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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. 6213

12 **DANIELS PHARMACY**
13 **943 Geneva Avenue**
14 **San Francisco, CA 94112**

A C C U S A T I O N

15 **Pharmacy Permit No. PHY 36740**

16 **and**

17 **IYAD I. NASRAH**
18 **488 Gellert Dr.**
San Francisco, CA 94132

19 **Pharmacist License No. RPH 40241**

20 Respondent.

21
22 Complainant alleges:

23 **PARTIES**

- 24 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
25 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 26 2. On or about October 24, 1990, the Board of Pharmacy (Board) issued Original Permit
27 Number PHY 36740 to Daniels Pharmacy to do business as Daniels Pharmacy (Respondent
28 Pharmacy). George Nasrah and Iyad I. Nasrah have been partners in Respondent Pharmacy since

1 October 24, 1990. The Original Permit Number was in full force and effect at all times relevant
2 to the charges brought in this Accusation and will expire on October 1, 2018, unless renewed.

3 3. On or about August 20, 1986, the Board issued Original Pharmacist License Number
4 RPH 40241 to Iyad I. Nasrah (Respondent Nasrah). The Original Pharmacist License was in full
5 force and effect at all times relevant to the charges brought in this Accusation and will expire on
6 October 31, 2019, unless renewed.

7 **JURISDICTION**

8 4. This Accusation is brought before the Board under the authority of the following
9 laws. All section references are to the Business and Professions Code (Code) unless otherwise
10 indicated.

11 5. Section 4011 of the Code provides that the Board shall administer and enforce both
12 the Pharmacy Law (Bus. & Prof. Code, § 4000 et seq.) and the Uniform Controlled Substances
13 Act (Health & Safety Code, § 11000 et seq.).

14 6. Section 4300, subdivision (a) of the Code provides that every license issued by the
15 Board may be suspended or revoked.

16 7. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or
17 suspension of a Board-issued license, the placement of a license on a retired status, or the
18 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to
19 commence or proceed with any investigation of, or action or disciplinary proceeding against, the
20 licensee or to render a decision suspending or revoking the license.

21 **STATUTORY AND REGULATORY PROVISIONS**

22 8. Section 4301 of the Code provides, in pertinent part:
23 "The board shall take action against any holder of a license who is guilty of unprofessional
24 conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but
25 is not limited to, any of the following:

26 ...
27 ///
28 ///

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

3 ...

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

8 9. Section 4081, subdivision (a) of the Code states:

9 “(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs
10 or dangerous devices shall be at all times during business hours open to inspection by authorized
11 officers of the law, and shall be preserved for at least three years from the date of making. A
12 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary
13 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,
14 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,
15 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and
16 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and
17 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.”

18 10. Section 4105 of the Code provides, in pertinent part:

19 “(a) All records or other documentation of the acquisition and disposition of dangerous
20 drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed
21 premises in a readily retrievable form.

22 ...

23 “(c) The records required by this section shall be retained on the licensed premises for a
24 period of three years from the date of making.”

25 11. Section 4113, subdivision (c) of the Code states: “The pharmacist-in-charge shall be
26 responsible for a pharmacy’s compliance with all state and federal laws and regulations pertaining
27 to the practice of pharmacy.”

28 ///

1 12. Section 4126.5 of the Code provides, in pertinent part:

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

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

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

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

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

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

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

14 “(7) To another pharmacy under common control.”

15 13. Section 4307 of the Code provides, in pertinent part:

16 “(a) Any person who has been denied a license or whose license has been revoked or is
17 under suspension, or who has failed to renew his or her license while it was under suspension, or
18 who has been a manager, administrator, owner, member, officer, director, associate, partner, or
19 any other person with management or control of any partnership, corporation, trust, firm, or
20 association whose application for a license has been denied or revoked, is under suspension or has
21 been placed on probation, and while acting as the manager, administrator, owner, member,
22 officer, director, associate, partner, or any other person with management or control had
23 knowledge of or knowingly participated in any conduct for which the license was denied,
24 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,
25 administrator, owner, member, officer, director, associate, partner, or in any other position with
26 management or control of a licensee as follows:

27 “(1) Where a probationary license is issued or where an existing license is placed on
28 probation, this prohibition shall remain in effect for a period not to exceed five years.

1 products in the pharmacy's current inventory. The inspectors also discovered several stock
2 containers of various drugs that contained quantities of drugs exceeding the amounts listed on the
3 containers' labels.

4 20. The inspectors discovered a prescription for patient J.T.¹ that Respondent Pharmacy
5 had billed to a third party. That prescription was not picked up by J.T. and had been returned to
6 stock. Respondent Pharmacy, however, did not reverse the claim billed to the third party for the
7 prescription.

8 21. The inspectors also discovered five (5) prescriptions for patient F.C. in Respondent
9 Pharmacy's current inventory. Respondent Pharmacy had delivered those prescriptions to F.C.,
10 but they had been returned to Respondent Pharmacy. Respondent Pharmacy billed Medi-Cal for
11 the prescriptions but did not reverse the claims once the prescriptions were returned.

12 22. The inspectors discovered a prescription for 186 tablets of carbamazepine for patient
13 J.A. that Respondent Pharmacy filled on numerous occasions. On two occasions, Respondent
14 Pharmacy provided J.A. with 168 tablets of carbamazepine but billed Medi-Cal for 186 tablets.
15 Also, although certain carbamazepine fills were returned to Respondent Pharmacy, Respondent
16 Pharmacy did not reverse the claims for those prescriptions that it billed to Medi-Cal.

17 23. The inspectors discovered in the pharmacy's delivery staging area twelve (12)
18 prescriptions for patient A.G. that Respondent Pharmacy had filled on or about May 18, 2015,
19 with a therapy start date of May 27, 2015. The inspectors also discovered thirteen (13)
20 prescriptions for patient C.M. that Respondent Pharmacy had filled on or about April 24, 2015,
21 with a therapy start date of May 13, 2015. Those prescriptions had not been delivered to the
22 patients or returned to stock. Respondent Pharmacy billed all of those prescriptions to insurance,
23 and did not reverse those claims until Respondent Pharmacy was instructed to do so by the
24 inspectors.

25 24. Between approximately March 2010 and June 2015, Respondent Pharmacy sold
26 certain prescription drug products to Central Drug Stores (CDS), another pharmacy. CDS

27
28 ¹ The names of individuals identified in this Accusation by initials will be disclosed
pursuant to a proper discovery request.

1 purchased drug products from Respondent Pharmacy when CDS's wholesaler did not carry
2 products produced by a specific manufacturer, if Respondent Pharmacy's wholesaler provided
3 better pricing for a product, or if CDS did not have a drug in stock. Respondent Pharmacy did not
4 maintain records of disposition for the drug products it sold to CDS.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Failure to Retain Records of Sale and Disposition of Dangerous Drugs)**

7 25. Respondents' licenses are subject to disciplinary action under sections 4301,
8 subdivisions (j) and/or (o), 4081, subdivision (a), 4105, subdivisions (a) and (c), and 4113,
9 subdivision (c) of the Code, in that Respondents failed to retain records of sale and disposition of
10 dangerous drugs and dangerous devices at Respondent Pharmacy in a readily retrievable form and
11 for a period of three years from the date of making. The circumstances of Respondents' conduct
12 are set forth above in paragraphs 18-24.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Improper Furnishing of Dangerous Drugs to Another Pharmacy)**

15 26. Respondents' licenses are subject to disciplinary action under sections 4301,
16 subdivisions (j) and/or (o), 4126.5, subdivision (a), and 4113, subdivision (c) of the Code, in that
17 Respondents furnished dangerous drugs to another pharmacy for reasons not authorized by
18 section 4126.5. The circumstances of Respondents' conduct are set forth above in paragraphs 18-
19 24.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct)**

22 27. Respondents' licenses are subject to disciplinary action under sections 4301 and
23 4113, subdivision (c) of the Code for unprofessional conduct, in that Respondents (a) failed to
24 reverse billing claims to third parties for prescriptions that were returned to Respondent Pharmacy
25 and not delivered to patients; (b) billed Medi-Cal for more tablets of carbamazepine than
26 Respondents actually dispensed to the patient who had been prescribed the medication; and
27 (c) failed to return to stock prescriptions for two patients that were not delivered to the patients
28 and were in the pharmacy past the patients' therapy start date. The circumstances of

1 Respondents' conduct are set forth above in paragraphs 18-24.

2 **FOURTH CAUSE FOR DISCIPLINE**

3 **(Holding and/or Offering for Sale Misbranded Drugs)**

4 28. Respondents' licenses are subject to disciplinary action under sections 4301,
5 subdivisions (j) and/or (o), 4342, subdivision (a), and 4113, subdivision (c) of the Code, and
6 Health and Safety Code sections 111330 and 111440, in that Respondents held and/or offered for
7 sale drugs or devices that were misbranded. The circumstances of Respondents' conduct are set
8 forth above in paragraphs 18-24.

9 **OTHER MATTERS**

10 29. Pursuant to section 4307 of the Code, if discipline is imposed on Original Permit
11 Number PHY 36740 issued to Daniels Pharmacy while George Nasrah was a partner of Daniels
12 Pharmacy and had knowledge of or knowingly participated in any conduct for which Original
13 Permit Number PHY 36740 was disciplined, George Nasrah shall be prohibited from serving as a
14 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
15 five years if Original Permit Number PHY 36740 is placed on probation or until Original Permit
16 Number PHY 36740 is reinstated if it is revoked.

17 30. Pursuant to section 4307 of the Code, if discipline is imposed on Original Permit
18 Number PHY 36740 issued to Daniels Pharmacy while Iyad I. Nasrah was a partner of Daniels
19 Pharmacy and had knowledge of or knowingly participated in any conduct for which Original
20 Permit Number PHY 36740 was disciplined, Iyad I. Nasrah shall be prohibited from serving as a
21 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
22 five years if Original Permit Number PHY 36740 is placed on probation or until Original Permit
23 Number PHY 36740 is reinstated if it is revoked.

24 **DISCIPLINE CONSIDERATIONS**

25 31. To determine the degree of discipline, if any, to be imposed on Respondents,
26 Complainant alleges that on or about June 18, 2015, in a prior disciplinary action entitled *In the*
27 *Matter of the Accusation Against Daniels Pharmacy and Iyad I. Nasrah*, before the Board, in
28 Case Number 4125, Respondent Pharmacy's Original Permit Number PHY 36740 and

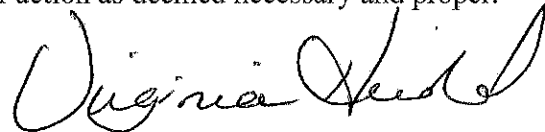
1 Respondent Nasrah's Original Pharmacist License Number RPH 40241 were both placed on five
2 (5) years probation subject to certain terms and conditions. That decision is now final and is
3 incorporated by reference as if fully set forth in this Accusation.

4 **PRAYER**

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

- 7 1. Revoking or suspending Original Permit Number PHY 36740 issued to Daniels
8 Pharmacy;
- 9 2. Revoking or suspending Original Pharmacist License Number RPH 40241 issued to
10 Iyad I. Nasrah;
- 11 3. Prohibiting George Nasrah from serving as a manager, administrator, owner, member,
12 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number
13 PHY 36740 is placed on probation or until Pharmacy Permit Number PHY 36740 is reinstated if
14 Pharmacy Permit Number 36740 issued to Daniels Pharmacy is revoked;
- 15 4. Prohibiting Iyad I. Nasrah from serving as a manager, administrator, owner, member,
16 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number
17 PHY 36740 is placed on probation or until Pharmacy Permit Number PHY 36740 is reinstated if
18 Pharmacy Permit Number 36740 issued to Daniels Pharmacy is revoked;
- 19 5. Ordering Daniels Pharmacy and Iyad I. Nasrah to pay the Board of Pharmacy the
20 reasonable costs of the investigation and enforcement of this case pursuant to Business and
21 Professions Code section 125.3; and
- 22 6. Taking such other and further action as deemed necessary and proper.

23
24 DATED: 2/1/18



25 VIRGINIA HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

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