KAMALA D. HARRIS
Attorney General of California
LINDA K. SCHNEIDER
Senior Assistant Attorney General
THOMAS L. RINALDI
Supervising Deputy Attorney General
State Bar No. 206911
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 897-2542
Facsimile: (213) 897-2804
Attorneys for Complainant

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

In the Matter of the Accusation Against: **JOSEPH AMIN DBA CENTURY PHARMACY** **11870 Santa Monica Blvd, Ste 108** **Los Angeles, CA 90025-2276** **Permit No. PHY 34252,** **and** **JAVAD FERDOWSI** **11916 Gorham Ave #202** **Los Angeles, CA 90049** **Pharmacist License No. RPH 37587** Respondents.	Case No. 4670 **A C C U S A T I O N**

Complainant alleges:

PARTIES

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

2. On or about May 14, 1987, the Board of Pharmacy issued Permit Number PHY 34252 to Joseph Amin dba Century Pharmacy ("Respondent Pharmacy"). The Permit was in full force and effect at all times relevant to the charges brought herein and will expire on May 1, 2016, unless renewed.

3. On or about March 29, 1983, the Board of Pharmacy issued Pharmacist License Number RPH 37587 to Javad Ferdowsi ("Respondent Ferdowsi"). From May 14, 1987 to April 4, 2011, Respondent Ferdowsi was the Pharmacist-in-Charge ("PIC") at Respondent Pharmacy. The Pharmacist License will expire on January 31, 2017, unless renewed.

JURISDICTION

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

5. Section 4300.1 of the Code states:

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

6. Section 4300 of the Code states, in pertinent part:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper."

///

///

///

STATUTES

7. Section 4076 of the Code states, in pertinent part:

"(a) A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

"(1) Except where the prescriber or the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, or the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052 orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

"(2) The directions for the use of the drug.

"(3) The name of the patient or patients.

"(4) The name of the prescriber or, if applicable, the name of certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1., the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

"(5) The date of issue.

"(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

"(7) The strength of the drug or drugs dispensed.

"(8) The quantity of the drug or drugs dispensed.

"(9) The expiration date of the effectiveness of the drug dispensed.

"(10) The condition for which the drug was prescribed if requested by the patient and the condition is indicated on the prescription.

"(11)(A) Commencing January 1, 2006, the physical description of the dispensed medication, including its color, shape, and any identification code that appears on the tablets or capsules, except as follows:

"(i) Prescriptions dispensed by a veterinarian.

"(ii) An exemption from the requirements of this paragraph shall be granted to a new drug for the first 120 days that the drug is on the market and for the 90 days during which the national reference file has no description on file.

"(iii) Dispensed medications for which no physical description exists in any commercially available database.

"(B) This paragraph applies to outpatient pharmacies only.

"(C) The information required by this paragraph may be printed on an auxiliary label that is affixed to the prescription container."

8. Section 4081, subdivision (a) states:

"(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. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices."

///

9. Section 4104, subdivision (b) states:

"(b) Every pharmacy shall have written policies and procedures for addressing chemical, mental, or physical impairment, as well as theft, diversion, or self-use of dangerous drugs, among licensed individuals employed by or with the pharmacy."

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

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

. . . .

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

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

. . . .

"(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."

11. Code of Federal Regulations, title 21, section 1304.04, subdivision (h) states:

"(h) Each registered pharmacy shall maintain the inventories and records of controlled substances as follows:

"(1) Inventories and records of all controlled substances listed in Schedule I and II shall be maintained separately from all other records of the pharmacy.

"(2) Paper prescriptions for Schedule II controlled substances shall be maintained at the registered location in a separate prescription file.

"(3) Inventories and records of Schedules III, IV, and V controlled substances shall be maintained either separately from all other records of the pharmacy or in such form that the information required is readily retrievable from ordinary business records of the pharmacy.

"(4) Paper prescriptions for Schedules III, IV, and V controlled substances shall be maintained at the registered location either in a separate prescription file for Schedules III, IV, and V controlled substances only or in such form that they are readily retrievable from the other prescription records of the pharmacy. Prescriptions will be deemed readily retrievable if, at the time they are initially filed, the face of the prescription is stamped in red ink in the lower right corner with the letter "C" no less than 1 inch high and filed either in the prescription file for controlled substances listed in Schedules I and II or in the usual consecutively numbered prescription file for noncontrolled substances. However, if a pharmacy employs a computer application for prescriptions that permits identification by prescription number and retrieval of original documents by prescriber name, patient's name, drug dispensed, and date filled, then the requirement to mark the hard copy prescription with a red "C" is waived.

"(5) Records of electronic prescriptions for controlled substances shall be maintained in an application that meets the requirements of part 1311 of this chapter. The computers on which the records are maintained may be located at another location, but the records must be readily retrievable at the registered location if requested by the Administration or other law enforcement agent. The electronic application must be capable of printing out or transferring the records in a format that is readily understandable to an Administration or other law enforcement agent at the registered location. Electronic copies of prescription records must be sortable by prescriber name, patient name, drug dispensed, and date filled."

12. Code of Federal Regulations, title 21, section 1304.11 states, in pertinent part:

"(a) General requirements. Each inventory shall contain a complete and accurate record of all controlled substances on hand on the date the inventory is taken, and shall be maintained in written, typewritten, or printed form at the registered location. An inventory taken by use of an oral recording device must be promptly transcribed. Controlled substances shall be deemed to be "on hand" if they are in the possession of or under the control of the registrant, including

substances returned by a customer, ordered by a customer but not yet invoiced, stored in a warehouse on behalf of the registrant, and substances in the possession of employees of the registrant and intended for distribution as complimentary samples. A separate inventory shall be made for each registered location and each independent activity registered, except as provided in paragraph (e)(4) of this section. In the event controlled substances in the possession or under the control of the registrant are stored at a location for which he/she is not registered, the substances shall be included in the inventory of the registered location to which they are subject to control or to which the person possessing the substance is responsible. The inventory may be taken either as of opening of business or as of the close of business on the inventory date and it shall be indicated on the inventory.

"(b) Initial inventory date. Every person required to keep records shall take an inventory of all stocks of controlled substances on hand on the date he/she first engages in the manufacture, distribution, or dispensing of controlled substances, in accordance with paragraph (e) of this section as applicable. In the event a person commences business with no controlled substances on hand, he/she shall record this fact as the initial inventory.

"(c) Biennial inventory date. After the initial inventory is taken, the registrant shall take a new inventory of all stocks of controlled substances on hand at least every two years. The biennial inventory may be taken on any date which is within two years of the previous biennial inventory date."

13. California Code of Regulations, title 16, section 1715 states, in pertinent part:

"(a) The pharmacist-in-charge of each pharmacy as defined under section 4029 or section 4037 of the Business and Professions Code shall complete a self-assessment of the pharmacy's compliance with federal and state pharmacy law. The assessment shall be performed before July 1 of every odd-numbered year. The primary purpose of the self-assessment is to promote compliance through self-examination and education.

"(b) In addition to the self-assessment required in subdivision (a) of this section, the pharmacist-in-charge shall complete a self-assessment within 30 days whenever:

"(1) A new pharmacy permit has been issued, or

"(2) There is a change in the pharmacist-in-charge, and he or she becomes the new pharmacist-in-charge of a pharmacy.

"(3) There is a change in the licensed location of a pharmacy to a new address.

. . . .

"(d) Each self-assessment shall be kept on file in the pharmacy for three years after it is performed."

14. California Code of Regulations, title 16, section 1716 states:

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

"(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense a controlled substance prescription where the pharmacist knows or has objective reason to know that said prescription was not issued for a legitimate medical purpose."

DANGEROUS DRUGS

15. Zosyn, which is a brand name for piperacillin 2 gm with tazobactam 375 mg, is an IV antibiotic and a dangerous drug pursuant to Code section 4022.

16. Vancocin, which is a brand name for vancomycin, is an IV antibiotic and a dangerous drug pursuant to Code section 4022.

17. Cleocin, which is a brand name for clindamycin, is an IV, oral, or topical antibiotic, and is a dangerous drug pursuant to Code section 4022.

18. Rocephin, which is a brand name for ceftriaxone, is an IV antibiotic and a dangerous drug pursuant to Code section 4022.

COST RECOVERY

19. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

BACKGROUND FACTS

20. During an investigation into a complaint involving Patient DK and a pharmacy called IV Solutions, a Board Inspector discovered documentation relating to Respondent Pharmacy. On or about November 5, 2010, the Board Inspector contacted Respondent Pharmacy and spoke with Respondent Ferdowsi. The Board Inspector asked Respondent Ferdowsi if Respondent Pharmacy compounds IVs. Respondent Ferdowsi stated no, but that he bills and supplies IV Solutions with the drugs.

21. The Board Inspector began to conduct an investigation into Respondent Pharmacy.

22. On or about June 21, 2011, the Board Inspector conducted a routine inspection of Respondent Pharmacy. At this time, Respondent Ferdowsi was no longer the Pharmacist-in-Charge, but rather Shahrabi Farahani had assumed that role. The Board Inspector gathered documents, and based on those documents as well as other documentation gathered during the course of the investigation, found multiple violations of the pharmacy law.

FIRST CAUSE FOR DISCIPLINE

(Insurance Fraud)

23. Respondent Pharmacy and Respondent Ferdowsi are subject to disciplinary action under Code section 4301, subdivisions (f) and (g) on the grounds of unprofessional conduct in that Respondents committed acts of dishonesty, fraud, and/or deceit and knowingly made or signed documents that falsely represented the existence or non-existence of material facts related to insurance billings. The circumstances are as follows.

(a) Between August 25, 2009, and September 2, 2010, Respondents allowed the following acts of improper insurance billings to occur:

(i) RX #508100 for Patient DB dated August 25, 2009 was for vancomycin 800mg q 12 hr = 1.6mg per day x 28 days = 44.8gm. However Respondent Pharmacy billed insurance for 51gm of vancomycin.

(ii) On or about September 2, 2010, Respondent Pharmacy billed Patient DS's Medicare Part D insurance pursuant RX #524984 "U" for 10 vials of ceftriaxone 1gm vial under

the directions typed, "Inject 1Gm IV daily." However the physician's order was for 7 days supply of ceftriaxone or 7 vials instead of 10 vials.

(iii) Respondent Pharmacy labeled the backer RX #510609 "U" dated October 23, 2009 for Patient RS transcribed for 9 vials of vancomycin with directions typed, "Inject one gram IV every 12 hours." However, Respondent Pharmacy billed the insurance for 30gm instead of 9gm as written. Additionally, Respondent Pharmacy billed and labeled the backer under RX #511151 "U" on November 9, 2009 for Patient RS for 180 vials of vancomycin 1gm with the directions, "Inject 3gm IV every 12 hours" but there was no transcribed prescription or record to substantiate this dosage or duration of therapy except the computer backer.

(iv) Respondent Pharmacy labeled RX "517962 "U" dated March 29, 2010 for Patient GH reads "Inject 1gm IV daily for 7 days." Respondent Pharmacy billed Patient GH's insurance company for 1400ml vancomycin, which is over 10 times the amount of the prescription, i.e., 7 vancomycin 1gm/20ml x 1400 ml= 70gm, not 7gm daily. Additionally, on April 2, 2010, Respondent Pharmacy refilled pharmacy backer RX "517962 "U" for 5600 ml, which converts to 280gms, not 28gm. There was no record to substantiate this increase in the medication.

(v) Respondent Pharmacy overcharged Patient MB's insurance on July 27, 2010 for clindamycin 150mg/ml x 480 ml = 72,000 mg or 72 gm. MB actually needed 1.2gm x 3 doses/week x 4 weeks, which equals 14.4gm clindamycin. IV Solutions used less than 2 vials of clindamycin 9gm/60ml vials while Respondent Pharmacy charged for vials with both pharmacies using NDC 63323028260.

(vi) Respondent Pharmacy billed under Patient MB's insurance on or about December 18, 2009 for 100 vials of Zosyn 3-0.375gm for a 10 day supply pursuant to RX #513076 but the chart order dated December 16, 2009 showed Zosyn 3.75gm q 8 hours through December 27, 2009 which required only 30 vials for 10 days, rather than 100 vials.

(b) Between 2009 and 2010, Respondent Pharmacy shared and received patient information from IV Solutions Pharmacy that it used to bill insurance companies for sterile, injectable dangerous drugs even though Respondent Pharmacy was not licensed to compound

sterile injectable products, did not have clean room facilities, compounding equipment, or compounding supplies needed for sterile injectable compounding. This conduct occurred for the following patients:

PATIENT	DRUG	RX DATE CENTURY	RX # CENTURY	NDC CENTURY	RX DATE IV SOLUTIONS	RX # IV SOLUTIONS	NDC IV SOLUTIONS
MB	Clindamycin 150mg/ml	7/28/2010	523321	63323028260	7/28/2010	2455	63323028260
DH	Vancomycin 1gm	8/3/2009	506756	63323028420	7/27/2009	677	63323022110
IGM	Vancomycin 1gm	8/3/2009	507089	63323028420	8/3/2009	714	1013905012
RS	Vancomycin 1gm	11/9/2009	511151	63323028420	11/24/2009	1240	1013905012
JS	Vancomycin 1gm	8/7/2009	507355	63323028420	8/7/2009	739	00409650901
AF	Vancomycin 1gm	3/9/2010	515646	23360015250	3/25/2010	1556	00409653301
IZ	Vancomycin 1gm	3/18/2010	517477	23360015250	3/29/2010	1741	00409653301
GH	Vancomycin 1gm	3/29/2010	517962	23360015250	3/29/2010	1786	00409653301
GH	Vancomycin 1gm	4/2/2010	517962	23360015250	4/2/1010	1807	00409653301
RE	Vancomycin 1gm	3/24/2010	517766	23360015250	3/25/2010	1767	00409653301
GB	Vancomycin 1gm	4/30/2010	519398	10139050112	4/27/2010	1950	00409653301
GB	Vancomycin 1gm	5/5/2010	519641	10139050112	5/4/2010	1995	00409653301
BG	Vancomycin 1gm	6/14/2010	521435	23360015250	6/14/2010	2208	00409653301
BG	Vancomycin 1gm	6/22/2010	521775	23360015250	6/22/2010	2208	00409653301
IM	Vancomycin 1gm	7/1/2010	522139	23360015250	6/30/2010	2312	00409653301
EG	Vancomycin 1gm	7/2/2010	522223	23360015250	7/2/2010	2336	00409653301
DM	Vancomycin 1gm	7/26/2010	523197	23360015250	7/27/2010	2538	00409653301
DM	Vancomycin 1gm	8/16/2010	523197	23360015250	8/16/2010	2655	00409653301
DM	Vancomycin 1gm	11/4/2010	527683	23360015250	8/30/2010	2655	00409653301
FB	Vancomycin 1gm	7/27/2010	523326	00409653301	7/29/2010	2557	00409653301
MG	Vancomycin 1gm	10/14/2010	526664	23360015250	10/13/2010	3107	00409653301
LP	Ceftriaxone 1 gm	9/11/2009	508857	60506075200	9/11/2009	899	Brand Rocephin
FR/FRP	Ceftriaxone 1 gm	10/26/2009	510658	60505075204	10/23/2009	1113	Brand Rocephin
JA	Ceftriaxone	3/5/2010	516833	00409332001	3/5/2010	1701	Brand

	1 gm						Rocephin
LF	Ceftriaxone 2 gm	3/9/2010	516971	00703034603	3/9/2010	1714	Brand Rocephin
PM	Ceftriaxone 1 gm	4/28/2010	519184	60505075204	4/23/2010	1923	00409733201
DS	Ceftriaxone 1 gm	9/2/2010	524984	60505075204	9/3/2010	2791	00409733201

THIRD CAUSE FOR DISCIPLINE

(False and Improper Prescription Labels)

24. Respondent Pharmacy and Respondent Ferdowsi are subject to disciplinary action under Code section 4301, subdivisions (g) and (o), in conjunction with Code section 4076, subdivision (a), on the grounds of unprofessional conduct in that they knowingly made or signed a document that falsely represented the existence or nonexistence of a set of facts when they dispensed prescriptions that were not properly labeled and did not meet applicable legal requirements. The circumstances are as follows:

(a) For RX #526664 for Patient MG, the prescription label stated "Mario G." but the patient's name was "Maria G." Additionally, the instructions for the patient's vancomycin stated, "Inject 1250mg IV over 48 hours..." instead of "Administer 1250mg over 2 hours every 48 hours...."

(b) For RX #510658 for Patient FP, the prescription was labeled F. Puppert, but the patient's last name was "Ruppert."

(c) For RX #523326 for Patient FB, the prescription was labeled "Injection 1gm every 12 hours" instead of "Administer 1gm IVPB every 12 hours."

(d) For RX #524914 for Patient AM, the prescription was labeled "Inject 2gm IV daily for 21 days" instead of "Administer 2gm IVPB every dayis for 14-21 days."

(e) For RX #522139 for Patient IM, the prescription for vancomycin was labeled "Inject 1500mg IV every 12 hours for 3 days" but the prescriber order was for "1250mg over 90 minutes every 12 hours."

///

///

///

FOURTH CAUSE FOR DISCIPLINE

(Dispensing Erroneous or Uncertain Prescriptions)

25. Respondent Pharmacy and Respondent Ferdowsi are subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code of Regulations, title 16, section 1761, on the grounds of unprofessional conduct in that they dispensed prescriptions that were erroneous and uncertain without contacting the prescribers for verification. The circumstances are as follows:

(a) On or about July 1, 2010, Respondent Pharmacy dispensed RX #522139 without clarification for Patient IM, vancomycin that was labeled "Inject 1500mg IV every 12 hours for 3 days" when the prescription was for "1250mg over 90 minutes every 12 hours."

(b) On or about July 27, 2010. Respondent Pharmacy dispensed RX #523321 without clarification for Patient MB that was labeled "Cleocin Inject 1200mg daily for 4 weeks" when the prescription was for "Cleocin 1200mg by IVPB post dialysis for 3 weeks x 4 weekly."

(c) On or about April 2, 2010, Respondent Pharmacy dispensed RX #518130 for Zosyn "injected 375 every 6 hours for 6 weeks" without clarifying with the physician if this was the correct dose. In fact, the correct dose was 3.75 mg of Zosyn.

FIFTH CAUSE FOR DISCIPLINE

(Records of Dangerous Drugs Open for Inspection)

26. Respondent Pharmacy and Respondent Ferdowsi are subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with Code section 4081, subdivision (a), on the grounds of unprofessional conduct in that on or about June 21, 2011, during a routine inspection by the Board, Respondent Pharmacy could not locate prescription RX# 518130 for Patient DK's Zosyn, which was billed to and paid by Medicare Part D on April 2, 2010 but later reversed November 16, 2010. Additionally, Respondent Pharmacy did not maintain the following original prescriptions or physician's orders for the following patients identified only by a computer generated backer number as follows: RX #506756 "U" for Patient DH from Gardena; RX #507089 "U" for Patient IGM from Los Angeles; RX #507924 "U" for Patient CW from North Hollywood; RX #508857 "C" for Patient PL from Cerritos; RX #510374 "U" for Patient IO

from Los Angeles; RX #511151 "U" for Patient RS from Visalia; RX #513183 "U" for Patient CP from Irvine; RX # 515518 "U" for Patient EP from Fallbrook; RX #516186 "U" for Patient GW from Los Angeles; RX #516478 "U" for Patient SR from Los Angeles; RX #516815 "U" for Patient IZ from Los Angeles; RX # 516833 "U" for Patient JA from La Cresenta; RX # 516971 "U" for Patient LF from West Hollywood; RX #517477 "U" for Patient IZ from Los Angeles; RX # 517766 "U" and RX #517765 "U" for Patient RE from Los Angeles; RX # 517962 "U" for Patient GH from Glendale; RX #518907 "U" for Patient AH from Chino; RX # 519365 "U" for Patient PS from Van Nuys; RX # 522223 "U" for Patient EG from Los Angeles; and RX # 522139 "U" for Patient IM from Azusa.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Complete a Self-Assessment)

27. Respondent Pharmacy and Respondent Ferdowsi are subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code of Regulations, title 16, section 1715, on the grounds of unprofessional conduct in that on or about June 21, 2011, during a routine inspection by the Board, there were no pharmacy self-assessment forms completed at Respondent Pharmacy by either former PIC Respondent Ferdowsi or then-current PIC Farahani.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Keep Controlled Substance Inventory)

28. Respondent Pharmacy and Respondent Ferdowsi are subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with Code of Federal Regulations, title 16, section 1304.11, subdivisions (a) and (c), on the grounds of unprofessional conduct in that on or about June 21, 2011, during a routine inspection by the Board, there was no biennial controlled substance inventory maintained at Respondent Pharmacy. There was no biennial inventory maintained by former PIC Respondent Ferdowsi and there was an incomplete inventory conducted by then PIC Farahani.

///

///

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Maintain Controlled Substance Inventory)

29. Respondent Pharmacy and Respondent Ferdowsi are subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with Code of Federal Regulations, title 16, section 1304.04, subdivision (h), on the grounds of unprofessional conduct in that on or about June 21, 2011, during a routine inspection by the Board, the Schedule III, IV, and V controlled substance invoice records were not maintained separately but instead had been comingled with other pharmacy invoice records from the time Respondent Ferdowsi had been the PIC to the time of the inspection.

NINTH CAUSE FOR DISCIPLINE

(Violation of Prescription Container Labeling Requirement)

30. Respondent Pharmacy and Respondent Ferdowsi are subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with Code section 4076, subdivision (a)(11), on the grounds of unprofessional conduct in that on or about June 21, 2011, during a routine inspection by the Board, Respondent Pharmacy's prescription containers did not provide the required physical description of the tablets or capsules on the containers. On or about December 3, 2008, Respondent Pharmacy had previously been issued a Notice of Correction for failure to have the prescription product description on the prescription label. However Respondent Pharmacy and Respondent Ferdowsi failed to establish compliance. As of the Board inspection on June 21, 2011 when PIC Farahani was in charge of Respondent Pharmacy, compliance still had not been established.

TENTH CAUSE FOR DISCIPLINE

(Failure to Have Theft or Impairment Policy)

31. Respondent Pharmacy and Respondent Ferdowsi are subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with Code section 4104, subdivision (b), on the grounds of unprofessional conduct in that on or June 21, 2011, during a routine inspection by the Board, Respondent Pharmacy failed to have in place a written policy or procedures for impaired licensed employees. On or about December 3, 2008, Respondent Pharmacy had

previously been issued a Notice of Correction for failing to have a policy and procedures for impaired licensed persons. However Respondent Pharmacy and Respondent Ferdowsi failed to establish compliance. As of the Board inspection on June 21, 2011 when PIC Farahani was in charge of Respondent Pharmacy, compliance still had not been established.

DISCIPLINE CONSIDERATIONS

32. To determine the degree of discipline, if any, to be imposed on Respondent Pharmacy, Complainant alleges that on or about April 27, 2005, in a previous matter entitled *In the Matter of the Accusation and First Amended Accusation and Supplemental Accusation against Joseph Amin dba Century Pharmacy and Javad Ferdowsi*, Board of Pharmacy Case No. 2280, the Board issued a Citation to Respondent Pharmacy in the amount of $2,500 for violating Business and Professions Code section 4081 in conjunction with Code of Federal Regulations, title 21, section 1304.21, subdivision (a) [failure to maintain accurate DEA inventory of dangerous drugs/controlled substances] and violating Business and Professions Code section 4059, subdivision (a) [furnishing a drug or controlled substance without a prescription for a person unlawfully authorized to prescribe.] That Citation is now final and is incorporated by reference as if fully set forth herein.

33. To determine the degree of discipline, if any, to be imposed on Respondent Ferdowsi, Complainant alleges on or about April 27, 2005, in a previous matter entitled *In the Matter of the Accusation and First Amended Accusation and Supplemental Accusation against Joseph Amin dba Century Pharmacy and Javad Ferdowsi*, Board of Pharmacy Case No. 2280, Respondent Ferdowsi 's pharmacist license was placed on three years probation with terms and conditions for violating Business and Professions Code sections 4301, subdivision (j) and 4070, subdivision (a) [allowing a non-pharmacist to receive transmitted prescriptions], Business and Professions Code section 4081 and California Code of Regulations, title 16, section 1718 [failure to maintain dangerous drug/controlled substance records], Business and Professions Code section 4105 and 4332 [failure to produce records to the Board], Business and Professions Code section 4059, subdivision (a) and Health and Safety Code sections 11352, subdivision (a)(2) and 11379, subdivision (a)(1) [selling dangerous drugs/controlled substances without a prescription]; and

Business and Professions Code sections 4301, subdivision (j) and 4076 [dispensing dangerous drugs/controlled substances in unlabeled containers]. That decision is now final and is incorporated by reference as if fully set forth.

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 Permit Number PHY 34252, issued to Joseph Amin dba Century Pharmacy;

2. Revoking or suspending Pharmacist License Number RPH 37587, issued to Javad Ferdowsi;

3. Ordering Joseph Amin and Javad Ferdowsi 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; and

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

DATED: 11/4/15

Virginia Herold

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

LA2013509820
51940058.doc