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 7 CALIFORNIA BOARD OF PHARMACY,  
 DEPARTMENT OF CONSUMER AFFAIRS

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

12 In the Matter of the Accusation Against:  
 13 CENTINELA FREEMAN HOLDINGS, INC.,  
 AKA CFHS HOLDINGS, INC. DBA  
 14 FIRST CARE PHARMACY  
 777 E. 15th St.  
 15 Los Angeles, CA 90021-2121  
 Pharmacy Permit No. PHY 47361  
 16 Michael A. Rembis, CEO,  
 Von Crockett, President,  
 17 Pharmacist-in-Charge No. Edward Leo Callahan  
 III (RPH 26227)

18 and

19 EDWARD LEO CALLAHAN, III  
 20 337 Waterview St.  
 Playa Del Rey, CA 90293  
 21 Pharmacist License No. RPH 26227

Case No. 3132

**ACCUSATION**

Respondents.

24 Complainant alleges:

25 PARTIES

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

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Patient MP<sup>1</sup>

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2           A.     On April 14, 2005, MP was born and weighed 4 lbs. 7 oz. On April 27,  
3 2005, MP's physician examined MP and documented that MP was on breast milk and Similac.  
4 The physician's progress notes dated October 24, 2005, November 14, 2005, December 9, 2005,  
5 December 28, 2005, January 26, 2006, and February 23, 2006, made no mention of feeding  
6 problems or food intolerance. On October 24, 2005, MP weighed 16 pounds.

7           B.     On or prior to October 17, 2005, HP Pharmacy operating under License  
8 No. 46149 submitted an unsigned Medi-Cal Authorization Request form (MAR) for Neosure on  
9 behalf of MP with a false medical justification to MP's physician in order to obtain his signa-  
10 ture.<sup>2</sup> The false medical justification stated that MP was a "[p]oor feeder who tolerates very  
11 small amount of feeds due to poor suck and swallow and immature preemie gut needs higher  
12 calories and nutrients...current weight 12 lbs. 13 pounds". Thereafter, HP Pharmacy received a  
13 signed MAR back from the physician containing this false clinical resume. On October 18, 2005,  
14 which was three days prior to a change in ownership, HP Pharmacy operating under License No.  
15 46149 submitted a Treatment Authorization Request (TAR) with the same false medical  
16 justification to Medi-Cal to obtain approval for Neosure for patient MP.

17           C.     On or about March 31, 2006, after the change in ownership of license No.  
18 46149, Respondent Pharmacy, still operating as HP Pharmacy License No. 46149, submitted an  
19 unsigned MAR for Neosure on behalf of MP with the same false medical justification (except it  
20 also added that, "Patient needs Pediasure for a more appropriate age,") to MP's physician to  
21 obtain his signature. On March 31, 2006, Respondent Pharmacy received a signed MAR back  
22 from the physician with this false clinical resume. On or about March 31, 2006, after the change  
23 in ownership of license No. 46149, Respondent Pharmacy, still operating as HP Pharmacy  
24 License No. 47361, submitted to Medi-Cal a TAR for Pediasure with the same false medical  
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26           1. The Patient's initials are being used to protect the patient's privacy. The full name of  
27 the patient will be disclosed upon a proper request in discovery.

28           2. Medi-Cal pays for nutritional supplements only when deemed necessary to sustain an  
infant's life pursuant to California Code of Regulations, Title 22, Section 51313.3(e)(2).

1 justification (that would later be contained in the MAR submitted to the physician) to obtain  
2 approval for Neosure for patient MP.

3 Patient DJ

4 A. On January 11, 2005, DJ was prematurely born and weighed 927 grams.  
5 DJ's physician, Dr. S, prescribed Neosure to treat prematurity underweight. The prescription  
6 stated "[o]n Neosure until 1 year of age. After age 1 needs additional caloric intake with  
7 Pediasure until 18-24 months of age for catch up growth. Patient has no apparent developmental  
8 delay." On October 11, 2005, another physician, Dr. U, examined DJ and documented that DJ  
9 continued to take Neosure as well as cereal and baby foods. The physician further noted that DJ  
10 was well-nourished, alert, and well-developed with muscle tone and strength within normal  
11 limits. DJ weighed 14 pounds.

12 B. On or about, December 1, 2005, Respondent Pharmacy, operating as HP  
13 Pharmacy, submitted an unsigned MAR for Neosure on behalf of DJ with a false medical  
14 justification to Dr. S to obtain his signature. The false medical justification stated: "poor feeder  
15 who tolerated very small amounts of feeds, poor suck and swallow, and immature preemie gut".  
16 Thereafter, Respondent Pharmacy received a signed MAR back from the physician with this false  
17 clinical resume. On November 4, 2005, Respondent Pharmacy submitted a TAR with the false  
18 medical justification (that would later be contained in the aforementioned MAR) to Medi-Cal to  
19 obtain approval for Neosure for DJ.

20 C. On or about, May 17, 2006, Respondent Pharmacy, operating as HP  
21 Pharmacy, submitted an unsigned MAR for Neosure on behalf of DJ with the same false medical  
22 justification to Dr. S, DJ's physician, to obtain his signature. On May 17, 2006, Respondent  
23 pharmacy obtained from Dr. S a signed MAR with this false clinical resume. On April 25, 2006,  
24 however, Dr. U examined DJ and noted that DJ was taking regular milk and eating solid food.  
25 Dr. U. further noted that DJ was well-nourished, alert, and well-developed, with muscle tone,  
26 bulk, and strength within normal limits. On February 2, 2006, Respondent Pharmacy, submitted  
27 to Medi-Cal a TAR for Pediasure with the same false medical justification that was contained in  
28 the MAR submitted to the physician on May, 2006.

Patient JC

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2           A.     On April 16, 2004, patient JC was born and was diagnosed with congenital  
3 heart failure. On or about, April 18, 2005, August 15, 2005, September 7, 2005, October 7,  
4 2005, and December 14, 2005, JC's physician (Dr. S.) examined JC and documented that JC's  
5 skeletomuscular and neurological functions were normal. Progress notes on August 29, 2005 and  
6 October 7, 2005, referenced the need for Pediasure.

7           B.     On or prior to January 19, 2006, Respondent Pharmacy, operating as HP  
8 Pharmacy, submitted an unsigned MAR for Neosure on behalf of JC with a false medical  
9 justification to JC's physician to obtain his signature. The false medical history stated that patient  
10 JC had prematurity, mental retardation, developmental delay, G.E.R.D., delayed motor skills,  
11 difficulty swallowing, poor weight gain and growth secondary to eating disorder. It also stated  
12 that patient JC was unable to acquire sufficient nutrition due to poor chewing and swallowing  
13 ability secondary to developmental delay. On or about January 19, 2006, Respondent Pharmacy  
14 obtained a signed MAR with the false clinical resume back from JC's physician. On or about  
15 January 23, 2006, Respondent Pharmacy submitted a TAR with this false medical history to  
16 Medi-Cal to obtain approval for Peptamen Jr. for patient JC.

Patient LGV

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18           A.     On August 18, 2005, LGV was born, weighed 1287 grams, and was  
19 diagnosed with Russell-Silver Syndrome, a genetic defect resulting in a failure to grow. Dr. V.  
20 and Dr. G. examined LGV and noted that the patient ate a little food, including solid food and  
21 Pediasure, but was a picky eater. Motor skills were evaluated and no abnormality was  
22 mentioned. Likewise, on December 6, 2005, Dr. G. and Dr. C. re-examined the patient and no  
23 abnormal motor skills were noted.

24           B.     On or about June 13, 2005, Respondent Pharmacy, operating as HP  
25 Pharmacy, submitted an unsigned MAR for Neosure on behalf of LGV with a false medical  
26 justification to Dr. S, JC's physician, in order to obtain his signature. The false medical history  
27 stated that patient LGV had prematurity, mental retardation, developmental delay, G.E.R.D. and  
28 N.E.C., and delayed motor skills. It also stated that patient LGV had difficulty swallowing

1 pureed foods resulting in choking and gagging, an inability to acquire sufficient nutrition due to  
2 poor chewing and swallowing secondary to developmental delay, and that patient LGV tolerated  
3 mostly liquids due to choking and gagging problems. Respondent Pharmacy's records reflect  
4 that on or about June 13, 2005 and October 13, 2005, Respondent Pharmacy received MAR's  
5 from LGV's physician (Dr. S.) with this false clinical resume bearing prescription dates of July 1,  
6 2005 and February 2, 2006, respectively. On or about January 26, 2006, Respondent Pharmacy  
7 submitted TAR(s) with the false medical history to Medi-Cal to obtain approval for PediaSure for  
8 patient LGV.

9 Patient YS

10 A. On or about December 29, 2005, YS was born. On or about February 1,  
11 2006, Dr. D., YS's physician, prescribed Neosure. The prescription stated "DX [diagnosis]  
12 permaternity" and "RX Neosure Formula". On the next line, was a handwritten notation "2 mo."  
13 The physician had only written the prescription for **one month**, however, the prescription was  
14 altered to "**2 months**" after the physician had signed it.

15 B. On or prior to February 2, 2006,, Respondent Pharmacy, operating as HP  
16 Pharmacy, submitted an unsigned MAR for a **two month** supply of Neosure on behalf of YS with  
17 a false medical justification to Dr. D., YS's physician, in order to obtain his signature. The false  
18 medical justification included poor feeder who tolerated very small amounts of feeds, poor suck  
19 and swallow, and immature preemie gut. On or about February 2, 2006, Respondent Pharmacy  
20 received a signed MAR back from the physician with this false clinical resume and with the  
21 alteration from a one month supply to a **twelve month** supply of Neosure. On or about February  
22 1, 2006, Respondent Pharmacy submitted a TAR with the false medical justification and an  
23 alteration from a two month supply of Neosure to a **twelve month** supply of Neosure to Medi-  
24 Cal to obtain approval for DJ. On February 1, 2006, March 1, 2006, March 27, 2006, and April  
25 23, 2006, Respondent Pharmacy dispensed a thirty-day supply of Neosure.

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SECOND CAUSE FOR DISCIPLINE

(False Documentation)

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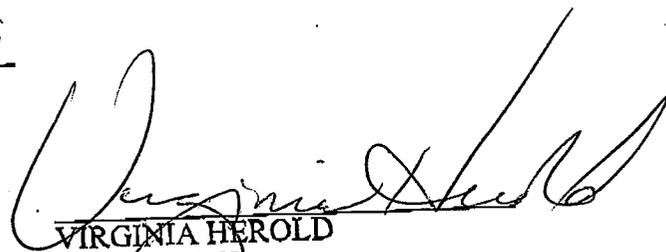
10. Respondent Pharmacy is subject to disciplinary action under section Section 4301 (g) in that it acted unprofessionally by knowingly making and signing Medi-Cal Authorization Request forms, Treatment Authorization Request forms, and an altered prescription as more fully set forth in paragraph nine (9).

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 47361, issued to Centinela Freeman Holdings, Inc., dba First Care Pharmacy;
- 2. Revoking or suspending Pharmacist License Number RPH 26227, issued to Edward Leo Callahan, III;
- 3. Ordering Centinela Freeman Holdings, Inc., dba First Care Pharmacy and Edward Leo Callahan, III to pay to the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 4. Taking such other and further action as deemed necessary and proper.

DATED: 6/27/08



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

LA2007601997