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

10 In the Matter of the Accusation Against:

Case No. 5186

11 **ARTESIA PHARMACY, INC. DBA**
12 **TRIAD COMPOUNDING PHARMACY**
13 **11090 Artesia Blvd., Suite H**
Cerritos, CA 90703

A C C U S A T I O N

14 **Pharmacy Permit No. PHY 41551**

15 **RONALD STEPHEN MILLER**
16 **736 S. Skyridge Dr.**
Anaheim, CA 92808

17 **Pharmacist License No. RPH 29677**

18 Respondent.

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20 Complainant alleges:

21 **PARTIES**

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

24 2. On or about April 5, 1996, the Board of Pharmacy issued Pharmacy Permit Number
25 PHY 41551 to Artesia Pharmacy, Inc. doing business as Triad Compounding Pharmacy
26 (Respondent Triad Compounding Pharmacy). The Pharmacy Permit was in full force and effect
27 at all times relevant to the charges brought herein and will expire on April 1, 2015, unless
28 renewed.

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9. Section 4052(a)(1) of the Code states:

(a) Notwithstanding any other law, a pharmacist:

(1) Furnish a reasonable quantity of compounded drug product to a prescriber for office use by the prescriber.

10. Section 4126.5 (a) of the Code states:

(a) A pharmacy may furnish dangerous drugs only to the following:

(1) A wholesaler owned or under common control by the wholesaler from whom the dangerous drug was acquired.

(2) The pharmaceutical manufacturer from whom the dangerous drug was acquired.

(3) A licensed wholesaler acting as a reverse distributor.

(4) Another pharmacy or wholesaler to alleviate a temporary shortage of a dangerous drug that could result in the denial of health care. A pharmacy furnishing dangerous drugs pursuant to this paragraph may only furnish a quantity sufficient to alleviate the temporary shortage.

(5) A patient or to another pharmacy pursuant to a prescription or as otherwise authorized by law.

(6) A health care provider that is not a pharmacy but that is authorized to purchase dangerous drugs.

(7) To another pharmacy under common control.

11. Section 4163 (a) of the Code states:

A manufacturer, wholesaler, repackager, or pharmacy may not furnish a dangerous drug or dangerous device to an unauthorized person.

12. Section 4169 (a)(1) of the Code states:

A person may not do any of the following: Purchase, trade, sell, or transfer dangerous drugs or dangerous devices at wholesale with a person or entity that is not licensed with the board as a wholesaler.

13. 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:

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(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 any other state or federal regulatory agency.

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14. Section 4113 (c) of the Code states:

The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

15. California Code of Regulations, title 16, section 1717 (c) states:

Promptly upon receipt of an orally transmitted prescription, the pharmacist shall reduce it to writing, and initial it, and identify it as an orally transmitted prescription. If the prescription is then dispensed by another pharmacist, the dispensing pharmacist shall also initial the prescription to identify him or herself. All orally transmitted prescriptions shall be received and transcribed by a pharmacist prior to compounding, filling, dispensing or furnishing. Chart orders as defined in section 4019 of the Business and Professions Code are not subject to the provisions of this subsection.

16. California Code of Regulations, title 16, section 1761 (a) states:

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.

COST RECOVERY

17. Section 125.3 of the Code provides, 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.

FACTUAL ALLEGATIONS

18. At all times referenced herein, Respondent Ronald Miller was the Pharmacist-in-Charge of Respondent Triad Compounding Pharmacy.

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SECOND CAUSE FOR DISCIPLINE

(Furnished Drugs to Unauthorized Entities)

24. Respondents are subject to disciplinary action under Code section 4301(o), for violating Business and Professions Code section 4126.5(a)(1), in that they furnished dangerous drugs to an unlicensed entity and a wholesaler, as set forth in paragraphs 18 through 22 above, which are incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Furnished Drugs to Unauthorized Person)

25. Respondents are subject to disciplinary action under Code section 4301(o), for violating Business and Professions Code section 4163(a)(1), in that they furnished dangerous drugs to an unauthorized person, an unlicensed entity, as set forth in paragraphs 18 through 22 above, which are incorporated herein by reference.

FOURTH CAUSE FOR DISCIPLINE

(Sold or Delivered Drugs Out of State Without Licensure)

26. Respondents are subject to disciplinary action under Code section 4301(o), for violating Business and Professions Code section 4059.5(e), in that they sold and shipped dangerous drugs into states where Respondent Triad Compounding Pharmacy was unlicensed to ship drugs but was required to be licensed to do so, as set forth in paragraphs 18 through 22 above, which are incorporated herein by reference.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Reduce Oral Prescriptions to Writing or Initial Them)

27. Respondents are subject to disciplinary action under Code section 4301(o), for violating California Code of Regulations, title 16, section 1717(c), in that they failed to reduce oral prescriptions to writing and failed to have the pharmacist initial oral prescriptions reduced to writing, as set forth in paragraphs 18 through 22 above, which are incorporated herein by reference.

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SIXTH CAUSE FOR DISCIPLINE

(Failure to Contact Prescriber to Validate Prescriptions)

28. Respondents are subject to disciplinary action under Code section 4301(o), for violating California Code of Regulations, title 16, section 1761(a), in that they did not contact the prescriber to validate prescriptions received from sources other than the prescribers, as set forth in paragraphs 18 through 22 above, which are incorporated herein by reference.

SEVENTH CAUSE FOR DISCIPLINE

(Accepted and Filled Prescriptions Without Date of Issue)

29. Respondents are subject to disciplinary action under Code section 4301(o), for violating Business and Professions Code section 4040(a)(1)(C), in that they accepted and filled prescriptions which did not contain the date issue written on them, as set forth in paragraphs 18 through 22 above, which are incorporated herein by reference.

EIGHTH CAUSE FOR DISCIPLINE

(Accepted and Received Prescriptions From Unlicensed Entity and Wholesaler)

30. Respondents are subject to disciplinary action under Code section 4301(o), for violating California Code of Regulations, title 16, section 1761(a), in that they accepted and filled electronic transmission prescriptions from an unlicensed entity and a wholesaler, as set forth in paragraphs 18 through 22 above, which are incorporated herein by reference.

NINTH CAUSE FOR DISCIPLINE

(Furnished Non-Patient Specific Compounded Drugs to Unlicensed Entity and Wholesaler)

31. Respondents are subject to disciplinary action under Code section 4301(o), for violating Business and Professions Code section 4052(a)(1), in that they furnished non-patient specific compounded drugs for "prescriber office use" to entities who were not prescribers, as set forth in paragraphs 18 through 22 above, which are incorporated herein by reference.

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1 **TENTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct)**

3 32. Respondents are subject to disciplinary action under Code section 4301 for
4 unprofessional conduct in that they engaged in the activities described in paragraphs 18 through
5 22 above, which are incorporated herein by reference.

6 **PRAYER**

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

- 9 1. Revoking or suspending Pharmacy Permit Number PHY 41551, issued to Artesia
10 Pharmacy, Inc., doing business as Triad Compounding Pharmacy;
- 11 2. Revoking or suspending Pharmacist License Number RPH 29677, issued to Ronald
12 Stephen Miller;
- 13 3. Ordering Artesia Pharmacy, Inc. doing business as Triad Compounding Pharmacy
14 and Ronald Stephen Miller to pay the Board of Pharmacy the reasonable costs of the investigation
15 and enforcement of this case, pursuant to Business and Professions Code section 125.3;
- 16 4. Taking such other and further action as deemed necessary and proper.

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18 DATED: 3/15/16



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

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