

1 BILL LOCKYER, Attorney General
 of the State of California
 2 JAMI L. CANTORE, State Bar No. 165410
 Deputy Attorney General
 3 California Department of Justice
 300 So. Spring Street, Suite 1702
 4 Los Angeles, CA 90013
 Telephone: (213) 897-2569
 5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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

10 In the Matter of the Accusation Against:
 11 SAEID OMATYAR, doing business as
 FAMILY PHARMACY SERVICES
 12 OF BEVERLY HILLS
 8314 Wilshire Blvd.
 13 Beverly Hills, CA 90211
 14 Original Pharmacist Permit No. PHY 39349
 15 and
 16 SAEID OMATYAR
 8314 Wilshire Blvd.
 17 Beverly Hills, CA 90211
 18 Original Pharmacist License No. RPH 43827
 19 Respondents.
 20

Case No. 2461
 OAH No. L-2002060112
**AMENDED STIPULATED
 SETTLEMENT AND
 DISCIPLINARY ORDER**

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 of the Department of
 23 Consumer Affairs, the parties hereby agree to the following Stipulated Settlement and
 24 Disciplinary Order which will be submitted to the Board for approval and adoption as the final
 25 disposition of the Accusation solely with respect to Saeid Omatyar, doing business as Family
 26 Pharmacy Services of Beverly Hills and Saeid Omatyar.
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PARTIES

1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of Pharmacy. She brought this action solely in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Jami L. Cantore, Deputy Attorney General.

2. Respondents Saeid Omatyar, doing business as Family Pharmacy Services of Beverly Hills and Saeid Omatyar (Respondents) are represented in this proceeding by attorney Herbert L. Weinberg, Esq., whose address is 1620 26th Street, Suite 6000 North, Santa Monica, CA 90404.

3. On or about September 17, 1990, the Board of Pharmacy issued Original Pharmacist License No. RPH 43827 to Saeid Omatyar (Respondents). The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2461 and will expire on December 31, 2003, unless renewed.

4. On or about May 17, 1993, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 39349 to Saeid Omatyar to do business as Family Pharmacy Services of Beverly Hills. Saeid Omatyar, RPH 43827 has been the Pharmacist-in-Charge since May 17, 1993. The License was in full force and effect at all times relevant to the charges brought in Accusation No. 2461 and will expire on May 1, 2003, unless renewed.

JURISDICTION

5. Accusation No. 2461 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on or about April 29, 2002. Respondents timely filed their Notice of Defense contesting the Accusation. A copy of Accusation No. 2461 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondents have carefully read, fully discussed with counsel, and understand the charges and allegations in Accusation No. 2461. Respondents have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and

1 CONTINGENCY

2 13. This stipulation shall be subject to approval by the Board of Pharmacy.
3 Respondents understand and agree that counsel for Complainant and the staff of the Board of
4 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,
5 without notice to or participation by Respondents or Respondents' counsel. By signing the
6 stipulation, Respondents understand and agree that they may not withdraw their agreement or
7 seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board
8 fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and
9 Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be
10 inadmissible in any legal action between the parties, and the Board shall not be disqualified from
11 further action by having considered this matter.

12 14. The parties understand and agree that facsimile copies of this Stipulated
13 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
14 force and effect as the originals.

15 15. In consideration of the foregoing admissions and stipulations, the parties
16 agree that the Board may, without further notice or formal proceeding, issue and enter the
17 following Disciplinary Order:

18 DISCIPLINARY ORDER

19 IT IS HEREBY ORDERED that Original Pharmacist License No. RPH 43827
20 and Original Pharmacist Permit Number PHY 39349 issued to Respondents Saeid Omatyar,
21 doing business as Family Pharmacy Services of Beverly Hills and Saeid Omatyar are revoked.
22 However, the revocation is stayed and Respondents are placed on probation for three (3) years on
23 the following terms and conditions.

24 **1. Actual Suspension**

25 As part of probation, Respondent is suspended from the practice of pharmacy and
26 Respondent's Original Pharmacist License Number RPH 43827 is suspended for forty-five (45)
27 days beginning the effective date of this decision.

28 During suspension, respondent shall not enter any pharmacy area or any portion of the

1 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
2 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
3 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
4 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
5 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
6 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
7 and devices or controlled substances.

8 Respondent shall not engage in any activity that requires the professional judgment of a
9 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.

10 Respondent shall not perform the duties of a pharmacy technician or an exemptee for any entity
11 licensed by the board. Subject to the above restrictions, respondent may continue to own or hold
12 an interest in any pharmacy in which he or she holds an interest at the time this decision becomes
13 effective unless otherwise specified in this order.

14 **2. No Ownership of Licensed Premises**

15 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as
16 a manager, administrator, member, officer, director, associate, or partner of any additional
17 business, firm, partnership, or corporation licensed by the board. If respondent owns or has any
18 legal or beneficial interest in, or serve as a manager, administrator, member, officer, director,
19 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
20 licensed by the board, respondent may continue to serve in such capacity.

21 **3. No Preceptorships, Supervision of Interns, Being Pharmacist-in-Charge (PIC), or** 22 **Serving as a Consultant**

23 Respondent shall not supervise any intern pharmacist, perform any of the duties of a
24 preceptor or serve as a consultant to any entity licensed by the board. Respondent may be a
25 pharmacist-in-charge. However, respondent shall retain an independent consultant at his own
26 expense who shall be responsible for reviewing pharmacy operations on a quarterly basis for the
27 first year of probation for compliance by respondent with state and federal laws and regulations
28 governing the practice of pharmacy and for compliance by respondent with the obligations of a

1 pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not on probation
2 with the board and whose name shall be submitted to the board, for its prior approval, within 30
3 days of the effective date of the decision. Respondent shall not be a pharmacist-in-charge at
4 more than one pharmacy or any pharmacy of which he or she is not the sole owner.

5 **4. Obey All Laws**

6 Respondent shall obey all state and federal laws and regulations substantially related to or
7 governing the practice of pharmacy. Respondent shall report any of the following occurrences to
8 the board, in writing, within 72 hours of such occurrence:

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

20 **5. Reporting to the Board**

21 Respondent shall report to the board quarterly. The report shall be made either in
22 person or in writing, as directed. Respondent shall state under penalty of perjury whether there
23 has been compliance with all the terms and conditions of probation. If the final probation
24 report is not made as directed, probation shall be extended automatically until such time as the
25 final report is made and accepted by the board.

26 **6. Interview with the Board**

27 Upon receipt of reasonable notice, respondent shall appear in person for interviews
28 with the board upon request at various intervals at a location to be determined by the board.

1 Failure to appear for a scheduled interview without prior notification to board staff shall be
2 considered a violation of probation.

3 **7. Cooperation with Board Staff**

4 Respondent shall cooperate with the board's inspectional program and in the board's
5 monitoring and investigation of respondent's compliance with the terms and conditions of his
6 or her probation. Failure to comply shall be considered a violation of probation.

7 **8. Continuing Education**

8 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
9 pharmacist as directed by the board.

10 **9. Notice to Employers**

11 Respondent shall notify all present and prospective employers of the decision in case
12 number 2461 and the terms, conditions and restrictions imposed on respondent by the
13 decision. Within 30 days of the effective date of this decision, and within 15 days of
14 respondent undertaking new employment, respondent shall cause his or her direct supervisor,
15 pharmacist-in-charge and/or owner to report to the board in writing acknowledging the
16 employer has read the decision in case number 2461.

17 If respondent works for or is employed by or through a pharmacy employment service,
18 respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every
19 pharmacy of the and terms and conditions of the decision in case number 2461 in advance of
20 the respondent commencing work at each pharmacy.

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

24 **10. Notice to Employees**

25 Respondent shall, upon or before the effective date of this decision, ensure that all
26 employees involved in permit operations are made aware of all the terms and conditions of
27 probation, either by posting a notice of the terms and conditions, circulating such notice, or
28 both. If the notice required by this provision is posted, it shall be posted in a prominent place

1 and shall remain posted throughout the probation period. Respondent shall ensure that any
2 employees hired or used after the effective date of this decision are made aware of the terms
3 and conditions by posting a notice, circulating a notice, or both.

4 "Employees" as used in this provision includes all full-time, part-time, temporary and
5 relief employees and independent contractors employed or hired at any time during probation.

6 **11. Reimbursement of Board Costs**

7 Respondent shall pay to the board its costs of investigation and prosecution in the
8 amount of \$ 7500.00. Respondent shall make said payments as follows: installment payments
9 over the first two years of probation.

10 The filing of bankruptcy by respondent shall not relieve respondent of his or her
11 responsibility to reimburse the board its costs of investigation and prosecution.

12 **12. Probation Monitoring Costs**

13 Respondent shall pay the costs associated with probation monitoring as determined by
14 the board each and every year of probation. Such costs shall be payable to the board at the
15 end of each year of probation. Failure to pay such costs shall be considered a violation of
16 probation.

17 **13. Status of License**

18 Respondent shall, at all times while on probation, maintain an active current license
19 with the board, including any period during which suspension or probation is tolled. If
20 respondent's license expires or is canceled by operation of law or otherwise, upon renewal or
21 re-application, respondent's license shall be subject to all terms and conditions of this
22 probation not previously satisfied.

23 **14. License Surrender while on Probation/Suspension**

24 Following the effective date of this decision, should respondent cease practice due to
25 retirement or health, or be otherwise unable to satisfy the terms and conditions of
26 probation, respondent may tender his or her license to the board for surrender. The board
27 shall have the discretion whether to grant the request for surrender or take any other action
28 it deems appropriate and reasonable. Upon formal acceptance of the surrender of the

1 license, respondent will no longer be subject to the terms and conditions of probation.
 2 Upon acceptance of the surrender, respondent shall relinquish his or her pocket license to
 3 the board within 10 days of notification by the board that the surrender is accepted.
 4 Respondent may not reapply for any license from the board for three years from the
 5 effective date of the surrender. Respondent shall meet all requirements applicable to the
 6 license sought as of the date the application for that license is submitted to the board.

7 **15. Notification of Employment/Mailing Address Change**

8 Respondent shall notify the board in writing within 10 days of any change of
 9 employment. Said notification shall include the reasons for leaving and/or the address of the
 10 new employer, supervisor or owner and work schedule if known. Respondent shall notify the
 11 board in writing within 10 days of a change in name, mailing address or phone number.

12 **16. Tolling of Probation**

13 Respondent must notify the board in writing within 10 days of cessation of the practice
 14 of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not
 15 apply to the reduction of the probation period. It is a violation of probation for respondent's
 16 probation to remain tolled pursuant to the provisions of this condition for a period exceeding
 17 three years.

18 "Cessation of practice" means any period of time exceeding 30 days in which
 19 respondent is not engaged in the practice of pharmacy as defined in Section 4052 of
 20 the Business and Professions Code.

21 Respondent shall work at least 40 hours in each calendar month as a pharmacist and at
 22 least an average of 80 hours per month in any six consecutive months. Failure to do so will be
 23 a violation of probation. If respondent has not complied with this condition during the
 24 probationary term, and respondent has presented sufficient documentation of his or her good
 25 faith efforts to comply with this condition, and if no other conditions have been violated, the
 26 board, in its discretion, may grant an extension of respondent's probation period up to one
 27 year without further hearing in order to comply with this condition.

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1 **17. Violation of Probation**

2 If respondent violates probation in any respect, the board, after giving respondent
3 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary
4 order which was stayed. If a petition to revoke probation or an accusation is filed against
5 respondent during probation, the board shall have continuing jurisdiction and the period of
6 probation shall be extended, until the petition to revoke probation or accusation is heard and
7 decided.

8 If a respondent has not complied with any term or condition of probation, the board
9 shall have continuing jurisdiction over respondent, and probation shall automatically be
10 extended until all terms and conditions have been satisfied or the board has taken other action
11 as deemed appropriate to treat the failure to comply as a violation of probation, to terminate
12 probation, and to impose the penalty which was stayed.

13 **18. Completion of Probation**

14 Upon successful completion of probation, respondent's license will be fully restored.

15
16 ACCEPTANCE

17 I have carefully read the above Stipulated Settlement and Disciplinary Order
18 and have fully discussed it with my attorney, Herbert L. Weinberg, Esq. I understand the
19 stipulation and the effect it will have on my Original Pharmacist License and Original
20 Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,
21 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of
22 Pharmacy.

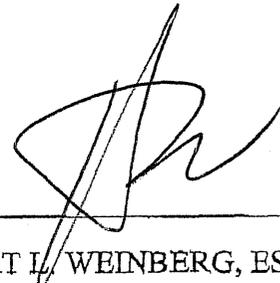
23 DATED: 12/31/02

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27 SAEID OMATYAR, Doing business as FAMILY
28 PHARMACY SERVICES OF BEVERLY HILLS AND
SAEID OMATYAR,
Respondents

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I have read and fully discussed with Respondents Saeid Omatyar, doing business as Family Pharmacy Services of Beverly Hills and Saeid Omatyar the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1/8/03



HERBERT L. WEINBERG, ESQ.
Attorney for Respondents

ENDORSEMENT

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

DATED: 1/30/03

BILL LOCKYER, Attorney General
of the State of California



JAMI L. CANTORE
Deputy Attorney General

Attorneys for Complainant.

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

In the Matter of the Accusation Against:

SAEID OMATYAR, doing business as
FAMILY PHARMACY SERVICES
OF BEVERLY HILLS
8314 Wilshire Blvd.
Beverly Hills, CA 90211

Original Pharmacist Permit No. PHY 39349

and

SAEID OMATYAR
8314 Wilshire Blvd.
Beverly Hills, CA 90211

Original Pharmacist License No. RPH 43827

Respondents.

Case No. 2461

OAH No. L-2002060112

DECISION AND ORDER

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

This Decision shall become effective on April 10, 2003.

It is so ORDERED March 11, 2003.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Exhibit A
Accusation No. 2461

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMI L. CANTORE, State Bar No. 165410
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2569
5 Facsimile: (213) 897-2804

6 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. 2461

11 SAEID OMATYAR, doing business as
FAMILY PHARMACY SERVICES
12 OF BEVERLY HILLS
8314 Wilshire Boulevard
13 Beverly Hills, CA 90211

A C C U S A T I O N

14 Original Pharmacist Permit No. PHY 39349

15 and

16 SAEID OMATYAR
8314 Wilshire Blvd.
17 Beverly Hills, CA 90211

18 Original Pharmacist License No. RPH 43827

19 Respondents.

20
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 May 17, 1993, the Board of Pharmacy issued Original
27 Pharmacy Permit Number PHY 39349 to Saeid Omatyar to do business as Family Pharmacy
28 Services of Beverly Hills (Respondent Pharmacy). The Original Pharmacy Permit was in full

1 force and effect at all times relevant to the charges brought herein and will expire on May 1,
2 2002, unless renewed.

3 Saeid Omatyar is the Pharmacist-in-Charge since May 17, 1993.

4 3. On or about September 17, 1990, the Board of Pharmacy issued Original
5 Pharmacist License Number RPH 43827 to Saeid Omatyar (Respondent Omatyar). The Original
6 Pharmacist License was in full force and effect at all times relevant to the charges brought herein
7 and will expire on December 31, 2003, unless renewed.

8
9 JURISDICTION

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

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

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

17 7. Section 4301 of the Code states:

18 The Board shall take action against any holder of a license who is guilty of
19 unprofessional conduct or whose license has been procured by fraud or misrepresentation or
20 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the
21 following:

22 (d) The clearly excessive furnishing of controlled substances in violation of
23 subdivision (a) of Section 11153 of the Health and Safety Code.

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

27 (j) The violation of any of the statutes of this state or of the United States
28 regulating controlled substances and dangerous drugs.

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
2 abetting the violation of or conspiring to violate any provision or term of Chapter 9
3 (commencing with Section 4000) of the Business and Professions Code or of the
4 applicable federal and state laws and regulations governing pharmacy, including
5 regulations established by the board.

6 (p) Actions or conduct that would have warranted denial of a license.

7 8. Section 4059 of the Code states, in pertinent part, that no person shall
8 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,
9 optometrist, or veterinarian. No person shall furnish any dangerous device, except upon the
10 prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

11 9. Section 4063 of the Code states:

12 No prescription for any dangerous drug or dangerous device may be refilled
13 except upon authorization of the prescriber. The authorization may be given oral or at the time
14 of giving the original prescription. No prescription for any dangerous drug that is a controlled
15 substance may be designated refillable as needed.

16 10. Health and Safety Code section 11158(a) states, in pertinent part, that
17 except as provided in section 11159 or when dispensed directly to an ultimate user by a
18 practitioner, other than a pharmacist or pharmacy, no controlled substance classified in Schedule
19 III, IV, or V may be dispensed without a prescription meeting the requirements of this chapter.

20 11. Health and Safety Code section 11171 states that no person shall
21 prescribe, administer, or furnish a controlled substance except under the conditions and in the
22 manner provided by this division.

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

27 13. DANGEROUS DRUGS/CONTROLLED SUBSTANCES

28 A. "Donnatal", brand name for the combination of atropine,

1 scopolamine, hyoscyamine and 16.2 mg phenobarbital, is categorized as a dangerous drug
2 pursuant to section 4022 of the Code.

3 B. "Elton Cream", brand name for mometasone furate, an anti-
4 inflammatory drug, is categorized as a dangerous drug pursuant to section 4022 of the
5 Code.

6 C. "Hycodan", brand name for the combination of 5 mg hydrocodone,
7 homatropine, and 500 mg of acetaminophen, is a Schedule III controlled substance as
8 designated by Health and Safety Code section 11056(e)(4)

9 D. "Lomotil", a brand name for the combination of 2.5 mg
10 diphenoxylate and atropine, is a Schedule V controlled substance as designated by Health
11 and Safety Code section 11058(c)(4) and is categorized as a dangerous drug pursuant to
12 section 4022 of the Code.

13 E. "Nizoral Cream", brand name for ketoconazole, is categorized as a
14 dangerous drug pursuant to section 4022 of the Code.

15 F. "Placidyl", brand name for ethchlorvynol, is a Schedule IV
16 controlled substance as designated by Health and Safety Code section 11057(d)(9) and is
17 categorized as a dangerous drug pursuant to section 4022 of the Code.

18 G. "Valium", a trade name for the chemical substance diazepam, a
19 benzodiazepam derivative, is a Schedule IV controlled substance as designated by Health
20 and Safety Code section 11057(d)(8) and is categorized as a dangerous drug pursuant to
21 section 4022 of the Code.

22
23 FIRST CAUSE FOR DISCIPLINE

24 (Furnished Dangerous Drugs Without Authorization)

25 14. Respondents Pharmacy and Omatyar are subject to disciplinary action
26 under sections 4300 and 4301(j), (o) and (p) of the Code on the grounds of unprofessional
27 conduct for violating sections 4059 and 4063 of the Code. The circumstances are as follows:

28 A. From on or about June 2, 1997 to on or about June 14, 1999, Respondents

1 filled and dispensed prescriptions and/or refills for dangerous drugs for patient B.G.¹, without
2 prescriptions, as follows:

3	<u>DATE</u>	<u>DRUG</u>	<u>AMOUNT</u>
4	6/02/97	Elocon Cream 0.1%	45 GM
	6/02/97	Nizoral Cream 2%	60 GM
5	6/17/97	Donnatal Tab	36
	6/17/97	Donnatal Tab	36
6	1/12/98	Elocon Cream 0.1%	45 GM
	1/12/98	Elocon Cream 0.1%	45
7	1/12/98	Donnatal Tab	50
	1/12/98	Donnatal Tab	50
8	3/04/98	Donnatal Tab	50
	3/04/98	Donnatal Tab	50
9	5/14/98	Elocon Cream 0.1%	45 GM
	5/14/98	Elocon Cream 0.1%	45
10	5/14/98	Nizoral Cream 2%	60GM
	5/14/98	Nizoral Cream 2%	60
11	12/20/98	Elocon Cream 0.1%	45
	6/14/99	Elocon Cream 0.1%	45

12
13 B. On June 2, 1997, Respondents filled and dispensed a prescription for
14 patient B.G. for Elocon Cream, 0.1% , 45 GM, and Nizoral Cream 2%, 60 GM. The
15 prescriber had only authorized 15 G for each prescription.

16
17 SECOND CAUSE FOR DISCIPLINE

18 (Furnished Controlled Substances Without Authorization)

19 15. Respondents Pharmacy and Omatyar are subject to disciplinary action
20 under sections 4300 and 4301(j), (o) and (p) of the Code on the grounds of unprofessional
21 conduct for violating section 4063 of the Code in conjunction with Health and Safety Code
22 sections 11158(a) and 11171. The circumstances are as follows:

23 A. From on or about February 19, 1997 to on or about December 17, 1999,
24 Respondents filled and dispensed prescriptions and/or refills for controlled substances for patient
25 B. G., without prescriptions, as follows:

26 ///

27
28 1. The identity of the patient will be made available in the course of discovery.

	<u>DATE</u>	<u>DRUG</u>	<u>AMOUNT</u>
1			
2	2/19/97	Placidyl 750MG	60
	2/19/97	Placidyl 750 MG	60
3	2/19/97	Valium 10MG	60
	2/19/97	Valium 10MG	60
4	5/14/97	Valium 10MG	60
	6/17/97	Lomotil Tab	20
5	6/17/97	Lomotil Tab	20
	7/07/97	Lomotil Tab	30
6	7/07/97	Lomotil Tab	30
	9/26/97	Valium 10MG	60
7	9/27/97	Valium 10MG	60
	4/02/98	Valium 10MG	60
8	5/14/98	Valium 10MG	60
	8/20/98	Placidyl 750MG	60
9	8/20/98	Valium 10MG	60
	11/03/98	Lomotil Tab	50
10	11/03/98	Placidyl 750MG	60
	11/03/98	Valium 10MG	60
11	2/19/99	Valium 10MG	60
	12/3/99	Valium 10MG	60
12	12/17/99	Placidyl 750MG	30
	12/17/99	Valium 10MG	60
13			

THIRD CAUSE FOR DISCIPLINE

(Falsely Made Prescriptions Not Authorized)

16. Respondents Pharmacy and Omatyar are subject to disciplinary action under sections 4300 and 4301(f), (o) and (p) of the Code on the grounds of unprofessional conduct for violating section 4324 of the Code in that Respondents falsely made prescriptions that had not been authorized by a prescriber, and placed them in the pharmacy's files. From on or about February 19, 1997 to on or about December 3, 1999, Respondents made false prescriptions for patient B.G., filled the prescriptions and entered the prescriptions in the patient's profile. The false prescriptions are as follows:

	<u>DATE</u>	<u>DRUG</u>	<u>AMOUNT</u>
23			
24	2/19/97	Placidyl 750MG	60
	2/19/97	Placidyl 750 MG	60
25	2/19/97	Valium 10MG	60
	2/19/97	Valium 10MG	60
26	5/14/97	Valium 10MG	60
	6/02/97	Elocon Cream 0.1%	45
27	6/02/97	Nizoral Cream 2%	60
	6/17/97	Donnatal Tab	36
28	6/17/97	Donnatal Tab	36

1	6/17/97	Lomotil Tab	20
	6/17/97	Lomotil Tab	20
2	7/07/97	Lomotil Tab	30
	7/07/97	Lomotil Tab	30
3	9/26/97	Valium 10MG	60
	9/27/97	Valium 10MG	60
4	1/12/98	Elocon Cream 0.1%	45 GM
	1/12/98	Elocon Cream 0.1%	45
5	1/12/98	Donnatal Tab	50
	1/12/98	Donnatal Tab	50
6	3/04/98	Donnatal Tab	50
	3/04/98	Donnatal Tab	50
7	4/02/98	Valium 10MG	60
	5/14/98	Elocon Cream 0.1%	45 GM
8	5/14/98	Elocon Cream 0.1%	45
	5/14/98	Nizoral Cream 2%	60GM
9	5/14/98	Nizoral Cream 2%	60
	5/14/98	Valium 10MG	60
10	8/20/98	Placidyl 750MG	60
	8/20/98	Valium 10MG	60
11	11/03/98	Lomotil Tab	50
	11/03/98	Placidyl 750MG	60
12	11/03/98	Valium 10MG	60
	12/20/98	Elocon Cream 0.1%	45
13	2/19/99	Valium 10MG	60
	3/26/99	Valium 10MG	60
14	6/14/99	Elocon Cream 0.1%	45
	12/3/99	Valium 10MG	60
15	12/17/99	Placidyl 750MG	30
	12/17/99	Valium 10MG	60

FOURTH CAUSE FOR DISCIPLINE

(Excessive Furnishing of Controlled Substances)

17. Respondents Pharmacy and Omatyar are subject to disciplinary action under sections 4300 and 4301(d) of the Code on the grounds of unprofessional conduct in that from on or about February 19, 1997 to on or about December 17, 1999, Respondents filled and dispensed controlled substances to patient B.G., as follows:

	<u>FROM</u>	<u>TO</u>	<u>DRUG</u>	<u>TOTAL</u>
24	02/19/97	12/17/99	Placidyl 750MG	270
	02/19/97	12/17/99	Valium 10MG	780
25	06/17/97	11/30/98	Lomotil Tab	150

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1 PRAYER

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

4 A. Revoking or suspending Original Pharmacy Permit Number PHY 39349,
5 issued to Family Pharmacy Services of Beverly Hills;

6 B. Revoking or suspending Original Pharmacist License Number RPH
7 43827, issued to Saeid Omatyar;

8 C. Ordering Family Pharmacy Services of Beverly Hills and Saeid Omatyar
9 to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this
10 case, pursuant to Business and Professions Code section 125.3;

11 D. Taking such other and further action as deemed necessary and proper.

12 DATED: 4/29/02.

13
14 *P. F. Harris*

15 PATRICIA F. HARRIS
16 Executive Officer
17 Board of Pharmacy
18 Department of Consumer Affairs
19 State of California
20 Complainant
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