERIM SUSPENSION ORDER**

A Petition for Interim Suspension Order (Petition) was heard before Marcie Larson, Administrative Law Judge, Office of Administrative Hearings (OAH), on May 29, 2015.

Karen R. Denvir, Deputy Attorney General, appeared on behalf of Virginia Herold (petitioner), Executive Officer of the Board of Pharmacy (Board).

There was no appearance by or on behalf of Lorie Garlick (respondent).

Evidence was received, the record was closed, and the matter was submitted for decision on May 29, 2015.

**SUMMARY OF DECISION**

Petitioner filed the Petition seeking an Interim Suspension Order (ISO) against respondent under Business and Professions Code section 494, based upon allegations that for the past four years respondent stole and consumed up to 18,000 tablets of controlled substances from the pharmacies for which she worked. Petitioner also alleged that respondent has been the subject of prior disciplinary action by the Board for similar conduct. The declarations that petitioner submitted demonstrate that: (1) respondent has engaged in acts constituting violations of the Business and Professions Code; and (2) permitting respondent to continue practicing pharmacy would endanger the public health, safety, and welfare. An ISO is therefore issued against respondent pursuant to Business and Professions Code section 494.

## PROCEDURAL FINDINGS

1. On May 7, 2015, the Board notified respondent, in writing at her address of record with the Board, that it would appear *ex parte* to obtain an order imposing an interim suspension order on her Original Pharmacist License Number RPH 40211. Respondent was informed that the *ex parte* hearing was scheduled at 9:00 a.m. on May 14, 2015, at the Office of Administrative Hearings in Sacramento, California.

2. On May 11, 2015, petitioner filed an *ex parte* Petition for Interim Suspension Order, Memorandum of Points and Authorities for Interim Suspension Order, and the declarations of Shaun Sabins and Deputy Attorney General Denvir, with supporting exhibits.

3. On May 14, 2015, the *ex parte* hearing took place. Respondent failed to appear at the hearing. Petitioner's request for an *ex parte* interim order suspending Original Pharmacist License Number RPH 40211, was granted and an order was issued.

4. On May 14, 2015, the Notice of Hearing, Order Granting Petition for Ex Parte Interim Suspension Order and Notice of Hearing, the Petition for Ex Parte Interim Suspension Order and supporting memorandum of points and authorities with declarations and exhibits, were served on respondent at her address of record with the Board. The Notice of Hearing informed respondent that petitioner's Petition was scheduled for hearing on May 29, 2015, at 1:30 p.m. at the OAH office in Sacramento. Respondent failed to appear at the hearing. Petitioner established that respondent was properly served with the Petition and Notice of Hearing. The hearing therefore proceeded as a default against respondent under Government Code section 11520.<sup>1</sup>

## FACTUAL FINDINGS

### *Respondent's Theft of Controlled Substances from Rite Aid*

1. On August 20, 1986, the Board issued Original Pharmacist License Number RPH 40211 (license) to respondent. Respondent's license will expire on November 15, 2015, unless renewed or revoked.

2. Respondent was employed by Rite Aid as a pharmacist. In late March 2015, Shaun Sabins, Asset Protection District Manager for Rite Aid, was notified that hydrocodone tablets were missing from the Rite Aid store located on Del Paso Road in Sacramento, California (Del Paso Rite Aid). After Mr. Sabins was notified of the missing hydrocodone

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<sup>1</sup> By letter dated May 21, 2015, respondent informed the Board that she had received the "Board of Pharmacy's Interim Suspension Order and Notice of Hearing." As per the interim suspension order, respondent returned her original wallet license to the Board. Respondent also informed the Board that she would not be present at the May 29, 2015 hearing.

tablets, he reviewed video surveillance from the Del Paso Rite Aid. He observed respondent, who was a staff pharmacist at the Del Paso Rite Aid, remove drugs from the cabinet.

3. On April 27, 2015, Mr. Sabins spoke to respondent about the missing hydrocodone tablets. Respondent admitted that she had been diverting controlled substances from Rite Aid stores for years. Specifically, she stated that starting four years earlier at the Rite Aid store located on Stockton Boulevard in Sacramento, where she worked as a pharmacist, she stole 50 to 100 hydrocodone pills each week, as well as alprazolam and lorazepam. In October 2014, she transferred to Rite Aid on Keifer Boulevard in Sacramento. She continued to divert hydrocodone, alprazolam and lorazepam. She transferred to the Del Paso Rite Aid in December 2014 and diverted "tramadol and benzos," which would include alprazolam and lorazepam. Respondent admitted that she may be responsible for diverting 10,000 to 18,000 hydrocodone tablets over the past four years, in addition to the alprazolam, lorazepam and tramadol she diverted. After respondent spoke to Mr. Sabins, she prepared and signed a written statement concerning her conduct.

4. As of April 27, 2015, respondent's employment at Del Paso Rite Aid was terminated. A report was filed with the Sacramento Police Department concerning respondent's theft of controlled substances from Rite Aid.

5. An audit conducted of Del Paso Rite Aid revealed that 1,184 tablets of hydrocodone/acetaminophen were missing. On April 28, 2015, Mr. Sabins filed a "Report of Theft or Loss of Controlled Substance" form with the Drug Enforcement Administration (DEA). The form indicated that 1,184 tablets of hydrocodone/acetaminophen "10/325" were stolen by a Rite Aid employee.<sup>2</sup>

#### *Prior Disciplinary Actions*

##### FEBRUARY 11, 2004 ACCUSATION AND STIPULATED SETTLEMENT

6. On February 11, 2004, Patricia F. Harris, a former Executive Officer for the Board (complainant Harris), signed and thereafter filed an Accusation against respondent. Complainant Harris alleged in the Accusation that from 1998 thru January 1999, and April 2000 thru May 2003, while respondent worked as a pharmacist at various Bel Air pharmacies, she diverted "Norco, Vicodin and/or other hydrocodone medications" as well as "other controlled substances and dangerous drugs such as Ativan and Xanax."

7. On April 27, 2004, respondent entered into a Stipulated Settlement and Disciplinary Order with the Board. Respondent admitted to the truth of the allegations set forth in the Accusation. Respondent's license was revoked, with the revocation stayed. Her license was suspended for 60 days, and she was placed on five years of probation, under

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<sup>2</sup> Hydrocodone 10/325 is a mix of 10 mgs of hydrocodone and 325 mgs of acetaminophen. It is classified as a narcotic, and is a Schedule III controlled substance. (Health & Saf. Code, § 11056, subd. (e)(4).)

certain terms and conditions, which included a restricted practice, completion of the Pharmacists Recovery Program, random drug screening, abstinence from drug and alcohol, supervised practice and payment of cost. The Stipulated Settlement and Disciplinary Order was effective July 8, 2004.

#### MARCH 6, 2006 PETITION TO REVOKE PROBATION AND STIPULATED SETTLEMENT

8. On March 6, 2006, complainant Harris signed and thereafter filed a Petition to Revoke respondent's probation. Complainant Harris alleged that on May 18, 2005, respondent was terminated from the Pharmacists Recovery Program after she tested positive for "Ethyl Glucuronide (alcohol)." The petition also alleged that the Pharmacists Recovery Program administrator had reported respondent's "multiple failures to self report her usage relapses..."

9. On October 13, 2006, respondent entered into a Stipulated Settlement and Disciplinary Order with the Board. Respondent admitted that she was terminated from the Pharmacist Recovery Program and subsequently suspended from practice by the Board. Respondent denied that she consumed an alcoholic beverage. Respondent's license was revoked, with the revocation stayed. She was placed on three years of probation, under certain terms and conditions, which included a restricted practice, completion of the Pharmacists Recovery Program, random drug screening, abstinence from drug and alcohol, and supervised practice. The Stipulated Settlement and Disciplinary Order was effective December 28, 2006.

#### *Discussion*

10. When all of the evidence presented at hearing is considered, petitioner established by a preponderance of the evidence, that permitting respondent to continue practicing pharmacy pending the filing of an accusation and a decision rendered thereon would endanger the public health, safety, and welfare. Respondent admitted to diverting between 10,000 and 18,000 hydrocodone tablets over the past four years, as well as alprazolam, lorazepam and tramadol. Additionally, respondent has a history of discipline with the Board for similar conduct. As a result, the petition for an ISO is granted.

#### LEGAL CONCLUSIONS

1. Pursuant to Business and Professions Code section 494, an ISO may be issued when: (1) a licensee has "engaged in acts or omissions constituting a violation" of the Business and Professions Code; and (2) permitting the licensee to continue to engage in the licensed activity "would endanger the public health, safety, or welfare."

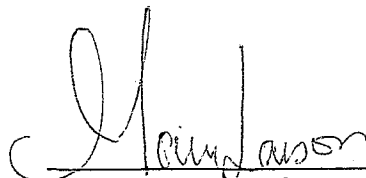
2. While working as a pharmacist, respondent stole controlled substances from her employer, and used the stolen controlled substances to an extent dangerous to herself and the public. (Findings 2 through 5.) These acts constitute violations of the Business and Professions Code. (Bus. & Prof. Code, §§ 4060, 4301, subds. (f), (h), (j) & (p).)

3. The declarations and supporting documentation submitted by petitioner at the hearing demonstrate that: (1) respondent has engaged in acts that constitute violations of the Business and Professions Code; and (2) permitting respondent to continue practicing pharmacy pending the filing of an accusation and a decision rendered thereon would endanger the public health, safety, and welfare. Petitioner therefore established that an ISO should be issued under Business and Professions Code section 494, subdivision (a), suspending respondent's license until an accusation may be filed against respondent in accordance with Business and Professions Code section 494, subdivision (f), and a decision is rendered thereon.

### ORDER

Pursuant to Business and Professions Code section 494, subdivision (a), an interim suspension order is hereby issued against Original Pharmacist License Number RPH 40211 issued to respondent Lorie E. Garlick. Respondent is suspended from engaging in the practice of pharmacy until an accusation is filed in accordance with Business and Professions Code section 494, subdivision (f), and a decision is rendered thereon, or this matter is otherwise resolved. Failure to comply with the requirements of Business and Professions Code section 494, subdivision (f), shall dissolve the interim suspension order by operation of law, unless the parties agree otherwise.

DATED: June 4, 2015

  
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MARCIE LARSON  
Administrative Law Judge  
Office of Administrative Hearings

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

VIRGINIA HEROLD,  
Executive Officer,  
Board of Pharmacy,

Petitioner,

v.

LORIE ELIZABETH GARLICK  
Original Pharmacist License Number  
RPH 40211

Respondent.

Case No. 5468

OAH No. 2015050183

**ORDER GRANTING PETITION  
FOR EX PARTE INTERIM  
SUSPENSION ORDER AND  
NOTICE OF HEARING  
(Business and Professions Code  
section 494)**

The Petition of Virginia Herold, Executive Officer of the Pharmacy Board of California, seeking an ex parte interim order suspending Pharmacist License No. 40211 pursuant to Government Code section 494, was heard by Marcie Larson, Administrative Law Judge, Office of Administrative Hearings, on May 14, 2015, in Sacramento, California.

Karen Denvir, Deputy Attorney General, represented petitioner Virginia K. Herold, Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Respondent Lorie Elizabeth Garlick was not present at the hearing.

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1. The ex parte Amended Petition for Interim Suspension Order (Petition) was filed with the Office of Administrative Hearings on May 11, 2015. Petitioner is seeking an interim order suspending, Original Pharmacist License Number RPH 40211, pursuant to Business and Professions Code section 494. Notice of the ex parte hearing was provided to respondent at least 24 hours prior to the scheduled hearing, as required.

Evidence in the form of a declaration from Shaun Sabins, the Asset Protection District Manager for Rite Aid and supporting documents attached, including a statement signed by respondent in which she admitted to having stolen controlled substances from Rite Aid over a four-year period. Also attached to the Petition is a declaration from Deputy Attorney General Denvir and supporting documentation.

Based on consideration of the Petition, Memorandum of Points and Authorities, declarations, and other supporting documentary evidence, presented at the hearing on the Petition, it is determined that petitioner has satisfactorily demonstrated that:

1. Respondent Lorie Elizabeth Garlick, issued Original Pharmacist License Number RPH 40211, a pharmacist licensed by the Board, has engaged in acts or omissions constituting a violation of the Pharmacy Law, and is unable to practice as a pharmacist due to the theft and use of controlled substances; and
2. Permitting respondent to continue to practice as a pharmacist, without restrictions, will endanger the public health, safety, or welfare; and
3. It is appropriate, pursuant to Business and Professions Code section 494, to issue this ex parte interim order without the notice and hearing, in that it appears from the facts shown by the declarations and supporting documentation that serious injury would result to the public before the matter can be heard on notice.

**WHEREFORE IT IS ORDERED** that, Original Pharmacist License Number RPH 40211, issued by the Board of Pharmacy to respondent Lorie Elizabeth Garlick is suspended immediately until a hearing pursuant to Business and Professions Code section 494, subdivisions (c) and (d), which hearing shall take place on **Friday, May 29, 2015 at 1:30 p.m.**, at the Office of Administrative Hearings, 2349 Gateway Oaks Drive, Suite 200, Sacramento, California, 95833.

**IT IS FURTHER ORDERED** that respondent Lorie Elizabeth Garlick, shall, within 15 days of service of this Order, provide the Board with proof of service of a true copy of this Order on the Pharmacist In Charge, at every location where respondent is employed as a pharmacist and on the Chief Executive Officer at every insurance carrier where malpractice insurance coverage is extended to respondent, if any.

**IT IS FURTHER ORDERED** that respondent shall not:

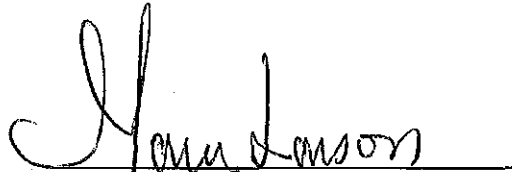
1. Practice or attempt to practice any aspect of pharmacy in the State of California pending further adjudication of this matter;
2. Advertise, by any means, or hold herself out as practicing or available to practice as a pharmacist.

**IT IS FURTHER ORDERED** that respondent shall:

Immediately deliver to the Board, or its agent, for safekeeping pending further adjudication of this matter, all indicia of her license as a pharmacist.

**IT IS FURTHER ORDERED** that petitioner shall serve this Order, the Petition for Ex Parte Interim Suspension Order, supporting Memorandum of Points and Authorities, all accompanying declarations, exhibits, and documentation, and a Notice of Hearing upon respondent pursuant to Business and Professions Code section 494, subdivision (c).

Dated: May 14, 2015

A handwritten signature in black ink, appearing to read "Marcie Larson", is written over a horizontal line.

MARCIE LARSON

Administrative Law Judge  
Office of Administrative Hearings