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

11 In the Matter of the Accusation Against:

Case No. 4671

12 **SOUTHERN CALIFORNIA COMPOUNDING**  
13 **PHARMACY LLC**

14 **11125 Flintkote Ave. #F**  
**San Diego, CA 92121**

15 **Pharmacy Permit No. PHY 49147**  
**Sterile Compounding Permit No. LSC 99510**

16 **MARK BADRIA**  
17 **11125 Flintkoke Ave., #F**  
18 **San Diego, CA 92121**

19 **Pharmacist License No. RPH 41678**

20 Respondents.

**ACCUSATION**

21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about October 29, 2008, the Board of Pharmacy issued Pharmacy Permit No.  
26 PHY 49147 to Southern California Compounding Pharmacy LLC (Respondent Pharmacy). The  
27 Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein,  
28 and will expire on October 1, 2014, unless renewed.



1 7. Section 4300.1 of the Code states:

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

8 **STATUTORY AUTHORITY**

9 8. Section 4301 of the Code states:

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

14 ...

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

20 ....

21 **REGULATIONS**

22 9. California Code of Regulations, title 16, section 1751.7, states in relevant part:

23 ...

24 (c) Batch-produced sterile injectable drug products compounded from one or  
25 more non-sterile ingredients shall be subject to documented end product testing for  
26 sterility and pyrogens and shall be quarantined until the end product testing  
27 confirms sterility and acceptable levels of pyrogens.

28 ....

**COSTS**

10. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
administrative law judge to direct a licensee found to have committed a violation or violations of  
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
enforcement of the case. If a case settles, recovery of investigation and enforcement costs may be  
included in a stipulated settlement.

1 **CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Failure to Perform End Product Testing**  
3 **on Batch-Produced Sterile Injectable Drug Products)**

4 11. Respondents are subject to disciplinary action for unprofessional conduct under Code  
5 section 4301, subdivision (o), for failing to perform end product testing on batch-produced sterile  
6 injectable drug products in violation of California Code of Regulations, title 16, section 1751.7,  
7 subdivision (c) as follows:

8 a. On a routine inspection conducted at Respondent Pharmacy on April 19, 2013, the  
9 Board's investigators discovered that 51 sterile injectable drug products were made from batch-  
10 produced sterile injectable drug products compounded from one or more non-sterile ingredients.  
11 Respondents dispensed these 51 sterile injectable drug products before completing end product  
12 testing for sterility and acceptable levels of pyrogens.

13 **DISCIPLINE CONSIDERATIONS**

14 12. To determine the degree of discipline, if any, to be imposed on Respondent Pharmacy,  
15 Complainant alleges that on or about June 9, 2011, in a prior action, the Board of Pharmacy  
16 issued Citation Number CI 2010 46603 charging Respondent Pharmacy with violation of  
17 California Code of Regulations, title 16, section 1714, subdivisions (b), (d) and (e), for operating  
18 standards and security violations, and California Code of Regulations, title 16, section 1716, and  
19 Business and Professions Code section 4076, subdivision (a)(2), for dispensing prescriptions not  
20 correctly labeled with directions for use of the drug. Respondent Pharmacy was ordered to pay a  
21 fine in the amount of \$1,000.00 by July 9, 2011. That Citation is now final and is incorporated by  
22 reference as if fully set forth.

23 13. To determine the degree of discipline, if any, to be imposed on Respondent Badria  
24 Complainant alleges that on or about June 9, 2011, in a prior action, the Board of Pharmacy  
25 issued Citation Number CI 2010 48429 charging Respondent Badria with violation of California  
26 Code of Regulations, title 16, section 1714, subdivisions (b), (d) and (e), for operating standards  
27 and security violations, and California Code of Regulations, title 16, section 1716, and Business  
28 and Professions Code section 4076, subdivision (a)(2), for dispensing prescriptions not correctly

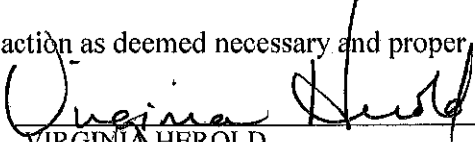
1 labeled with directions for use of the drug. Respondent Badria was ordered to pay a fine in the  
2 amount of \$1,375.00 by July 9, 2011. That Citation is now final and is incorporated by reference  
3 as if fully set forth.

4 **PRAYER**

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

- 7 1. Revoking or suspending Pharmacy Permit No. PHY 49147 issued to Southern  
8 California Compounding Pharmacy LLC;
- 9 2. Revoking or suspending Sterile Compounding Permit No. LSC 99510, issued to  
10 Southern California Compounding Pharmacy LLC;
- 11 3. Revoking or suspending Pharmacist License No. RPH 41678 issued to Mark John  
12 Badria;
- 13 4. Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the  
14 investigation and enforcement of this case, pursuant to Business and Professions Code section  
15 125.3;
- 16 5. Taking such other and further action as deemed necessary and proper.

17 DATED: 8/27/14

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

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