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of the State of California
2 ERLINDA G. SHRENGER, State Bar No. 155904
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6 Attorneys for Complainant

7 **BEFORE THE**
8 **BOARD OF PHARMACY**
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 2390

11 FAMILY PHARMACY CARE
1555 Sepulveda Blvd., Ste. T
12 Torrance, CA 90501
Armando P. Jarmin, President

OAH No. L-2002040645

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

13 Pharmacy License No. PHY 44188

14 and

15 NINFA PARRENO NOA
3605 W. Hidden Lane #119
16 Palos Verdes Peninsula Ca 90274

17 RPH License No. 41621

18 Respondent.

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20
21 In the interest of a prompt and speedy settlement of this matter, consistent with
22 the public interest and the responsibility of the Board of Pharmacy, the parties hereby agree to
23 the following Stipulated Settlement and Disciplinary Order which will be submitted to the Board
24 for approval and adoption as the final disposition of the Accusation solely with respect to
25 Respondents Family Pharmacy Care and Ninfa Parreno Noa.

26 PARTIES

27 1. Patricia F. Harris ("Complainant") is the Executive Officer of the Board of
28 Pharmacy. She brought this action solely in her official capacity and is represented in this matter

1 by Bill Lockyer, Attorney General of the State of California, by Erlinda G. Shrenger, Deputy
2 Attorney General.

3 2. Respondents are represented in this proceeding by attorney Herbert L.
4 Weinberg, whose address is Van Etten, Suzumoto & Becket LLP, 1620 26th Street, Suite 6000N,
5 Santa Monica, CA 90404.

6 3. On or about April 23, 1988, the Board of Pharmacy issued RPH License
7 Number 41621 to Ninfa Parreno Noa ("Respondent Noa"). The RPH License was in full force
8 and effect at all times relevant to the charges brought in Accusation No. 2390 and will expire on
9 July 31, 2003, unless renewed.

10 4. On or about August 13, 1999, the Board of Pharmacy issued Original
11 Pharmacy Permit Number PHY 44188 to California Family Pharmacy, Inc. to do business as
12 Family Pharmacy ("Respondent Pharmacy"), with an address of record of 1555 Sepulveda Blvd.,
13 Suite T, Torrance, California 90501. The Pharmacy Permit was in full force and effect at all
14 times relevant to the charges brought in Accusation No. 2390 and will expire on August 1, 2002,
15 unless renewed. Respondent Noa is, and has been, the Pharmacist-in-Charge of Respondent
16 Pharmacy since August 13, 1999.

17 5. Respondent Pharmacy is also known as Family Pharmacy Care.

18 JURISDICTION

19 6. Accusation No. 2390 was filed before the Board of Pharmacy ("Board"),
20 and is currently pending against Respondents. The Accusation and all other statutorily required
21 documents were properly served on Respondents on February 4, 2002. Respondents timely filed
22 their Notice of Defense contesting the Accusation. A copy of Accusation No. 2390 is attached as
23 Exhibit A and incorporated herein by reference.

24 ADVISEMENT AND WAIVERS

25 7. Respondents have carefully read, fully discussed with counsel, and
26 understand the charges and allegations in Accusation No. 2390. Respondents have also carefully
27 read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and
28 Disciplinary Order.

1 1. **Obey All Laws.** Respondent Noa shall obey all state and federal laws and
2 regulations substantially related to or governing the practice of pharmacy.

3 Respondent Noa shall report any of the following occurrences to the Board, in
4 writing, within 72 hours of such occurrence:

- 5 • an arrest or issuance of a criminal complaint for violation of any provision of the
6 Pharmacy Law, state and federal food and drug laws, or state and federal
7 controlled substances laws
- 8 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
9 any criminal complaint, information or indictment
- 10 • a conviction of any crime
- 11 • discipline, citation, or other administrative action filed by any state and federal
12 agency which involves Respondent's license or which is related to the practice
13 of pharmacy or the manufacturing, obtaining, handling or distribution or billing
14 or charging for any drug, device or controlled substance.

15 2. **Reporting to the Board.** Respondent Noa shall report to the Board
16 quarterly. The report shall be made either in person or in writing, as directed. Respondent
17 Noa shall state under penalty of perjury whether there has been compliance with all the terms
18 and conditions of probation. If the final probation report **is not** made as directed, probation
19 shall be extended automatically until such time as the final report is made and accepted by the
20 Board.

21 3. **Interview with the Board.** Upon receipt of reasonable notice,
22 Respondent Noa shall appear in person for interviews with the Board upon request at various
23 intervals at a location to be determined by the Board. Failure to appear for a scheduled
24 interview without prior notification to Board staff shall be considered a violation of probation.

25 4. **Cooperation with Board Staff.** Respondent Noa shall cooperate with
26 the Board's inspectional program and in the Board's monitoring and investigation of
27 Respondent's compliance with the terms and conditions of Entity probation. Failure to
28 comply shall be considered a violation of probation.

1 5. **Continuing Education.** Respondent Noa shall provide evidence of
2 efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

3 6. **Notice to Employers.** Respondent Noa shall notify all present and
4 prospective employers of the decision in Case No. 2390 and the terms, conditions and
5 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
6 this decision, and within 15 days of Respondent undertaking new employment, Respondent
7 shall cause her direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
8 writing acknowledging the employer has read the decision in Case No. 2390.

9 If Respondent Noa works for or is employed by or through a pharmacy
10 employment service, Respondent must notify the direct supervisor, pharmacist-in-charge,
11 and/or owner at every pharmacy of the and terms conditions of the decision in Case No. 2390
12 in advance of the Respondent commencing work at each pharmacy.

13 "Employment" within the meaning of this provision shall include any full-time, part-
14 time, temporary, relief or pharmacy management service as a pharmacist, whether the
15 Respondent is considered an employee or independent contractor.

16 7. **No Preceptorships, Supervision of Interns, or Being Pharmacist-in-**
17 **Charge (PIC).** Respondent Noa shall not supervise any intern pharmacist or perform any of
18 the duties of a preceptor, nor shall Respondent be the pharmacist-in-charge of any entity
19 licensed by the Board unless otherwise specified in this order.

20 8. **Reimbursement of Board Costs.** Respondent Noa shall pay to the
21 Board its costs of investigation and prosecution in the amount of \$332.75. Respondent shall
22 make said payments as follows: Respondent Noa shall pay this amount in full within thirty
23 (30) days of the effective date of this decision.

24 The filing of bankruptcy by Respondent Noa shall not relieve Respondent of
25 her responsibility to reimburse the Board its costs of investigation and prosecution.

26 9. **Probation Monitoring Costs.** Respondent Noa shall pay the costs
27 associated with probation monitoring as determined by the Board each and every year of
28 probation. Such costs shall be payable to the Board at the end of each year of probation.

1 Failure to pay such costs shall be considered a violation of probation.

2 10. **Status of License.** Respondent Noa shall, at all times while on
3 probation, maintain an active current license with the Board, including any period during
4 which suspension or probation is tolled.

5 If Respondent Noa's license expires or is canceled by operation of law or
6 otherwise, upon renewal or reapplication, Respondent Noa's license shall be subject to all
7 terms and conditions of this probation not previously satisfied.

8 11. **License Surrender while on Probation/Suspension.** Following the
9 effective date of this decision, should Respondent Noa cease practice due to retirement or
10 health, or be otherwise unable to satisfy the terms and conditions of probation, Respondent
11 Noa may tender her license to the Board for surrender. The Board shall have the discretion
12 whether to grant the request for surrender or take any other action it deems appropriate and
13 reasonable. Upon formal acceptance of the surrender of the license, Respondent Noa will no
14 longer be subject to the terms and conditions of probation.

15 Upon acceptance of the surrender, Respondent Noa shall relinquish her pocket
16 license to the Board within 10 days of notification by the Board that the surrender is accepted.
17 Respondent Noa may not reapply for any license from the Board for three years from the
18 effective date of the surrender. Respondent Noa shall meet all requirements applicable to the
19 license sought as of the date the application for that license is submitted to the Board.

20 12. **Notification of Employment/Mailing Address Change.** Respondent
21 Noa shall notify the Board in writing within ten (10) days of any change of employment. Said
22 notification shall include the reasons for leaving and/or the address of the new employer,
23 supervisor or owner and work schedule if known. Respondent shall notify the Board in
24 writing within ten(10) days of a change in name, mailing address or phone number.

25 13. **Tolling of Probation.** Should Respondent Noa, regardless of
26 residency, for any reason cease practicing pharmacy for a minimum of forty (40) hours per
27 calendar month in California, Respondent must notify the Board in writing within ten (10)
28 days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy.

1 Such periods of time shall not apply to the reduction of the probation period. It is a violation
2 of probation for Respondent's probation to remain tolled pursuant to the provisions of this
3 condition for a period exceeding three years.

4 "Cessation of practice" means any period of time exceeding 30 days in which
5 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of
6 the Business and Professions Code.

7
8 **14. Violation of Probation.** If Respondent Noa violates probation in any
9 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
10 probation and carry out the disciplinary order which was stayed. If a petition to revoke
11 probation or an accusation is filed against Respondent Noa during probation, the Board shall
12 have continuing jurisdiction and the period of probation shall be extended, until the petition to
13 revoke probation or accusation is heard and decided.

14 If Respondent Noa has not complied with any term or condition of probation,
15 the Board shall have continuing jurisdiction over Respondent, and probation shall
16 automatically be extended until all terms and conditions have been satisfied or the Board has
17 taken other action as deemed appropriate to treat the failure to comply as a violation of
18 probation, to terminate probation, and to impose the penalty which was stayed.

19 **15. Completion of Probation.** Upon successful completion of probation,
20 Respondent Noa's license will be fully restored.

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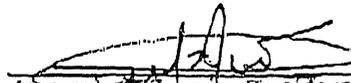
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Horbert L. Weinberg. I understand the stipulation and the effect it will have on my Pharmacy Permit and/or Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 9/17/02

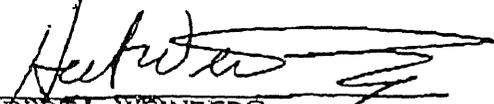

Armando Jarmín, President
California Family Pharmacy, Inc., dba Family Pharmacy
(also known as Family Pharmacy Care), Respondent

DATED: 9/17/02


NINFA PARRENO NOA
Respondent

I have read and fully discussed with Respondents Ninfa Parreno Noa and Family Pharmacy Care the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 9/17/02


HERBERT L. WEINBERG
Attorney for Respondents

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: 9-18-02.

BILL LOCKYER, Attorney General
of the State of California



ERLINDA G. SHRENGER
Deputy Attorney General

Attorneys for Complainant

**BEFORE THE
BOARD OF PHARMACY
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

FAMILY PHARMACY CARE
1555 Sepulveda Blvd., Ste. T
Torrance, CA 90501
Armando P. Jarmin, President

Pharmacy License No. PHY 44188

and

NINFA PARRENO NOA
3605 W. Hidden Lane #119
Palos Verdes Peninsula Ca 90274

RPH License No. 41621

Respondent.

Case No. 2390

OAH No. L-2002040645

DECISION AND ORDER

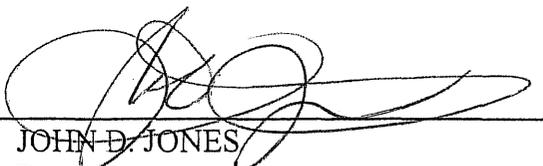
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, as its Decision in this matter.

This Decision shall become effective on December 27, 2002.

It is so ORDERED November 27, 2002.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By: _____


JOHN D. JONES
Board President

1 BILL LOCKYER, Attorney General
of the State of California
2 ERLINDA G. SHRENGER, State Bar No. 155904
Deputy Attorney General
3 California Department of Justice
300 South Spring Street, Suite 1702
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6 Attorneys for Complainant

7
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. 2390

12 FAMILY PHARMACY CARE
1555 Sepulveda Blvd., Ste. T
13 Torrance, CA 90501
Armando P. Jarmin, President
14
Pharmacy License No. PHY 44188
15
and
16
NINFA PARRENO NOA
17 3605 W. Hidden Lane #119
Palos Verdes Peninsula Ca 90274
18
RPH License No. 41621
19
20 Respondents.

A C C U S A T I O N

21 Complainant alleges:

22 **PARTIES**

- 23 1. Patricia F. Harris ("Complainant") brings this Accusation solely in her
24 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
25 Affairs.
26 2. On or about August 13, 1999, the Board of Pharmacy issued Original
27 Pharmacy Permit Number PHY 44188 to Armando P. Jarmin, President, to do business as
28 Family Pharmacy Care ("Respondent Pharmacy"). The Pharmacy Permit was in full force and

1 effect at all times relevant to the charges brought herein and will expire on August 1, 2002,
2 unless renewed. Ninfa Parreno Noa is, and has been, the Pharmacist-in-Charge of Respondent
3 Pharmacy since August 13, 1999.

4 3. On or about April 23, 1988, the Board of Pharmacy issued RPH License
5 Number 41621 to Ninfa Parreno Noa ("Respondent Noa"). The RPH License was in full force
6 and effect at all times relevant to the charges brought herein and will expire on July 31, 2003,
7 unless renewed.

8 JURISDICTION

9 4. This Accusation is brought before the Board of Pharmacy ("Board") under
10 the authority of the following sections of the Business and Professions Code ("Code").

11 5. Section 118(b) of the Code provides that the expiration of a license shall
12 not deprive the Board of jurisdiction to proceed with a disciplinary action during the period
13 within which the license may be renewed, restored, reissued or reinstated.

14 6. Section 4300 of the Code permits the Board to take disciplinary action to
15 suspend or revoke a license issued by the Board.

16 7. Section 4301 of the Code provides that the Board shall take action against
17 any holder of a license who is guilty of unprofessional conduct or whose license has been
18 procured by fraud or misrepresentation or issued by mistake.

19 8. Section 4301(j) of the Code defines unprofessional conduct to include, but
20 is not limited to, the violation of any of the statutes of this state or of the United States regulating
21 controlled substances and dangerous drugs.

22 9. Section 4301(o) of the Code defines unprofessional conduct to include, but
23 is not limited to, violating or attempting to violate, directly or indirectly, or assisting in or
24 abetting the violation of or conspiring to violate any provision or term of Chapter 9 (commencing
25 with Section 4000) of the Business and Professions Code or of the applicable federal and state
26 laws and regulations governing pharmacy, including regulations established by the board.

27 10. Section 4305(b) of the Code states that any person who has obtained a
28 license to conduct a pharmacy, who willfully fails to notify the Board of the termination of

1 employment of any pharmacist who takes charge of, or acts as manager of the pharmacy, and who
2 continues to permit the compounding or dispensing of prescriptions, or the furnishing of drugs or
3 poisons, in his or her pharmacy, except by a pharmacist, shall be subject to summary suspension
4 or revocation of his or her license to conduct a pharmacy.

5 11. Title 16, California Code of Regulations (“CCR”), section 1718 states:

6 “Current Inventory” as used in Section 4232 of the Business and Professions
7 Code shall be considered to include complete accountability for all dangerous drugs
8 handled by every licensee enumerated in Section 4232.

9 The controlled substances inventories required by Title 21, CCR, Section 1304
10 shall be available for inspection upon request for at least 3 years after the date of the
11 inventory.

12 12. Title 16, California Code of Regulations, section 1714(d) states:

13 “Each pharmacist while on duty shall be responsible for the security of the
14 prescription department, including provisions for effective control against theft or
15 diversion of dangerous drugs and devices, and records for such drugs and devices.

16 Possession of a key to the pharmacy where dangerous drugs and controlled substances are
17 stored shall be restricted to a pharmacist.”

18 13. Section 125.3 of the Code provides, in pertinent part, that the Board may
19 request the administrative law judge to direct a licensee found to have committed a violation or
20 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
21 and enforcement of the case.

22 **DRUG CLASSIFICATIONS**

23 14. “Arthotec”, a brand name for a combination of diclofenac sodium and
24 misoprostol, is classified as a dangerous drug pursuant to Section 4022 of the Code.

25 15. “Azmacort, a brand name for triamcinolone acetamide inhaler, is
26 classified as a dangerous drug pursuant to Section 4022 of the Code.

27 16. “Metoprolol”, a generic name for a beta-adrenergic blocking agent, is
28 classified as a dangerous drug pursuant to Section 4022 of the Code.

	<u>Drug</u>	<u>Date Filled</u>
1		
2	Singulair 10mg	11/13/2000
3	Arthrotec 50mg	11/13/2000
4	Singulair 10mg	11/14/2000
5	Azmacort Inhaler	11/14/2000
6	Metoprolol 100mg	11/13/2000
7	Zestril 5mg	11/13/2000

7 C. On November 14, 2000 Respondent Noa admitted to the inspectors that on
8 November 13, 2000, she had filled the below listed prescriptions and left them on the pharmacy
9 counter for A. Jarmin, an unlicensed person, to dispense:

	<u>Drug</u>
10	
11	Metoprolol 100mg
12	Aspirin EC 81mg
13	Zestril 5mg

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

(Bus. & Prof. Code §§ 4301, 4059.5, 4305)

17 22. Respondents Pharmacy and Noa are subject to disciplinary action under
18 sections 4300 and 4301(o) of the Code on the grounds of unprofessional conduct for violating
19 sections 4059.5(a) and 4305(a) of the Code, in conjunction with Title 16, California Code of
20 Regulations, sections 1707.2, 1707.3, 1715, as more fully set forth below:

21 A. On or about November 14, 2000, Respondents did not perform the duty of
22 a pharmacist to provide oral consultation. On November 13, 2000 and November 14, 2000,
23 Respondent Noa was working at California Family Pharmacy when the prescriptions were filled
24 and dispensed at Respondent Pharmacy. Respondents allowed an unlicensed person to dispense
25 the prescriptions.

26 B. On or about November 14, 2000, Respondents did not perform the duty of
27 a pharmacist to review drug therapy and patient medication records prior to dispensing.

28 C. On November 13, 2000, Respondents did not perform the duties of a

1 registered pharmacist in signing and receiving wholesale merchandise from Barnes Wholesale,
2 Inc. Respondents allowed A. Jarmin, an unlicensed person, to sign for the merchandise and take
3 possession.

4 D. Respondents failed to maintain a biennial control substance inventory.
5 On November 14, 2000, Respondent Noa was unable to provide the inspector for the Board with
6 a copy of the control substance inventory. The inspector requested that Respondent Noa
7 prepared an inventory and forward a copy to the Board.

8 E. On November 14, 2000, Respondent Pharmacy was operating without a
9 licensed pharmacist.

10 **OTHER MATTERS**

11 23. Section 4307 of the Code provides in part that any person whose license or
12 permit has been revoked or placed under suspension shall be prohibited from serving as an
13 officer, director, associate or partner of a license, permittee or director, associate or partner of a
14 licensee, permittee or registrant.

15 **PRAYER**

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

18 1. Revoking or suspending Pharmacy Permit Number PHY 44188, issued to
19 Family Care Pharmacy;

20 2. Revoking or suspending RPH License Number 41621, issued to Ninfa
21 Parreno Noa;

22 3. Ordering Family Care Pharmacy and Ninfa Parreno Noa to pay the Board
23 of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
24 Business and Professions Code section 125.3; and

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

DATED: 1/17/02

P. F. Harris

PATRICIA F. HARRIS
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

03583110-LA2001AD0691