



BE AWARE AND TAKE CARE:
Talk to your pharmacist!
CALIFORNIA STATE BOARD OF PHARMACY

BOARD OF PHARMACY

Licensee Name: BASRAI GURPARTAP SINGH
License Type: REGISTERED PHARMACIST
License Number: 31057
License Status: CLEAR Definition
 prior disciplinary action Definition
 Accusation filed Definition
 Probation Terminated/Completed Definition
Expiration Date: October 31, 2017
Issue Date: August 01, 1977
Address: 37323 FREMONT BLVD
City: FREMONT
State: CA
Zip: 94536
County: ALAMEDA
Actions: Yes

Related Licenses/Registrations/Permits

Number	Name	Type	Status
<u>49901</u>	GILROY MEDICAL PHARMACY	RETAIL PHARMACY	CLEAR
<u>50018</u>	ALISAL LTC PHARMACY	RETAIL PHARMACY	CLEAR

Public Disclosure

Administrative Disciplinary Actions

Current web site information on Board of Pharmacy disciplinary actions only goes as far back as *January 1998* following the effective date of the disciplinary penalty.

Disciplinary actions rendered by the Board and penalties imposed become operative on the effective date of the action except in situations where the licensee obtains a court-ordered stay through the appeal process. This may occur after the publication of the information on this website.

To obtain information prior to January 1998 or for information on specific discipline listed submit a written request to the *State Board of Pharmacy, 1625 N. Market Blvd, Suite N219, Sacramento, CA 95834, Attention Public Records Desk.*

Case Number: AC201500585100
Description of Action: ACCUSATION FILED 5/27/2017; CASE PENDING.

Effective Date of May 27, 2017
Action:

Public documents relating to this action are available here:
<http://www.pharmacy.ca.gov/enforcement/accusations/ac155851.pdf>

Case Number: AC199800223100
Description of Action: BY STIPULATION:LICENSE REVOKED,REVOCATION STAYED,3
 YEARS PROBATION SUBJECT TO TERMS AND CONDITIONS
 WHICH INCLUDE CANNOT SUPERVISE ANY INTERN
 PHARMACIST,PERFORM PRECEPTOR DUTIES OR BE PIC
Effective Date of March 02, 2001
Action:

This information is updated Monday through Friday - Last updated: SEP-27-2017

Disclaimer

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[Back](#)

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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5851

12 **GSB PHARMACEUTICAL**
13 **ENTERPRISES dba ALISAL**
14 **PHARMACY, GURPARTAP SINGH**
BASRAI, PRESIDENT & SECRETARY
15 **323 N. Sanborn Rd.**
Salinas, CA 93905
16 **Original Permit No. PHY 50019**

A C C U S A T I O N

17 **ROBERT A. SOUZA**
18 **108 San Benancio Road**
Salinas, CA 93908
Pharmacist License No. RPH 22767

19 **GURPARTAP SINGH BASRAI**
20 **37323 Fremont Blvd.**
Fremont, CA 94536
21 **Pharmacist License No. RPH 31057**

22 Respondents.

23
24 Complainant alleges:

25 **PARTIES**

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

28 ///

2. On or about September 16, 2009, the Board issued Original Permit Number PHY 50019 to GSB Pharmaceutical Enterprises to do business as Alisal Pharmacy, Gurpartap Singh Basrai, President and Secretary (Respondent Alisal). The Original Permit was in full force and effect at all times relevant to the charges brought herein and will expire on September 1, 2017, unless renewed.

3. On or about November 8, 1962, the Board issued Original Pharmacist License Number RPH 22767 to Robert A. Souza (Respondent Souza). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2017, unless renewed.

4. On or about August 1, 1977, the Board issued Original Pharmacist License Number RPH 31057 to Gurpartap Singh Basrai (Respondent Basrai). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2017, unless renewed.

JURISDICTION

5. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

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

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

8. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or suspension of a Board-issued license, 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 AND REGULATORY PROVISIONS

9. Section 4301 of the Code provides, 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 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

"(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.

..."

10. Section 4081 of the Code provides, in pertinent 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. . . .

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

11. Section 4113, subdivision (c) of the Code states: "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."

12. Section 4307 of the Code provides, in pertinent part:

"(a) Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner, member, officer, director, associate, partner, or

1 any other person with management or control of any partnership, corporation, trust, firm, or
2 association whose application for a license has been denied or revoked, is under suspension or has
3 been placed on probation, and while acting as the manager, administrator, owner, member,
4 officer, director, associate, partner, or any other person with management or control had
5 knowledge of or knowingly participated in any conduct for which the license was denied,
6 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,
7 administrator, owner, member, officer, director, associate, partner, or in any other position with
8 management or control of a licensee as follows:

9 “(1) Where a probationary license is issued or where an existing license is placed on
10 probation, this prohibition shall remain in effect for a period not to exceed five years.

11 “(2) Where the license is denied or revoked, the prohibition shall continue until the license
12 is issued or reinstated.

13 ...”

14 13. California Code of Regulations, title 16, section 1714 provides, in pertinent part:

15 “(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and
16 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.
17 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice
18 of pharmacy.

19 ...

20 “(d) Each pharmacist while on duty shall be responsible for the security of the prescription
21 department, including provisions for effective control against theft or diversion of dangerous
22 drugs and devices, and records for such drugs and devices. . . .”

23 COSTS

24 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations of
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.

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1 **FACTUAL BACKGROUND**

2 15. On or about February 3, 2015, Respondent Souza, who at the time was Respondent
3 Alisal's pharmacist-in-charge, reported to the Board that Respondent Alisal had experienced a
4 loss of hydrocodone/acetaminophen 10/325mg, a Schedule II controlled substance and dangerous
5 drug. Respondent Souza later determined that Respondent Alisal had also experienced a loss of
6 alprazolam 2mg, a Schedule IV controlled substance and dangerous drug.

7 16. A Board Inspector determined that Respondent Alisal experienced a loss of 68,239
8 tablets of hydrocodone/acetaminophen 10/325mg between June 1, 2013, and February 3, 2015,
9 and a loss of 913 tablets of alprazolam 2mg between June 1, 2013, and January 28, 2015.

10 17. According to its records of disposition, Respondent Alisal dispensed approximately
11 1,136 tablets of alprazolam 2mg manufactured by Sandoz between June 1, 2013, and January 28,
12 2015. Respondent Alisal did not retain purchase records for those alprazolam 2mg tablets.

13 **FIRST CAUSE FOR DISCIPLINE**

14 **(Failure to Maintain Facilities to Ensure Proper Maintenance and Security of Drugs)**

15 18. Respondents Alisal and Souza are subject to disciplinary action under section 4301,
16 subdivision (o) of the Code and California Code of Regulations, title 16, section 1714,
17 subdivisions (b) and/or (d), in that Respondents Alisal and Souza failed to maintain Respondent
18 Alisal's facilities, space, fixtures, and/or equipment so that drugs were safely and properly
19 prepared, maintained, secured and/or distributed. The circumstances of this conduct are set forth
20 above in paragraphs 14 and 15.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Failure to Preserve Records of Manufacture, Sale, and/or Acquisition of Dangerous Drugs)**

23 19. Respondents Alisal, Souza, and Basrai are subject to disciplinary action under
24 sections 4301, subdivisions (j) and/or (o), and 4081, subdivisions (a) and/or (b) of the Code, in
25 that Respondents failed to preserve certain records of manufacture, sale, acquisition, or
26 disposition of dangerous drugs or dangerous devices. The circumstances of this conduct are set
27 forth above in paragraph 16.

28 ///

1 **OTHER MATTERS**

2 20. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacy Permit
3 Number PHY 50019 issued to GSB Pharmaceutical Enterprises dba Alisal Pharmacy, GSB
4 Pharmaceutical Enterprises dba Alisal Pharmacy shall be prohibited from serving as a manager,
5 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
6 Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy Permit Number
7 PHY 50019 is reinstated if it is revoked.

8 21. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
9 PHY 50019 issued to GSB Pharmaceutical Enterprises dba Alisal Pharmacy while Gurpartap
10 Singh Basrai was an officer or owner of GSB Pharmaceutical Enterprises dba Alisal Pharmacy
11 and had knowledge of or knowingly participated in any conduct for which Pharmacy Permit
12 Number PHY 50019 was disciplined, Gurpartap Singh Basrai shall be prohibited from serving as
13 a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
14 five years if Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy
15 Permit Number PHY 50019 is reinstated if it is revoked.

16 **DISCIPLINE CONSIDERATIONS**

17 22. To determine the degree of discipline, if any, to be imposed on Respondent Basrai,
18 Complainant alleges that on or about March 2, 2001, in a prior disciplinary action entitled *In the*
19 *Matter of the Accusation Against Gurpartap Singh Basrai*, before the Board, in Case Number
20 2231, Respondent Basrai's Original Pharmacist License Number RPH 31057 was placed on three
21 years probation subject to certain terms and conditions. That decision is now final and is
22 incorporated by reference as if fully set forth herein.

23 23. To determine the degree of discipline, if any, to be imposed on Respondent Basrai,
24 Complainant further alleges that on or about August 27, 2014, in Case No. CI 2011 49013, the
25 Board issued a Citation and Fine to Respondent Basrai based on violations of sections 4301,
26 subdivision (g) (knowingly making or signing any certificate or other document that falsely
27 represents the existence or nonexistence of a state of facts) and 4201, subdivision (i) (failure to
28 report a change in the proposed beneficial ownership interest to the Board within thirty (30) days),

1 of the Code. That Citation and Fine is now final and is incorporated by reference as if fully set
2 forth herein.

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 Permit Number PHY 50019 issued to GSB
7 Pharmaceutical Enterprises to do business as Alisal Pharmacy, Gurpartap Singh Basrai, President
8 and Secretary;

9 2. Revoking or suspending Original Pharmacist License Number RPH 22767 issued to
10 Robert A. Souza;

11 3. Revoking or suspending Original Pharmacist License Number RPH 31057 issued to
12 Gurpartap Singh Basrai;

13 4. Prohibiting GSB Pharmaceutical Enterprises dba Alisal Pharmacy from serving as a
14 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
15 five years if Pharmacy Permit Number PHY 50019 is placed on probation or until Pharmacy
16 Permit Number PHY 50019 is reinstated if Pharmacy Permit Number 50019 issued to GSB
17 Pharmaceutical Enterprises dba Alisal Pharmacy is revoked;

18 5. Prohibiting Gurpartap Singh Basrai from serving as a manager, administrator, owner,
19 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
20 Number PHY 50019 is placed on probation or until Pharmacy Permit Number PHY 50019 is
21 reinstated if Pharmacy Permit Number 50019 issued to GSB Pharmaceutical Enterprises dba
22 Alisal Pharmacy is revoked;

23 6. Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the
24 investigation and enforcement of this case pursuant to Business and Professions Code section
25 125.3; and

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

DATED: 5/27/17 Virginia Herold

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

SF2016200954
41693064.doc



Renewal Application

Section 1:

Since your last renewal or recent licensure have you: (Please fill in completely)

Been diagnosed or treated for any mental illness, including alcohol or substance abuse, or Physical condition that would impair your ability to perform the essential functions of your license?

☐ Yes ☒ No

1. Been charged, arrested or convicted of a felony or misdemeanor in any state?

☐ Yes ☒ No

Upload Supporting Doc.

2. Been the subject of a board citation or an administrative action whether completed or pending in any state?

AC201500585100 case is pending for hearing

☒ Yes ☐ No

Upload Supporting Doc.

(Includes/Uploads/)

3. Had your license subjected to any discipline for violation of pharmacy or drug laws in any state?

☐ Yes ☒ No

Upload Supporting Doc.

If you marked YES to any of the numbered questions (1-3) above, include the following information. If you are unsure of an answer please type unknown. Please be as complete as possible.

Board Administrative Action:

State:

Date:

Case#:

Criminal Action:

State:

Date:

Case#:

County:

Court:

Section 2:

1. Are you the subject of a court order for the support of a child?

☐ Yes ☒ No

2. IF you marked YES to the question above, are you in compliance with the court order?

☐ Yes ☐ No

Section 3:

Continuing Education Certification:

Calculation=1.25 hours per month Date Range= 11/01/2015 – 10/31/2017

1. Pharmacists are exempt from completing CE for the first 2 years after graduation. Did you graduate within the last 2 years?

☐ Yes ☒ No

2. If you answered No to CE question 1 above, have you completed all YOUR required number of Continuing Education hours, including 1 hour in an approved NV law program if living or practicing in Nevada? (If you are a pharmacist practicing out-of-state and are currently in compliance with that state's continuing education requirements please select Yes.)

☒ Yes ☐ No

Section 4:

Though it is NOT required to have, SB21 required the Board to ask if you have a Nevada State Business license and if you do, please provide the number

NON-DISCIPLINARY STATE-MANDATED QUESTIONS:

1. Though it is NOT required to have, SB21 requires the Board to ask if you have a Nevada State Business license and if you do, please provide the

Leave blank if non-applicable.

2. Have you ever served in the military, either active, reserve or retired?

☐ Yes ☒ No

State:

Military Branch:

Dates of Service:

From Date

To Date

Section 5:

It is a violation of Nevada law to falsify this application and sanctions will be imposed for misrepresentation. I hereby certify that I have read this application. I certify that all statements made are true and correct. I attest to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices. I understand that Nevada law requires a licensed pharmacist who, in their professional or occupational capacity, comes to know or has reasonable cause to believe, a child has been abused/neglected, to report the abuse/neglect to an agency which provides child welfare services or to a local law enforcement agency.

☒ Yes, I Agree

Type Your Name To Agree:

GURPARTAP SINGH



BASRAI



Save Changes

Generate License



DO NOT FOLD OR STAPLE ABOVE THIS LINE

Nevada State Board of Pharmacy – Renewal Application - PHARMACIST

431 W Plumb Lane • Reno, NV 89509 • nvbop.com

For the period of November 1, 2017 to October 31, 2019

Money Order ONLY (NO BUSINESS or PERSONAL CHECKS, NO CASH)

\$180.00 (postmarked on or before 10/31/2017) **OR** \$320.00 (postmarked after 10/31/2017)

LICENSE: 13797

Lisa Chaplinsky

PO BOX

Menlo Park, CA 94026

Please make any changes to name or address next to the old information

RENEW BY MAIL

1. Complete **ALL** sections on this form
2. Sign and date this form
3. Send **MO** with this form (do **NOT** staple)
4. Mail **original** form/payment to address above
5. **NO COPIES**
6. **NO SIGNATURE STAMPS ACCEPTED**

<OR>

RENEW ONLINE

1. Go to **nvbop.com**
2. FOLLOW the instructions on the page
3. Once you've successfully completed your license renewal, **you will receive an email with a link to your certificate.** We no longer mail certificates so please do not discard this link.

Section 1: Since your last renewal or recent licensure have you: (Please fill in completely) Yes No

Been diagnosed or treated for any mental illness, including alcohol or substance abuse, or

Physical condition that would impair your ability to perform the essential functions of your license?..... ☐ Yes ☒ No

1. Been charged, arrested or convicted of a felony or misdemeanor in any state?..... ☐ Yes ☒ No
2. Been the subject of a board citation or an administrative action whether completed or pending in any state?..... ☒ Yes ☐ No
3. Had your license subjected to any discipline for violation of pharmacy or drug laws in any state?..... ☒ Yes ☐ No

If you marked **YES** to any of the numbered questions (1-3) above, include the following information & letter of explanation:

Board Administrative Action:	State	Date:	Case #:
	CA	11/22/2016	4687
Criminal Action:	State	Date:	Case #:
	/	/	
	County	Court	

Section 2:

Are you the subject of a court order for the support of a child?..... ☐ Yes ☒ No

If you marked **YES** to the question above, are you in compliance with the court order?..... ☐ Yes ☒ No

Section 3: (Fees apply to either status) (see colored insert for details)

By signing below, you certify that you have completed **ALL** required CE Hours due for the 17/19 Renewal period.

(Dated from Nov. 1, 15 – Oct. 31, 17; 1.25hrs per mo.). The exemption period is 2yrs after graduation only.

OR you may check the box for Inactive if you did NOT complete CE. You cannot renew online if you change to Inactive

Inactive - ☒ By checking this box you certify that you are **NOT** practicing in NV and do not wish to comply with the CE requirements of NV and would like your license changed to **inactive** status. Before re-activating your license it will be necessary to submit an application and to become compliant with current CE requirements (NAC 639.219). See reverse of insert for more information.

Section 4: NON-DISCIPLINARY STATE-MANDATED QUESTIONS

1. Though it is **NOT** required to have, SB21 requires the Board to ask if you have a Nevada State Business license and if you do, please provide the #: _____ Leave blank if non-applicable

2. Have you ever served in the military, either active, reserve or retired? Yes ☐ No ☒ Branch: _____

Military Occupation/Specialty: _____

Dates of Service: _____

Section 5: It is a violation of Nevada law to falsify this application and sanctions will be imposed for misrepresentation. I hereby certify that I have read this application. I certify that all statements made are true and correct. I attest to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices. I understand that Nevada law requires a licensed pharmacist who, in their professional or occupational capacity, comes to know or has reasonable cause to believe, a child has been abused/neglected, to report the abuse/neglect to an agency which provides child welfare services or to a local law enforcement agency.

Original Signature: _____

Date: 9/14/2017



California State Board of Pharmacy

1625 N. Market Blvd, N219, Sacramento, CA 95834
Phone: (916) 574-7900
Fax: (916) 574-8618
www.pharmacy.ca.gov

BUSINESS CONSUMER SERVICES AND HOUSING AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
GOVERNOR EDMUND G. BROWN JR.

November 22, 2016

CERTIFIED MAIL

Lisa Chaplinsky
P.O. Box
Menlo Park, CA 94026

RE: Administrative Case No. 4687

Dear Ms. Chaplinsky:

Attached is the Board of Pharmacy's Stipulated Surrender of License and Order regarding the above-referenced matter. Your attention is directed to pages 3 through 5 of the document.

Effective at 5:00 p.m. on December 22, 2016, Pharmacist License No. RPH 49278, issued to Lisa Chaplinsky is hereby surrendered and accepted by the Board. You shall pay costs of investigation and enforcement in the amount of \$8,403.50 prior to the issuance of a new or reinstated license. Please return your wall license and current pocket license to the board on or before the effective date of this decision.

If you wish to file a petition for reconsideration pursuant to Government Code section 11521, the petition must be received prior to the effective date of the decision. However, please be aware the Board needs approximately five days to process a petition for reconsideration. Attached is a copy of the Government Code section for your review. **Please note that reconsideration is NOT available to you if you entered into a stipulated settlement with the Board.**

If you have any questions concerning this matter, you may contact Lisa Esquivel, Enforcement Analyst, at (916) 574-7927.

Sincerely,

VIRGINIA K. HEROLD
Executive Officer

By


Susan Cappello
Enforcement Manager

SC:le
Enclosures

cc: Leslie E. Brast, DAG
John L. Fleet, Esq.

DECLARATION OF SERVICE BY CERTIFIED MAIL

RE: Lisa Chaplinsky, RPH 49278

Case No. 4687

I am over 18 years of age, and not a party to the within cause; my business address is 1625 N. Market Blvd, Suite N 219, Sacramento, California 95834. I served a copy of the:

LETTER AND DECISION AND ORDER

on each of the following, by placing same in an envelope(s) addressed to as follows:

<u>NAME</u>	<u>CERTIFIED NO.</u>
Lisa Chaplinsky P.O. Box Menlo Park, CA 94026	7015 3010 0001 9059 2957
John L. Fleer, Esq. 1850 Mt. Diablo Boulevard, Suite 120 Walnut Creek, CA 94596	7015 3010 0001 9059 2964

and that said envelope was then sealed and deposited and certified in the United States Post Office at Sacramento, California, on November 22, 2016, as certified mail with postage fully prepaid thereon and return receipt service by United States mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 22, 2016 at Sacramento, California.



Lisa Esquivel, Enforcement Analyst

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

In the Matter of the Accusation Against:

**LISA CHAPLINSKY
P.O. Box
Menlo Park, CA 94026**

Pharmacist License Number RPH 49278

Respondent.

Case No. 4687

OAH No. 2016010586

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 at 5:00 p.m. on November 22, 2016.

It is so ORDERED on December 22, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

LISA CHAPLINSKY
P.O. Box
Menlo Park, CA 94026

Pharmacist License Number RPH 49278

Respondent.

Case No. 4687

OAH No. 2016010586

DECISION AND ORDER (CORRECTED)

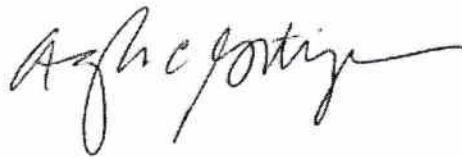
The Decision and Order previously issued adopting the stipulation inadvertently transposed the effective date and the date the Order was issued. The Decision and Order in the above-entitled matter is therefore amended and corrected nunc pro tunc as of the date of entry of the decision to read as follows:

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 at 5:00 p.m. on December 22, 2016.

It is so ORDERED on November 30, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

**LISA CHAPLINSKY
P.O. Box
Menlo Park, CA 94026**

Pharmacist License Number RPH 49278

Respondent.

Case No. 4687

OAH No. 2016010586

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 at 5:00 p.m. on November 22, 2016.

It is so ORDERED on December 22, 2016.

**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 FRANK H. PACOE
Supervising Deputy Attorney General
3 LESLIE E. BRAST
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455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5548
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10
11 In the Matter of the Accusation Against:

Case No. 4687

12 **LISA CHAPLINSKY**
P.O. Box
13 Menlo Park, CA 94026

OAH No. 2016010586

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Pharmacist License Number RPH 49278**

15 Respondent.
16

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

19 **PARTIES**

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy
21 (Board), Department of Consumer Affairs. She brought this action solely in her official capacity
22 and is represented in this matter by Kamala D. Harris, Attorney General of the State of California,
23 by Leslie E. Brast, Deputy Attorney General.

24 2. Lisa Chaplinsky (Respondent) is represented in this proceeding by attorney John L.
25 Fleer, whose address is 1850 Mt. Diablo Boulevard, Suite 120, Walnut Creek, California 94596.

26 3. On or about March 20, 1997, the Board issued Pharmacist License No. RPH 49278 to
27 Respondent. The license was in full force and effect at all times relevant to the charges brought
28 in Accusation No. 4687. The license will expire on November 30, 2016, unless renewed.

1 CONTINGENCY

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

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

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

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

22 ORDER

23 IT IS HEREBY ORDERED that Pharmacist License No. RPH 49278, issued to Respondent
24 Lisa Chaplinsky, is surrendered and accepted by the Board of Pharmacy.

25 1. The surrender of Respondent's Pharmacist License and the acceptance of the
26 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
27 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
28 license history with the Board of Pharmacy.

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

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

5 4. Respondent understands and agrees that if he or she ever files an application for
6 licensure or a petition for reinstatement in the State of California, the Board shall treat it as a new
7 application for licensure.

8 Respondent may not apply for any license, permit, or registration from the Board for three
9 (3) years from the effective date of this Decision and Order. Respondent stipulates that, should
10 she apply for any license from the Board on or after the effective date of this decision, all
11 allegations set forth in the Accusation shall be deemed to be true, correct and admitted by
12 respondent when the Board determines whether to grant or deny the application.

13 Respondent shall satisfy all requirements applicable to that license as of the date the
14 application is submitted to the Board, including, but not limited to taking and passing the
15 California Pharmacist Licensure Examination prior to the issuance of a new license.

16 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 \$8,403.50 prior to issuance of a new or reinstated license.

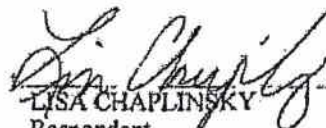
19 6. If Respondent should ever apply or reapply for a new license or certification, or
20 petition for reinstatement of a license, by any other health care licensing agency in the State of
21 California, all of the charges and allegations contained in Accusation, No. 4687 shall be deemed
22 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
23 other proceeding seeking to deny or restrict licensure.

24
25 ACCEPTANCE

26 I have carefully read the above Stipulated Surrender of License and Order and have fully
27 discussed it with my attorney, John L. Fleer. I understand the stipulation and the effect it will
28 have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order


1 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
2 Board of Pharmacy.

3
4 DATED: 5/15/16


LISA CHAPLINSKY
Respondent

6
7 I have read and fully discussed with my client, Respondent Lisa Chaplinsky, the terms and
8 conditions and other matters contained in this Stipulated Surrender of License and Order. I
9 approve its form and content.

10
11 DATED: 5-14-16


JOHN L. FLEER
Attorney for Respondent

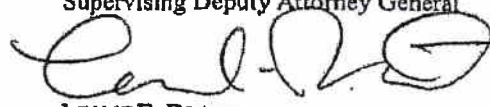
13
14 ENDORSEMENT

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

17 Dated: 5/16/16

18 Respectfully submitted,

19 KAMALA D. HARRIS
Attorney General of California
20 FRANK H. PACOB
Supervising Deputy Attorney General

21 
22 LESLIE E. BRAST
23 Deputy Attorney General
24 Attorneys for Complainant

25
26 SF2014408407
27 41518860.doc
28

Exhibit A

Accusation No. 4687

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 LESLIE E. BRAST
Deputy Attorney General
4 State Bar No. 203296
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5548
6 Facsimile: (415) 703-5480
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4687

12 **LISA CHAPLINSKY**
13 **P.O. Box**
Menlo Park, CA 94026

A C C U S A T I O N

14 **Pharmacist License Number RPH 49278**

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about March 20, 1997, the Board issued Pharmacist License Number RPH
22 49278 to Lisa Chaplinsky ("Respondent"). The Pharmacist License was in full force and effect at
23 all times relevant to the charges brought herein and will expire on November 30, 2014, unless
24 renewed.

25 **JURISDICTION**

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

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

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

6 6. Code section 4300.1 provides that the expiration, cancellation, forfeiture, or
7 suspension of a Board-issued license, the placement of a license on a retired status, or the
8 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to
9 commence or proceed with any investigation of, or action or disciplinary proceeding against, the
10 licensee or to render a decision suspending or revoking the license.

11 STATUTORY AND REGULATORY PROVISIONS

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

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

18 ...

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

23 ...

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

24 ...

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

28 ///

1 8. California Code of Regulations, title 16, section 1770, states:

2 For the purpose of denial, suspension, or revocation of a personal or
3 facility license pursuant to Division 1.5 (commencing with Section 475) of the
4 Business and Professions Code, a crime or act shall be considered substantially related
5 to the qualifications, functions or duties of a licensee or registrant if to a substantial
6 degree it evidences present or potential unfitness of a licensee or registrant to perform
7 the functions authorized by her license or registration in a manner consistent with the
8 public health, safety, or welfare.

9 9. Code section 4059, in pertinent part, prohibits furnishing of any dangerous drug or
10 dangerous device except upon the prescription of an authorized prescriber.

11 10. Code section 4060 provides, in pertinent part, that no person shall possess any
12 controlled substance, except that furnished upon a valid prescription/drug order.

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

15 12. Health and Safety Code section 11173, subdivision (a), provides that no person shall
16 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
17 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
18 or subterfuge; or (2) by the concealment of a material fact.

19 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
20 any controlled substance listed in Schedule II (Health and Safety Code section 11055), subdivision
21 (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

22 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

23 14. Code section 4021 states:

24 "Controlled substance" means any substance listed in Chapter 2 (commencing with Section
25 11053) of Division 10 of the Health and Safety Code."

26 15. Code section 4022 states, in pertinent part:

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

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

///

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

16. **Oxycodone** is a Schedule II controlled substance as designated by Health and Safety Code section 11055(b)(1)(M), and a dangerous drug pursuant to Code section 4022. It is a powerful narcotic painkiller and a frequent drug of abuse.

COST RECOVERY

17. Code section 125.3 states, in pertinent part, that the Board may request the administrative law judge to 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.

FACTUAL BACKGROUND

18. Between approximately January 2010 and April 2013, Respondent stole hundreds of oxycodone tablets from two pharmacies and self-administered the drugs to treat post-surgical pain, as follows:

19. From approximately January 2010 to December 2012, Respondent worked as the pharmacist-in-charge of Los Altos Pharmacy (PHY 50153) at El Camino Hospital, in Mountain View, California (hereinafter "LAP—Mountain View"). In December 2012, Respondent went to work as a staff pharmacist for Safeway at Store #4526 ("Safeway") (PHY 51192) after it assumed ownership and management of Los Altos Pharmacy in Los Altos, California. Respondent had access to controlled substances and dangerous drugs at both pharmacies and exploited her employment to divert oxycodone for her own use.

Los Altos Pharmacy (at El Camino Hospital), Mountain View

20. Between about January 19, 2010, and December 13, 2012, while working as the pharmacist-in-charge at LAP—Mountain View, Respondent stole from the pharmacy, possessed and self-administered, without a valid prescription, large quantities of **oxycodone**, a controlled substance and a dangerous drug. LAP—Mountain View reported losses in the following quantities and strengths:

111

111

<i>Strength</i>	<i>Quantity/Tablets</i>	<i>Variance</i>
5 mg	3,127	66.5 percent
10 mg	2,770	60.2 percent
15 mg	3,150	76.8 percent
20 mg	900	75 percent
30 mg	11,235	29.4 percent

Safeway Store #4526, Los Altos

21. Between about December 14, 2012, and April 27, 2013, while working as a staff pharmacist at Safeway in Los Altos, Respondent stole from the pharmacy, possessed and self-administered, without a valid prescription, large quantities of **oxycodone**, a Schedule II controlled substance and a dangerous drug. Safeway reported losses in the following quantities and strengths:

<i>Strength</i>	<i>Quantity/Tablets</i>	<i>Variance</i>
5 mg	500	23 percent
10 mg	1,140	100 percent
15 mg	900	100 percent
20 mg	914	100 percent
30 mg	1,620	7.8 percent

22. In an effort to conceal her diversion from Safeway, Respondent falsified the pharmacy's Perpetual Inventory Log by reducing the inventory count she recorded from the quantity she actually received, or by increasing the quantities recorded as dispensed by other pharmacists from the quantities actually dispensed.

23. On or about April 29, 2013, Respondent admitted stealing oxycodone from the Safeway pharmacy for self-use to treat chronic, post-surgical pain, and signed a promissory note by which she agreed to repay Safeway \$5,128.00—the approximate value of the drugs Respondent

///

1 was estimated to have diverted. On July 2, 2013, Respondent admitted stealing oxycodone from
2 inventory at LAP—Mountain View since December 2012, due to her addiction to pain medication.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct—Acts of Dishonesty, Fraud, Deceit)**

5 24. Respondent's license is subject to disciplinary action for unprofessional conduct
6 pursuant to Code section 4301(f), and/or Health and Safety Code section 11173(a), in that she
7 committed an act involving moral turpitude, dishonesty, fraud, deceit, or corruption when she stole
8 oxycodone for her personal use, as described in paragraphs 18 through 23, above.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct—Self-Administration of a Controlled Substance)**

11 25. Respondent's license is subject to disciplinary action for unprofessional conduct
12 pursuant to Code section 4301(h), and/or Health and Safety Code section 11170, in that she self-
13 administered oxycodone, as described in paragraphs 18 through 23, above.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct—Unlawful Possession of a Controlled Substance)**

16 26. Respondent's license is subject to disciplinary action for unprofessional conduct
17 pursuant to Code sections 4301(j), 4301(o), 4060, and/or Health and Safety Code section 11350,
18 in that she possessed a controlled substance without a valid prescription, as described in
19 paragraphs 18 through 23, above.

20 **DISCIPLINARY CONSIDERATIONS**

21 27. To determine the degree of discipline, if any, to be imposed on Respondent,
22 Complainant alleges the following:

23 a. On or about February 23, 2012, the Board issued Respondent Citation Number
24 C1 2011 51391, including a \$5,000 fine and an order of abatement, for violation of Code
25 section 4126.5(a)(4), in that, while she was the pharmacist-in-charge at LAP—Mountain View, the
26 pharmacy failed to comply with restrictions on furnishing dangerous drugs to pharmacies
27 or wholesalers. The order of abatement required enrollment in and successful completion
28 within 18 months of a Board-approved course in ethics.

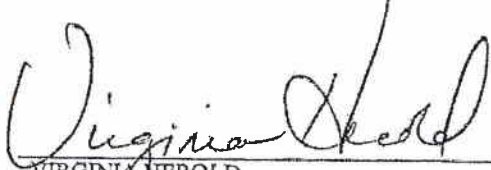
1 b. On or about May 3, 2012, the Board issued Respondent Citation Number
2 C1 2011 52213 for violation of California Health and Safety Code section 11165(d), in that,
3 while she was the pharmacist-in-charge at LAP—Mountain View, Respondent failed to
4 successfully transmit the pharmacy's dispensed controlled substance prescription data to
5 CURES, as required.

6 PRAYER

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

- 9 1. Revoking or suspending Pharmacist License Number RPH 49278, issued to Lisa
10 Chaplinsky;
11 2. Ordering Lisa Chaplinsky to pay the Board of Pharmacy the reasonable costs of the
12 investigation and enforcement of this case, pursuant to Business and Professions Code section
13 125.3;
14 3. Taking such other and further action as deemed necessary and proper.

15
16
17 DATED: 1/17/15


18 VIRGINIA HEROLD
19 Executive Officer
20 Board of Pharmacy
21 Department of Consumer Affairs
22 State of California
23 Complainant

24
25
26
27
28
SF2014408407
41122939.doc

DO NOT FOLD OR STAPLE ABOVE THIS LINE

Nevada State Board of Pharmacy – Renewal Application - PHARMACIST

431 W Plumb Lane • Reno, NV 89509 • nvbop.com

For the period of November 1, 2017 to October 31, 2019

Money Order ONLY (NO BUSINESS or PERSONAL CHECKS, NO CASH)

\$180.00 (postmarked on or before 10/31/2017) **OR** \$320.00 (postmarked after 10/31/2017)

LICENSE: 18410

FARBOD MELAMED RPH

N PALM DR

Beverly Hills, CA 90210

Please make any changes to name or address next to the old information

RENEW BY MAIL

1. Complete **ALL** sections on this form
2. Sign and date this form
3. Send **MO** with this form (do **NOT** staple)
4. Mail **original** form/payment to address above
5. **NO COPIES**
6. **NO SIGNATURE STAMPS ACCEPTED**

Will be required to appear at future meeting date as a result of previous CA discipline action.

Section 1: Since your last renewal or recent licensure have you: (Please fill in completely)

Yes No

Been diagnosed or treated for any mental illness, including alcohol or substance abuse, or Physical condition that would impair your ability to perform the essential functions of your license?..... ☐ ☒

1. Been charged, arrested or convicted of a felony or misdemeanor in any state?..... ☐ ☒
2. Been the subject of a board citation or an administrative action whether completed or pending in any state?..... ☒ ☐
3. Had your license subjected to any discipline for violation of pharmacy or drug laws in any state?..... ☒ ☐

If you marked YES to any of the numbered questions (1-3) above, include the following information & letter of explanation:

Board Administrative Action:	State: <u>CA</u>	Date: <u>10 / 18 / 17</u>	Case #:	<u>5455</u>	
Criminal Action:	State:	Date:	Case #:	County:	Court:
		<u>/ /</u>			

Section 2:

Are you the subject of a court order for the support of a child?..... ☐ ☒

If you marked YES to the question above, are you in compliance with the court order?..... ☐ ☒

Section 3: (Fees apply to either status) (see colored insert for details)

By signing below, you certify that you have completed **ALL** required CE Hours due for the 17/19 Renewal period. (Dated from Nov. 1, 15 – Oct. 31, 17; 1.25hrs per mo.). The exemption period is 2yrs after graduation only.

OR you may check the box for Inactive if you did NOT complete CE You cannot renew online if you change to Inactive Inactive - ☐ By checking this box you certify that you are **NOT** practicing in NV and do not wish to comply with the CE requirements of NV and would like your license changed to **inactive** status. Before re-activating your license it will be necessary to submit an application and to become compliant with current CE requirements (NAC 639.219). See reverse of insert for more information.

Section 4: NON-DISCIPLINARY STATE-MANDATED QUESTIONS

1. Though it is **NOT** required to have, SB21 requires the Board to ask if you have a Nevada State Business license and if you do, please provide the #: _____ Leave blank if non-applicable

2. Have you ever served in the military, either active, reserve or retired? Yes ☐ No ☒ Branch: _____

Military Occupation/Specialty: _____

Dates of Service: _____

Section 5: It is a violation of Nevada law to falsify this application and sanctions will be imposed for misrepresentation. I hereby certify that I have read this application. I certify that all statements made are true and correct. I attest to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices. I understand that Nevada law requires a licensed pharmacist who, in their professional or occupational capacity, comes to know or has reasonable cause to believe, a child has been abused/neglected, to report the abuse/neglect to an agency which provides child welfare services or to a local law enforcement agency.

Original Signature: _____

Date: 10 / 24 / 17

October 24, 2017

VIA CERTIFIED MAIL

Nevada State Board of Pharmacy
431 W Plumb Lane
Reno, NV 89509

**RE: NOTIFICATION OF DISCIPLINARY ACTION
FARBOD MELAMED [License: 18410]**

To whom it may concern:

This letter is to notify you that, effective October 18, 2017, my California pharmacist license No. RPH 68252 is subject to discipline by the California State Board of Pharmacy. Pursuant to a Decision and Order in administrative case No. 5455 (hereinafter "Decision"), a copy of which is attached hereto for your reference, my California pharmacist license was placed on probation for three (3) years.

The allegations against me, and the subsequent disciplinary action, are based solely on my derived responsibility as the Pharmacist-In-Charge (PIC) for regulatory compliance of RoxSan Pharmacy between December 2012 and January 2015. The California case involved deliberate fraudulent activity perpetrated by the former owner of RoxSan Pharmacy without my knowledge or involvement and her intentional and willful misrepresentation of facts related to regulatory compliance of said pharmacy (Decision p. 21 ¶8, and p. 22 ¶14). No allegations of any misconduct that was directly attributable to my actions were ever made. However, as the PIC, I accepted the responsibility for the owner's misconduct.

While I understand that the mere fact that my California license was disciplined by the California State Board of Pharmacy may serve as grounds for discipline in Nevada, it is my sincere hope that the you will consider all the facts and circumstances of the California case, as well as my extensive mitigation efforts described in the attached Decision, when deciding whether or not to initiate a formal discipline against my Nevada license.

Please feel free to contact me at your convenience if you need any additional information regarding this matter.

Sincerely,



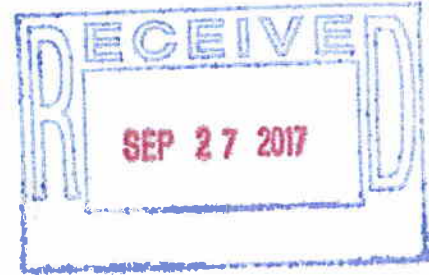
Farbod Melamed, Pharm.D.
N Palm Dr Apt
Beverly Hills, CA 90210

Enclosure

CC: *Ivan Petrzeka, Esq.*
California Pharmacy Lawyers



September 22, 2017



VIA CERTIFIED MAIL

Candy M. Nally
Licensing Specialist
Nevada State Board of Pharmacy
431 W. Plumb Lane
Reno, NV 89509

Re: Farbod Melamed – Pharmacist License No. 18410

Dear Ms. Nally:

I represent Mr. Melamed in all licensing and disciplinary matters before the California Board of Pharmacy. On or about December 15, 2015, we have requested that Mr. Melamed's application for renewal of his Nevada pharmacist's License be placed on pending status until conclusion of the disciplinary proceedings that were pending before the California Board of Pharmacy.

On or about January 3, 2017, Administrative Law Judge John DeCure issued proposed decision and order in Administrative Case No. 5455 – *In the Matter of the Accusation Against Farbod Melamed*. The California Board of Pharmacy failed to take any action within the statutory limit after rejecting the initial proposed decision and order. By operation of law, the proposed decision and order was adopted and will become effective on **October 18, 2017**. Copies of the relevant documents are attached hereto for your reference.

The decision and order places Mr. Melamed's California pharmacist's license on probation for period of three (3) years, subject to terms and conditions enumerated within the said order. Please note that Mr. Melamed is not prohibited from acting as the Pharmacist in Charge (PIC) of any pharmacy by the terms of his probation. At this time, Mr. Melamed would like to request reinstatement of his application to renew his Nevada pharmacist's license. Mr. Melamed will make the necessary arrangements for personal appearance before the Nevada Board of Pharmacy as previously requested. Please advise of the date and time for appearance.

Please feel free to contact me at your convenience if I may be of any assistance in this matter.

Respectfully yours,

Ivan Petrzelka, PharmD, JD, MBA
Attorney at Law

Enclosure



California State Board of Pharmacy

1625 N. Market Blvd, N219, Sacramento, CA 95834

Phone: (916) 574-7900

Fax: (916) 574-8618

www.pharmacy.ca.gov

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY

DEPARTMENT OF CONSUMER AFFAIRS

GOVERNOR EDMUND G. BROWN JR.

September 18, 2017

ELECTRONIC MAIL & CERTIFIED MAIL

Farbod Melamed
N. Palm Drive,
Beverly Hills, CA 90210

RE: In the Matter of the Accusation Against:
Farbod Melamed, RPH 68252
Board of Pharmacy Case No. 5455
OAH No. 2016050689

Dear Mr. Melamed:

Attached is the Board of Pharmacy's Notice of Decision and Order regarding the above referenced matter.

No action having been taken and processed timely on the attached Proposed Decision, pursuant to Government Code section 111517(c)(2) the attached decision is hereby deemed adopted by operation of law.

Effective at 5:00 p.m. on October 18, 2017, Pharmacist License No. RPH 68252 is revoked; however, said revocation are stayed, and your license is placed on probation for three years, from October 18, 2017 through October 17, 2020, inclusive.

You will be scheduled to appear before representatives of the Board. The purpose of your appearance is to explain to you the terms and conditions of the probation and your responsibilities as probationers. The Board will contact you regarding the date of your appearance.

Upon successful completion of the three-year probation period, or extension thereof, your pharmacist license will be fully restored. However, upon violation or failure to comply with any of the terms and conditions of this stay, the Board may, after notice and opportunity to be heard is given to you, vacate the stay and re-impose the revocation, or take other action as it deems appropriate.

If you wish to file a petition for reconsideration pursuant to Government Code section 11521, the petition must be received prior to the effective date of the decision. However, please be aware the Board needs approximately five days to process a petition for reconsideration. Attached is a copy of the Government Code section for your review. **Please note that reconsideration is NOT available to you if you entered into a stipulated settlement with the Board.**

Farbod Melamed
September 18, 2017
Page 2

If you have any questions concerning this matter, you may contact Jane Russell, Enforcement Analyst, at (916) 574-7941.

Sincerely,

VIRGINIA K. HEROLD
Executive Officer

By

A handwritten signature in cursive script that reads "Susan Cappello".

Susan Cappello
Enforcement Manager

Enclosures

cc: Antonio Lopez, Jr., DAG (email only)
Ivan Petrzeka, Pharm.D., J.D., M.B.A.

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

In the Matter of the Accusation Against:

FARBOD MELAMED

Pharmacist License No. RPH 68252

Respondent.

Case No. 5455

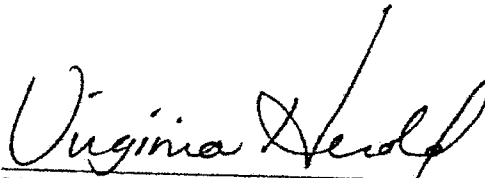
OAH No. 2016050689

NOTICE OF DECISION AND ORDER

No action having been taken and processed timely on the attached Proposed Decision, pursuant to Government Code section 11517(c)(2) the attached decision is hereby deemed adopted by operation of law, by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in the above entitled matter.

Pursuant to Government Code section 11519, this Decision shall become effective at 5:00 p.m. on October 18, 2017.

Date September 18, 2017



VIRGINIA K. HEROLD, EXECUTIVE OFFICER
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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

In the Matter of the Accusation Against:

FARBOD MELAMED,
Pharmacist License No. 68252

Respondent.

Case No. 5455

OAH No. 2016050689

PROPOSED DECISION

John E. DeCure, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter on November 15, 2016, in Los Angeles.

Antonio Lopez, Jr., Deputy Attorney General, represented Virginia K. Herold (complainant), Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Respondent Farbod Melamed (respondent), the pharmacist-in-charge (PIC) of Roxsan Pharmacy, Inc., was present and represented by Ivan Petrzeka, Attorney at Law, and Tony Park, Attorney at Law.

The Accusation was originally filed against respondent and two other respondents: Roxsan Pharmacy, Inc. (Roxsan), Pharmacy Permit number PHY 38297; and Shahla Keyvanfar Melamed (Shahla Melamed), Pharmacist License number RPH 42096. However, prior to the administrative hearing Roxsan and Shahla Melamed surrendered their licenses.

Evidence was taken and argument was heard.

At the administrative hearing the parties made a joint request for a protective order sealing confidential records contained in complainant's Exhibit 6 and in respondent's Exhibit B. These records contained medical and/or personal information primarily in the form of pharmacy records obtained from respondent during complainant's investigation, and other pharmacy records submitted by respondent in defense of the Accusation. The parties sought to protect these documents from disclosure to protect patient privacy and confidentiality, and asserted that the documents were so voluminous as to make redaction unduly burdensome. In *NBC Subsidiary (KNBC-TV), Inc. v. Superior Court* (1999) 20 Cal.4th 1178, the California Supreme Court set forth the findings that both the trial and appellate courts must expressly make to seal a record. Courts must find that (1) there is an overriding interest

supporting sealing records; (2) there is a substantial probability that the interest will be prejudiced absent sealing; (3) the proposed sealing is narrowly tailored to serve the overriding interest; and (4) there is no less restrictive means of achieving the overriding interest. (*Ibid* at 1217-1218.) The parties met their burden to demonstrate that there was no less restrictive means of achieving the interest supporting sealing the records, which in this case is patient privacy. The documents are so voluminous that appropriate redactions to preserve patient privacy could not be made within a reasonable time, and the numerous redactions required would so deface the materials that they would lose their probative value. Complainant's and respondent's request to seal these records was granted. Thus, complainant's Exhibit 6 and respondent's Exhibit B shall be placed under seal following the use of the documents in preparation of the Proposed Decision. These exhibits shall remain under seal and shall not be opened except by order of the Office of Administrative Hearings or by a reviewing court.

The record was held open for respondent to provide additional evidence by November 22, 2016. Respondent timely submitted an inspection report, corrective action documentation, and award of accreditation from United Compounding Management (UCM) to Roxsan Pharmacy dated July 21, 2016. These documents were marked collectively as respondent's Exhibit L. Complainant was given until November 29, 2016, to lodge any objections, but complainant did not object. Exhibit L was received in evidence, the record was closed and the matter was submitted on November 29, 2016.

FACTUAL FINDINGS

Jurisdiction

1. Complainant filed the Accusation in her official capacity. Respondent timely filed a notice of defense.
2. The Board issued Pharmacist License Number RPH 68252 to respondent on October 5, 2012. The license will expire on December 31, 2017, unless renewed.

Stipulation to Undisputed Facts

3. On November 9, 2016, the parties executed a written Stipulation Re Undisputed Facts for Hearing (stipulation) in which respondent admitted to the truth and accuracy, and further admitted to culpability as alleged, regarding the Seventh, Eighth, Ninth, Tenth, and Eleventh Causes for Discipline contained in the Accusation. (Exhibit 4.) Those causes for discipline directly referenced an underlying "Statement of Facts" that preceded the causes for discipline in the Accusation. Thus, by assenting to the stipulation, respondent also did not dispute the facts alleged in paragraphs 2, 4, and 57 through 144 of the "Statement of Facts."

The underlying factual basis and causes for discipline state as follows:¹

57. The Board received the first complaint on June 9, 2011. In substance, the complainant alleged that on February 21, 2011, Roxsan Pharmacy substituted an inappropriate device for injecting a drug marketed under the name "Omnitrope." Omnitrope is indicated for growth hormone deficiency and has an off-label use of improving female fertility. The Board investigated the complaint and conducted an inspection of Roxsan Pharmacy on June 23, 2011. The relevant findings are alleged in Section A, below.

58. The second consumer complaint came to the Board on July 27, 2011. The complainant alleged that Roxsan Pharmacy dispensed Domperidone to nursing mothers to enhance breast milk production. Domperidone is approved in some countries for gastrointestinal disorders. The United States Food and Drug Administration, the federal agency responsible for reviewing new drug applications, has not approved Domperidone for any purpose in this country and has banned the drug's importation and interstate transfer except for research purposes. The Board inspected Roxsan Pharmacy on September 15, 2011. The relevant findings are alleged in Section B, below.

59. The Board received the third consumer complaint on February 21, 2013. The complainant alleged that Roxsan Pharmacy sold dangerous drugs and controlled substances to Louisiana residents without being licensed in that state, as Louisiana law requires. The Board inspected Roxsan Pharmacy on June 4, 2013. The relevant findings are alleged in Section C, below.

60. The fourth consumer complaint came to the Board on September 24, 2013. The complainant alleged that Roxsan Pharmacy dispensed prescriptions to consumers in Connecticut without being licensed in that state, as Connecticut law requires. The Board inspected Roxsan Pharmacy on November 5, 2013. The relevant findings are alleged in Section D, below.

61. The Board learned of the fifth complaint on September 25, 2013. The Arkansas State Board of Pharmacy alleged that Roxsan Pharmacy dispensed prescriptions to consumers in

¹ All stipulated facts are numbered and set forth verbatim as they appear in the Accusation.

Arkansas without being licensed in that state, as Arkansas law requires. The Board inspected Roxsan Pharmacy on November 5, 2013. The relevant findings are alleged in Section E, below.

62. The sixth consumer complaint came from the California State Health and Human Services Agency, Department of Health Care Services ("Department of Health Care Services"). The Board received the complaint on September 27, 2013. The Department alleged that Roxsan Pharmacy did not maintain original prescription records for certain dispensed drugs. The Board investigated the complaint and inspected the pharmacy on November 5, 2013. The relevant findings are alleged in Section F, below.

63. The seventh consumer complaint came to the Board on December 2, 2013. The complainant alleged that Roxsan Pharmacy dispensed the wrong dose of Leuprolide. The Board investigated the complaint. The relevant findings are alleged in Section G, below.

64. The Board received the eighth consumer complaint on April 16, 2014. The complainant alleged that Roxsan Pharmacy dispensed dangerous drugs to consumers in Florida and Maryland without being licensed in those states. The Board investigated the complaint. The relevant findings are alleged in Section H, below.

65. The final consumer complaint reached the Board on August 11, 2014. The Board launched an investigation, during the course of which it was revealed that Roxsan Pharmacy had applied an incorrect expiration date to a Progesterone prescription. The relevant findings are alleged in Section I, below.

A. Omnitrope Complaint and Pharmacy Inspection on June 23, 2011

66. On December 9, 2010, a San Francisco-based fertility doctor prescribed Omnitrope (somatropin) 5mg per 1.5ml to one of her patients. Omnitrope is a recombinant human growth hormone indicated for the treatment of adult onset or childhood onset growth hormone deficiency. It is dispensed in cartridges holding doses of 5mg per 1.5ml or 10mg per 1.5ml. The cartridges are designed by the manufacturer, Sandoz, to be used with its own dispensing pens, Pen 5 and Pen 10. Each pen is

specific to the prescribed dose—Pen 5 for 5mg prescriptions and Pen 10 for 10mg prescriptions. Sandoz supplies the pens to patients free of charge upon the prescriber's request. In Omnitrope's published drug information, Sandoz warns against using non-proprietary devices to dispense the medication, stating that Omnitrope cartridges "must be used with the corresponding OMNITROPE® Pen 5 and Pen 10 delivery system, respectively."

67. The Follistim Pen is a dispensing device made by Merck. It is designed to inject precise doses of Merck's Follistim AQ (follitropin beta) drug. Follistim AQ is a gonadotropin that stimulates reproductive processes in women. Follistim AQ is indicated for the induction of ovulation and pregnancy and development of multiple follicles for patients in assisted reproductive programs. Merck sells the drug in cartridges dosed in international units (IU). Follistim AQ is available in strengths of 175 IU per 0.210ml, 350 IU per 0.420ml, 650 IU per 0.780ml, and 975 IU per 1.170ml. Merck's patient information guide advises patients not to "mix any other medicines into the cartridge" and directs patients to "[u]se [the] 'Follistim AQ Cartridge only with the Follistim Pen.'"

68. On February 21, 2011, Roxsan Pharmacy received a faxed prescription for Omnitrope. Pharmacist J.A. (not a party to this action) dispensed the Omnitrope cartridge (5mg per 1.5ml) that day and substituted a Follistim Pen for the Omnitrope Pen 5. Roxsan Pharmacy and the dispensing pharmacist did not instruct the patient on how to convert milliliters (Omnitrope Pen) into international units (Follistim Pen) or otherwise provide adequate use instructions.

69. The patient was unable to use the Follistim pen dispensed by Roxsan Pharmacy and obtained the Omnitrope Pen 5 from her fertility clinic. Roxsan Pharmacy never replaced the Follistim pen with a suitable dispensing device.

70. On June 9, 2011, the patient's partner filed a complaint with the Board over the substitution of the Follistim pen. On June 23, 2011, a Board inspector conducted a complaint inspection of Roxsan Pharmacy at its Beverly Hills location. The inspector documented the following relevant facts:

1. A Pharmacist Falsified a Prescription Record

71. As part of the inspection into the Omnitrope consumer complaint, the inspector asked for all pharmacy records related to the dispensing of the patient's Omnitrope prescription. The dispensing pharmacist, J.A., produced records that showed the prescription was written on December 9, 2010 for "Omnitrope Pen 5 (5mg/1.5ml)" in a quantity of five with one authorized refill. The prescription was typed and contained instructions to "dispense as written." The words "Foll Pen #1 per MD" appeared, handwritten, on the right side of the prescription. The dispensing pharmacist told the inspector that the physician verbally authorized the substitution.

72. The inspector noticed that the handwritten portion of the order, which purported to reflect the physician's order for the substitution, was wet. To test her belief, she ran her finger across the ink. The order smeared. The dispensing pharmacist admitted that she wrote the order for the substitution during the inspection.

73. By letter dated July 6, 2011, the prescribing doctor denied having authorized the Follistim Pen's substitution.

2. Pharmacist-in-Charge Shahla Melamed Falsified the DEA Biennial Controlled Substance Inventory

74. Later in the inspection, the Board inspector requested the pharmacy's federal Drug Enforcement Administration biennial controlled substance inventory. Pharmacist K.B. (not a party to this action) produced a spiral notebook containing handwritten controlled substance counts. The dates of the inventories were June 7, 2007, May 6, 2009 and June 1, 2011. For the biennial periods ending in 2007 and 2009, the inventories included Schedule II through V controlled substances. For the period ending in 2011, the inventory recorded only Schedule II controlled substances; missing were drug counts for Schedule III through V controlled substances.

75. At some point during the inspection, Respondent Shahla Melamed, the Pharmacist-in-Charge, arrived at the pharmacy. The Board inspector asked her for the pharmacy's self assessment and DEA inventory. Respondent Shahla Melamed produced the same spiral notebook as before. The inspector noticed that within the 2009 inventory, the header had

been changed to include the date of June 1, 2011 for Scheduled drugs not listed in the 2011 inventory. The Board inspector asked Respondent Shahla Melamed if she added the 2011 date to the 2009 inventory. After first denying the charge, Respondent Shahla Melamed admitted adding "6/1/11" to the 2009 controlled substance inventory. The modification gave the appearance that Roxsan Pharmacy maintained a count of Schedule III through V controlled substances for the biennial reporting period ending in 2011.

3. Roxsan Pharmacy Did Not Perform End-Product Sterility and Pyrogen Testing on Sterile Injectable Products or Keep Temperature Records

76. While evaluating the pharmacy's sterile compounding practice, the Board inspector discovered that Roxsan Pharmacy compounded injectable alprostadil alcohol solution on March 30, 2011 and June 2, 2011, and also prepared mitomycin injectable solution on February 14, 2011. Roxsan Pharmacy did not conduct end-product sterility and pyrogen testing on either solution to ensure safe use. Nor did the pharmacy maintain temperature records for the freezer used to store these and other sterile injectable solutions.

4. Roxsan Pharmacy Did Not Verify All Pharmacy Technician Work, Did Not Ensure that Each Pharmacy Technician Was Wearing Identification, and Maintained 17 Expired Ingredients in Active Compounding Stock

77. In addition to having deficient practices concerning sterile injectable products, Roxsan Pharmacy comingled 17 expired compounding ingredients with active compounding stock and permitted two of its pharmacy technicians to be present in the compounding area without wearing identification badges. The Board inspector found 14 medication bubble cards prepared by pharmacy technicians that did not contain a pharmacist's initials indicating that a pharmacist had verified the technician's work.

B. Domperidone Complaint and Inspection on September 15, 2011

78. On July 28, 2011, the Board received a complaint alleging that Roxsan Pharmacy dispensed Domperidone. Domperidone is a galactagogue, meaning it increases breast

milk production in lactating women. The drug is not approved in the United States for any purpose although it is approved in other countries for the treatment of gastrointestinal disorders. The FDA bans the importation and interstate transportation of finished products and bulk compounding ingredients containing Domperidone except for use in research and development.

79. On September 15, 2011, Board inspectors conducted a complaint inspection at Roxsan Pharmacy. They discovered compounded Domperidone in the pharmacy's inventory. The pharmacy possessed 100 10mg capsules, 200 20mg capsules, 200 30mg capsules and 100 40mg capsules of the drug. The pharmacy dispensed 452 prescriptions containing Domperidone in these various strengths between approximately August 4, 2005 and September 2, 2011.

80. Under its authority to embargo misbranded drugs, the Board seized the pharmacy's stock of Domperidone. (Bus. & Prof. Code, § 4084.)

C. Louisiana Complaint and Pharmacy Inspection on June 4, 2013

81. On February 21, 2013, the Louisiana Board of Pharmacy complained to the Board that Roxsan Pharmacy was soliciting business from Louisiana physicians and selling dangerous drugs and controlled substances in that state without proper licensure.

82. On June 4, 2013, the Board inspected Roxsan Pharmacy. Respondent Farbod Melamed was the acting Pharmacist-in-Charge. He admitted to the inspector that Roxsan Pharmacy dispensed and shipped dangerous drugs to patients in Louisiana without being licensed in that state.

83. From July 31, 2012 to June 6, 2013, Roxsan Pharmacy dispensed 22 original prescriptions and two refills to patients residing in Louisiana. All but one of the prescriptions contained ketamine, a Schedule III controlled substance.

84. The inspection further revealed that Roxsan Pharmacy established incorrect beyond-use dates for eight batch compounded drug products. In each case, the compounded drug product's expiration date exceeded the expiration date of one of its ingredients. Respondent Shahla Melamed verified the

products in question and Roxsan Pharmacy dispensed prescriptions from the stale batches.

D. Connecticut Complaint and Pharmacy Inspection on November 5, 2013

85. On September 24, 2013, a Connecticut consumer complained to the Board that Roxsan Pharmacy was dispensing prescriptions to consumers in Connecticut without being licensed in that state.

86. On November 5, 2013, the Board inspected Roxsan Pharmacy. Respondent Farbod Melamed was the acting Pharmacist-in-Charge.

87. From May 21, 2012 to June 14, 2013, Roxsan Pharmacy dispensed 230 prescriptions to patients residing in Connecticut. During this period, Respondent Roxsan Pharmacy was not licensed in the state of Connecticut.

E. Arkansas Complaint and Pharmacy Inspection on November 5, 2013

88. On September 25, 2013, the Arkansas Board of Pharmacy complained to the Board that Roxsan Pharmacy was dispensing prescriptions to consumers in Arkansas without proper licensure.

89. On November 5, 2013, the Board inspected Roxsan Pharmacy. Respondent Farbod Melamed was the acting Pharmacist-in-Charge. He admitted that Respondent Roxsan Pharmacy shipped prescriptions into Arkansas without being licensed in that state.

90. From January 7, 2013 to June 11, 2013, Roxsan Pharmacy dispensed 16 original prescriptions to patients residing in Arkansas. During this period, Respondent Roxsan Pharmacy was not licensed in the state of Arkansas.

F. Department of Health Care Services Complaint and Pharmacy Inspection on November 5, 2013

91. Responding to a complaint from the Department of Health Care Services, the Board inspected Roxsan Pharmacy on November 5, 2013. On March 28, 2014, the Board inspector

asked for original prescription records for 41 prescriptions dispensed between June 1 and December 31, 2012. Roxsan Pharmacy produced six original dispensing records but did not have records for the remaining 35 prescriptions.

G. Leuprolide Complaint

92. On December 2, 2013, a patient filed a complaint with the Board after Roxsan Pharmacy filled her prescription in the wrong strength. In early 2014, the Board inspected Roxsan Pharmacy. The inspector documented the following relevant facts:

1. Variation from Leuprolide Prescription

93. On December 18, 2012, an Orange County-based fertility doctor prescribed Leuprolide acetate 40mcg/0.2ml to one of her patients undergoing in vitro fertilization ("IVF"). During an IVF cycle, different medications are used to control the menstrual cycle of the patient to allow for optimal stimulation of the ovaries. The physician directed the patient to use Leuprolide for ten to twelve days.

94. On December 18, 2012, Roxsan Pharmacy received a faxed prescription for diluted Leuprolide. Two days later, a pharmacist who is not a party to this action dispensed *full-strength* Leuprolide 1mg/0.2ml. The dispensed drug was not diluted as the prescription required.

95. The patient injected the dispensed medication each day for nine days before she consulted her fertility doctor, who discovered the pharmacy's error. The physician ended the IVF cycle because she believed that the incorrect dosage of Leuprolide had compromised the patient's treatment.

2. Roxsan Pharmacy Did Not Perform End-Product Sterility and Pyrogen Testing on Sterile Injectable Products

96. While evaluating the pharmacy's sterile compounding practice, the Board inspector discovered that from November 2012 to February 2013, Roxsan Pharmacy compounded twenty products from non-sterile sources. The compounded products were Cyanocobalmin and several batches of (separately) Leuprolide and Hyaluronidase. Roxsan Pharmacy failed to conduct pyrogen testing on all 20 products. It also failed to

conduct end-product sterility testing on 19 of the selfsame products. The one product that Roxsan Pharmacy *did* test for sterility was Leuprolide; however, the pharmacy failed to quarantine the product while it awaited test results.

97. On November 7, 14 and 19, 2012 and again on January 11, 2013, the pharmacy compounded bacteriostatic water (benzyl alcohol 0.9% injection) for use in sterile injectable solutions. The pharmacy prepared the bacteriostatic water with sodium chloride granules, a non-sterile ingredient. Roxsan Pharmacy did not conduct end-product sterility or pyrogen testing on the bacteriostatic water to ensure its sterility. It used the untested water to create injectable compounds that were sold and dispensed as sterile. Roxsan Pharmacy did not test any of the final compounds made from this untested bacteriostatic water.

98. From November 1, 2012, to March 22, 2013, Roxsan Pharmacy dispensed 474 compounded prescriptions made from non-sterile ingredients without subjecting the final product to end-product sterility and pyrogen testing.

H. Florida and Maryland Complaints

99. Roxsan Pharmacy dispensed 6,048 prescriptions for dangerous drugs to Florida residents from approximately January 10, 2012 to March 21, 2013. Of that number, 1,949 prescriptions contained ketamine, a Schedule III controlled substance. Roxsan Pharmacy also dispensed 3,516 prescriptions for dangerous drugs to Maryland residents from approximately February 9, 2012 to June 26, 2013. Of that number, 1,745 contained ketamine. Roxsan Pharmacy did not have a license in Florida or Maryland when it dispensed these prescriptions.

I. Progesterone Complaint

100. On August 11, 2014, a California consumer complained to the Board about a prescription of Progesterone 200 mg Gelatin Troche. On January 5, 2015, a Board inspector requested the master formula for the drug. From this she learned that Roxsan Pharmacy labeled the prescription with a beyond-use date greater than what the master formula supported. Roxsan Pharmacy did not conduct stability studies to justify its extended expiration date.

¶...¶

SEVENTH CAUSE FOR DISCIPLINE

**(Unprofessional Conduct—Violation of Pharmacy Law and Regulations)
(As to Respondents Roxsan Pharmacy and Farbod Melamed)**

114. Respondents Roxsan Pharmacy and Farbod Melamed are subject to discipline under section² 4301, subdivision (o), for violating, or assisting in or abetting the violation of or conspiring to violate provisions of the Pharmacy Law and state laws and regulations governing pharmacy, as follows:

115. **Regulation 1716:** Regulation³ 1716 prohibits deviation from the requirements of a prescription except upon the prior consent of the prescriber or in accordance with section 4073 of the Code. Section 4073 allows a pharmacist to select a generic drug that boasts the same effectiveness as the brand name drug subject to the prescriber's order not to substitute. On December 18, 2012, Respondent Roxsan Pharmacy dispensed full-strength Leuprolide 1mg/0.2ml instead of the prescribed Leuprolide acetate 40mcg/0.2ml. Respondent Roxsan Pharmacy deviated from the requirements of the patient's prescription without prior prescriber consent and in violation of section 4073. Respondent Farbod Melamed was the Pharmacist-in-Charge at the time of the conduct in question and had the responsibility under Code sections 4036.5 and 4113, subdivision (c), to ensure that the dispensed medication conformed to the patient's prescription. Complainant realleges paragraphs 63, 92–95.

116. **Regulation 1735.2, subd. (h):** Regulation 1735.2, subdivision (h), states that every compounded drug product shall be given an expiration date representing the date beyond which, in the professional judgment of the pharmacist performing or supervising the compounding, it should not be used. This "beyond-use date" of the compounded drug product cannot exceed 180 days from preparation or the shortest expiration date of any component in the compounded drug product, unless a longer date is supported by stability studies of finished drugs or compounded drug products using the same components and

² The Accusation uses the terms "section" and "Code" to refer to the Business and Professions Code.

³ The Accusation uses the term "Regulation" to refer to the California Code of Regulations, title 16.

packaging. Respondent Roxsan Pharmacy compounded the following drug products and labeled each with an expiration date in excess of the expiration date of one of its ingredients. As the Pharmacist-in-Charge at the time of the acts in question, Respondent Farbod Melamed had the responsibility, under Code sections 4036.5 and 4113, subdivision (c), to ensure that each compounded drug product contained a correct beyond-use date. Complainant realleges paragraphs 59, 65, 81–84, and 100.

Date Compounded	Drug	Ingredient or Compound with Expiration Date that is Less Than the Beyond-Use Date	Beyond-Use Date on Label
1/7/2013	Cream with: Hydroquinone cream 2% Kojic acid 2% Triamcinolone 2% Retinoic acid (tretinoin) 0.025%	4/6/2013 Hydroquinone cream 2%	5/7/2013
1/10/2013	Cream with: Hydroquinone cream 4% Kojic acid 4% Triamcinolone 4% Retinoic acid (tretinoin) 0.05%	3/12/2013 Hydroquinone cream 4%	5/10/2013
2/21/2013	Hydroquinone cream 8%	7/19/2013 Sodium metabisulfite	8/20/2013
2/21/2013	Hydroquinone cream 10%	7/19/2013 Sodium metabisulfite	8/20/2013
5/17/2013	Hydroquinone cream 2%	7/19/2013 Sodium metabisulfite	11/13/2013
5/20/2013	Hydroquinone cream 5%	7/19/2013 Sodium metabisulfite	11/16/2013
5/28/2013	Hydroquinone cream 5% with Salicylic acid 5% solution	11/24/2013	

Date Compounded	Drug	Ingredient or Compound with Expiration Date that is Less Than the Beyond-Use Date	Beyond-Use Date on Label
7/1/2014	Progesterone 200 mg Gelatin Troche (PCCA Special Micronized)	9/29/2014 Compound (Progesterone 200 mg Gelatin Troche [PCCA Special Micronized])	12/28/2014

117. **Section 4342:** Section 4342 empowers the Board to act to prevent the sale of pharmaceutical preparations and drugs that fail to conform to the standard and tests as to quality and strength. Inspections on June 4, 2013 and October 10, 2014 revealed that Respondent Roxsan Pharmacy compounded eight drug products and labeled them with expiration dates that exceeded the expiration dates of their ingredients, as more particularly set forth in paragraph 116, *supra*. Respondent Farbod Melamed was the Pharmacist-in-Charge at the time of the acts in question and had the responsibility, under Code sections 4036.5 and 4113, subdivision (c), to ensure that pharmaceutical preparations and drugs dispensed by the pharmacy conformed to the standard and tests as to quality and strength. Complainant realleges paragraphs 59, 65, 81–84, 100, and 116.

EIGHTH CAUSE FOR DISCIPLINE

**(Unprofessional Conduct—Violation of Pharmacy Law and Regulations)
(As to All Respondents)**

118. Respondents Roxsan Pharmacy, Shahla Melamed and Farbod Melamed are subject to discipline under section 4301, subdivision (o), for violating, or assisting in or abetting the violation of or conspiring to violate provisions of the Pharmacy Law and state laws and regulations governing pharmacy, as follows:

A. Respondents Illegally Shipped Drugs Into Other States Without a License

119. **Section 4059.5, subdivision (e),** prohibits the transfer, sale or delivery of dangerous drugs and devices to persons

outside California unless the transfer, sale or delivery complies with California law, federal law, and the law of the state into which the dangerous drug or device is delivered. Respondents Roxsan Pharmacy, Shahla Melamed and Farbod Melamed violated Code section 4059.5, subdivision (e), by selling dangerous drugs in other states in contravention of the laws of those states and in violation of the laws of this State.

1. Louisiana Drug Sales

120. From approximately September 28, 2012 to June 6, 2013, Respondent Roxsan Pharmacy dispensed 22 prescriptions for dangerous drugs and two refills to patients in the state of Louisiana without proper licensure. Twenty-one of the twenty-two prescriptions contained ketamine, a Schedule III controlled substance.

121. Respondent Roxsan Pharmacy dispensed four of the aforementioned prescriptions from September 28, 2012 through December 2, 2012, during which time Respondent Shahla Melamed was the Pharmacist-in-Charge. The remaining 18 prescriptions were dispensed between December 3, 2012 and June 6, 2013, during which time Respondent Farbod Melamed was the Pharmacist-in-Charge.

122. Under Code sections 4036.5 and 4113, subdivision (c), Respondents Shahla Melamed and Farbod Melamed had a duty, during the respective times in which each pharmacist served as the Pharmacist-in-Charge, to ensure that every prescription dispensed and sold in Louisiana complied with the Pharmacy Law, federal law and the Louisiana Pharmacy Practice Act. Complainant realleges paragraphs 59 and 81-84.

2. Connecticut Drug Sales

123. From approximately May 21, 2012 to June 14, 2013, Respondent Roxsan Pharmacy dispensed 230 prescriptions for dangerous drugs to patients in the state of Connecticut without proper licensure.

124. Respondent Roxsan Pharmacy dispensed 128 of the aforementioned prescriptions between May 21, 2012 and December 2, 2012, during which time Respondent Shahla Melamed was the Pharmacist-in-Charge. The remaining 102 prescriptions were dispensed between December 3, 2012 and

June 14, 2013, during which time Respondent Farbod Melamed was the Pharmacist-in-Charge.

125. Under Code sections 4036.5 and 4113, subdivision (c), Respondents Shahla Melamed and Farbod Melamed had a duty, during the respective times in which each pharmacist served as the Pharmacist-in-Charge, to ensure that every prescription dispensed and sold in Connecticut complied with the Pharmacy Law, federal law and the Connecticut Pharmacy Practice Act. Complainant realleges paragraphs 60 and 85-87.

3. Florida Drug Sales

126. From approximately January 10, 2012 to March 21, 2013, Respondent Roxsan Pharmacy dispensed 6,048 prescriptions for dangerous drugs to patients in the state of Florida without proper licensure.

127. Respondent Roxsan Pharmacy dispensed 4,604 of the aforementioned prescriptions between January 10, 2012 and December 1, 2012, during which time Respondent Shahla Melamed was the Pharmacist-in-Charge. The remaining 1,444 prescriptions were dispensed between December 3, 2012 and March 21, 2013, during which time Respondent Farbod Melamed was the Pharmacist-in-Charge.

128. Under Code sections 4036.5 and 4113, subdivision (c), Respondents Shahla Melamed and Farbod Melamed had a duty, during the respective times in which each pharmacist served as the Pharmacist-in-Charge, to ensure that every prescription dispensed and sold in Florida complied with the Pharmacy Law, federal law and the Florida Pharmacy Act. Complainant realleges paragraphs 64 and 99.

4. Maryland Drug Sales

129. From approximately February 9, 2012 to June 26, 2013, Respondent Roxsan Pharmacy dispensed 3,516 prescriptions for dangerous drugs to patients in the state of Maryland without proper licensure.

130. Respondent Roxsan Pharmacy dispensed 1,152 of the aforementioned prescriptions between February 9, 2012 and December 1, 2012, during which time Respondent Shahla Melamed was the Pharmacist-in-Charge. The remaining 2,364

prescriptions were dispensed between December 3, 2012 and June 26, 2013, during which time Respondent Farbod Melamed was the Pharmacist-in-Charge.

131. Under Code sections 4036.5 and 4113, subdivision (c), Respondents Shahla Melamed and Farbod Melamed had a duty, during the respective times in which each pharmacist served as the Pharmacist-in-Charge, to ensure that every prescription dispensed and sold in Maryland complied with the Pharmacy Law, federal law and the laws of Maryland. Complainant realleges paragraphs 64 and 99.

5. Respondent Shahla Melamed Knew About the Out-of-State Drug Sales

132. When Respondent Farbod Melamed became the Pharmacist-in-Charge, Respondent Shahla Melamed remained the pharmacy's President, Chief Executive Officer and Secretary. As a corporate officer, she had knowledge that Roxsan Pharmacy dispensed dangerous drugs to residents of Connecticut, Florida, Louisiana and Maryland without being licensed in those states, even after she ceased being the Pharmacist-in-Charge. Complainant realleges paragraphs 59-60, 81-87, 99, and 118-131.

B. Respondents Failed to Test Sterile Injectable Medication

133. **Regulation 1751, subdivision (c)**, requires a compounding pharmacy to perform end-product testing for sterility and pyrogens (bacterial toxins) whenever it compounds sterile injectable drug products from one or more non-sterile ingredients. The regulation requires the pharmacy to quarantine injectable drug products until end-product testing confirms the drugs' sterility and acceptable levels of pyrogens.

134. Respondent Roxsan Pharmacy prepared sterile injectable drug products from non-sterile sources without subjecting the final product to testing. Specifically, from October 2012, to February, 2013, Roxsan Pharmacy compounded twenty products (Cyanocobalmin, Leuprolide, and Hyaluronidase) prepared from non-sterile sources without testing them. The pharmacy also prepared bacteriostatic water on November 7, 14, and 19, 2012, and again on January 11, 2013, using non-sterile sources without testing it. The

bacteriostatic water was then used to create other injectable compounds but these compounds were not tested for sterility.

135. Under Code sections 4036.5 and 4113, subdivision (c), Respondents Shahla Melamed and Farbod Melamed had a duty, during the respective times in which each pharmacist served as the Pharmacist-in-Charge, to ensure that sterile injectable products compounded from non-sterile ingredients were quarantined until end-product testing confirmed their sterility and acceptable levels of pyrogens. Complainant realleges paragraphs 2-4, 63, and 92-98.

C. Respondents Failed to Keep Records of Sale and Disposition of Dangerous Drugs

136. Sections 4081, subdivision (a), and 4105, require a pharmacy to maintain all records of sale, acquisition, receipt, shipment, or disposition of dangerous drugs for three years from the date of making. The records must be open to inspection during the pharmacy's business hours. On March 28, 2014, the Board requested original prescription records for 41 prescriptions dispensed between June 1 and December 31, 2012. Roxsan Pharmacy produced six original dispensing records but did not produce records for the remaining 35 prescriptions. Respondents failed to keep and maintain records of sale, acquisition, receipt, shipment and disposition for those 35 prescriptions, all of which were dangerous drugs.

137. Respondent Roxsan Pharmacy dispensed 33 of the undocumented prescriptions prior to December 3, 2012, during which time Respondent Shahla Melamed was the Pharmacist-in-Charge. The remaining two undocumented prescriptions were dispensed on December 17 and 26, 2012, during which time Respondent Farbod Melamed was the Pharmacist-in-Charge.

138. Under Code sections 4036.5 and 4113, subdivision (c), Respondents Shahla Melamed and Farbod Melamed had a duty, during the respective times in which each pharmacist served as the Pharmacist-in-Charge, to maintain all records of sale, acquisition, receipt, shipment and disposition of dangerous drugs. Complainant realleges paragraphs 62 and 91.

NINTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct—Violation of Pharmacy Law and Regulations) (As to Respondents Roxsan Pharmacy and Farbod Melamed)

139. Respondents Roxsan Pharmacy and Farbod Melamed are subject to discipline under section 4301, subdivision (o), for violating, or assisting in or abetting the violation of or conspiring to violate provisions of the Pharmacy Law and state laws and regulations governing pharmacy, in particular Code section 4059.5, subdivision (e).

140. **Section 4059.5, subdivision (e)**, prohibits the transfer, sale or delivery of dangerous drugs and devices to persons outside of California unless the transfer, sale or delivery complies with California law, federal law, and the law of the state into which the dangerous drug or device is delivered. Respondents Roxsan Pharmacy and Farbod Melamed violated Code section 4059.5, subdivision (e) by dispensing medications to patients in the state of Arkansas in contravention of California and Arkansas law.

141. From approximately January 7, 2013 to June 11, 2013, Respondent Roxsan Pharmacy dispensed 16 prescriptions to patients in the state of Arkansas without proper licensure.

142. During that time period, Respondent Farbod Melamed was the Pharmacist-in-Charge and had a duty to ensure that every prescription dispensed and sold in Arkansas complied with the Pharmacy Law, federal law and Arkansas law. Complainant realleges paragraphs 61, 88–90.

143. Respondent Shahla Melamed, as Roxsan Pharmacy's President, Chief Executive Officer and Secretary, had knowledge of the out-of-state drug sales. Complainant realleges paragraph 132.

TENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct—Violation of State and Federal Statutes Regulating Controlled Substances and Dangerous Drugs) (As to All Respondents)

144. Respondents Roxsan Pharmacy, Shahla Melamed and Farbod Melamed are subject to discipline under section 4301, subdivision (j), for violating statutes of this State and other

states regulating controlled substances and dangerous drugs.
Complainant realleges paragraphs 57-143.

ELEVENTH CAUSE FOR DISCIPLINE

**(Unprofessional Conduct—Conduct Which Would Warrant Denial of an Application)
(As to All Respondents)**

145. Respondents Roxsan Pharmacy, Shahla Melamed and Farbod Melamed are subject to discipline under section 4301, subdivision (p), for engaging in conduct that would have warranted denial of a license. Complainant realleges paragraphs 57-144.

Mitigation and Rehabilitation

4. Respondent is Shahla Melamed's nephew. She hired him at Roxsan when he was a new, inexperienced pharmacist in October 2012, the month he became licensed. She wanted to hire him as the pharmacist in charge (PIC) immediately, but he felt uncomfortable due to his complete lack of experience. But she persisted, and in December 2012, she made him the PIC. When Shahla Melamed hired respondent, she represented that the business was in complete compliance with all pharmacy regulations and laws. She paid respondent a salary with no further financial incentives. At that time, Roxsan was licensed in several other states and Shahla Melamed had an "Infertility Specialty Department" that supplied infertility drugs out of state. Shahla Melamed had plans to expand Roxsan's infertility drug business in other states. As a new pharmacist, respondent was unaware that Shahla Melamed was misleading him and was unaware of any non-compliance by Roxsan.

5. In late 2013, the Board inspected Roxsan, and respondent was required to respond to the Board's inspection report. He reviewed every detail of the report and learned, for the first time, that Roxsan had shipped drugs to several states without licensure in those states to provide drugs. Respondent created a "Do Not Send" list and sent multiple directives to Roxsan staff informing them to which states Roxsan could not send drugs. (Exhibit A.) Respondent also reviewed Roxsan's "Licensing Requirements" procedures and protocols with its staff to ensure no future violations occurred. However, he later learned that Shahla Melamed was instructing staff to continue sending unauthorized medications to other states without a proper license and without his knowledge. The staff would fill out blank FedEx shipping forms, then submit them directly to the shipper with the drugs. This way, the illegal shipment would not appear on the Roxsan patient manifest. Respondent provided multiple examples of this secret procedure, which he described to the Board's inspector, at the administrative hearing. (Exhibit B, pp. 1-3, 6-14.) Respondent was also unaware of the improper sterile compounding procedures Shahla Melamed and another staff pharmacist, C.B.,⁴ performed until the Board informed him they were improper. He developed a

⁴ Because C.B. was not charged in the Accusation, she is not identified here to protect her privacy.

protocol for quarantine, storage and release of compounded products (Exhibit F), but he had no knowledge of Shahla Melamed's or C.B.'s failures to follow these protocols.

6. When respondent discovered the extent of Shahla Melamed's deception and pharmacy violations, he removed himself as Roxsan's PIC. His father's family considered her actions a profound betrayal, and they have severed all ties to her.

7. From January 2015 through October 2016, respondent completed 34 continuing pharmacy education courses totaling 103.5 hours of instruction. In April of 2016, he completed a pharmacy sterile compounding course that required 34 hours of home study and six hours of observational practice and instruction. (Exhibit I.)

8. Joseph M. Redman is the chief executive officer and president of Parallax Health Sciences, Incorporated (Parallax), Roxsan's current owner. Mr. Redman testified that Parallax purchased Roxsan after Shahla Melamed committed the misconduct alleged in the Accusation and fired her in November 2015 for insubordination when that misconduct became known. Before Parallax fired her, they paid a private investigation firm to perform an investigation of Roxsan, which established evidence that she had intentionally violated multiple state and federal pharmacy and drug laws. Since Parallax purchased the pharmacy, Mr. Redman has worked with the Board and the Attorney General's office to ensure full compliance with all state and federal pharmacy laws and regulations. Mr. Redman views respondent in an entirely different light than Shahla Melamed. He believes respondent is an ethical, professional, highly capable pharmacist with excellent leadership abilities. He interviewed Roxsan staff and found that among them, respondent was universally held in high regard. Due to the Accusation, respondent has asked not to be the PIC at Roxsan, and Mr. Redman honored respondent's request, but he believes respondent is fully capable of dealing with compliance issues. To ensure current pharmacy compliance, Mr. Redman hired a pharmacy-compliance expert, Tanaz Kohan, to engage Roxsan in a lengthy certification process through the United Compounding Management Credentialing and Accreditation Program (UCAP). On July 21, 2016, Roxsan completed the UCAP and was awarded accreditation. The accreditation process involved a lengthy application, education and inspection process, after which UCAP generated a 54-page report of Roxsan's compliance results and verifications. (Exhibit L.) Mr. Redman provided a letter attesting to the substance of his testimony and extolling respondent's good character. (Exhibit G.)

9(a). Tiffany Marshall has been a licensed pharmacy technician at Roxsan since 2000 and was working at the pharmacy when the allegations in the Accusation occurred. She testified credibly that Shahla Melamed diverted out of state drug shipments from respondent's attention by instructing staff to hand-carry the packages to FedEx and fill in shipping labels on blank forms, while not listing Roxsan as the shipper. When respondent became aware of the violations that were occurring, Shahla Melamed instructed staff not to follow his directives. Shahla Melamed was the pharmacy's "dictator" and constantly reminded them that she would fire them if they failed to heed her instructions. To Ms. Marshall's knowledge, respondent was unaware of the violations alleged in the Accusation when they occurred, and he played no part in Shahla Melamed's misconduct. Ms. Marshall

and Roxsan's staff look up to respondent as a professional, highly ethical pharmacist and a leader. Ms. Marshall provided a letter attesting to these facts. (Exhibit E.)

9(b). Marcia C. Limbo, a pharmacy staff employee at Roxsan since 2000, submitted a sworn declaration reiterating the process Shahla Melamed used to divert out of state drug shipments from respondent's attention that Tiffany Marshall described in her testimony. Shahla Melamed made it clear that although respondent was the PIC, she was the owner, and she would fire anyone who did not follow her orders. Shahla Melamed persisted in manipulating the staff in this manner until the day the pharmacy was sold and the new owners fired her.

10. Tanaz Kohan, a licensed pharmacist, testified that he is the current Compliance Officer at Roxsan. He trains staff, writes protocols, and ensures that all laws and regulations are followed. Mr. Redman hired him in May 2015, at which time Mr. Kohan was introduced to respondent. Mr. Kohan believes respondent is a highly knowledgeable, highly ethical, professional pharmacist and "key player" in Roxsan's day-to-day operations. Mr. Kohan is aware of the allegations in the Accusation. He has seen no evidence that respondent knowingly or directly engaged in wrongdoing as the PIC at Roxsan, and he feels respondent is a "scapegoat" as a result of Shahla Melamed's many violations while respondent was PIC. Since Mr. Kohan's employment, Roxsan has engaged in a Verified Pharmacy Program conducted by the National Association of Pharmacy Boards (NAPB), whose findings go to Focus Script, a national accreditation agency. Roxsan passed the NAPB inspection process in every respect and earned its accreditation. Mr. Kohan provided a letter attesting to these facts. (Exhibit H.)

11. Calli Bucci, the Chief Financial Officer of Roxsan since its new ownership purchased the pharmacy in 2015, wrote a letter describing respondent as a trustworthy, dedicated, hardworking professional who has exhibited high standards and morals in the workplace. Ms. Bucci was aware of the allegations against respondent. (Exhibit H.)

12. Three pharmacists, a physician, and an attorney who know respondent professionally and personally submitted letters endorsing his good character high standards, dedication, professionalism and ethics. (Exhibit J.)

13. Respondent presented as a humble, respectful, appropriately remorseful witness. He understood that as the PIC at Roxsan when the violations occurred, he was responsible for those violations. He denied that he was ever aware of, or took part in, any of the violations of pharmacy law that were later attributed to him as PIC.

Additional Evidence

14. The sum of the evidence established that respondent was the unwitting victim of Shahla Melamed's extensive misconduct while respondent was the PIC at Roxsan. Complainant did not contest this aspect of the evidence at the administrative hearing, and established no direct evidence attributing wrongful acts to respondent. Regarding the

allegations of out-of-state sales of drugs in violation of state and/or federal laws, Complainant alleged that only Shahla Melamed, but not respondent, had knowledge of out-of-state drug sales.

Costs

15. Deputy Attorney General (DAG) Antonio Lopez, Jr., who conducted the hearing, submitted a certified declaration of costs showing the Attorney General's office billed his costs to the Board in the amount of \$3,485. However, DAG Lopez was the third attorney assigned to this matter, following DAG Matthew King and DAG Thomas Rinaldi, whose collective billings totaled \$5,227.50. DAG Lopez's billings reflected extensive work toward preparing the matter for hearing, and those were reasonable costs. But some of DAG Lopez's costs were duplicative of the costs incurred by DAGs King and Rinaldi, solely due to the case being reassigned. While the other two DAGs' billed time may be reasonable, it is not reasonable to pass those costs onto respondent. In addition, Attorney General support staff billed the Board \$294.50 in reasonable costs. Therefore, combining DAG Lopez's and support staff's costs, the Attorney General incurred a total of \$3,779.50 in reasonable costs.

16. The Board submitted certified declarations establishing its costs of investigation of this matter as totaling \$31,200.75. Those costs are reasonable.

17. Combining the Attorney General's and Board's totals as set forth above, Complainant incurred reasonable costs totaling \$34,980.25. These costs will be analyzed further below.

LEGAL CONCLUSIONS

1. The practice of pharmacy, like the practice of medicine, is a profession. *Vermont & 110th Medical Arts Pharmacy v. Board of Pharmacy* (1981) 125 Cal.App.3d 19, 25. The standard of proof in an administrative disciplinary action seeking the suspension or revocation of a professional license is "clear and convincing evidence." *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856. The key element of "clear and convincing evidence" is that it must establish a high probability of the existence of the disputed fact, greater than proof by a preponderance of the evidence. Evidence of a charge is clear and convincing so long as there is a "high probability" that the charge is true. *People v. Mabini* (2001) 92 Cal.App.4th 654, 662.

2. Cause exists to discipline respondent's pharmacist license number RPH 68252 under Business and Professions Code section 4301, subdivision (o), for committing unprofessional conduct by violating or assisting in or abetting the violation of state law governing pharmacy, to wit: California Code of Regulations, title 16 (Regulation), section 1716, by dispensing prescriptions which deviated from the requirements of a prescription; Regulation section 1735.2, subdivision (h), by providing compounded drug products beyond their expiration dates; and Regulation 4352, by compounding drug products and labeling them with

expiration dates that exceeded the expiration dates of their ingredients. (Factual Finding 3, subparagraphs 59, 63, 65, 81-84, 92-95, 100 and 116.)

3. Cause exists to discipline respondent's pharmacist license number RPH 68252 under Business and Professions Code section 4301, subdivision (o), for committing unprofessional conduct by violating or assisting in or abetting the violation of state law governing pharmacy, to wit: Regulation section 4059.5, subdivision (e), by transferring, selling or delivering dangerous drugs and devices to persons outside California in contravention of the laws of the states of Louisiana, Connecticut, Florida, Maryland, and Arkansas; Regulation 1751, by failing to test sterile injectable medications to confirm the drugs' sterility, preparing sterile injectable drugs from non-sterile sources without final-product testing, and ensuring compounded sterile injectable products were quarantined until end-product testing confirmed their sterility and acceptable levels of pyrogens; and Regulation section 4081, subdivision (a), by failing to maintain records of sale, acquisition, receipt, shipment or disposition of two dangerous drug prescriptions providing compounded drug products beyond their expiration dates, dispensing two undocumented prescriptions (Factual Finding 3, subparagraphs 59, 60, 62, 63, 81-87, 88-98, 99, and 118-131.)

4. Cause exists to discipline respondent's pharmacist license number RPH 68252 under Business and Professions Code section 4301, subdivision (j), for committing unprofessional conduct by violating statutes of California and other states regulating controlled substances and dangerous drugs, as set forth in Factual Finding 3, subparagraphs 57-144.

5. Cause exists to discipline respondent's pharmacist license number RPH 68252 under Business and Professions Code section 4301, subdivision (p), for committing unprofessional conduct by engaging in conduct that would have warranted denial of a license, as set forth in Factual Finding 3, subparagraphs 57-144, and Legal Conclusions 2-4.

Analysis to Determine Penalty

6(a). The Board's Disciplinary Guidelines state that in determining whether the minimum, maximum, or an intermediate penalty is to be imposed in a given case, the following applicable factors should be considered (each factor is numbered from the Guidelines, with a corresponding analysis):

1. Actual or potential harm to the public. No actual harm to the public was alleged. The potential harm to the public is that minimum pharmacy standards were not met regarding drug compounding and testing for prescriptions to be used by patients. The illegal sending of prescriptions out-of-state, by its nature, is in contravention of California's and other states' laws, and results in the provision of drugs outside of legal regulation.

2. Actual or potential harm to any consumer. No actual harm to a consumer was alleged. The potential harm to consumers is that unregulated prescriptions may be incorrect, and drugs

compounded in a manner below standard could be harmful or dangerous.

3. Prior disciplinary record, including level of compliance with disciplinary order(s). Respondent has no prior disciplinary record.

4. Prior warning(s), including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s). Respondent has none.

5. Number and/or variety of current violations. The number of violations is high. However, respondent was not directly involved with, or aware of, those violations.

6. Nature and severity of the act(s), offense(s) or crime(s) under consideration. By virtue of his role as PIC, respondent was responsible for ensuring that Roxsan's preparation and delivery of prescriptions was in compliance with all laws and regulations governing pharmacy practice. He failed to recognize that the pharmacy's then owner, Shahla Melamed, was acting in flagrant violation of those laws and regulations.

7. Aggravating evidence. The evidence did not give rise to aggravating circumstances.

8. Mitigating evidence. Several witnesses and letter-writers attested to respondent's good character and his victimization by Shahla Melamed.

9. Rehabilitation evidence. Respondent cooperated with the Board's investigation and took responsibility for his misconduct. Respondent took multiple continuing education courses. He also instituted several practices and procedures to better control the preparation, tracking and processing of prescriptions at Roxsan.

[¶ ... ¶]

13. Time passed since the act(s) or offense(s). The misconduct occurred between two and four years ago.

14. Whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct. To some degree respondent's conduct was negligent in that he was responsible for ensuring the legitimacy and correctness of the

prescriptions the pharmacy was filling, yet he is mostly being held accountable for conduct committed by Shahla Melamed, who has surrendered her pharmacist license.

15. Financial benefit to the respondent from the misconduct. No evidence was presented regarding the potential or actual financial benefit to respondent, except that he was paid a salary with no financial incentives.

6(b). Considering all of these factors, respondent committed serious misconduct due to the volume of violations that were established. Respondent's culpability was attenuated, however, by his insight into Shahla Melamed's misconduct, his willingness to take responsibility as the then PIC of Roxsan, his cooperation with the Board, and his efforts to rehabilitate himself and the newly-owned Roxsan's pharmacy practices. It was also undisputed by complainant that Shahla Melamed was the primary source of misconduct, whereas respondent was later held accountable due to his status as PIC. By multiple credible accounts, respondent was a victim of Shahla Melamed's manipulation of both him and other staff at Roxsan. In sum, respondent appears to be a good candidate for probation. The following order will best achieve the purpose of public protection.

Costs Award

7. A licensee found to have violated a licensing act may be ordered to pay reasonable costs of investigation and prosecution. (Bus. & Prof. Code § 125.3.) The California Supreme Court in *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45, instructs that the following factors should be considered when determining the reasonableness of costs sought pursuant to regulations such as section 125.3 regarding the recovery of prehearing investigation and enforcement costs.

The Board must exercise its discretion to reduce or eliminate cost awards in a manner that will ensure that regulation . . . does not deter . . . [licensees] with potentially meritorious claims or defenses from exercising their right to a hearing. Thus, the Board must not assess the full costs of investigation and prosecution when to do so will unfairly penalize a . . . [licensee] who has committed some misconduct, but who has used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed. The Board must consider the . . . [licensee's] "subjective good faith belief in the merits of his or her position" [Citation.] and whether the . . . [licensee] has raised a "colorable challenge" to the proposed discipline. [Citation.] Furthermore, as in the cost recoupment schemes in which the government seeks to recover from criminal defendants the cost of their state-provided legal representation [Citation], the Board must determine that the . . .

[licensee] will be financially able to make later payments. Finally, the Board may not assess the full costs of investigation and prosecution when it has conducted a disproportionately large investigation to prove that a . . . [licensee] engaged in relatively innocuous misconduct.

8. As set forth in Factual Findings 15 through 17, the Board incurred investigation and prosecution costs in amounts totaling \$34,980.25 in connection with the Accusation. In light of the fact that complainant did not prevail on several alleged causes for discipline, an apportionment of costs must be considered.

9. Section 125.3 is silent on the apportionment-of-costs issue. Nonetheless, civil cases addressing a prevailing party's recovery of attorney fees where apportionment is not covered by statutory or contractual clause are instructive. In *Reynolds Metals Co. v. Alperson* (1979) 25 Cal.3d 124, where a party prevailing on both a contract containing a fee clause and on a tort theory precluding fee recovery, the fees were allocated between the two causes of action. In *Slavin v. Fink* (1994) 25 Cal.App.4th 722, a similar allocation occurred where, as in this case, a party prevailed on some, but not all, of its claims.

10. The board was not successful in establishing all of its alleged causes for subjecting respondent to administrative discipline. These unsuccessful claims against respondent required work, with attendant costs, that overlapped with the work performed and costs incurred on the otherwise successful claim. Without more specific evidence to determine a precise apportionment, the costs of investigation and prosecution shall be apportioned equally between complainant's unsuccessful and successful claims alleged in each cause for discipline of the Accusation presented in this matter.

11. Cause for discipline was established in connection with the Seventh through Eleventh Causes for Discipline but not in connection with the First through Sixth Causes for Discipline. Complainant's investigation and prosecution cost of \$34,980.25 is divided equally among the eleven causes alleged for discipline. Therefore, \$3,180.03 is allocated to each of the five successful causes of discipline established.

12. Under *Zuckerman*, supra, a determination must be made regarding respondent's financial ability to make future cost award payments. Respondent submitted no evidence that he lacks the financial ability to pay costs. Under these circumstances, respondent shall pay complainant's costs of investigation and prosecution in an amount totaling \$15,900.15.

ORDER

Pharmacist License number RPH 68252, issued to respondent Farbod Melamed, is hereby revoked. However, the revocation is stayed and respondent is placed on probation for three years upon the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations. Respondent shall report any of the following occurrences to the board, in writing, within 72 hours of such occurrence: an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws; a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment; a conviction of any crime; discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's registered pharmacist license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance. Failure to timely report such occurrence shall be considered a violation of probation.

2. Report to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

3. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

Respondent shall cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his probation. Failure to cooperate shall be considered a violation of probation.

5. Continuing Education

Respondent shall provide evidence of his efforts to maintain skill and knowledge as a pharmacist as directed by the board or its designee.

6. Notice to Employers

During the period of probation, only where applicable, respondent shall notify all present and prospective employers of the decision in case number 5455 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment, in that event only respondent shall cause his direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 5455, and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

If respondent should work for or become employed by or through a pharmacy employment service, he must notify her direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions of the decision in case number 5455 in advance of respondent commencing work at each licensed entity. A record of this notification must be provided to the board upon request.

Furthermore, within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment by or through a pharmacy employment service, in that event respondent shall cause his direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he or she has read the decision in case number 5455 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgments to the board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

7. No Supervision of Interns

During the period of probation, respondent shall not supervise any intern pharmacist. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

8. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, respondent shall pay to the board its costs of investigation and prosecution in the amount of \$15,900.15. It is within the board's discretion to establish a reasonable monthly or quarterly repayment plan with respondent.

There shall be no deviation from the repayment schedule the board establishes absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by respondent shall not relieve him of his responsibility to reimburse the board its costs of investigation and prosecution.

9. Probation Monitoring Costs

Respondent shall pay any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the board on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

10. Status of Licenses

Respondent shall, at all times while on probation, maintain active, current licenses with the board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

11. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to the board within 10 days of notification by the board that the surrender is accepted. Respondent may not reapply for any license from the board for 3 years from the effective

date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

12. Notification of a Change in Name, Residence Address, Mailing Address or Employment

Respondent shall notify the board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule if known. Respondent shall further notify the board in writing within 10 days of a change in name, residence address, mailing address, or phone number.

Failure to timely notify the board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

13. Tolling of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 120 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Should respondent, regardless of residency, for any reason (including vacation) cease practicing as a pharmacist for a minimum of 120 hours per calendar month in California, respondent must notify the board in writing within 10 days of the cessation of practice, and must further notify the board in writing within 10 days of the resumption of practice. Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding 48 months.

"Cessation of practice" means any calendar month during which respondent is not practicing as a pharmacist for at least 120 hours, as defined by Business and Professions Code section 4000 et seq. "Resumption of practice" means any calendar month during which respondent is practicing as a pharmacist for at least 120 hours as a pharmacist as defined by Business and Professions Code section 4000 et seq.

14. Violation of Probation

If respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondents, 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 that was stayed.

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 that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. 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 automatically extended until the petition to revoke probation or accusation is heard and decided.

15. Pharmacy Self-Assessment Mechanism

Within the first year of probation, respondent shall complete the Pharmacist Self-Assessment Mechanism (PSAM) examination provided by the National Association of Boards of Pharmacy (NABP). Respondent shall submit a record of completion to the board demonstrating he has completed this examination. Respondent shall bear all costs for the examination. Continuing education hours received for this examination shall not be used as part of the required continuing education hours for renewal purposes.

Failure to timely complete the PSAM or submit documentation thereof shall be considered a violation of probation.

Respondent shall waive any rights to confidentiality and provide examination results to the board or its designee.

16. No New Ownership of Licensed Premises

Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation licensed by the board in addition to, or other than, Roxsan Pharmacy. If respondent currently owns or has any legal or beneficial interest in, or serves as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective date of this decision. Violation of this restriction shall be considered a violation of probation.

17. Separate File of Records (For pharmacist owners and pharmacists-in-charge)

Respondent shall maintain and make available for inspection a separate file of all records pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such file or make it available for inspection shall be considered a violation of probation.

18. Report of Controlled Substances (For pharmacist owners and pharmacists-in-charge)

Respondent shall submit quarterly reports to the board detailing the total acquisition and disposition of such controlled substances as the board may direct. Respondent shall specify the manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g., from a manufacturer, from another retailer, etc.) of such controlled substances. Respondent shall report on a quarterly basis or as directed by the board. The report shall be delivered or mailed to the board no later than 10 days following the end of the reporting period. Failure to timely prepare or submit such reports shall be considered a violation of probation.

19. Ethics Course

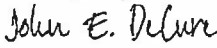
Within 60 calendar days of the effective date of this decision, respondent shall enroll in a course in ethics, at respondent's expense, approved in advance by the board or its designee. Failure to initiate the course during the first year of probation, and complete it within the second year of probation, is a violation of probation.

Respondent shall submit a certificate of completion to the board or its designee within five days after completing the course.

20. Completion of Probation

Upon written notice by the board or its designee indicating successful completion of probation, respondent's license will be fully restored.

DATED: January 3, 2017

DocuSigned by:

17FD47F60F0543E...

JOHN E. DeCURE
Administrative Law Judge
Office of Administrative Hearings



BE AWARE AND TAKE CARE:
Talk to your pharmacist!
CALIFORNIA STATE BOARD OF PHARMACY

BOARD OF PHARMACY

Licensee Name: TANG JONATHAN HUNG CHI
License Type: REGISTERED PHARMACIST
License Number: 46291
License Status: CLEAR Definition
Expiration Date: June 30, 2019
Issue Date: August 13, 1993
Address: JOSHUA AVE
City: CLOVIS
State: CA
Zip: 93611
County: FRESNO
Actions: No

Related Licenses/Registrations/Permits

No records returned

Public Disclosure

No information available from this agency

This information is updated Monday through Friday - Last updated: SEP-27-2017

Disclaimer

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California State Board of Pharmacy

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www.pharmacy.ca.gov

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
GOVERNOR EDMUND G. BROWN JR.

June 05, 2017

DATED MATERIAL ENCLOSED

JONATHAN HUNG CHI TANG

JOSHUA AVE

CLOVIS, CA 93611

RE: CI 2016 75533

JONATHAN HUNG CHI TANG

RPH 46291

The attached Citation and Fine, Order of Abatement ("Citation") is being issued pursuant to Business and Professions Code section 125.9 and California Code of Regulations, title 16, section 1775 et. seq., for violations of the laws and regulations that govern the practice of pharmacy in California. (For exact language refer to the California Pharmacy Law and Index, located on the Board's web site, at www.pharmacy.ca.gov, under Forms and Publications).

The attached Citation references the specific statutes and regulations violated, defines each violation charged and specifies any fine(s) assessed. The attached Citation details the conduct that resulted in the issuance of the Citation and indicates, within the Order of Abatement, information and/or material to be submitted to the Board.

IT IS YOUR RESPONSIBILITY TO READ THE ENTIRE CITATION AND INSTRUCTIONS, TO UNDERSTAND THE PROCESS FOR CONTESTING THE CITATION AND TO RESPOND TO THE CITATION WITHIN THE FOLLOWING TIME FRAMES:

- July 05, 2017: Unless the Citation is contested, Proof of Abatement and payment of fine(s) must be received by the Board.
- June 19, 2017: Any contest of the Citation by request for an informal Office Conference must be received by the Board.
- July 05, 2017: Any contest of the Citation by request for a formal Appeal must be received by the Board.

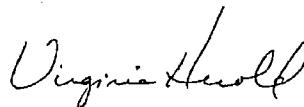
Page two
JONATHAN HUNG CHI TANG
CI 2016 75533

The issuance of a Citation by the Board of Pharmacy is considered an administrative action and substantiated resolution of a complaint and/or investigation. If a hearing is not requested to contest the Citation(s), timely payment of any fine(s) and the submission of Proof of Abatement shall not constitute an admission of the violation(s) charged. Payment in full of the fine(s) assessed shall be represented as a satisfactory resolution of the matter in any public disclosure. (Business and Professions Code section 125.9; California Code of Regulations title 16 section 1775).

Additionally, if, at the time of license renewal, the Board has not received full payment of assessed fine(s) and a request to contest the Citation has not been received within the time frames specified, the license shall not be renewed until the assessed fine(s) and renewal fee/s are paid in full.

If you have any questions regarding this Citation please contact Ericka Busby, Enforcement Analyst at (916) 574-7731.

Sincerely

A handwritten signature in cursive script, appearing to read "Virginia Herold".

Virginia Herold
Executive Officer
Board of Pharmacy

Attachments

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

**CITATION AND FINE
ORDER OF ABATEMENT**

Citation Number	Name, License No
CI 2016 75533	JONATHAN HUNG CHI TANG , RPH 46291

JURISDICTION: Bus. & Prof. Code § 4314; CCR, title 16, § 1775;

VIOLATION CODE SECTION	OFFENSE	AMT OF FINE
Bus. & Prof. Code § 4301 subd. (g)	Unprofessional Conduct - Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts	\$2,500.00

CONDUCT:

Business and Professions Code section 4301(g) authorizes the Board to take action against a licensee for knowingly making or signing any certificate or documents that falsely represents the existence or nonexistence of a state of facts. Specifically, on June 30, 2016, PIC Chang signed INT Medrano's Pharmacy Intern Hours Affidavit, certifying under penalty of perjury that she completed 1,200 intern hours at Community First Pharmacy from August 5, 2014 to May 20, 2016; however, PIC Tang later provided information indicating INT Medrano only performed duties as a pharmacy technician during the time she was employed. After review of the information provided, the Board determined that INT Medrano has not satisfied the intern pharmacist experience requirements as certified on the Pharmacy Intern Hours Affidavit.

ORDER OF ABATEMENT

By the Abatement date/payment date submit to the Board the following:

- Either (1) full payment of the assessed fine(s), or (2) Proof of enrollment in an ethics course approved in advance by the Board or its designee, as specified below.

If JONATHAN HUNG CHI TANG chooses option (2), by the abatement date JONATHAN HUNG CHI TANG shall submit proof of enrollment in an ethics course, approved in advance by the Board or its designee, meeting the requirements of California Code of Regulations, title 16, section 1773.5. JONATHAN HUNG CHI TANG shall thereafter initiate and successfully participate in the ethics course within eighteen (18) months of the abatement date, and shall successfully complete the approved ethics course, including the longitudinal follow-up contacts, within two (2) years of the abatement date. Any failure to do so shall be deemed a failure to meet the abatement requirements of this citation.

If JONATHAN HUNG CHI TANG timely seeks pre-approval of the ethics course, timely enrolls in an approved ethics course, and timely submits proof of that enrollment, the fine(s) levied by this citation shall be stayed pending completion of the approved ethics course. If JONATHAN HUNG CHI TANG timely enrolls in, initiates, and successfully completes the ethics course, the fine(s) levied by this citation shall be reduced to zero and completion of the ethics course shall be considered satisfactory abatement of the citation. If JONATHAN HUNG CHI TANG fails to timely seek pre-approval, enroll in, initiate, or successfully complete the ethics course, the stay shall be lifted and the fine(s) shall be due and owing from JONATHAN HUNG CHI TANG within thirty (30) days of any such failure.

CITATION ISSUED ON: June 05, 2017

TOTAL AMOUNT OF FINE(S): \$2,500.00

PROOF OF ABATEMENT AND PAYMENT OF FINE(S) DUE BY: July 05, 2017



Renewal Application

Section 1:

Since your last renewal or recent licensure have you: (Please fill in completely)

Been diagnosed or treated for any mental illness, including alcohol or substance abuse, or Physical condition that would impair your ability to perform the essential functions of your license?

☐ Yes ☒ No

1. Been charged, arrested or convicted of a felony or misdemeanor in any state?

☐ Yes ☒ No

Upload Supporting Doc.

2. Been the subject of a board citation or an administrative action whether completed or pending in any state?

The mail was returned by unknown reason when my address remained the same.
The certified mailed was not received because I was not home. That was why I did

☒ Yes ☐ No

75533 Tang, G. returned mail.pdf

(Includes/Uploads/2b6f74aec164ab1ac51955eeb24c078.pdf)

3. Had your license subjected to any discipline for violation of pharmacy or drug laws in any state?

☐ Yes ☒ No

Upload Supporting Doc.

If you marked YES to any of the numbered questions (1-3) above, include the following information. If you are unsure of an answer please type unknown. Please be as complete as possible.

Board Administrative Action:

State:

Date:

Case#:

Criminal Action:

State:

Date:

Case#:

County:

Court:

Section 2:

1. Are you the subject of a court order for the support of a child?

☐ Yes ☒ No

2. IF you marked YES to the question above, are you in compliance with the court order?

☐ Yes ☐ No

Section 3:

Continuing Education Certification:

Calculation=1.25 hours per month Date Range= 11/01/2015 – 10/31/2017

1. Pharmacists are exempt from completing CE for the first 2 years after graduation. Did you graduate within the last 2 years?

☒ Yes ☐ No

2. If you answered No to CE question 1 above, have you completed all YOUR required number of Continuing Education hours, including 1 hour in an approved NV law program if living or practicing in Nevada? (If you are a pharmacist practicing out-of-state and are currently in compliance with that state's continuing education requirements please select Yes.)

☐ Yes ☐ No

Section 4:

Though it is NOT required to have, SB21 required the Board to ask if you have a Nevada State Business license and if you do, please provide the number

NON-DISCIPLINARY STATE-MANDATED QUESTIONS:

1. Though it is **NOT** required to have, SB21 requires the Board to ask if you have a Nevada State Business license and if you do, please provide the

Leave blank if non-applicable.

2. Have you ever served in the military, either active, reserve or retired?

☐ Yes ☒ No

State:

Military Branch:

Dates of Service:

From Date

To Date

Section 5:

It is a violation of Nevada law to falsify this application and sanctions will be imposed for misrepresentation. I hereby certify that I have read this application. I certify that all statements made are true and correct. I attest to knowledge of and compliance with the guidelines of the Centers for Disease Control and Prevention concerning the prevention of transmission of infectious agents through safe and appropriate injection practices. I understand that Nevada law requires a licensed pharmacist who, in their professional or occupational capacity, comes to know or has reasonable cause to believe, a child has been abused/neglected, to report the abuse/neglect to an agency which provides child welfare services or to a local law enforcement agency.

☒ Yes, I Agree

Type Your Name To Agree:

Jonathan Hung Chi

Tang

Save Changes

Generate License