

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

In the Matter of the Accusation Against:

Case No. 5468

LORIE E. GARLICK
6324 Park Village Street
Sacramento, CA 95822

Original Pharmacist License No. RPH 40211

Respondent.

DECISION AND ORDER

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

This Decision shall become effective on January 29, 2016.

It is so ORDERED on December 30, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KAREN R. DENVIR
Deputy Attorney General
4 State Bar No. 197268
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 5468

13 **LORIE E. GARLICK**
6324 Park Village Street
Sacramento, CA 95822

14 **STIPULATED SURRENDER OF**
15 **LICENSE AND ORDER**

16 **Original Pharmacist License No. RPH 40211**

17 Respondent.

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

20 **PARTIES**

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by Karen R. Denvir, Deputy Attorney
24 General.

25 2. Lorie E. Garlick (Respondent) is representing herself in this proceeding and has
26 chosen not to exercise her right to be represented by counsel.

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1 3. On or about August 20, 1986, the Board of Pharmacy issued Original Pharmacist
2 License No. RPH 40211 to Lorie E. Garlick (Respondent). On June 4, 2015, following a noticed
3 hearing on a Petition for Interim Suspension Order, Respondent's license was suspended until an
4 Accusation is filed and resolved. The Original Pharmacist License expired on November 30,
5 2015, and has not been renewed.

6 **JURISDICTION**

7 4. Accusation No. 5468 was filed before the Board of Pharmacy (Board), Department of
8 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
9 statutorily required documents were properly served on Respondent on June 17, 2015.
10 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
11 No. 5468 is attached as Exhibit A and incorporated by reference.

12 **ADVISEMENT AND WAIVERS**

13 5. Respondent has carefully read, and understands the charges and allegations in
14 Accusation No. 5468. Respondent also has carefully read, and understands the effects of this
15 Stipulated Surrender of License and Order.

16 6. Respondent is fully aware of her legal rights in this matter, including the right to a
17 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
18 her own expense; the right to confront and cross-examine the witnesses against her; the right to
19 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
20 compel the attendance of witnesses and the production of documents; the right to reconsideration
21 and court review of an adverse decision; and all other rights accorded by the California
22 Administrative Procedure Act and other applicable laws.

23 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
24 every right set forth above.

25 **CULPABILITY**

26 8. Respondent admits the truth of each and every charge and allegation in Accusation
27 No. 5468, agrees that cause exists for discipline and hereby surrenders her Pharmacist License
28 No. RPH 40211 for the Board's formal acceptance.

1 9. Respondent understands that by signing this stipulation she enables the Board to issue
2 an order accepting the surrender of her Pharmacist License without further process.

3 **CONTINGENCY**

4 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
5 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
6 communicate directly with the Board regarding this stipulation and surrender, without notice to or
7 participation by Respondent. By signing the stipulation, Respondent understands and agrees that
8 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board
9 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
10 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
11 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
12 be disqualified from further action by having considered this matter.

13 11. The parties understand and agree that Portable Document Format (PDF) and facsimile
14 copies of this Stipulated Surrender of License and Order, including Portable Document Format
15 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

16 12. This Stipulated Surrender of License and Order is intended by the parties to be an
17 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
18 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
19 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
20 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
21 executed by an authorized representative of each of the parties.

22 13. In consideration of the foregoing admissions and stipulations, the parties agree that
23 the Board may, without further notice or formal proceeding, issue and enter the following Order:

24 **ORDER**

25 IT IS HEREBY ORDERED that Original Pharmacist License No. RPH 40211, issued to
26 Respondent Lorie E. Garlick, is surrendered and accepted by the Board of Pharmacy.

27 1. The surrender of Respondent's Pharmacist License and the acceptance of the
28 surrendered license by the Board shall constitute the imposition of discipline against Respondent.

1 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
2 license history with the Board of Pharmacy.

3 2. Respondent shall lose all rights and privileges as a Pharmacist in California as of the
4 effective date of the Board's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was
6 issued, her wall certificate on or before the effective date of the Decision and Order.

7 4. If Respondent ever files an application for licensure or a petition for reinstatement in
8 the State of California, the Board shall treat it as a new application for licensure. Respondent
9 may not apply for any license, permit, or registration from the Board for three (3) years from the
10 effective date of this decision. Respondent stipulates that should she apply for any license from
11 the Board on or after the effective date of this decision, all allegations, set forth in Accusation
12 No. 5468 shall be deemed to be true, correct, and admitted by respondent when the Board
13 determines whether to grant or deny the application. Respondent shall satisfy all requirements
14 applicable to that license as of the date the application is submitted to the Board, including but not
15 limited to taking and passing the California Pharmacist Licensure Examination prior to the
16 issuance of a new license. Respondent is required to report this surrender as disciplinary action.

17 5. Respondent shall pay the agency its costs of investigation and enforcement in the
18 amount of \$1,062.50 prior to issuance of a new or reinstated license.

19 6. If Respondent should ever apply or reapply for a new license or certification, or
20 petition for reinstatement of a license, by any other health care licensing agency in the State of
21 California, all of the charges and allegations contained in Accusation No. 5468 shall be deemed to
22 be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
23 other proceeding seeking to deny or restrict licensure.

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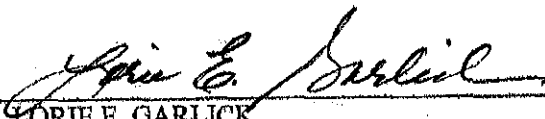
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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED:

October 12, 2015



LORIE E. GARLICK

Respondent

ENDORSEMENT


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

Dated:

December 1, 2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General


KAREN R. DENVIR
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5468

1 KAMALA D. HARRIS
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KAREN R. DENVIR
Deputy Attorney General
4 State Bar No. 197268
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-5333
Facsimile: (916) 327-8643
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8 **BEFORE THE**
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12 In the Matter of the Accusation Against:

Case No. 5468

13 **LORIE E. GARLICK**
6324 Park Village Street
Sacramento, CA 95822

ACCUSATION

14 **Original Pharmacist License No. RPH 40211**

15 Respondent.

16
17 Virginia Herold ("Complainant") alleges:

18 **PARTIES**

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

21 2. On or about August 20, 1986, the Board issued Original Pharmacist License Number
22 RPH 40211 to Lorie E. Garlick ("Respondent"). The original pharmacist license was in full force
23 and effect at all times relevant to the charges brought herein and will expire on November 30,
24 2015, unless renewed. On May 14, 2015, after an ex parte hearing on the Board's Petition for
25 Interim Suspension order, Respondent's license was suspended pursuant to Business and
26 Professions Code section 494, pending a noticed hearing. On June 4, 2015, following the noticed
27 hearing on the Petition for Interim Suspension Order, Respondent's license was suspended until
28 an accusation is filed and resolved.

JURISDICTION

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

4. Section 4300(a) of the Code states, "Every license issued may be suspended or revoked."

5. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

6. Section 4301 of the Code states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. 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 misdemeanor or not.

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

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

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

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

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1 7. Code section 4060 provides in pertinent part:

2 A person shall not possess any controlled substance, except that furnished to a
3 person upon the prescription of a physician, dentist, podiatrist, optometrist,
4 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant
5 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a
6 nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to
7 Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist
8 pursuant to Section 4052.1, 4052.2, or 4052.6.

9 8. Health & Safety Code section 11350(a) states:

10 Except as otherwise provided in this division, every person who possesses
11 (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of
12 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of
13 subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section
14 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled
15 substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon
16 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to
17 practice in this state, shall be punished by imprisonment pursuant to subdivision (h)
18 of Section 1170 of the Penal Code.

19 9. Health & Safety Code section 11170 states that no person shall prescribe, administer,
20 or furnish a controlled substance for himself.

21 10. Health & Safety Code section 11173(a) states:

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

26 COSTS

27 11. Code section 125.3 provides, in pertinent part, that the Board may request the
28 administrative law judge to direct a licentiate found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
included in a stipulated settlement.

29 CONTROLLED SUBSTANCES

30 12. "Alprazolam" is a Schedule IV controlled substance, as listed at Health and Safety
31 Code section 11057(d)(1), and a dangerous drug, as defined by Code section 4022.

32 13. "Hydrocodone" and "Hydrocodone/acetaminophen" are Schedule III controlled

1 substances and narcotic drugs, as listed at Health and Safety Code section 11056(e), and
2 dangerous drugs, as defined by Code section 4022.

3 14. "Lorazepam" is a Schedule IV controlled substance, as listed at Health and Safety
4 Code section 11057(d)(16), and a dangerous drug, as defined by Code section 4022.

5 15. "Tramadol" is a Schedule IV controlled substance, as listed at Code of Federal
6 Regulations, title 21, section 1308.14(b)(3),¹ and is a dangerous drug, as defined by Code
7 section 4022.

8 BACKGROUND

9 16. At the time of the events set forth herein, Respondent was employed as a
10 pharmacist by Rite Aid.

11 17. In or around March 2015, "S.S.", an asset protection district manager for Rite Aid,
12 received a report that hydrocodone tablets were missing from Rite Aid, located at 2751 Del Paso
13 Road, in Sacramento, California. An audit revealed that 1,184 tablets of hydrocodone/
14 acetaminophen were missing. Video surveillance showed Respondent removing drugs from the
15 Del Paso Rite Aid cabinet.

16 18. On or about April 27, 2015, Respondent admitted to Rite Aid management that she
17 diverted controlled substances from Rite Aid stores for her own personal use. Respondent stated
18 that in or around 2011 while working as a pharmacist at Rite Aid located at 5610 Stockton
19 Boulevard in Sacramento, California, she began stealing alprazolam, lorazepam, and 50 to 100
20 hydrocodone tablets each week. In or around October 2014 Respondent transferred to Rite Aid
21 located at 9133 Kiefer Boulevard in Sacramento, California, where she diverted hydrocodone,
22 alprazolam, and lorazepam. In or around December 2014, Respondent transferred to the Rite Aid
23 located on Del Paso Road, where she diverted 400 to 500 tabs of tramadol, and other "benzos".

24 19. On or about April 27, 2015, Respondent was terminated from Rite Aid.

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28 ¹ Effective August 18, 2014.

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Violation of Laws Regulating Controlled Substances)

3 20. Paragraphs 16 through 19 are incorporated herein as though set forth at length.
4 Respondent is subject to disciplinary action pursuant to Code section 4301(j), for unprofessional
5 conduct, in that between in or around 2011 and April 2015, while working as a pharmacist at Rite
6 Aid, Respondent violated the following statutes:

7 a. **Code section 4060 and Health and Safety Code Section 11350(a)**: Respondent
8 possessed hydrocodone, alprazolam, lorazepam, and Tramadol, controlled substances and
9 dangerous drugs, without a valid prescription from a physician, dentist, podiatrist, optometrist,
10 veterinarian, or naturopathic doctor.

11 b. **Health and Safety Code Section 11170**: Respondent furnished hydrocodone,
12 alprazolam, lorazepam, and Tramadol, controlled substances, to herself.

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Self-Administration of Controlled Substances in a Manner Dangerous or Injurious)

15 21. Paragraphs 16 through 19 are incorporated herein as though set forth at length.
16 Respondent is subject to disciplinary action pursuant to Code section 4301(h), for unprofessional
17 conduct, in that between in or around 2011 and April 2015, while working as a pharmacist for
18 Rite Aid, Respondent self-administered hydrocodone, alprazolam, lorazepam, and Tramadol in a
19 manner dangerous or injurious to herself or others.

20 **THIRD CAUSE FOR DISCIPLINE**

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

22 22. Paragraphs 16 through 19 are incorporated herein as though set forth at length.
23 Respondent is subject to disciplinary action pursuant to Code section 4301(f), for unprofessional
24 conduct, in that she committed acts of moral turpitude, dishonesty, fraud, deceit, or corruption.
25 Specifically, between in or around 2011 and April 2015, while working as a pharmacist for Rite
26 Aid, Respondent stole hydrocodone, alprazolam, lorazepam, and Tramadol from Rite Aid, in
27 violation of Health & Safety Code section 11173(a).

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Violation of the Pharmacy Law)

3 23. Respondent is subject to disciplinary action pursuant to Code section 4301(o), for
4 unprofessional conduct, in that Respondent violated laws governing pharmacy, as set forth in
5 paragraphs 16 through 22, above.

6 **FIFTH CAUSE FOR DISCIPLINE**

7 (Actions/Conduct Warranting Denial of a License)

8 24. Respondent is subject to disciplinary action pursuant to Code section 4301(p), for
9 actions or conduct that would warrant denial of a license, as set forth in paragraphs 16 through 23,
10 above.

11 **MATTERS IN AGGRAVATION**

12 25. To determine the degree of discipline to be assessed against Respondent, if any,
13 Complainant alleges the following:

14 26. In *In the Matter of the Accusation Against: Lorie Elizabeth Garlick*, Case No. 2727,
15 Respondent entered into a Stipulated Settlement and Disciplinary Order with the Board, effective
16 July 8, 2004. Respondent's license was revoked, revocation was stayed, Respondent's license was
17 suspended for 60 days, and she was placed on five years of probation under certain terms and
18 conditions. Those terms and conditions included restricted and supervised practice, completion of
19 the Pharmacists Recovery Program, random drug screening, and abstinence from drugs and
20 alcohol. The basis of the discipline was that between 1998 through January 1999, and April 2000
21 through May 2003, while working as a pharmacist at various Bel Air pharmacies, Respondent
22 diverted hydrocodone, alprazolam, lorazepam, and other controlled substances from her
23 employer.

24 27. In *In the Matter of the Petition to Revoke Probation Against Lorie Elizabeth Garlick*,
25 Case No. 2917, Respondent entered into a Stipulated Settlement and Disciplinary Order with the
26 Board, effective December 28, 2006. Respondent's license was revoked, revocation was stayed,
27 and Respondent was placed on three years probation under certain terms and conditions, which
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1 included restricted and supervised practice, completion of the Pharmacists Recovery Program,
2 random drug screening, and abstinence from drugs and alcohol.

3 **PRAYER**

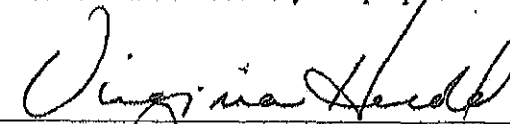
4 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
5 and that following the hearing, the Board of Pharmacy issue a decision:

6 1. Revoking or suspending Original Pharmacist License Number RPH 40211, issued to
7 Lorie Elizabeth Garlick;

8 2. Ordering Lorie Elizabeth Garlick to pay the Board of Pharmacy the reasonable costs
9 of the investigation and enforcement of this case, pursuant to Business and Professions Code
10 section 125.3; and,

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

12
13 DATED: 6/16/15



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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