

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 SUSAN MELTON WILSON
Deputy Attorney General
4 State Bar No. 106902
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-4942
6 Facsimile: (213) 897-2804
Attorneys for Complainant

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. 5230

11 **ARASH AKMAL**
12 3452 Country Club Drive
13 Glendale, CA 91208

A C C U S A T I O N

14 Pharmacist License No. RPH 60763

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about February 22, 2008, the Board of Pharmacy issued Pharmacist License
21 Number RPH 60763 to Arash Akmal (Respondent). The Pharmacist License was in full force
22 and effect at all times relevant to the charges brought herein and will expire on May 31, 2015,
23 unless renewed.

24 **JURISDICTION**

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

28 / / /

1 4. Section 4300 of the Code states:

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

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

6 "(1) Suspending judgment.

7 "(2) Placing him or her upon probation.

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

9 "(4) Revoking his or her license.

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

12 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
13 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
14 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
15 may issue the license subject to any terms or conditions not contrary to public policy, including,
16 but not limited to, the following:

17 "(1) Medical or psychiatric evaluation.

18 "(2) Continuing medical or psychiatric treatment.

19 "(3) Restriction of type or circumstances of practice.

20 "(4) Continuing participation in a board-approved rehabilitation program.

21 "(5) Abstention from the use of alcohol or drugs.

22 "(6) Random fluid testing for alcohol or drugs.

23 "(7) Compliance with laws and regulations governing the practice of pharmacy.

24 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
25 certificate of licensure for any violation of the terms and conditions of probation. Upon
26 satisfactory completion of probation, the board shall convert the probationary certificate to a
27 regular certificate, free of conditions.

28 /././

1 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
2 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
3 shall have all the powers granted therein. The action shall be final, except that the propriety of
4 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
5 Civil Procedure."

6 5. Section 4301 of the Code states:

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

10 "(a) Gross immorality.

11 ...

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

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

17 ...

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

20 ...

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

25 6. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
26 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
27 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
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1 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,
2 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

3 7. Section 4324 states:

4 "(a) Every person who signs the name of another, or of a fictitious person, or falsely
5 makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription
6 for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment
7 in the state prison, or by imprisonment in the county jail for not more than one year.

8 "(b) Every person who has in his or her possession any drugs secured by a forged
9 prescription shall be punished by imprisonment in the state prison, or by imprisonment in the
10 county jail for not more than one year."

11 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licentiate found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
15 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
16 included in a stipulated settlement.

17 9. Drug Classifications

18 Brand Name	Generic Name	Dangerous Drug Per B& PC 4022	Controlled Substance per B & PC 4022	Indications for use
19 Lovaza 1gm	Omega-3-acid ethyl esters	Yes	No	High Triglycerides
20 Lexapro 20mg	escitalopram	Yes	No	Depression and Anxiety
21 Tricor 145mg	fenofibrate	Yes	No	High Cholesterol and Triglycerides
22 Celebrex 200mg	celecoxib	Yes	No	Arthritic Pain
23 Niaspan	Niacin	Yes	No	High Cholesterol
24 Boniva	Ibandronate	Yes	No	Bone Loss
25 Glucophage 500 mg	Metformin	Yes	No	Hyperglycemia
26 Remeron 15 mg	mirtazapine	Yes	No	Depression
27 Neurotin 300 mg	gabapentin	Yes	No	Epilepsy
28 Levoxyl 0.025mg	levothyroxine	Yes	No	Hypothyroidism

1	Diovan 80 mg	valsartan	Yes	No	Hypertension
2	Cymbalta 60mg	duloxetine	Yes	No	Depression
3	Singular 10mg	mentelukast	Yes	No	Asthma
4	Theo-24 200 mg ER	theophylline	Yes	No	Asthma
5	Tradjenta 5MG	linagliptin	Yes	No	Hyperglycemia
6	Restasis -0.05% Ophthalmic emulsion	cyclosporin	Yes	No	Chronic Dry Eye
7	Lipitor 40 mg	atorvastatin	Yes	No	Hyperlipidemia
8	Vesicare 5mg	solifenacin	Yes	No	Overactive Bladder
9	Freestyle Lancets	Freestyle Lancets	No	No	Make Punctures to monitor Glucose Level
10	One Touch Ultra Smart Kit	One Touch Ultra Smart Kit	No	No	Blood Glucose Monitoring System

11 **FACTS COMMON TO ALL CAUSES FOR DISCIPLINE**

12 10. The following allegations are common to all causes for discipline in this matter:

13 a. In 2012 Respondent was employed as a "floater" pharmacist for Walgreens Drug
14 Stores Pharmacy – a position which called for him to work temporary assignments in
15 approximately 20 Walgreens Drug Store Pharmacy (Walgreens) locations in southern California.

16 b. Approximately between January 1 and June 30, 2012, Respondent was involved
17 in a fraudulent prescription writing scheme by which he wrote falsified prescriptions on
18 Walgreens telephone prescription pads in order to furnish controlled substances and/or dangerous
19 drugs to five individuals: his mother and father, his mother and father -in-law, and a "friend's
20 mother."

21 c. **June 7, 2012** - A Walgreens investigator reviewing electronic records and
22 surveillance videos from Walgreens Drug Store Pharmacy No. 10703, located in the city of
23 Indio, from the evening of June 7, 2012, determined that on that date, Respondent falsified, then
24 dispensed multiple prescription orders as follows:

25 (1) On or about June 7, 2012, Respondent entered and verified multiple telephonic
26 prescription orders for his parents and his in-laws onto Walgreens No 10703 prescription pads,
27 including the following:
28

Prescription Number	Written Date	Sold Date	Drug Name	Quantity Dispensed	Prescriber Last Name	Patient Name	Verified User Last Name
236761	09/23/2011	06/07/2012	Dexilnat 60mg Cap (formerly Kapidex)	90	Gharib	Mahin A	"SU"
236925	06/07/2012	06/07/2012	Singular 10MG tablets	90	Gharib	Mahin A.	"SU"
236911	02/09/2012	06/07/2012	Lidoderm 5% Patch	30	Torabzadeh	Iran S.	"SU"
236922	06/07/2012	06/07/2012	Lipitor 40 mg tablets	90	Soni	Iran S.	"SU"
236955	06/07/2012	06/07/2012	Restasis 0.05% OPHTH Emulsion 30's	90	Rezapour	Houshang A.	"SU"
236951	06/07/2012	06/07/2012	Trilipix 135mg Capsuls	90	Gharib	Houshang A.	"SU"
231224	11/25/2011	06/07/2012	Sririva Caps 30's & Handihailer	90	Hedvat	Hossein R.	"SU"
236954	11/25/2011	06/07/2012	Lidoderm 5% Patch 30's	60	Hedvat	Hossein R.	"SU"
236952	11/10/2011	06/07/2012	Clopidogrel 75mg Tablets	90	Hedvat	Hossein R.	"SU"

(2) On or about June 12, 2014, a Walgreens investigator contacted Dr. Gharib's office to inquire whether telephone prescriptions had been called in on June 7. At that time, Dr. Gharib's receptionist (Shala) stated: (a) she reviewed charts of the patients referenced by the investigator – and found **no** prescriptions had been 'called in' on June 7, and (b) Dr. Gharib did not typically order prescriptions by telephone, and preferred to use an on-line service (E-Rx).

(3) A review of electronic records and surveillance videos from Walgreens Pharmacy No. 10703 the evening of June 7, 2012 shows that Respondent used three different cash registers in the pharmacy to "ring up" the falsified prescriptions with \$0.00 co-payments, and billed all of the prescriptions to Medicare.

(4) After completing these payment transactions, Respondent placed the prescription containers in bags, which he then concealed.

1 (5) At approximately 20:45 hours (8:45 pm), a vehicle pulled up to the drive
2 through window. Respondent retrieved the concealed bags, then passed them to the driver.
3 Respondent then “rang up” 2 additional prescription orders – which he also handed to the driver.

4 d. Subsequent investigation of prescription records for the individuals Respondent had
5 dispensed to on June 7, 2012, disclosed that Respondent had created and dispensed falsified
6 prescriptions for these same individuals at twenty (20) different Walgreens pharmacies where he
7 had been assigned, and that the total amount charged to 4 different insurers for these prescriptions
8 was approximately \$21,900.

9 e. **Admissions of Respondent.** In an interview with a Walgreens investigator on
10 June 28, 2012, regarding his conduct on June 7 described above, Respondent admitted that he
11 falsified new prescription orders for medications for his parents and his in-laws, to dispense
12 medications that had been *previously* prescribed to them - by making reference to prescriptions
13 filled elsewhere. Respondent **admitted** that no doctor’s office had called in **any** of the
14 prescription orders he purportedly filled June 7. Respondent further stated “he did not think he
15 was doing anything wrong.”

16 f. At all times relevant herein, Walgreens Drug Store Pharmacy had an internal policy
17 prohibiting employees from filling prescriptions for their own family members.

18 g. Respondent was terminated from his position at Walgreens on or about June 29, 2012
19 due to these events.

20 **Board Investigation**

21 h. A subsequent Pharmacy Board investigation of Respondent’s misconduct and review
22 of related Walgreens prescription records by Board inspectors disclosed the following:

23 (1) **Cathedral City** – On January 31, 2012, while working as a relief pharmacist
24 at Walgreens 5301 located in Cathedral City, California, Respondent forged at least five (5)
25 prescriptions (Lexapro 20 mg. Lovaza 1gm, Tricor 145 mg, Celebrex 200 mg, Niaspan 500
26 mg, with “3 refills” each) – purportedly orally transmitted prescriptions via telephone
27 from Dr. F. Shakibai for patient Iran S. The prescriptions are hand-written and show
28 Respondent’s initials “AAA.”

(2) **Fraud in Multiple Locations** – Board Inspectors have verified that on dates approximately between January 31, 2012 and June 19, 2012, Respondent was found to have forged and dispensed least 26 fraudulent prescriptions for **Iran S.** using the names of Dr. V. Soni (24 prescriptions) and Dr. F. Shakibai (2 prescriptions) as shown in the table below while working as a relief pharmacist at multiple Walgreen pharmacy locations:

	Walgreens Location Number	Prescription Number ¹	Written Date	Filled Date	Drug Name	Walgreen's location
	DR. SONI					
1	6975	795923	04/22/2012	04/22/2012	Ibandronate Sodium 150mg tablets	PHY46091 (Walgreen's Laguna Niguel)
2	6975	796965	05/02/2012	05/02/2012	Methformin ER 500 MG** 24 HR tabs	PHY46091 (Walgreen's Laguna Niguel)
3	6975	798140	05/14/2012	05/14/2012	Ibandronate Sodium 150 mg tablets	PHY46091 (Walgreen's Laguna Niguel)
4	6975	798117	05/14/2012	05/14/2012	Mirtazapine 15mgTablets	PHY46091 (Walgreen's Laguna Niguel)
5	6975	798116	05/14/2012	05/14/2012	Gabapentin 300 mg capsules	PHY46091 (Walgreen's Laguna Niguel)
6	6975	7981745	05/14/2012	05/14/2012	Freestyle Lite Blood Glucose System	PHY46091 (Walgreen's Laguna Niguel)
7	6975	798148	05/14/2012	05/14/2012	Levothyroxine 0.025mg (25mcg) Tab	PHY46091 (Walgreen's Laguna Niguel)
8	6975	798138	05/14/2012	05/14/2012	Diovan 80 mg Tablets	PHY46091 (Walgreen's

¹ * Prescriptions numbers with an asterisk were forged telephonic orders personally written or filled by Respondent

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						Laguna Niguel)
9	6975	798142	05/14/2012	05/14/2012	Cymbalta 60mg Capsules (new)	PHY46091 (Walgreen's Laguna Niguel)
10	6975	798141	05/14/2012	05/14/2012	Singulair 10mg Tablets	PHY46091 (Walgreen's Laguna Niguel)
11	6975	798125	04/20/2012	05/15/2012	Theo-24 200 mg ER Capsules	PHY46091 (Walgreen's Laguna Niguel)
12	6975	798120	05/14/2012	05/15/2012	Tradjenta 5mg Tablets	PHY46091 (Walgreen's Laguna Niguel)
13	6975	798117	05/14/2012	06/11/2012	Mirtazapine 15 mg Tablets	PHY46091 (Walgreen's Laguna Niguel)
14	6975	798116	05/14/2012	06/11/2012	Gabapentin 300 mg capsules	PHY46091 (Walgreen's Laguna Niguel)
15	6975	798125	04/20/2012	06/12/2012	Theo-24 200 mg ER Capsules	PHY46091 (Walgreen's Laguna Niguel)
16	6975	796965	05/02/2012	06/13/2012	Metformin ER 500 mg** 24 hr tabs	PHY46091 (Walgreen's Laguna Niguel)
17	6975	801608	06/14/2012	06/18/2012	Diovan 80 mg tablets	PHY46091 (Walgreen's Laguna Niguel)
18	9080	268418*	06/10/2012	06/10/2012	Cymbalta 30 mg Capsules	PHY48893 (Walgreen's, Indio)
19	9781	165950*	05/25/2012	05/25/2012	Restasis 0.05% OPHTH Emulsion 30's	PHY48893 (Walgreen's, Indio)
20	10703	236922*	06/07/2012	06/07/2012	Lipitor 40 mg tablets	PHY48893 (Walgreen's,

						Indio)
21	10703	236997	06/08/2012	06/08/2012	Vesicare 5mg tablets	PHY48893 (Walgreen's, Indio)
22	10703	237718*	06/19/2012	06/19/2012	Fenofibrate 160 mg tablets	PHY48893 (Walgreen's, Indio)
23	11786	199076	04/20/2012	06/04/2012	Freestyle Lancets 100's	PHY48893 (Walgreen's, Irvine)
24	11786	199074*	06/04/2012	06/04/2012	One Touch Ultra Smart Kit	PHY49096 (Walgreen's, Irvine)
	DR. SHAKIBAI					
25	5301	1278381	01/31/2012	02/01/2012	Lovaza 1mg capsules	PHY44489 (Walgreen's, Cathedral City)
26	4756	1268746	01/31/2012	04/04/2012	Lovaza 1mg capsules	PHY449592. (Walgreen's Palm Desert)

j. On or about November 8, 2013, during an interview with a Board Inspector, Respondent denied that he had committed any fraudulent activities while working at Walgreens Drug Store Pharmacy(s).

FIRST CAUSE FOR DISCIPLINE

(Furnished Dangerous Drugs without a Valid Prescription)

11. Respondent is subject to disciplinary action under section 4301, subdivision (j) and (o), for violating section 4059, subdivision (a), in that on at least **twenty- six (26) instances** on dates approximately between January 31, 2012 and June 19, 2012, Respondent furnished dangerous drugs without valid prescriptions by use of falsified prescriptions that he knew had not been authorized by a physician. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 9 and 10 as though set forth fully.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Forged Prescriptions)**

3 12. Respondent is subject to disciplinary action under section 4301, subdivision (f) and
4 (g), for violating section 4324, subdivision (a), in that on dates between January 31, 2012 and
5 June 19, 2012, Respondent created false prescriptions for patients as follows:

6 a. **Admitted Fraud (June 7, 2012)** – On or about June 7, 2012, by his own admission,
7 Respondent falsified new prescription orders in the names of his parents and in laws. Respondent
8 falsely represented that these new orders had been made to Walgreens by someone other than
9 himself.

10 b. **Fraudulent Prescriptions for Iran S.** - On dates approximately between January 31,
11 2012 and June 19, 2012, Respondent was found to have forged and dispensed least 26 fraudulent
12 prescriptions for **Iran S.** using the names of Dr. V. Soni (24 prescriptions) and Dr. F. Shakibai (2
13 prescriptions) while working as a relief pharmacist at multiple Walgreen pharmacy locations, as
14 described more fully at paragraph 10, sub-section “h” above.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Acts Involving Dishonesty, Fraud, or Deceit)**

17 13. Respondent is subject to disciplinary action under section 4301, subdivision (f), due
18 to acts on multiple instances on dates as noted below, in that Respondent committed acts
19 involving dishonesty, fraud, or deceit with the intent to substantially benefit himself, or
20 substantially injure another, by reason of the following facts:

21 a. **Admitted Fraud (June 7, 2012)** - On or about June 7, 2012, Respondent entered and
22 verified multiple fraudulent telephonic prescription orders for his parents and his in-laws onto
23 Walgreens prescription pads, which were then apparently given to a single individual through the
24 pharmacy’s drive-up window, as described more fully in paragraph 10, above. Respondent
25 subsequently admitted that he falsified new prescription orders for his parents and in-laws on
26 that date.

27 b. **Pattern and Practice of Falsifying Prescriptions for Family Members** - A
28 Walgreens investigation of prescription records for “family” members Respondent had dispensed

1 to on June 7, 2012, disclosed that Respondent had created and dispensed falsified prescriptions
2 for these same individuals at twenty (20) different Walgreens pharmacies where he had been
3 assigned. At all times during his employment, Walgreens Drug Store Pharmacy had an internal
4 policy prohibiting employees from filling prescriptions for their own family members, of which
5 Respondent was aware.

6 c. **Fraudulent Prescriptions for Iran S.** - On dates approximately between January 31,
7 2012 and June 19, 2012, Respondent was found to have forged and dispensed least 26 fraudulent
8 prescriptions for **Iran S.** using the names of Dr. V. Soni (24 prescriptions) and Dr. F. Shakibai (2
9 prescriptions) while working as a relief pharmacist at multiple Walgreen pharmacy locations, as
10 described more fully at paragraph 10, sub-section "h" above.

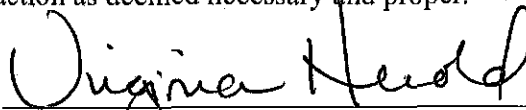
11 **PRAYER**

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

- 14 1. Revoking or suspending Pharmacist License Number RPH 60763, issued to Arash
15 Akmal;
- 16 2. Ordering Arash Akmal to pay the Board of Pharmacy the reasonable costs of the
17 investigation and enforcement of this case, pursuant to Business and Professions Code section
18 125.3;
- 19 3. Taking such other and further action as deemed necessary and proper.

20 DATED: _____

3/27/15



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

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