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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. 5185

11 **CHAMPION HEALTH SERVICES, INC.**
12 **5481 Commercial Drive #B**
13 **Huntington Beach, CA 92649**

ACCUSATION

14 **Wholesale Permit No. WLS 6040**

15 **ERIKA MARIE HOFFMAN**
16 **4302 Pickwick Circle, Apt. 120**
Huntington Beach, CA 92649

17 **Designated Representative License No.**
EXC 20558

18 **MONICA MARIE HOFFMAN**
19 **16369 Wimbledon Lane**
Huntington Beach, CA 92649

20 **Designated Representative License No.**
EXC 22306

21 Respondents.
22

23 Complainant alleges:
24

25 **PARTIES**

26 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
27 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
28

1 2. On or about November 28, 2012, the Board of Pharmacy issued Wholesale Permit
2 Number WLS 6040 to Champion Health Services, Inc. (Respondent Champion Health Services).
3 The Wholesale Permit will expire on November 1, 2015, unless renewed.

4 3. On or about December 31, 2009, the Board of Pharmacy issued Designated
5 Representative License Number EXC 20558 to Erika Marie Hoffman (Respondent Erika
6 Hoffman). The Designated Representative License will expire on December 1, 2015, unless
7 renewed.

8 4. On or about January 24, 2014, the Board of Pharmacy issued Designated
9 Representative License Number EXC 22306 to Monica Marie Hoffman (Respondent Monica
10 Hoffman). The Designated Representative License will expire on January 1, 2016, unless
11 renewed.

12 JURISDICTION

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

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

19 7. Section 4300(a) of the Code states that every license issued may be suspended or
20 revoked.

21 8. Section 4300.1 of the Code states:

22 The expiration, cancellation, forfeiture, or suspension of a board-issued
23 license by operation of law or by order or decision of the board or a court of law, the
24 placement of a license on a retired status, or the voluntary surrender of a license by a
25 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.

26 STATUTORY AND REGULATORY PROVISIONS

27 9. Section 4043 of the Code, in pertinent part, defines "wholesaler" to mean and include
28 "a person who acts as a wholesale merchant, broker, jobber, customs broker, reverse distributor,

1 agent, or a nonresident wholesaler, who sells for resale, or negotiates for distribution, or takes
2 possession of, any drug or device included in Section 4022.”

3 10. Section 4053(a) of the Code states:

4 Notwithstanding Section 4051, the board may issue a license as a designated
5 representative to provide sufficient and qualified supervision in a wholesaler or
6 veterinary food-animal drug retailer. The designated representative shall protect the
public health and safety in the handling, storage, and shipment of dangerous drugs
and dangerous devices in the wholesaler or veterinary food-animal drug retailer.

7 11. Section 4110(a) of the Code states:

8 No person shall conduct a pharmacy in the State of California unless he or she
9 has obtained a license from the board. A license shall be required for each pharmacy
10 owned or operated by a specific person. A separate license shall be required for each
11 of the premises of any person operating a pharmacy in more than one location. The
12 license shall be renewed annually. The board may, by regulation, determine the
13 circumstances under which a license may be transferred.

14 12. Section 4160 of the Code provides, in pertinent part, that a wholesaler license shall be
15 required for a person or entity to act as a wholesaler, that every wholesaler shall be supervised or
16 managed by a Designated Representative in Charge, and that the Designated Representative in
17 Charge shall be responsible for the wholesaler's compliance with state and federal laws.

18 13. Section 4169(a)(3) states:

19 A person or entity may not do any of the following:

20 Purchase, trade, sell, or transfer dangerous drugs that the person knew or
21 reasonably should have known were misbranded, as defined in Section 111335 of the
22 Health and Safety Code.

23 14. Section 4202(i) of the Code states:

24 For licenses referred to in subdivisions (f), (g) [wholesale license], and (h), any
25 change in the proposed beneficial ownership interest shall be reported to the board
26 within 30 days thereafter upon a form to be furnished by the board.

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

28 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.

1 ...
2 (j) The violation of any of the statutes of this state, of any other state, or of the
3 United States regulating controlled substances and dangerous drugs.

4 ...
5 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
6 abetting the violation of or conspiring to violate any provision or term of this chapter
7 or of the applicable federal and state laws and regulations governing pharmacy,
8 including regulations established by the board or by any other state or federal
9 regulatory agency.

10 16. Health and Safety Code section 111330(d) states:

11 Any drug subject to Section 111470 is misbranded unless the manufacturer,
12 packer, or distributor of the drug includes, in all advertisements and other descriptive
13 matter issued or caused to be issued by the manufacturer, packer, or distributor with
14 respect to that drug, a true statement of all the following:

15 ...
16 (d) Such other information, in brief summary relating to side effects,
17 contraindications, and effectiveness as shall be required by regulations promulgated
18 by the department.

19 17. Health and Safety Code section 111335 states:

20 Any drug or device is misbranded if its labeling or packaging does not conform
21 to the requirements of Chapter 4 (commencing with Section 110290).

22 18. Health and Safety Code section 111440 provides that it is unlawful for any person to
23 manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded.

24 19. Health and Safety Code section 111450 provides that it is unlawful for any person to
25 receive in commerce any drug or device that is misbranded or to deliver or proffer for delivery
26 any drug or device.

27 20. California Code of Regulations, title 16, section 1717(e) provides in pertinent part
28 that:

Prescriptions for other dangerous drugs which are not controlled substances
may also be transferred by direct communication between pharmacists or by the
receiving pharmacist's access to prescriptions or electronic files that have been
created or verified by a pharmacist at the transferring pharmacy. The receiving
pharmacist shall create a written prescription; identifying it as a transferred
prescription; and record the date of transfer and the original prescription number.
When a prescription transfer is accomplished via direct access by the receiving
pharmacist, the receiving pharmacist shall notify the transferring pharmacy of the
transfer. A pharmacist at the transferring pharmacy shall then assure that there is a
record of the prescription as having been transferred, and the date of transfer...

1 **COST RECOVERY**

2 21. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate 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.

6 **FACTUAL ALLEGATIONS**

7 22. From 2009 through January 2014, Respondent Erika Hoffman was employed by
8 SportsPharm Pharmaceuticals, Inc. and held the position of Director of Sports Medicine and Chief
9 Operating Officer. In February 2014, she executed a lease agreement as the Vice President, Chief
10 Operating Officer of SportPharm Pharmaceuticals, Inc. Eric Parent was the President of
11 SportPharm Pharmaceuticals, Inc. From October 2008 until 2013, Respondent Monica Hoffman
12 was the Chief Financial Officer of SportPharm Pharmaceuticals, Inc.

13 23. On or about June 21, 2011, the Board issued a Citation and Fine against SportPharm
14 Pharmaceuticals, Inc. for violating Business and Professions Code section 4160(a), on the
15 grounds that SportsPharm Pharmaceuticals, Inc. conducted, operated, practiced and acted as a
16 wholesaler of dangerous drugs and controlled substances.

17 24. On or about August 27, 2014, the Board issued a Citation and Fine against SportPharm
18 Pharmaceuticals, Inc. for violating Business and Professions Code section 4160(a), on the
19 grounds that SportsPharm Pharmaceuticals, Inc. conducted, operated, practiced and acted as a
20 wholesaler of dangerous drugs and controlled substances. SportPharm Pharmaceuticals, Inc. was
21 also cited for violating Business and Professions Code section 4110(a) in that it conducted a
22 pharmacy without being licensed by the State of California as a pharmacy by receiving
23 prescription documents for compound formulations from prescribers, determining that they were
24 prescriptions and sending them to Triad Compounding Pharmacy without a licensed pharmacist to
25 evaluate and interpret the documents.

26 25. Since November 28, 2012, Respondent Erika Hoffman was the Designated
27 Representative-in-Charge (DRIC) of Respondent Champion Health Services. Eric Parent,
28

1 Respondent Erika Hoffman and Respondent Monica Hoffman are the owners of Respondent
2 Champion Health Services.

3 26. Teresa M. Hoffman was listed as the President and the sole owner of Respondent
4 Champion Health Services on its application for a wholesaler permit but is no longer an officer or
5 owner of Champion Health Services. Respondents Champion Health Services and Erika Hoffman
6 failed to report the change in ownership to the Board within thirty days.

7 27. Respondent Champion Health Services was located in the same facilities as
8 SportsPharm Pharmaceuticals, Inc. and shared facilities with it. Respondents Erika and Monica
9 Hoffman operated SportsPharm Pharmaceuticals, Inc. and Respondent Champion Health
10 Services, Inc. concurrently until at least September 2013.

11 28. From at least October 28, 2011 through August 8, 2013, SportPharm Pharmaceuticals,
12 Inc received prescriptions for compounded drug products from various prescribers. Respondents
13 then reviewed these prescription orders and sent them to Artesia Pharmacy, Inc., doing business
14 as Triad Compounding Pharmacy. Artesia Pharmacy, Inc., doing business as Triad Compounding
15 Pharmacy then dispensed, furnished and sold the drugs to SportsPharm Pharmaceuticals, Inc. and
16 to Respondent Champion Health Services.

17 29. From May 2013 to the present, Respondents purchased dangerous drugs in bulk, sent
18 dangerous drugs to be repackaged into smaller units and sold drugs without patient package
19 inserts that contained a brief summary of the side effects, contraindications and effectiveness of
20 the drugs, to patients.

21 30. In May 2013, Board inspectors advised Respondent Champion Health Services and
22 Erika Hoffman that patient package inserts were required to be included in the drug packaging
23 and that without them, the drugs would be considered misbranded. However, Respondents
24 continued their practice of not including those patient package inserts in drugs sold by them.

25 31. On or about December 3, 2014, the Board conducted an inspection of Respondent
26 Champion Health Services. Respondent Erika Hoffman informed Board inspectors that as of
27 August 2012, SportsPharm ceased to exist and that she left her employment at SportsPharm
28 because "she knew how [the owner] was operating SportsPharm was illegal, because he refused to

1 obtain licensure in California, as well as, out-of-state licenses” and that she left “SportsPharm to
2 create Champion Health Services, Inc. to conduct a similar business with the appropriate
3 licensure.”

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Unlicensed Practice of Pharmacy against Respondents)**

6 32. Respondents are subject to disciplinary action under Code section 4301(o), for
7 violating California Code of Regulations, title 16, section 1717(e), in that they engaged in the
8 practice of pharmacy by transferring prescriptions for dangerous drugs from an unlicensed entity,
9 SportsPharm Pharmaceuticals, Inc. to Artesia Pharmacy, Inc., doing business as Triad
10 Compounding Pharmacy for the purpose of dispensing and filling of prescriptions, as set forth in
11 paragraphs 22 through 31 above, which are incorporated herein by reference.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Aiding and Abetting Unlicensed Practice of Pharmacy and Wholesaling against**
14 **Respondents)**

15 33. Respondents are subject to disciplinary action under Code section 4301(o), for
16 violating Business and Professions Code sections 4160(a) and 4110(a), in that they aided and
17 abetted SportsPharm Pharmaceuticals, Inc. in the unlicensed practice of pharmacy and
18 wholesaling, doing business as Triad Compounding Pharmacy for the dispensing and filling of
19 prescriptions, as set forth in paragraphs 22 through 31 above, which are incorporated herein by
20 reference.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Held, Sold, Delivered or Offered for Sale Misbranded Drugs against Respondents)**

23 34. Respondents are subject to disciplinary action under Code section 4301(j), for
24 violating statutes regulating controlled substances and dangerous drugs and state laws governing
25 pharmacy, in that Respondents sold, offered for sale, held or delivered misbranded drugs, as
26 defined by Health & Safety Code section 111330(d) in violation of Health and Safety Code
27 section 111440, as set forth in paragraphs 22 through 31, which are incorporated herein by
28 reference.

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Delivered or Proffered for Delivery Misbranded Drugs against Respondents)**

3 35. Respondents are subject to disciplinary action under Code section 4301(j), for
4 violating statutes regulating controlled substances and dangerous drugs and state laws governing
5 pharmacy, in that Respondents delivered or proffered for delivery misbranded drugs, as defined
6 by Health & Safety Code section 111330(d) in violation of Health and Safety Code section
7 111450, as set forth in paragraphs 22 through 31, which are incorporated herein by reference.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Knowingly Selling Misbranded Drugs against Respondents)**

10 36. Respondents are subject to disciplinary action under Code section 4301(o), for
11 violating Business and Professions Code section 4169(a)(3), in that Respondents knowingly sold
12 misbranded drugs, as defined by Health & Safety Code sections 111335, as set forth in paragraphs
13 22 through 31, which are incorporated herein by reference.

14 **SIXTH CAUSE FOR DISCIPLINE**

15 **(Dishonest Acts against Respondent Erika Hoffman)**

16 37. Respondent Erika Hoffman is subject to disciplinary action under Code section
17 4301(f), for violating Business and Professions Code section 4169(a)(3), in that Respondent Erika
18 Hoffman engaged in dishonest acts when she informed the Board inspector that SportsPharm had
19 ceased operations in August 2012 when it had not done so, as set forth in paragraphs 22 through
20 31, which are incorporated herein by reference.

21 **SEVENTH CAUSE FOR DISCIPLINE**

22 **(Failure to Notify Board of Change in Beneficial Ownership Interest against Respondent**
23 **Champion Health Services and Erika Hoffman)**

24 38. Respondents are subject to disciplinary action under Code section 4301(o), for
25 violating Business and Professions Code section 4201(i), in that Respondents Champion Health
26 Services and Erika Hoffman failed to notify the Board of a change in beneficial ownership
27 interest, as set forth in paragraphs 22 through 31, which are incorporated herein by reference.

28

EIGHTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct against Respondents)

39. Respondents are subject to disciplinary action under Code section 4301 for unprofessional conduct in that they engaged in the activities described in paragraphs 22 through 31 above, which are incorporated herein by reference.

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 Wholesale Permit Number WLS 6040, issued to Champion Health Services, Inc.;

2. Revoking or suspending Designated Representative License Number EXC 20558 issued to Erika Marie Hoffman;


3. Revoking or suspending Designated Representative License Number EXC 22306 issued to Monica Marie Hoffman;

4. Ordering Champion Health Services, Inc., Erika Marie Hoffman and Monica Marie Hoffman 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;

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

DATED: _____

3/15/16


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

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