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

10 In the Matter of the Accusation Against:

Case No. 4913

11 **PHARMACY CENTRAL;**
12 **MIKE AVEDISSIAN (President and**
Pharmacist-in-Charge)
13 **ZHOZEF GADIMYAN (Secretary)**
14 **3009 S. Vermont Ave.**
Los Angeles, CA 90007

A C C U S A T I O N

15 **Pharmacy Permit No. PHY 47521**

16 **MIKE AVEDISSIAN**
17 **2223 Scott Road**
Burbank, CA 91504

18 **Pharmacist License No. RPH 43996**

19 Respondent.

20
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 August 15, 2006, the Board of Pharmacy ("Board") issued Pharmacy
26 Permit Number PHY 47521 to Pharmacy Central with Mike Avedissian as the President and
27 Pharmacist in Charge and Zhozef Gadimyan as the Secretary ("Respondent Pharmacy"). The
28 Pharmacy Permit expired on August 1, 2012, and has not been renewed. The board received

1 notification on July 12, 2013 that Respondent Pharmacy discontinued business effective June 29,
2 2012. Records were transferred to The Pharmacy Depot and the inventory was transferred to
3 Remedy Pharmacy.

4 3. On or about February 27, 1991, the Board of Pharmacy issued Pharmacist License
5 No. RPH 43996 to Mike Avedissian ("Respondent Avedissian"). The Pharmacist License was in
6 full force and effect at all times relevant to the charges brought herein and will expire on April 30,
7 2016, unless renewed.

8 9 JURISDICTION

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

13 5. Section 4300, subdivision (a), states, in pertinent part that every license issued may be
14 suspended or revoked.

15 6. Section 4300.1 states:

16 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
17 operation of law or by order or decision of the board or a court of law, the placement of a license
18 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
19 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
20 proceeding against, the licensee or to render a decision suspending or revoking the license."
21

22 STATUTORY PROVISIONS

23 7. Section 4301 of the Code states:

24 "The board shall take action against any holder of a license who is guilty of unprofessional
25 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
26 Unprofessional conduct shall include, but is not limited to, any of the following:
27 ...
28

1 (d) The clearly excessive furnishing of controlled substances in violation of subdivision (a)
2 of Section 11153 of the Health and Safety Code.

3 ...

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

6 ...

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

11 8. Section 4022 states:

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

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

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

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

21 9. Health and Safety Code section 11153, subdivision (a), states:

22 "A prescription for a controlled substance shall only be issued for a legitimate medical
23 purpose by an individual practitioner acting in the usual course of his or her professional practice.
24 The responsibility for the proper prescribing and dispensing of controlled substances is upon the
25 prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the
26 prescription. Except as authorized by this division, the following are not legal prescriptions: (1)
27 an order purporting to be a prescription which is issued not in the usual course of professional
28 treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of

1 controlled substances, which is issued not in the course of professional treatment or as part of an
2 authorized narcotic treatment program, for the purpose of providing the user with controlled
3 substances, sufficient to keep him or her comfortable by maintaining customary use.”

4 5 **REGULATORY PROVISION**

6 10. California Code of Regulations, Title 16, section 1761, states:

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

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

14 15 **COST RECOVERY**

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

20 21 **DRUG CLASSIFICATIONS**

22 12. Norco, an acetaminophen (apap) and hydrocodone combination narcotic, is a
23 controlled substance as defined under Health and Safety Code section 11056, subdivision (e)(4),
24 and a dangerous drug pursuant to Business and Professions Code section 4022.

25 13. Xanax, the brand name for alprazolam, is a controlled substance as defined under
26 Health and Safety Code section 11057, subdivision (d)(1), and a dangerous drug pursuant to
27 Business and Professions Code section 4022.

28 //

BOARD INVESTIGATION

14. On or about February 6, 2013, pursuant to a request from the Drug Enforcement Administration, Board inspectors began an investigation of Respondent Pharmacy. Respondent Pharmacy was closed and Board inspectors traveled to T.P.D., where Respondent Pharmacy's records were kept. Investigators were told by personnel from T.P.D. that they would need permission from Respondent Avedissian before records could be released.

15. A review of the Controlled Substance Utilization Review (CURES) data between January 1, 2010, and November 20, 2012, for Respondent Pharmacy revealed the following:

a. Respondent Pharmacy dispensed 26,813 controlled substance prescriptions. In comparison, neighboring pharmacy Vi.P. dispensed 2,130 controlled substance prescriptions, neighboring pharmacy Ve.P. dispensed 7,600 controlled substance prescriptions and a neighboring CVS Pharmacy dispensed 7,178 controlled substance prescriptions.

b. Dr. T.R. wrote 9,088 prescriptions that were dispensed at Respondent Pharmacy, accounting for 33.89% of Respondent Pharmacy's total controlled substance prescriptions. Dr. T.R. wrote one (1) prescription that was dispensed at Vi.P. and no prescriptions that were dispensed at either Ve.P. or the neighboring CVS Pharmacy.

c. Dr. D.G. wrote 638 prescriptions that were dispensed at Respondent Pharmacy, accounting for 2.38% of Respondent Pharmacy's total controlled substance prescriptions. Dr. D.G. wrote no prescriptions that were dispensed at either Vi.P., Ve.P., or the neighboring CVS Pharmacy. Dr. D.G.'s address of record with the California Medical Board is in Ponte Vedra Beach Florida, approximately 2,437 miles away from Respondent Pharmacy. No other Pharmacy in California dispensed a controlled substance written by Dr. D.G. during this time period.

d. Respondent Pharmacy dispensed 14,264 prescriptions of apap/hydrocodone bitartrate 325 mg-10mg tablets, accounting for 53.46% of Respondent Pharmacy's total controlled substance prescriptions. That same controlled substance made up 3.66% of Vi.P.'s total prescriptions, 0.28% of Ve.P.'s total prescriptions and 3.47% of the neighboring CVS Pharmacy's total prescriptions.

1 e. Respondent Pharmacy dispensed 4,477 prescriptions of apap/hydrocodone bitartrate
2 500 mg-10mg tablets, accounting for 16.78% of Respondent Pharmacy's total controlled
3 substance prescriptions. That same controlled substance was not dispensed at any of the
4 neighboring pharmacies.

5 f. Respondent Pharmacy dispensed 3,665 prescriptions of apap/hydrocodone bitartrate
6 650 mg-10mg tablets, accounting for 13.74% of Respondent Pharmacy's total controlled
7 substance prescriptions. That same controlled substance made up 0.14% of Vi.P.'s total
8 prescriptions, 0.79% of Ve.P.'s total prescriptions and 0.07% of the neighboring CVS Pharmacy's
9 total prescriptions.

10 16. A review of the Patient Activity Reports ("PARS") data between January 1, 2010, and
11 November 20, 2012, for Respondent Pharmacy revealed the following:

12 a. Patient C.W. Between March 2, 2010, and July 13, 2011, Respondents dispensed
13 300 tablets of apap/ hydrocodone bitartrate 10/325, 100 tablets of apap / hydrocodone bitartrate
14 10/500, 700 tablets of apap / hydrocodone bitartrate 10/650, and 100 tablets of Alprazolam 2 mg
15 to Patient C.W. All of these controlled substances were prescribed by Dr. T.R. and the
16 Alprazolam was dispensed on July 13, 2011, which is after Dr. T.R. surrendered his DEA
17 registration on July 8, 2011.

18 b. Patient L.W. On or about February 29, 2012, Respondents dispensed 100 tablets of
19 Alprazolam 2 mg to Patient L.W. The prescription was written by Dr. D.G. at the highest dose of
20 Alprazolam, a lower dose of the controlled substance was not prescribed and no follow-up was
21 performed.

22 c. Patient R.S. On or about February 26, 2012, Respondents dispensed 100 tablets of
23 Alprazolam 2 mg to Patient R.S. The prescription was written by Dr. D.G. at the highest dose of
24 Alprazolam. The pharmacist failed to inquire regarding the high dose, failed to obtain patient
25 history regarding the medication and failed to follow up with the patient's physician.

26 d. Patient R.N. Between May 17, 2010, and June 14, 2011, Respondents dispensed 700
27 tablets of apap / hydrocodone bitartrate 10/500, 300 tablets of apap / hydrocodone bitartrate
28

1 10/650 and 300 tablets of Alprazolam 2 mg to Patient R.N. All of these controlled substances
2 were prescribed by Dr. T.R.

3 e. Patient S.K. On or about February 28, 2012, Respondents dispensed 100 tablets of
4 Alprazolam 2 mg to Patient S.K. The prescription was written by Dr. D.G. at the highest dose of
5 Alprazolam, a lower dose of the controlled substance was not prescribed and no follow-up was
6 required.

7 f. Patient K.J. Between February 5, 2010, and June 15, 2011, Respondents
8 dispensed 600 tablets of apap / hydrocodone bitartrate 10/325, 400 tablets of apap / hydrocodone
9 bitartrate 10/500, and 100 tablets of apap / hydrocodone bitartrate 7.5/750 to Patient K.J. All of
10 these controlled substances were prescribed by Dr. T.R. Patient K.J. then had no dispensing of
11 controlled substances for approximately five months for before seeing Dr. O. and Dr. A. between
12 November 7, 2011, and July 17, 2012; however, Patient K.J. did not receive a prescription for
13 pain medications from those doctors.

14 g. Patient H.D. Between May 3, 2010, and July 13, 2011, Respondents dispensed
15 100 tablets of apap / hydrocodone bitartrate 10/325, 100 tablets of apap / hydrocodone bitartrate
16 10/500, 600 tablets of apap / hydrocodone bitartrate 10/650 and 100 tablets of Alprazolam 2 mg to
17 Patient H.D. All of these controlled substances were prescribed by Dr. T.R. and the Alprazolam
18 was dispensed on July 13, 2011, which is after Dr. T.R. surrendered his DEA registration on July
19 8, 2011.

20 h. Patient D.D. On or about February 29, 2012, Respondents dispensed 100 tablets of
21 apap / hydrocodone bitartrate 10/325 to Patient D.D. The prescription was written by Dr. D.G. for
22 only this one occasion.

23 i. Patient A.C. Between April 15, 2010, and June 16, 2011, Respondents dispensed
24 800 tablets of apap / hydrocodone bitartrate 10/325, 100 tablets of apap / hydrocodone bitartrate
25 10/500, and 100 tablets of Alprazolam 2 mg to Patient A.C. All of these controlled substances
26 were prescribed by Dr. T.R.

1 j. Patient M.A. On or about February 29, 2012, Respondents dispensed 100 tablets of
2 apap / hydrocodone bitartrate 10/325 to Patient M.A. The prescription was written by Dr. D.G.
3 for only this one occasion.

4 5 **CAUSE FOR DISCIPLINE**

6 **(Failure to Assume Corresponding Responsibility)**

7 17. Respondent Pharmacy and Respondent Avedissian (collectively, "Respondents") are
8 subject to disciplinary action under section 4301, subdivisions (d) and (j), for violating Health and
9 Safety Code section 11153, subdivision (a), and section 4301, subdivision (o), for violating
10 California Code of Regulations, Title 16, section 1761, in that between January 1, 2010, and
11 November 20, 2012, Respondents failed to comply with their corresponding responsibility by
12 failing to validate the legitimacy of prescriptions and/or reviewing the patients' drug therapy, by
13 dispensing prescriptions without regard to objective factors¹, by dispensing irregular/uncertain
14 prescriptions, and/or by excessively furnishing controlled substances. Complainant refers to, and
15 by this reference incorporates, the allegations contained in paragraphs 14 through 16, and all
16 subparagraphs inclusive, as though set forth fully herein.

17 18 **DISCIPLINE CONSIDERATIONS**

19 18. To determine the degree of discipline, if any, to be imposed on Respondents,
20 Complainant alleges the following:

21 **Prior Discipline Against Respondent Avedissian**

22 a. On or about March 14, 1997, the Board of Pharmacy brought a disciplinary action
23 against Respondent Avedissian entitled *In the Matter of the Accusation Against Mike Avedissian*
24 *and ABM Pharmacy*, Board case number 1836. On or about February 7, 1998, Respondent
25 Avedissian's license was suspended for fourteen (14) days and placed on probation for three (3)

26
27 ¹ Objective factors include, but are not limited to checking the prescription drug monitoring program,
28 verifying physician's DEA license, verifying the status of physician's medical license, determining the geographic
distance between physician and patient, verifying patient identification, etc.

1 years for violating Business and Professions Code sections 4350.5, 4351 and 4080 by improperly
2 storing controlled substances and billing Medi-Cal for prescriptions that were never dispensed.
3 That decision is now final and is incorporated by reference as if fully set forth.

4 **Prior Citations Against Respondent Pharmacy and Respondent Avedissian**

5 b. On or about January 19, 2011, in Citation Number CI 2007 34672, the Board issued a
6 fine in the amount of \$5,000.00 to Respondent Pharmacy for violating section 4081 by filling
7 erroneous or uncertain prescriptions and California Code of Regulations, title 16, section 1761,
8 subdivision (a), by dispensing prescriptions that contained errors, omissions, irregularities,
9 uncertainties, ambiguities, or alterations. The fine has been paid.

10 c. On or about January 19, 2011, in Citation Number CI 2009 43944, the Board issued a
11 fine in the amount of \$5,000.00 to Respondent Avedissian for violating section 4081 by filling
12 erroneous or uncertain prescriptions and California Code of Regulations, title 16, section 1761,
13 subdivision (a), by dispensing prescriptions that contained errors, omissions, irregularities,
14 uncertainties, ambiguities, or alterations. The fine has been paid.

15
16 **PRAYER**

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

19 1. Revoking or suspending Pharmacy Permit Number PHY 47521, issued to Pharmacy
20 Central with Mike Avedissian as the President and Pharmacist in Charge and Zhozef Gadimyan as
21 the Secretary;

22 2. Ordering Pharmacy Central to pay the Board of Pharmacy the reasonable costs of the
23 investigation and enforcement of this case, pursuant to Business and Professions Code section
24 125.3;

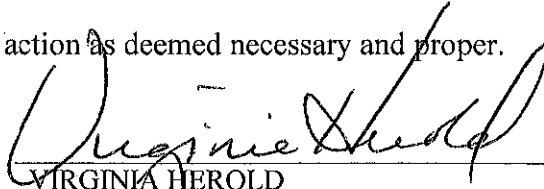
25 3. Revoking or suspending Pharmacist License No. RPH 43996, issued to Mike
26 Avedissian;

1 4. Ordering Mike Avedissian to pay the Board of Pharmacy the reasonable costs of the
2 investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3; and

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

5
6 DATED: _____

1/17/15



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

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