



.....DO NOT FOLD OR STAPLE ABOVE THIS LINE.....

Nevada State Board of Pharmacy – Renewal Application - PHARMACIST

431 W Plumb Lane • Reno, NV 89509 • bop.nv.gov

For the period of November 1, 2015 to October 31, 2017

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

\$180.00 (postmarked on or before 10/31/2015) **OR** \$320.00 (postmarked after 10/31/2015)

LICENSE: 14841
Esther Jung Kim
 2822 CEDARGLEN CT,
 Fullerton, CA 92835

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 <http://bop.nv.gov>
2. Click "Applications " then, "License Renewal", FOLLOW instructions
3. Use: **USER ID: INFO@RXHERITAGE.COM**
PASSWORD: *****

**New Users: once logged in, when asked for OLD password, use the above password, then change*

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:	Date:	Case #:
ACCUSATION	CA	01/28/2015	4904
Criminal Action:	State:	Date:	Case #: County: Court:
N/A	/ /		

Section 2: Yes No

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 15/17 Renewal period. (Dated from Nov. 1, 13 – Oct. 31, 15; 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.

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: 10/14/15

October 15, 2015

Nevada State Board of Pharmacy
431 W. Plumb Lane
Reno, NV 89509-3766

Re: License 14841 – Esther Jung Kim
Letter of Explanation for “YES” within Section 1 of my renewal form.

Dear Nevada Board of Pharmacy:

Effective January 28, 2015, the California State Board of Pharmacy issued a Decision and Order, adopting a Stipulated Settlement Agreement wherein I voluntarily surrendered my pharmacy (PHY 47098 & LSC 99303) and pharmacist (RPH 50765) permits. To avoid a long and uncertain hearing, I decided to enter into a settlement agreement wherein I would give up my business and personal pharmacist permits, but be allowed to sell my pharmacy business.

In the interest of full disclosure, I have attached all relevant documentation regarding the underlying Accusation, terms of Settlement, and final Decision and Order.

Please feel free to contact me at your convenience for more information or any questions you may have. Thank you.

Esther Kim.



California State Board of Pharmacy
1825 N. Market Blvd, N219, Sacramento, CA 95834
Phone: (916) 574-7600
Fax: (916) 574-8618
www.pharmacy.ca.gov

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

January 21, 2014

CERTIFIED MAIL

Heritage Compounding Pharmacy
Attention: Esther Kim
2903 Saturn Street, Unit A
Brea, CA 92821

RE: Administrative Case No. 4904

Dear Ms. Kim:

Attached is the Decision and Order of the Board of Pharmacy (Board) regarding the above-referenced matter. Your attention is directed to pages 5 through 7 of the Decision.

Effective January 28, 2015, Pharmacy Permit No. PHY 47096 and Licensed Sterile Compounding Permit No. LSC 99303 issued to Innovative Compounding Solutions, Inc., doing business as Heritage Compounding Pharmacy are hereby surrendered and accepted by the Board. However, the surrender is stayed until March 1, 2015, at which time the pharmacy shall be sold or closed. You are jointly and severally liable for the payment of investigation and enforcement costs in the amount of \$13,000.00. You shall pay \$9,000.00 in costs within thirty (30) days and the remaining \$4,000.00 prior to the issuance of a new or reinstated license.

Please return your wall license(s) to the Board on or before the effective date of this Decision.

If you have any questions concerning this matter, you may contact Lisa Chullino, Enforcement Analyst, at (916) 574-7921.

Sincerely,

VIRGINIA K. HEROLD
Executive Officer

By


Susan Cappello
Enforcement Manager

SC:le
Enclosure

cc: Nicole Trama, DAG
Tony Park, Esq.

DECLARATION OF SERVICE BY CERTIFIED MAIL

RE: *Heritage Compounding Pharmacy, PHY 47098 & LSC 99303*

Case No. 4904

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

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

<u>NAME</u>	<u>CERTIFIED NO.</u>
Heritage Compounding Pharmacy Attention: Esther Kim 2903 Saturn Street, Unit A Brea, CA 92821	7012 2920 0000 6005 9409
Tony Park, Esq. 6789 Quail Hill Parkway, #405 Irvine, CA 92603	7012 2920 0000 6005 9416

and that said envelope was then sealed and deposited and certified in the United States Post Office at Sacramento, California, on January 21, 2015, 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 January 21, 2015 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:

INNOVATIVE COMPOUNDING SOLUTIONS,
DBA HERITAGE COMPOUNDING PHARMACY
2903 Saturn Street, Unit A
Brea, CA 92821

Pharmacy Permit No. PHY 47098
Sterile Compounding License No, LSC 99303

and

ESTHER J. KIM
Cedarglen Court
Fullerton, CA 92835

Pharmacist License No. RPH 50765

and

ALLAN MICHAEL PIWONKA
8440 E. Chapman Avenue
Orange, CA 92869

Pharmacist License No. RPH 27345

Respondents.

Case No. 4904

OAH No. 2014020492

STIPULATED SURRENDER OF
LICENSE AND ORDER AS TO
INNOVATIVE COMPOUNDING
SOLUTIONS, DBA HERITAGE
COMPOUNDING PHARMACY AND
ESTHER KIM ONLY

DECISION AND ORDER

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

This decision shall become effective on January 28, 2015.

It is so ORDERED on January 21, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By


STAN C. WEISSER, Board President

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
Deputy Attorney General
4 State Bar No. 263607
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2143
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11
12 In the Matter of the Accusation Against:

13 **INNOVATIVE COMPOUNDING**
14 **SOLUTIONS, DBA HERITAGE**
COMPOUNDING PHARMACY
2903 Saturn Street, Unit A
15 Brea, CA 92821

16 Pharmacy Permit No. PHY 47098
Sterile Compounding License No. LSC
17 99303

18 and

19 **ESTHER J. KIM**
Cedarglen Court
20 Fullerton, CA 92835

21 Pharmacist License No. RPH 50765

22 and

23 **ALLAN MICHAEL PIWONKA**
8440 E Chapman Avenue
24 Orange, CA 92869

25 Pharmacist License No. RPH 27345

26 Respondents.
27
28

Case No. 4904

OAH No. 2014020492

STIPULATED SURRENDER OF
LICENSE AND ORDER AS TO
INNOVATIVE COMPOUNDING
SOLUTIONS, DBA HERITAGE
COMPOUNDING PHARMACY AND
ESTHER KIM ONLY

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

3 PARTIES

4 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
5 She brought this action solely in her official capacity and is represented in this matter by Kamala
6 D. Harris, Attorney General of the State of California, by Nicole R. Trama, Deputy Attorney
7 General.

8 2. Innovative Compounding Solutions, Inc., doing business as Heritage Compounding
9 Pharmacy and Esther J. Kim (Respondents) are represented in this proceeding by attorney Tony
10 Park, Esq., whose address is 6789 Quail Hill Parkway, #405, Irvine, CA 92603.

11 3. On or about April 29, 2005, the Board of Pharmacy issued Pharmacy Permit Number
12 PHY 47098 to Innovative Compounding Solutions, doing business as Heritage Compounding
13 Pharmacy (Respondent Heritage), with Esther J. Kim, as President and Pharmacist-in- Charge.
14 The Pharmacy Permit was in full force and at all times relevant to the charges brought in
15 Accusation No. 4904 and will expire on April 1, 2015, unless renewed.

16 4. On or about June 9, 2005, the Board of Pharmacy issued Licensed Sterile
17 Compounding Permit Number LSC 99303 to Innovative Compounding Solutions, doing business
18 as Heritage Compounding Pharmacy (Respondent Heritage). The Sterile Compounding License
19 was in full force and effect at all times relevant to the charges brought in Accusation No. 4904
20 and will expire on April 1, 2015, unless renewed.

21 5. On or about March 31, 1999, the Board of Pharmacy issued Pharmacist License
22 Number RPH 50765 to Esther J. Kim (Respondent Kim). The Pharmacy Permit was in full force
23 and effect at all times relevant to the charges brought in Accusation No. 4904 and will expire on
24 July 31, 2016, unless renewed.

25 JURISDICTION

26 6. Accusation No. 4904 was filed before the Board of Pharmacy (Board), Department of
27 Consumer Affairs, and is currently pending against Respondents. The Accusation and all other
28 statutorily required documents were properly served on Respondents on January 29, 2014.

1 Respondents timely filed their Notices of Defense contesting the Accusation. A copy of
2 Accusation No. 4904 is attached as Exhibit A and incorporated by reference.

3 ADVISEMENT AND WAIVERS

4 7. Respondents have carefully read, fully discussed with counsel, and understand the
5 charges and allegations in Accusation No. 4904. Respondents also have carefully read, fully
6 discussed with counsel, and understand the effects of this Stipulated Surrender of License and
7 Order.

8 8. Respondents are fully aware of their legal rights in this matter, including the right to a
9 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
10 the witnesses against them; the right to present evidence and to testify on their own behalf; the
11 right to the issuance of subpoenas to compel the attendance of witnesses and the production of
12 documents; the right to reconsideration and court review of an adverse decision; and all other
13 rights accorded by the California Administrative Procedure Act and other applicable laws.

14 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
15 every right set forth above.

16 CULPABILITY

17 10. Respondents understands that the charges and allegations in Accusation No. 4904, if
18 proven at a hearing, constitute cause for imposing discipline upon Pharmacy Permit Number PHY
19 47098, Pharmacy Permit, Licensed Sterile Compounding Permit Number LSC 99303, and
20 Pharmacist License Number RPH 50765.

21 11. For the purpose of resolving the Accusation without the expense and uncertainty of
22 further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual
23 basis for the charges in the Accusation and that those charges constitute cause for discipline.
24 Respondents hereby gives up their right to contest that cause for discipline exists based on those
25 charges.

26 12. Respondents understand that by signing this stipulation they enable the Board to issue
27 an order accepting the surrender of Pharmacy Permit Number PHY 47098, Pharmacy Permit,
28

1 Licensed Sterile Compounding Permit Number LSC 99303. and Pharmacist License Number
2 RPH 50765.

3 CONTINGENCY

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

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

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

23 16. Respondent Kim stipulates and agrees that as of January 2, 2015, Respondent Kim
24 will not work in any capacity, including Pharmacist-in-Charge, at Respondent Heritage. In
25 addition, Respondents also stipulate and agree that Respondents shall select a new Pharmacist-in-
26 Charge for Respondent Heritage and submit the "Change in Pharmacist-in-Charge" form 17A-14
27 to the Board for approval by January 2, 2015.

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

3 ORDER

4 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 47098, Licensed Sterile
5 Compounding Permit Number LSC 99303, issued to Innovative Compounding Solutions, Inc.,
6 doing business as Heritage Compounding Pharmacy (Respondent Heritage) are surrendered and
7 accepted by the Board of Pharmacy. The effective date of the Decision as to Respondent
8 Heritage only shall be stayed until March 1, 2015, at which time the pharmacy shall be sold or
9 closed.

10 IT IS FURTHER HEREBY ORDERED that Pharmacist License No. RPH 50765, issued to
11 Esther J. Kim, RPH (Respondent Kim), is surrendered and accepted by the Board of Pharmacy.

12 1. The surrender of Respondents' Pharmacy Permit, Licensed Sterile Compounding
13 Permit and Pharmacist License and the acceptance of the surrendered licenses by the Board shall
14 constitute the imposition of discipline against Respondents. This stipulation constitutes a record
15 of the discipline and shall become a part of Respondents' license history with the Board of
16 Pharmacy.

17 2. As of January 2, 2015, Respondent Kim shall not work in any capacity, including
18 Pharmacist-in-Charge, at Respondent Heritage.

19 3. On or before January 2, 2015, Respondents shall select a new Pharmacist-in-Charge
20 for Respondent Heritage and submit the "Change in Pharmacist-in-Charge" form 17A-14 to the
21 Board for approval.

22 4. In the event that Respondent Heritage is sold and an application for a new permit is
23 submitted to the Board, the Board shall expedite the processing of that application.

24 5. Respondent Heritage shall lose all rights and privileges as a pharmacy and sterile
25 compounding pharmacy in California as of the effective date of the Board's Decision and Order.

26 6. Respondent Kim shall lose all rights and privileges as a pharmacist in California as of
27 the effective date of the Board's Decision and Order.

28

1 7. Respondents shall cause to be delivered to the Board their pocket licenses and, if one
2 was issued, their wall certificates on or before the effective date of the Decision and Order.

3 8. If Respondents ever apply for licensure or petition for reinstatement in the State of
4 California, the Board shall treat it as a new application for licensure. Respondents must comply
5 with all the laws, regulations and procedures for licensure in effect at the time the application or
6 petition is filed, and all of the charges and allegations contained in Accusation No. 4904 shall be
7 deemed to be true, correct and admitted by Respondents when the Board determines whether to
8 grant or deny the application or petition.

9 9. Respondents shall pay the agency its costs of investigation and enforcement in the
10 amount of \$13,000.00. Respondents shall pay \$9,000.00 in costs within thirty (30) days of the
11 effective date of the Decision and Order. Respondents shall pay the remaining \$4,000.00 in costs
12 prior to issuance of a new or reinstated license. Respondents shall be jointly and severally liable
13 for the payment of these costs.

14 10. If Respondents should ever apply or reapply for a new license or certification, or
15 petition for reinstatement of a license, by any other health care licensing agency in the State of
16 California, all of the charges and allegations contained in Accusation, No. 4904 shall be deemed
17 to be true, correct, and admitted by Respondents for the purpose of any Statement of Issues or any
18 other proceeding seeking to deny or restrict licensure.

19 11. In the event that Respondent Heritage is not sold by March 1, 2015. Respondent
20 Heritage shall, within ten (10) days of the stayed effective date of the Board's order, arrange for
21 the destruction of, the transfer to, sale of or storage in a facility licensed by the Board of all
22 controlled substances and dangerous drugs and devices. Respondent Heritage shall further
23 provide written proof of such disposition and submit a completed Discontinuance of Business
24 form according to Board guidelines.

25 12. Respondents may not apply, reapply, or petition for any licensure or registration of
26 the Board for three (3) years from the effective date of the Decision and Order.

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ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Tony Park, Esq. I understand the stipulation and the effect it will have on my Pharmacy Permit, Sterile Compounding License, and Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.


DATED: _____

ESTHER J. KIM

As an individual and as the President and authorized agent on behalf of INNOVATIVE COMPOUNDING SOLUTIONS, INC., DBA HERITAGE COMPOUNDING PHARMACY Respondents

I have read and fully discussed with Respondents the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 12/31/2014


TONY PARK, ESQ.
Attorney for Respondent

ENDORSEMENT

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

Dated: 1/2/2014

Respectfully submitted,


KAMALA D. HARRIS
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General



NICOLE R. TRAMA
Deputy Attorney General
Attorneys for Complainant

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2 I have carefully read the above Stipulated Surrender of License and Order and have fully
3 discussed it with my attorney, Tony Park, Esq. I understand the stipulation and the effect it will
4 have on my Pharmacy Permit, Sterile Compounding License, and Pharmacist License. I enter
5 into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and
6 agree to be bound by the Decision and Order of the Board of Pharmacy.

7
8 DATED: 12/31/14 

9 ESTHER L. KIM
10 As an individual and as the President and
11 authorized agent on behalf of INNOVATIVE
12 COMPOUNDING SOLUTIONS, INC., DBA
13 HERITAGE COMPOUNDING PHARMACY
14 Respondents

15 I have read and fully discussed with Respondents the terms and conditions and other
16 matters contained in this Stipulated Surrender of License and Order. I approve its form and
17 content.

18 DATED: _____
19 TONY PARK, ESQ.
20 Attorney for Respondent

21 ENDORSEMENT

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

24 Dated: _____ Respectfully submitted,
25 KAMALA D. HARRIS
26 Attorney General of California
27 JAMES M. LINDAGIS
28 Supervising Deputy Attorney General

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51 SD 2015 05747
52 10/25/15/16

Exhibit A

Accusation No. 4904

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
Deputy Attorney General
4 State Bar No. 263607
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2143
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 4904

12 INNOVATIVE COMPOUNDING SOLUTIONS,
13 DBA HERITAGE COMPOUNDING PHARMACY
2903 Saturn Street, Unit A
14 Brea, CA 92821

ACCUSATION

15 Pharmacy Permit No. PHY 47098
Sterile Compounding License No. LSC 99303

16 and

17 ESTHER J. KIM
18 Cedarglen Court
Fullerton, CA 92835

19 Pharmacist License No. RPH 50765

20 and

21 ALLAN MICHAEL PIWONKA
22 8440 E Chapman Avenue
Orange, CA 92869

23 Pharmacist License No. RPH 27345

24 Respondents.
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1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about April 29, 2005, the Board of Pharmacy issued Pharmacy Permit Number
6 PHY 47098 to Innovative Compounding Solutions, doing business as Heritage Compounding
7 Pharmacy (Respondent Heritage), with Esther J. Kim, as President and Pharmacist-in-Charge
8 (Respondents). The Pharmacy Permit was in full force and effect at all times relevant to the
9 charges brought herein and will expire on April 1, 2014, unless renewed.

10 3. On or about June 9, 2005, the Board of Pharmacy issued Licensed Sterile
11 Compounding Permit Number LSC 99303 to Innovative Compounding Solutions, doing business
12 as Heritage Compounding Pharmacy (Respondent Heritage). The Licensed Sterile Compounding
13 Permit was in full force and effect at all times relevant to the charges brought herein and will
14 expire on April 1, 2014, unless renewed.

15 4. On or about March 31, 1999, the Board of Pharmacy issued Pharmacist License
16 Number RPH 50765 to Esther J. Kim (Respondent Kim). The Pharmacy Permit was in full force
17 and effect at all times relevant to the charges brought herein and will expire on April 1, 2014,
18 unless renewed.

19 5. On or about August 5, 1971, the Board of Pharmacy issued Pharmacist License
20 Number RPH 27345 to Allan Michael Piwonka (Respondent Piwonka). The Pharmacy Permit
21 was in full force and effect at all times relevant to the charges brought herein and will expire on
22 March 31, 2014, unless renewed.

23 **JURISDICTION**

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

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

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

6 9. Section 4300.1 of the Code states:

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

11 STATUTORY PROVISIONS

12 10. Section 4022 of the Code states:

13 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
14 self-use in humans or animals, and includes the following:

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

17 (b) Any device that bears the statement: "Caution: federal law restricts this
18 device to sale by or on the order of a _____," "Rx only," or words of similar import,
19 the blank to be filled in with the designation of the practitioner licensed to use or
20 order use of the device.

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

23 11. Section 4052.1 of the Code states:

24 (a) Notwithstanding any other provision of law, a pharmacist may perform
25 the following procedures or functions in a licensed health care facility in
26 accordance with policies, procedures, or protocols developed by health
27 professionals, including physicians, pharmacists, and registered nurses, with the
28 concurrence of the facility administrator:

 (1) Ordering or performing routine drug therapy-related patient assessment
procedures including temperature, pulse, and respiration.

 (2) Ordering drug therapy-related laboratory tests.

1 (3) Administering drugs and biologicals by injection pursuant to a
prescriber's order.

2 (4) Initiating or adjusting the drug regimen of a patient pursuant to an order
3 or authorization made by the patient's prescriber and in accordance with the
policies, procedures, or protocols of the licensed health care facility.

4 (b) Prior to performing any procedure authorized by this section, a
5 pharmacist shall have received appropriate training as prescribed in the policies
6 and procedures of the licensed health care facility.

7 12. Section 4059 of the Code states:

8 (a) A person may not furnish any dangerous drug, except upon the
9 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
10 dangerous device, except upon the prescription of a physician, dentist, podiatrist,
optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

11 (b) This section does not apply to the furnishing of any dangerous drug or
12 dangerous device by a manufacturer, wholesaler, or pharmacy to each other or to a
physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
13 pursuant to Section 3640.7, or to a laboratory under sales and purchase records that
correctly give the date, the names and addresses of the supplier and the buyer, the
14 drug or device, and its quantity. This section does not apply to the furnishing of
any dangerous device by a manufacturer, wholesaler, or pharmacy to a physical
15 therapist acting within the scope of his or her license under sales and purchase
records that correctly provide the date the device is provided, the names and
16 addresses of the supplier and the buyer, a description of the device, and the
17 quantity supplied.

18

19
20 13. Section 4113, subdivision (c) of the Code states: "The pharmacist-in-charge shall be
21 responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining
22 to the practice of pharmacy."

23 14. Section 4116 of the Code states in pertinent part:

24 (a) No person other than a pharmacist, an intern pharmacist, an authorized
25 officer of the law, or a person authorized to prescribe shall be permitted in that
area, place, or premises described in the license issued by the board wherein
26 controlled substances or dangerous drugs or dangerous devices are stored,
possessed, prepared, manufactured, derived, compounded, dispensed, or
27 repackaged. However, a pharmacist shall be responsible for any individual who
enters the pharmacy for the purposes of receiving consultation from the pharmacist
28 or performing clerical, inventory control, housekeeping, delivery, maintenance, or

1 similar functions relating to the pharmacy if the pharmacist remains present in the
2 pharmacy during all times as the authorized individual is present.

3 15. Section 4301 of the Code states in pertinent part:

4 The board shall take action against any holder of a license who is guilty of
5 unprofessional conduct or whose license has been procured by fraud or
6 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
7 is not limited to, any of the following:

8 (c) Gross negligence.

9
10 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
11 deceit, or corruption, whether the act is committed in the course of relations as a
12 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

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

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

17
18 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
19 abetting the violation of or conspiring to violate any provision or term of this
20 chapter or of the applicable federal and state laws and regulations governing
21 pharmacy, including regulations established by the board or by any other state or
22 federal regulatory agency.

23 (q) Engaging in any conduct that subverts or attempts to subvert an
24 investigation of the board.

25
26 16. Health and Safety Code section 11200 states:

27 (a) No person shall dispense or refill a controlled substance prescription
28 more than six months after the date thereof.

1 (b) No prescription for a Schedule III or IV substance may be refilled more
2 than five times and in an amount, for all refills of that prescription taken together,
3 exceeding a 120-day supply.

4 (c) No prescription for a Schedule II substance may be refilled.

5 17. Health and Safety Code section 11150 states:

6 No person other than a physician, dentist, podiatrist, or veterinarian, or
7 naturopathic doctor acting pursuant to Section 3640.7 of the Business and
8 Professions Code, or pharmacist acting within the scope of a project authorized
9 under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of
10 Division 107 or within the scope of either Section 4052.1 or 4052.2 of the
11 Business and Professions Code, a registered nurse acting within the scope of a
12 project authorized under Article 1 (commencing with Section 128125) of Chapter
13 3 of Part 3 of Division 107, a certified nurse-midwife acting within the scope of
14 Section 2746.51 of the Business and Professions Code, a nurse practitioner acting
15 within the scope of Section 2836.1 of the Business and Professions Code, a
16 physician assistant acting within the scope of a project authorized under Article 1
17 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or
18 Section 3502.1 of the Business and Professions Code, a naturopathic doctor acting
19 within the scope of Section 3640.5 of the Business and Professions Code, or an
20 optometrist acting within the scope of Section 3041 of the Business and
21 Professions Code, or an out-of-state prescriber acting pursuant to Section 4005 of
22 the Business and Professions Code shall write or issue a prescription.

23 18. Health and Safety Code section 11152 provides that no person shall write, issue, fill,
24 compound, or dispense a prescription that does not conform to this division.

25 19. Health and Safety Code section 11157 provides that no person shall issue a
26 prescription that is false or fictitious in any respect.

27 20. Health and Safety Code section 11165 states in pertinent part:

28 (a) To assist law enforcement and regulatory agencies in their efforts to
control the diversion and resultant abuse of Schedule II, Schedule III, and
Schedule IV controlled substances, and for statistical analysis, education, and
research, the Department of Justice shall, contingent upon the availability of
adequate funds from the Contingent Fund of the Medical Board of California, the
Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of
Registered Nursing Fund, and the Osteopathic Medical Board of California
Contingent Fund, maintain the Controlled Substance Utilization Review and
Evaluation System (CURES) for the electronic monitoring of, and Internet access
to information regarding, the prescribing and dispensing of Schedule II, Schedule

1 III, and Schedule IV controlled substances by all practitioners authorized to
2 prescribe or dispense these controlled substances.

3
4 (d) For each prescription for a Schedule I, Schedule III, or Schedule IV
5 controlled substance, as defined in the controlled substances schedules in federal
6 law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14,
7 respectively, of Title 21 of the Code of Federal Regulations, the dispensing
8 pharmacy or clinic shall provide the following information to the Department of
9 Justice on a weekly basis and in a format specified by the Department of Justice:

10 (1) Full name, address, and the telephone number of the ultimate user or
11 research subject, or contact information as determined by the Secretary of the
12 United States Department of Health and Human Services, and the gender, and date
13 of birth of the ultimate user.

14 (2) The prescriber's category of licensure and license number; federal
15 controlled substance registration number; and the state medical license number of
16 any prescriber using the federal controlled substance registration number of a
17 government-exempt facility.

18 (3) Pharmacy prescription number, license number, and federal controlled
19 substance registration number.

20 (4) NDC (National Drug Code) number of the controlled substance
21 dispensed.

22 (5) Quantity of the controlled substance dispensed.

23 (6) ICD-9 (diagnosis code), if available.

24 (7) Number of refills ordered.

25 (8) Whether the drug was dispensed as a refill of a prescription or as a first-
26 time request.

27 (9) Date of origin of the prescription.

28 (10) Date of dispensing of the prescription.

29
30 **REGULATORY PROVISIONS**

31 21. California Code of Regulations, title 16, section 1714 states in pertinent part:

32
33 (b) Each pharmacy licensed by the board shall maintain its facilities, space,
34 fixtures, and equipment so that drugs are safely and properly prepared, maintained,

1 secured and distributed. The pharmacy shall be of sufficient size and unobstructed
2 area to accommodate the safe practice of pharmacy.

3 (d) Each pharmacist while on duty shall be responsible for the security of the
4 prescription department, including provisions for effective control against theft or
5 diversion of dangerous drugs and devices, and records for such drugs and devices.
6 Possession of a key to the pharmacy where dangerous drugs and controlled
7 substances are stored shall be restricted to a pharmacist.

8 22. California Code of Regulations, title 16, section 1716 provides that pharmacists
9 shall not deviate from the requirements of a prescription except upon the prior consent of the
10 prescriber or to select the drug product in accordance with Section 4073 of the Business and
11 Professions Code.

12 23. California Code of Regulations, title 16, section 1735, subdivision (a) states in
13 pertinent part:

14 "Compounding" means any of the following activities occurring in a
15 licensed pharmacy, by or under the supervision of a licensed pharmacist, pursuant to
16 a prescription:

- 17 (1) Altering the dosage form or delivery system of a drug
- 18 (2) Altering the strength of a drug
- 19 (3) Combining components or active ingredients
- 20 (4) Preparing a drug product from chemicals or bulk drug substances

21
22 24. California Code of Regulations, title 16, section 1761, subdivision (a) states:

23 (a) No pharmacist shall compound or dispense any prescription which
24 contains any significant error, omission, irregularity, uncertainty, ambiguity or
25 alteration. Upon receipt of any such prescription, the pharmacist shall contact the
26 prescriber to obtain the information needed to validate the prescription.

1 COST RECOVERY

2 25. Section 125.5 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licensee found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 DRUGS

9 26. Clindamycin is a dangerous drug pursuant to Business and Professions Code section
10 4022 and is used to treat infections.

11 27. Clobetasol is a dangerous drug pursuant to Business and Professions Code section
12 4022 and is used to treat scalp and skin conditions.

13 28. Hydroquinone is a dangerous drug pursuant to Business and Professions Code section
14 4022 and is used to treat hyperpigmentation and melisma.

15 29. Ketoprofen is a dangerous drug pursuant to Business and Professions Code section
16 4022 and is used for the treatment of pain.

17 30. Liothyronine is a dangerous drug pursuant to Business and Professions Code section
18 4022 and is used to treat hypothyroidism.

19 31. Progesterone is a dangerous drug pursuant to Business and Professions Code section
20 4022 and is used as a part of hormone replacement therapy in women.

21 32. Testosterone is a Schedule III controlled substance pursuant to Health and Safety
22 Code section 11056, subdivision (f), and a dangerous drug pursuant to Business and Professions
23 Code section 4022.

24 FACTUAL ALLEGATIONS

25 33. At all times mentioned herein and since April 29, 2005, Esther J. Kim (Respondent
26 Kim), has been the President and Pharmacist-in-Charge (PIC) of Innovation Compounding
27 Solutions, doing business as Heritage Compounding Pharmacy. (Respondent Heritage). At all
28 times mentioned herein and since June 2011, Allan Piwonka (Respondent Piwonka) was

1 employed as a registered pharmacist at Respondent Heritage. Respondent Heritage is not, and
2 has never been, a licensed health care facility or clinic.

3 34. In December 2011, the Board received a complaint from a pharmacy technician who
4 was employed at Respondent Heritage, alleging that Respondent Heritage was violating
5 Pharmacy Laws.

6 35. Based on the complaint, the Board initiated an investigation. On February 22, 2012,
7 Board inspectors conducted an inspection of Respondent Heritage. The Board inspectors arrived
8 at Respondent Heritage at approximately 8:30 a.m., before Respondent Heritage opened for
9 business. At or about 9:15 a.m., a Board inspector observed S.K. (who is Respondent Kim's
10 husband) unlock and enter the front door of Respondent Heritage. Five minutes later, the
11 inspectors entered Respondent Heritage, and observed S.K. come out of the back room. S.K.
12 informed the Board inspectors that he was the pharmacy manager and not a pharmacist. There
13 was no one else on the premises at that time. The Board inspectors instructed S.K. to step outside
14 and lock the front door of Respondent Heritage with S.K.'s key until Respondent Piwonka, who
15 was scheduled to work at 10:00 a.m., arrived at Respondent Heritage. After Respondent Piwonka
16 arrived, the Board inspectors conducted their inspection of Respondent Heritage. During the
17 inspection, the Board inspectors observed that the back room had cabinets which stored
18 dangerous drugs and that sterile compounding was performed in that area.¹ The Board inspectors
19 also discovered that the door to the room that stored controlled substances and dangerous drugs
20 was open.

21 36. During the inspection, Board inspectors discovered that Respondent Kim wrote
22 prescriptions for dangerous drugs and controlled substances under the name of a fictitious
23 physician, "Dr. Heritage," located at 2903 Saturn Street, Unit A, Brea, California 92821, with a
24 DEA number of BH9242099, which are the address and DEA number for Respondent Heritage.

25 ¹ "Sterile" compounds require sterility and are typically in the form of injectables for the
26 direct administration into a sterile organ or fluid in the body. It is imperative these products
27 contain little to no contaminants for the safety of the patient.
28

1 The Board inspectors discovered that the following fraudulent prescriptions were filled and
2 dispensed by Respondent Heritage:

3 a. RX 14171 for 30 gm of testosterone 2% cream filled and dispensed to JG on
4 October 28, 2010 and then refilled on January 25, 2011, February 22, 2011, March 30, 2011,
5 April 28, 2011 and January 5, 2012.

6 b. RX 14172 for 30 gm of progesterone 10% cream filled and dispensed to JG on
7 October 28, 2010, and then refilled on January 25, 2011, February 22, 2011, March 20, 2011,
8 April 28, 2011 and January 5, 2012.

9 c. RX 7800 for 30 gm of testosterone 2% VC Cream filled and dispensed to JG on
10 March 22, 2010 and then refilled on July 8, 2010, August 17, 2010, and October 4, 2010.

11 d. RX 7799 for 30 gm of testosterone 2% cream filled and dispensed to JG on
12 March 22, 2010, and then refilled on July 8, 2010, August 7, 2010, and October 4, 2010.

13 e. RX 8102 for 30 gm of ketoprofen 10% gel filled and dispensed to PP on April
14 4, 2009.

15 37. In addition, after reviewing the Controlled Substance Utilization Review and
16 Evaluation System (CURES) report, the Board inspectors discovered that the following eleven
17 controlled substance prescriptions were dispensed under the prescriber name of "Dr. Heritage" by
18 Respondent Heritage:

19

	RX No.	Date Dispensed	Patient's Name	Drug	Quantity	
20	1	18142	10/27/2011	AC	Testosterone	60
21	2	6115	8/13/2008	JG	Compounded	30
22	3	6115	10/6/2008	JG	Compounded	30
23	4	6115	12/2/2008	JG	Compounded	30
24	5	6115	12/29/2008	JG	Compounded	30
25	6	7489	2/11/2009	JG	Compounded	30
26	7	7489	3/3/2009	JG	Compounded	30
27	8	7800	3/16/2009	JG	Compounded	30
28	9	7800	4/20/2009	JG	Compounded	30
	10	7800	6/10/2009	JG	Compounded	30
	11	8196	4/22/2009	CR	Compounded	60

1 Based on the CURES report. Board inspectors determined that Respondent Kim provided the
2 Department of Justice with false CURES information by providing a fictitious physician name for
3 the aforementioned prescriptions.

4 38. During the first inspection on February 22, 2012, the Board inspectors received from
5 Respondent Kim, a Doctor Usage Report covering the dates of January 1, 2012 through February
6 1, 2012, which showed that Respondent Heritage had filled prescriptions under the prescriber
7 name of "Dr. Heritage." At the Board's follow-up inspection on February 28, 2012, Respondent
8 Kim provided Board inspectors with another Doctor Usage Report covering the period of January
9 1, 2010 through December 30, 2010, which did not show any prescriptions filled by Respondent
10 Heritage under the prescriber name of "Dr. Heritage's" name. When questioned by the Board
11 inspector, Respondent Kim admitted that after her first inspection (on February 22, 2012), she
12 voided or deleted *all prescriptions under Dr. Heritage's name, including prescriptions that had*
13 *been filled under the prescriber name of "Dr. Heritage."*

14 39. On April 11, 2012, January 30, 2013, and February 26, 2013, Board inspectors
15 conducted additional follow-up inspections of Respondent Heritage. At the conclusion of their
16 investigation and after reviewing compounding logs, the Board inspectors determined that
17 Respondent Heritage dispensed liothyroine 12.5 mcg SR capsules instead of liothyronine 125
18 mcg SR capsules as follows:

19 a. RX 17263 for 30 capsules of liothyronine 125 mcg SR was dispensed to
20 TB on August 5, 2011, September 6, 2011, September 29, 2011, and October 28, 2011. On
21 August 5, 2011, the prescription was filled with a compounded medication liothyronine 125 mcg
22 SR lot number 08052011@10, compounded on August 5, 2011, and verified by Respondent Kim.
23 The compounding log for liothyronine 125 mcg SR lot number 08052011@10 showed the
24 compounded product was prepared using liothyronine (T3) 1:100 lot number 06152011@9.
25 However, the compounding log for lot number 06152011@9 was a formulation for liothyronine
26 (T3) 1:1000 instead of liothyronine (T3) 1:100. Thus, Respondent Heritage dispensed RX 17263
27 with a compounded product containing 12.5 mcg of liothyronine (T3) instead of 125 mcg of
28 liothyronine (T3).

1 b. RX 18476 for 30 capsules of liothyronine 125 mcg SR was dispensed on
2 December 1, 2011 and subsequently refilled on January 3, 2012 and February 1, 2012. The
3 prescription was dispensed with liothyronine 125 mcg SR lot number 12011211@7, compounded
4 on December 1, 2011, and verified by Respondent Piwonka. The compounding log for
5 liothyronine 125 mcg SR lot number 12011211@7 showed that the medication was prepared
6 using liothyronine (T3) 1:100 aliquot log number 11222011@5. However, the compounding log
7 for lot number 11222011@5 was a formulation for liothyronine (T3) 1:1000 instead of
8 liothyronine (T3) 1:100. Thus, Respondent Heritage dispensed RX 18476 with the wrong
9 strength of medication, liothyronine (T3) 12.5 mcg SR capsules instead of liothyronine (T3) 125
10 mcg SR.

11 40. The Board inspectors also discovered that Respondent Kim and Respondent Piwonka
12 were administering Vitamin B-12 injections to patients at Respondent Heritage. Respondent Kim
13 admitted to Board inspectors that both Respondent Kim and Respondent Piwonka had been
14 administering Vitamin B-12 injections at Respondent Heritage since January 2011. The Board
15 inspector also determined that Respondent Kim allowed a pharmacy technician to administer
16 Vitamin B-12 injections to a customer.

17 41. At the conclusion of the investigation, the Board inspectors determined that
18 Respondent Kim wrote the following eight prescriptions for controlled substances and/or
19 dangerous drugs:

20 a. On October 28, 2010, a prescription for JG processed under RX 14171 for 30
21 gm of testosterone 2% cream.

22 b. On October 28, 2010, a prescription for JG processed under RX 14172 for 30
23 gm of progesterone 10% cream.

24 c. On March 22, 2010, a prescription for JG processed under RX 7800 for 30 gm
25 of testosterone 2% VC Cream.

26 d. On March 22, 2010, a prescription for JG processed under RX 7799 for 30 gm
27 of testosterone 2% cream.

1 e. On October 27, 2011, a prescription for AC processed under RX 18142 for 60
2 gm of testosterone.

3 f. On August 13, 2008, a prescription for JG processed under RX 6115 for 30 gm
4 of a compounded product.

5 g. On February 11, 2009, a prescription for JG processed under RX 7489 for 30
6 gm of a compounded product.

7 h. On April 22, 2009, a prescription for CR processed under RX 8196 for 60 gm
8 of a compounded product.

9 42. Board inspectors also discovered that on January 5, 2012, Respondent Kim
10 compounded, filled and dispensed a refill on prescription RX [417] (prescribed on October 28,
11 2010) for JG for 30 gm of testosterone 2% cream, a controlled substance.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Against Respondent Kim and Respondent Heritage)**

14 **(Possession of Key to Pharmacy & Access to Dangerous Drugs and Controlled Substances)**

15 43. Respondent Kim and Respondent Heritage are subject to disciplinary action under
16 Code section 4301(o), for violating Code section 4116(a) and California Code of Regulations,
17 title 16, section 1714(d) for allowing S.K., who is not a pharmacist, to have possession of a key to
18 the pharmacy and access to an area where dangerous drugs and/or controlled substances are
19 stored, as set forth in paragraphs 33 through 42, which are incorporated herein by reference.

20 **SECOND CAUSE FOR DISCIPLINE**

21 **(Against Respondent Kim and Respondent Heritage)**

22 **(Furnishing Dangerous Drugs without a Prescription)**

23 44. Respondent Kim and Respondent Heritage are subject to disciplinary action under
24 Code sections 4301(j) and (o), for violating Code section 4059(a) for furnishing dangerous drugs
25 without a valid prescription, as set forth in paragraphs 33 through 42, which are incorporated
26 herein by reference.

1 THIRD CAUSE FOR DISCIPLINE

2 (Against Respondent Kim and Respondent Heritage)

3 (Variation from Prescription)

4 45. Respondent Kim and Respondent Heritage are subject to disciplinary action under
5 Code sections 4301(o), for violating California Code of Regulations, title 16, section 1716, for
6 deviating from the requirements of a prescription for dispensing RX 17263 with a compounded
7 product containing 12.5 mcg of liothyronine (T3) instead of 125 mcg of liothyronine (T3), as set
8 forth in paragraph 33 through 42, which is incorporated herein by reference.

9 FOURTH CAUSE FOR DISCIPLINE

10 (Against Respondent Kim and Respondent Heritage)

11 (Writing, Filling, Compounding, Issuing, and Dispensing False Prescriptions)

12 46. Respondent Kim and Respondent Heritage are subject to disciplinary action under
13 Code sections 4301(i), for violating Health and Safety Code sections 11150, 11152, and 11157,
14 for writing, filling, compounding, issuing and dispensing false prescriptions or prescriptions
15 containing fictitious physician information, as set forth in paragraphs 33 through 42, which are
16 incorporated herein by reference.

17 FIFTH CAUSE FOR DISCIPLINE

18 (Against Respondent Kim and Respondent Heritage)

19 (Refilling Controlled Substance More than Six Months After Prescription was Written)

20 47. Respondent Kim and Respondent Heritage are subject to disciplinary action under
21 Code sections 4301(j), for violating Health and Safety Code section 11200(a) for dispensing or
22 refilling a prescription more than six months after the date it was written, as set forth in
23 paragraphs 33 through 42, which are incorporated herein by reference.

24 SIXTH CAUSE FOR DISCIPLINE

25 (Against Respondent Kim and Respondent Heritage)

26 (Submitted False Information to CURES)

27 48. Respondent Kim and Respondent Heritage are subject to disciplinary action under
28 Code sections 4301(j), for violating Health and Safety Code section 11165 for submitting false

1 information (fictitious physician with the address of 2903 Saturn Street, Unit A, Brea, CA 91821,
2 DEA Registration Number BH9242099) to CURES, as set forth in paragraphs 33 through 42,
3 which are incorporated herein by reference.

4 SEVENTH CAUSE FOR DISCIPLINE

5 (Against Respondent Kim and Respondent Heritage)

6 (Act Involving Dishonesty, Fraud, Deceit)

7 49. Respondent Kim and Respondent Heritage are subject to disciplinary action under
8 Code sections 4301(f), for committing acts involving dishonest, fraud or deceit, in that
9 Respondent Kim wrote prescriptions under a fictitious physician name ("Dr. Heritage"),
10 Respondent Kim submitted false CURES information to the Department of Justice, and
11 Respondent Kim tampered with computer files by voiding/deleting information about the
12 prescriptions under "Dr. Heritage's" name, as set forth in paragraphs 33 through 42, which are
13 incorporated herein by reference.

14 EIGHTH CAUSE FOR DISCIPLINE

15 (Against Respondent Kim and Respondent Heritage)

16 (Making a Document that Falsely Represents the Existence of a Fact)

17 50. Respondent Kim and Respondent Heritage are subject to disciplinary action under
18 Code sections 4301(g), for making documents that falsely represented the existence of a fact, in
19 that Respondent Kim wrote prescriptions under a fictitious physician name ("Dr. Heritage"), as
20 set forth in paragraphs 33 through 42, which are incorporated herein by reference.

21 NINTH CAUSE FOR DISCIPLINE

22 (Against Respondent Kim and Respondent Heritage)

23 (Engaging in Conduct that Subverts or Attempts to Subvert a Board Investigation)

24 51. Respondent Kim and Respondent Heritage are subject to disciplinary action under
25 Code sections 4301(q), for engaging in conduct that subverts or attempts to subvert a Board
26 investigation, in that Respondent Kim tampered with computer files by voiding/deleting
27 information about the prescriptions under "Dr. Heritage's" name after the Board's first
28 inspection, as set forth in paragraphs 33 through 42, which are incorporated herein by reference.

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TENTH CAUSE FOR DISCIPLINE

(Against Respondent Kim, Respondent Piwonka, and Respondent Heritage)
(Variation from Prescription)

52. Respondent Kim, Respondent Piwonka and Respondent Heritage are subject to disciplinary action under Code sections 4301(e), for violating California Code of Regulations, title 16, sections 1716, for deviating from the requirements of a prescription for dispensing RX 18476 with the wrong strength of medication, liothyronine (T3) 12.5 mcg SR capsules instead of liothyronine (T3) 125 mcg SR, as set forth in paragraph 33 through 42, which are incorporated herein by reference.

ELEVENTH CAUSE FOR DISCIPLINE

(Against Respondent Kim, Respondent Piwonka, and Respondent Heritage)
(Administering Drugs by Injection)

53. Respondent Kim, Respondent Piwonka and Respondent Heritage are subject to disciplinary action under Code sections 4301(e), for violating Code section 4052.1, in that Respondents administered Vitamin B-12 injections to patients at Respondent Heritage even though Respondent Heritage is not a licensed health care facility, as set forth in paragraphs 33 through 42, which are incorporated herein by reference.

TWELFTH CAUSE FOR DISCIPLINE

(Against Respondent Kim)
(General Unprofessional Conduct)

54. Respondent Kim is subject to disciplinary action under Code sections 4301 for general unprofessional conduct for creating prescriptions under a fictitious physician name in order to dispense controlled substances and dangerous drugs without a valid prescription, providing the Department of Justice with false CURES information, tampering with computer files so that the records falsely represent the nonexistence of a fact, and allowing a pharmacy technician to administer Vitamin B-12 injections to customers, which is outside the scope of a pharmacy technician's license, as set forth in paragraphs 33 through 42, which are incorporated herein by reference.

DISCIPLINARY CONSIDERATIONS

55. To determine the degree of discipline, if any, to be imposed on Respondents.

Complainant alleges:

56. On or about May 1, 2008, the Board of Pharmacy issued Citation No. CI 2007 35772 to Respondent Heritage for violation of Business and Professions Code section 4342 for maintaining within its inventory, outdated drugs and chemicals used for compounding that had expired expiration dates and assessed a fine in the amount of \$750.00. Respondent Heritage complied with Citation No. CI 2007 35772.

57. On or about May 1, 2008, the Board of Pharmacy issued Citation No. CI 2007 36124 to Respondent Kim for violation of Business and Professions Code section 4342 for maintaining within its inventory, outdated drugs and chemicals used for compounding that had expired expiration dates and assessed a fine in the amount of \$750.00. Respondent Kim complied with Citation No. CI 2007 36124.

58. On or about April 1, 2011, the Board of Pharmacy issued Citation No. CI 2009 43880 to Respondent Heritage for violation of California Code of Regulations, title 16, section 1716.2, subdivisions (a)(2) and (3) for failing to document the expiration date of all the ingredients used to prepare compounds and assigning a 180 day expiration date to preparations which were prepared from ingredients with a shorter expiration date, and assessed a fine in the amount of \$1,000.00. Respondent Heritage complied with Citation No. CI 2009 43880.

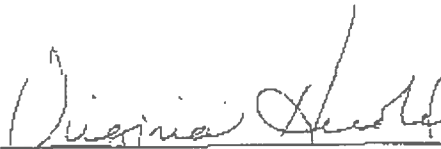
59. On or about April 1, 2011, the Board of Pharmacy issued Citation No. CI 2010 47709 to Respondent Kim for violation of California Code of Regulations, title 16, sections 1716.2, subdivisions (a)(2) and (3) for failing to document the expiration date of all the ingredients used to prepare compounds and assigning a 180 day expiration date to preparations which were prepared from ingredients with a shorter expiration date, and section 1751.7, subdivision (c) for failing to quarantine and test for sterility or pyrogens compounded batches prior to dispensing, and assessed a fine in the amount of \$2,000.00. Respondent Kim complied with Citation No. CI 2010 47709.

PRAYER

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

1. Revoking or suspending Pharmacy Permit Number PHY 47098, issued to Innovative Compounding Solutions, doing business as Heritage Compounding Pharmacy;
2. Revoking or suspending Sterile Compounding License Number LSC 99303, issued to Innovative Compounding Solutions, doing business as Heritage Compounding Pharmacy;
3. Revoking or suspending Pharmacist License Number RPH 50765, issued to Esther J. Kim;
4. Revoking or suspending Pharmacist License Number RPH 27345, issued to Allan Michael Piwonka;
5. Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
6. Taking such other and further action as deemed necessary and proper.

DATED: 1/17/14



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

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DO NOT FOLD OR STAPLE ABOVE THIS LINE

Nevada State Board of Pharmacy – Renewal Application - PHARMACIST

431 W Plumb Lane • Reno, NV 89509 • bop.nv.gov

For the period of November 1, 2015 to October 31, 2017

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

\$180.00 (postmarked on or before 10/31/2015) **OR** \$320.00 (postmarked after 10/31/2015)

LICENSE: 13853

Kalpana Kalpeshkumar Patel

5111 VISTA RICA CT,
Bakersfield, CA 93311

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 <http://bop.nv.gov>
2. Click "Applications " then, "License Renewal", FOLLOW instructions
3. Use: **USER ID: KALPANAPATEL931@GMAIL.COM**
PASSWORD: *****

***New Users: once logged in, when asked for OLD password, use the above password, then change**

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?..... **Yes**
 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?..... **Yes**

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 #:	County	Court
		1 / 1			
Criminal Action:	State	Date:	Case #:	County	Court
	CA	05/23/2014	14F03262	SACRAMENTO	SUPERIOR 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 15/17 Renewal period. (Dated from Nov. 1, 13 – Oct. 31, 15; 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.**

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 #: PA 03065 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: [Signature] Date: 10/8/15

Kalpana Patel
San Dimas Pharmacy
3805-A San Dimas St.
Bakersfield, Ca 93301

To Whom It May Concern:

My license is up for renewal and I needed to explain the circumstances of the charges that are currently pending against me. In May of 2012 I terminated an employee, who then called the California Board of Pharmacy and stated that my balance owed procedure was faulty. The Board of Pharmacy came into my pharmacy to investigate August of 2012 and informed me that my balance owed procedure was indeed incorrect.

I came to the U.S as a foreign pharmacist in 1995 and worked at several chain stores and an independent store and basically adopted their practices of dispensing balance owed medications. Prior to the Board of pharmacy visit, San Dimas Pharmacy's balance owed procedure was to bill the insurance and any shortages of medications were handled by giving the patient a duplicate label with the number of pills owed. The patient was informed that they could pick up the balance owed the following day or the remainder of the medication could be delivered to their home at no cost to them. Any patients that requested the balance owed be delivered received their medication at their home the very next day. For the patients that said they would come in for the remainder of the medication, the pharmacy kept the owing ticket for the patient until the patient returned. The fault of our policy lay in the fact that some patients did not return for their balanced owed for months.

The Board of Pharmacy informed me that this was not correct and I modified my procedure accordingly. Our new procedure was to deliver any balance owed or to mail the balance to the patient after they had been called four times .

Prior to this incident, unknown to me in August 2011 a patient had called Medicaid complaining that San Dimas Pharmacy would not give her Vicodin to her, which was due to the fact that it was an early fill. Medicaid did not look into that complaint till January 2013 and in that process called the Board of Pharmacy. The Board of Pharmacy informed Medicaid that there was a balance owed procedure that had been incorrect in 2012, but had since been corrected.

Medicaid further investigated this issue and found there were 37 claims that the balanced owed medications had not been picked up by their patients. After calculating these claims the total monetary value of the medications did not exceed \$800. However Medicaid is taking into account the TOTAL amount billed for all 37 prescriptions which then amounts to greater than \$900 allowing them to e able to file felony charges .

Medicaid then decided to press criminal charges against me for four counts, all of which are directly related to my incorrect balance owed procedure, which was corrected back in

2012. The Board of Pharmacy stated in their report that they do not believe that my incorrect procedure was intentional; however, Medicaid decided to go ahead and press charges. This case is still pending and has not yet gone to trial.

Please contact me with any additional questions you may have. Additionally my lawyer for this case is available for further clarification.

Patrick Hanly
(916) 773-2211
pkh@patrickhanlylaw.com

Thank you for your understanding in this matter.

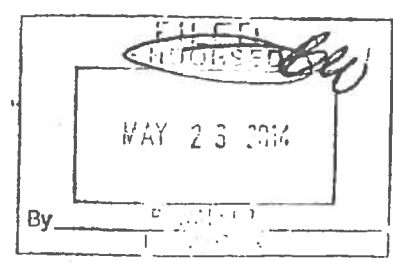
A handwritten signature in black ink, appearing to read "Patel", with a large, stylized initial "P" above it.

Kalpana Patel

Felony

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Attorneys for the People of the State of California



SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SACRAMENTO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

KALPANA KALPESHKUMAR PATEL,
(D.O.B. 11/14/1961)

Defendant.

Case No. *14F03262*
FELONY COMPLAINT
[AG Docket No. FR2011103219]

The People of the State of California hereby allege that in the County of Sacramento, State of California, and elsewhere, and before the making of filing of this felony complaint, the above-named defendant did commit the following criminal offenses:

COUNT 1
Welfare & Institutions Code section 14107, subd. (b)(1) – a Felony
[Submitting False and Fraudulent Medi-Cal Claim – 2-3-5]

On or about and between May 1, 2011, through September 30, 2012, in the County of Sacramento, Defendant KALPANA KALPESHKUMAR PATEL did willfully and unlawfully, and with intent to defraud, present and caused to be presented to the State of California, through

1 its fiscal intermediary, Xerox, for allowance and payment, false and fraudulent claims for
2 furnishing services under the Medi-Cal Act, a violation of section 14107, subdivision (b)(1), of
3 the Welfare and Institutions Code, a felony.

4 **COUNT 2**
5 **Penal Code section 487 subd. (a) – a Felony**
6 **[Grand Theft of Personal Property – 16-2-3 County Jail]**

7 On or about and between May 1, 2011, through September 30, 2012, in the County of
8 Sacramento, Defendant KALPANA KALPESHKUMAR PATEL did unlawfully take money and
9 personal property of a value exceeding Nine Hundred Fifty Dollars (\$950), to wit approximately
10 Five Thousand Six Hundred Sixty-Six Dollars and Eighty-Nine Cents (\$5,667.89) the property of
11 the State of California.

12 **COUNT 3**
13 **Penal Code section 72 – a Felony**
14 **[Presentation of Fraudulent Claim – 16-2-3 County Jail]**

15 On or about and between May 1, 2011, through September 30, 2012, in the County of
16 Sacramento, Defendant KALPANA KALPESHKUMAR PATEL did unlawfully and with intent
17 to defraud, present for allowance and payment a false and fraudulent claim, bill, account, voucher
18 and writing, in violation of Penal Code section 72, a felony.

19 **COUNT 4**
20 **Penal Code section 550 subd. (a)(6) – a Felony**
21 **[Insurance Fraud – 2-3-5 County Jail]**

22 On or about and between May 1, 2011, through September 30, 2012, in the County of
23 Sacramento, Defendant KALPANA KALPESHKUMAR PATEL did aid, abet, solicit, conspire
24 with another and did knowingly make and cause to be made a false and fraudulent claim for
25 payment of a health care benefit.

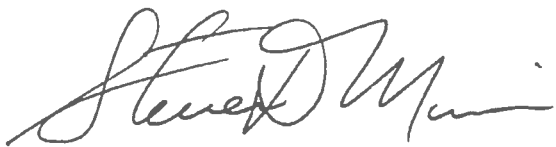
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It is further alleged that the claim or amount at issue exceeds nine hundred fifty dollars (\$950).

Dated: May 23, 2014

Respectfully Submitted,
KAMALA D. HARRIS
Attorney General of California



STEVEN D. MUNI
Deputy Attorney General
Attorneys for the People of the State of California

FR2011103219
11344667.doc

REQUEST FOR DISCOVERY

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2 Pursuant to Penal Code section 1054.5, subdivision (b), the People request from defendant and
3 defense counsel all materials and information required to be disclosed to the prosecution by the
4 defense under the authority of Penal Code section 1054.3, including the following:

- 5 1. The names and addresses of persons, other than the defendant, whom the
6 defendant intends to call as witnesses at trial. [Penal Code, § 1054.3, subd. (a).]
- 7 2. Any relevant written or recorded statements of persons whom the defendant
8 intends to call as witnesses at trial. [Penal Code, § 1054.3, subd. (a).]
- 9 3. Any reports of the statements of persons whom the defendant intends to call as
10 witnesses at trial. [Penal Code, § 1054.3, subd. (a).]
- 11 4. Any reports or statements of experts made in connection with the case. [Penal
12 Code, § 1054.3, subd. (a).]
- 13 5. Any results of physical or mental examinations, scientific tests, experiments or
14 comparisons which the defendants intend to offer in evidence at the trial. [Penal Code, § 1054.3,
15 subd. (a).]
- 16 6. The opportunity to view any real evidence which the defendants intend to offer in
17 evidence at the trial." [Penal Code, § 1054.3, subd. (b).]

18 This is a continuing request for the above information. If the information becomes available at a
19 future time, the prosecution, by this request, asks that it be immediately disclosed to the
20 prosecution.
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3 **HOLDING ORDER**

4 **Defendant KALPANA KALPESHKUMAR PATEL**

5 _____ Based on the experience presented at the preliminary hearing, it appears that the
6 following offenses charged in the above Complaint have been committed and there
is sufficient cause to believe Defendant KALPANA KALPESHKUMAR PATEL
is guilty of these offenses.

7 _____ Defendant has waived preliminary hearing of the offenses charged in the above
8 complaint.

9 _____ Exceptions/Additions/Conditions: _____

10 **IT IS ORDERED**, pursuant to Penal Code sections 872 and 875, that Defendant is held
11 to answer in Superior Court to the following offenses:

12

<u>Count</u>	<u>Charge</u>	<u>Charge Range</u>
13 1	Welf & Institutions Code section 14107, subd. (b)(1) Submitting False and Fraudulent Medi-Cal Claim	2-3-5
14 2	Penal Code section 487 subd. (a) Grand Theft of Personal Property	16-2-3
15 3	Penal Code section 72 – a Felony Presentation of Fraudulent Claim	16-2-3
16 4	Penal Code section 550 subd. (a)(6) Insurance Fraud	2-3-5

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