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

11 In the Matter of the Accusation Against:

Case No. 6241

12 **MID-VALLEY HEALTH SERVICES, INC.,**  
13 **dba MID VALLEY HEALTH SERVICES**  
**ANTRANIK BARSAMIAN, PRESIDENT**  
14 **ROBERT BARSAMIAN,**  
**aka ROBERT CHARLES BARSAMIAN,**  
15 **VICE PRESIDENT/PHARMACIST-IN-**  
**CHARGE**  
16 **2800 Mitchell Road**  
**Ceres, CA 95307**

**A C C U S A T I O N**

17 **Pharmacy Permit No. PHY 37093**  
18 **Sterile Compounding Permit No. LSC 100004**

19 **and**

20 **ROBERT CHARLES BARSAMIAN**  
**9481 Perrett Road**  
21 **Patterson, CA 95363**

22 **Pharmacist License No. RPH 37908**

23 Respondents.

24 Complainant alleges:

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 ("Board"), Department of Consumer Affairs.

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2. On or about April 15, 1991, the Board issued Pharmacy Permit Number PHY 37093 to Mid-Valley Health Services, Inc., doing business as Mid Valley Health Services (“Respondent Mid Valley Health Services”), with Antranik Barsamian as president and Robert Barsamian, also known as Robert Charles Barsamian (“Respondent Robert Barsamian”), as vice president. On or about June 11, 2004, Respondent Robert Barsamian became the pharmacist-in-charge. The pharmacy permit was in full force and effect at all times relevant to the charges brought in the Accusation and will expire on April 1, 2018, unless renewed.

3. On or about May 9, 2014, the Board issued Sterile Compounding Permit Number LSC 100004 to Respondent Mid Valley Health Services. The sterile compounding permit was in full force and effect at all times relevant to the charges brought in the Accusation and will expire on April 1, 2018, unless renewed.

4. On or about September 2, 1983, the Board issued Pharmacist License Number RPH 37908 to Respondent Robert Barsamian. The pharmacist license was in full force and effect at all times relevant to the charges brought in the Accusation and will expire on March 31, 2019, unless renewed.

## JURISDICTION

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

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

7. Code section 4300 states, in pertinent part:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

3 (4) Revoking his or her license.

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

6 8. Code section 4300.1 states:

7 The expiration, cancellation, forfeiture, or suspension of a board-issued  
8 license by operation of law or by order or decision of the board or a court of law, the  
9 placement of a license on a retired status, or the voluntary surrender of a license by a  
10 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
11 investigation of, or action or disciplinary proceeding against, the licensee or to render  
12 a decision suspending or revoking the license.

13 **STATUTORY AND REGULATORY PROVISIONS**

14 9. Code section 4301 states, in pertinent part:

15 The board shall take action against any holder of a license who is guilty  
16 of unprofessional conduct . . . Unprofessional conduct shall include, but is not limited  
17 to, any of the following:

18 . . . .

19 (j) The violation of any of the statutes of this state . . . regulating  
20 controlled substances and dangerous drugs.

21 . . . .

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

27 10. Code section 4113, subdivision (c), states that "[t]he pharmacist-in-charge shall be  
28 responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining  
to the practice of pharmacy."

11. Health and Safety Code section 11165, subdivision (d), states:

For each prescription for a Schedule II, Schedule III, or Schedule IV  
controlled substance, as defined in the controlled substances schedules in federal law  
and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of  
Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other  
dispenser shall report the following information to the Department of Justice as soon  
as reasonably possible, but not more than seven days after the date a controlled  
substance is dispensed, in a format specified by the Department of Justice:

(1) Full name, address, and, if available, telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

(2) The prescriber's category of licensure, license number, national provider identifier (NPI) number, if applicable, the federal controlled substance registration number, and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, NPI number, and federal controlled substance registration number.

(4) National Drug Code (NDC) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) International Statistical Classification of Diseases, 9th revision (ICD-9) or 10th revision (ICD-10) Code, if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

12. Section 4307(a) of the Code states that:

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

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

(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.

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1 Title 16, California Code of Regulations ("CCR"), section 1751.7 states, in pertinent  
2 part:

3 . . . .

4 (b)(1) The pharmacy and each individual involved in the compounding of  
5 sterile drug preparations must successfully demonstrate competency on aseptic  
6 technique and aseptic area practices before being allowed to prepare sterile drug  
7 preparations. The validation process shall be carried out in the same manner as  
8 normal production, except that an appropriate microbiological growth medium is used  
9 in place of the actual product used during sterile preparation. The validation process  
10 shall be representative of the types of manipulations, products and batch sizes the  
11 individual is expected to prepare and include a media-fill test. The validation process  
12 shall be as complicated as the most complex manipulations performed by staff and  
13 contain the same amount or greater amount of volume transferred during the  
14 compounding process. The same personnel, procedures, equipment, and materials  
15 must be used in the testing. Media used must have demonstrated the ability to support  
16 and promote growth. Completed medium samples must be incubated in a manner  
17 consistent with the manufacturer's recommendations. If microbial growth is detected,  
18 then each individual's sterile preparation process must be evaluated, corrective action  
19 taken and documented, and the validation process repeated.

20 (2) Each individual's competency must be revalidated at least every  
21 twelve months for sterile to sterile compounding and at least every six months for  
22 individuals compounding sterile preparations from non-sterile ingredients . . .

### 23 COST RECOVERY

24 13. Code section 125.3 provides, in pertinent part, that a Board may request the  
25 administrative law judge to direct a licentiate found to have committed a violation or violations of  
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
27 enforcement of the case.

### 28 FACTUAL ALLEGATIONS

14. On or about February 6, 2017, a Board Inspector conducted an annual sterile  
compounding license renewal inspection at Mid Valley Health Services. During the inspection,  
the Board Inspector reviewed the training records for the pharmacy staff. The documents showed  
that the technician staff had all of the appropriate training and process validation for  
compounding; however, there was no process validation for compounding performed by the  
pharmacists subsequent to 2014. Pharmacist S. S. told the Board Inspector that since the  
pharmacists did not compound very often, they did not perform the process validation. During  
the inspection, the Board Inspector obtained from the Board a CURES (Controlled Substance

1 Utilization Review and Evaluation System)<sup>1</sup> compliance report for the pharmacy. The report  
2 showed that the pharmacy had not submitted any data to the CURES database since 2014.

3 **Respondent Mid Valley Health Services**

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Failure to Report Controlled Substance Prescriptions to CURES)**

6 15. Respondent Mid Valley Health Services' pharmacy permit and sterile compounding  
7 permit are subject to disciplinary action for unprofessional conduct pursuant to Code section  
8 4301, subdivision (j), in that Respondent violated a state law regulating controlled substances, as  
9 follows: Respondent failed to report to the California Department of Justice any CURES data for  
10 Schedule II, III, and IV controlled substances since 2014, in violation of Health and Safety Code  
11 section 11165, subdivision (d).

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Failure to Conduct Annual Process Validation)**

14 16. Respondent Mid Valley Health Services' pharmacy permit and sterile compounding  
15 permit are subject to disciplinary action for unprofessional conduct pursuant to Code section  
16 4301, subdivision (o), in that Respondent violated Title 16, CCR, section 1751.7, subdivisions  
17 (b)(1) and (2), as follows: Respondent failed to conduct and/or document annual process  
18 validation for pharmacists who compounded sterile drug preparations or who supervised or  
19 checked the compounding of sterile drug preparations performed by the pharmacy's technicians,  
20 since 2014.

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26 <sup>1</sup> CURES is a database of Schedule II, III and IV controlled substance prescriptions  
27 dispensed in California, which serves regulatory oversight agencies and law enforcement.  
28 CURES is committed to the reduction of prescription drug abuse and diversion without affecting  
legitimate medical practice or patient care. Access to CURES is limited to licensed prescribers  
and licensed pharmacists strictly for patients in their direct care, and regulatory board staff and  
law enforcement personnel for official oversight or investigatory purposes.



1 participated in any conduct for which the licensee was disciplined, Robert Barsamian shall be  
2 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,  
3 or partner of a licensee for five years if Pharmacy Permit Number PHY 37093 is placed on  
4 probation or until Pharmacy Permit Number PHY 37093 is reinstated if revoked.

5 21. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License  
6 Number RPH 37908 issued to Robert Barsamian, Robert Barsamian shall be prohibited from  
7 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a  
8 licensee for five years if Pharmacist License Number RPH 37908 is placed on probation or until  
9 Pharmacist License Number RPH 37908 is reinstated if it is revoked.

#### 10 MATTERS IN AGGRAVATION

11 22. To determine the degree of discipline to be assessed against Respondents Mid Valley  
12 Health Services and Robert Barsamian, Complainant alleges as follows:

13 a. On or about April 17, 2015, the Board issued Citation and Fine No. CI 2014 63400  
14 against Respondent Mid Valley Health Services for violating Title 16, CCR, section 1714,  
15 subdivision (b). During a Board inspection on November 12, 2014, the rear entrance to the  
16 pharmacy and the metal gate which led to the pharmacy were unsecured. Further, the keys to the  
17 narcotic cabinet were not restricted to a pharmacist. In addition, two 20 ml vials of the controlled  
18 substance morphine 50 mg/ml were missing. Pharmacist-in-charge Respondent Robert  
19 Barsamian could not explain the drug loss. The Board ordered Respondent Mid Valley Health  
20 Services to pay a fine of \$500 by May 17, 2015. Respondent paid the citation.

21 b. On or about April 17, 2015, the Board issued Citation and Fine No. CI 2014 65108  
22 against Respondent Robert Barsamian for violating Title 16, CCR, section 1714, subdivision (b).  
23 During a Board inspection on November 12, 2014, the rear entrance to the pharmacy and the  
24 metal gate which led to the pharmacy were unsecured. Further, the keys to the narcotic cabinet  
25 were not restricted to a pharmacist. In addition, two 20 ml vials of the controlled substance  
26 morphine 50 mg/ml were missing. Respondent could not explain the drug loss. The citation has  
27 been completed.

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**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 Pharmacy Permit Number PHY 37093, issued to Mid-Valley Health Services, Inc., doing business as Mid Valley Health Services;

2. Revoking or suspending Sterile Compounding Permit Number LSC 100004, issued to Mid-Valley Health Services, Inc., doing business as Mid Valley Health Services;

3. Revoking or suspending Pharmacist License Number RPH 37908, issued to Robert Barsamian, also known as Robert Charles Barsamian;

4. Prohibiting Mid-Valley Health Services, Inc., doing business as Mid Valley Health Services from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 37093 is placed on probation or until Pharmacy Permit Number PHY 37093 is reinstated if Pharmacy Permit Number PHY 37093 issued to Mid-Valley Health Services, Inc., doing business as Mid Valley Health Services is revoked;

5. Prohibiting Robert Barsamian from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 37093 is placed on probation or until Pharmacy Permit Number PHY 37093 is reinstated if Pharmacy Permit Number PHY 37093 issued to Mid-Valley Health Services, Inc., doing business as Mid Valley Health Services is revoked;

6. Prohibiting Robert Barsamian from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 37908 is placed on probation or until Pharmacist License Number RPH 37908 is reinstated if Pharmacist License Number RPH 37908 issued to Robert Barsamian is revoked;

7. Ordering Mid-Valley Health Services, Inc., doing business as Mid Valley Health Services, and Robert Barsamian, also known as Robert Charles Barsamian, 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; and

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

DATED: \_\_\_\_\_

*3/30/18*

*Virginia Herold*

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

SA2017108820