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of the State of California
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6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 RAAFAT FAYEZ ATTIA
13997 Tom Ct.
Victorville, CA 92392

14 Pharmacist License No. RPH 48581

15 Respondent.

Case No. 2661

OAH No.

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 PARTIES

20 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
21 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
22 by Bill Lockyer, Attorney General of the State of California, by Julie A. Cabos, Deputy Attorney
23 General.

24 2. Raaft Fayeze Attia (Respondent) is representing himself in this proceeding
25 and has chosen not to exercise his right to be represented by counsel.

26 3. On or about March 14, 1996, the Board of Pharmacy issued Pharmacist
27 License No. RPH 48581 to Raaft Fayeze Attia (Respondent). The Pharmacist license is in full
28 force and effect and will expire on August 31, 2003, unless renewed.

1 manufacturing or dispensing of dangerous drugs and devices or controlled substances.

2 Respondent shall not engage in any activity that requires the professional
3 judgment of a pharmacist. Respondent shall not direct or control any aspect of the practice of
4 pharmacy. Respondent shall not perform the duties of a pharmacy technician or an exemptee for
5 any entity licensed by the Board. Subject to the above restrictions, Respondent may continue to
6 own or hold an interest in any pharmacy in which he holds an interest at the time this decision
7 becomes effective unless otherwise specified in this order.

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

10 Respondent shall report any of the following occurrences to the Board, in
11 writing, within 72 hours of such occurrence:

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

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

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

5 5. **Cooperation with Board Staff.** Respondent shall cooperate with the
6 Board's inspection program and in the Board's monitoring and investigation of Respondent's
7 compliance with the terms and conditions of his probation. Failure to comply shall be
8 considered a violation of probation.

9 6. **Continuing Education.** Respondent shall provide evidence of efforts
10 to maintain skill and knowledge as a pharmacist as directed by the Board.

11 7. **Notice to Employers.** Respondent shall notify all present and
12 prospective employers of the decision in case number 2661 and the terms, conditions and
13 restrictions imposed on Respondent by the decision. Within 30 days of the effective date of
14 this decision, and within 15 days of Respondent undertaking new employment, Respondent
15 shall cause his direct supervisor, pharmacist-in-charge and/or owner to report to the Board in
16 writing acknowledging the employer has read the decision in case number 2661.

17 If Respondent works for or is employed by or through a pharmacy employment
18 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
19 every pharmacy of the and terms conditions of the decision in case number 2661 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 ^s 8. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-**
25 **Charge (PIC), or Serving as a Consultant.** Respondent shall not supervise any intern
26 pharmacist or perform any of the duties of a preceptor, nor shall Respondent be the
27 pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
28 order.

1 9. **Reimbursement of Board Costs.** Respondent shall pay to the Board
2 its costs of investigation and prosecution in the amount of \$3,500. Respondent shall make
3 said payments **quarterly**.

4 The filing of bankruptcy by Respondent shall not relieve Respondent of his
5 responsibility to reimburse the Board its costs of investigation and prosecution.

6 10. **Probation Monitoring Costs.** Respondent shall pay the costs
7 associated with probation monitoring as determined by the Board each and every year of
8 probation. Such costs shall be payable to the Board at the end of each year of probation.
9 Failure to pay such costs shall be considered a violation of probation.

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

13 If Respondent's license expires or is cancelled by operation of law or otherwise,
14 upon renewal or reapplication, Respondent's license shall be subject to all terms and
15 conditions of this probation not previously satisfied.

16 12. **License Surrender while on Probation/Suspension.** Following the
17 effective date of this decision, should Respondent cease practice due to retirement or health, or
18 be otherwise unable to satisfy the terms and conditions of probation, Respondent may tender
19 his license to the Board for surrender. The Board shall have the discretion whether to grant
20 the request for surrender or take any other action it deems appropriate and reasonable. Upon
21 formal acceptance of the surrender of the license, Respondent will no longer be subject to the
22 terms and conditions of probation.

23 Upon acceptance of the surrender, Respondent shall relinquish his pocket
24 license to the Board within 10 days of notification by the Board that the surrender is accepted.
25 Respondent may not reapply for any license from the Board for three years from the effective
26 date of the surrender. Respondent shall meet all requirements applicable to the license sought
27 as of the date the application for that license is submitted to the Board.

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1 13. **Notification of Employment/Mailing Address Change.** Respondent
2 shall notify the Board in writing within 10 days of any change of employment. Said
3 notification shall include the reasons for leaving and/or the address of the new employer,
4 supervisor or owner and work schedule if known. Respondent shall notify the Board in
5 writing within 10 days of a change in name, mailing address or phone number.

6 14. **Tolling of Probation.** Should Respondent, regardless of residency, for
7 any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in
8 California, Respondent must notify the Board in writing within 10 days of cessation of the
9 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time
10 shall not apply to the reduction of the probation period. It is a violation of probation for
11 Respondent's probation to remain tolled pursuant to the provisions of this condition for a
12 period exceeding three years.

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

16 15. **Violation of Probation.** If Respondent violates probation in
17 any respect, the Board, after giving Respondent notice and an opportunity to be heard,
18 may revoke probation and carry out the disciplinary order which was stayed. If a
19 petition to revoke probation or an accusation is filed against Respondent during
20 probation, the Board shall have continuing jurisdiction and the period of probation
21 shall be extended, until the petition to revoke probation or accusation is heard and
22 decided.

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

1 16. **Completion of Probation.** Upon successful completion of
2 probation, Respondent's license will be fully restored.

3 17. **Rehabilitation Program - Pharmacists Recovery Program**
4 **(PRP).**

5 Within 30 days of the effective date of this decision, Respondent shall contact
6 the Pharmacists Recovery Program for evaluation and shall successfully participate in
7 and complete the treatment contract and any subsequent addendums as recommended
8 and provided by the PRP and as approved by the Board. The costs for PRP
9 participation shall be borne by the Respondent.

10 If Respondent is currently enrolled in the PRP, said participation is now
11 mandatory and is no longer considered a self-referral under Business and Professions
12 Code section 4363, as of the effective date of this decision. Respondent shall
13 successfully participate in and complete his current contract and any subsequent
14 addendums with the PRP. Probation shall be automatically extended until Respondent
15 successfully completes his treatment contract. Any person terminated from the
16 program shall be automatically suspended upon notice by the Board. Respondent may
17 not resume the practice of pharmacy until notified by the Board in writing. The Board
18 shall retain jurisdiction to institute action to terminate probation for any violation of
19 this term.

20 Respondent shall be suspended from the practice of pharmacy until the
21 evaluation by the PRP is completed and PRP has determined Respondent is
22 safe to practice. This suspension is separate from and has no effect on
23 the suspension set forth in Probation Term number 1, above. If the PRP
24 evaluation is not completed on or before the 90 days after the effective
25 date of this decision, the period of suspension shall continue until such
26 time as the evaluation is completed.

27 18. **Random Drug Screening.** Respondent, at his own expense,
28 shall participate in random testing, including but not limited to biological fluid testing

1 (urine, blood), breathalyzer, hair follicle testing, or a drug screening program approved
2 by the Board. The length of time shall be for the entire probation period and the
3 frequency of testing will be determined by the Board. At all times Respondent shall
4 fully cooperate with the Board, and shall, when directed, submit to such tests and
5 samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other
6 controlled substances. Failure to submit to testing as directed shall constitute a
7 violation of probation. Any confirmed positive drug test shall result in the immediate
8 suspension of practice by Respondent. Respondent may not resume the practice of
9 pharmacy until notified by the Board in writing.

10 19. **Abstain from Drugs and Alcohol Use.** Respondent shall
11 completely abstain from the possession or use of alcohol, controlled substances,
12 dangerous drugs and their associated paraphernalia except when the drugs are lawfully
13 prescribed by a licensed practitioner as part of a documented medical treatment. Upon
14 request of the Board, Respondent shall provide documentation from the licensed
15 practitioner that the prescription was legitimately issued and is a necessary part of the
16 treatment of the Respondent.

17 20. **Supervised Practice.** Respondent shall practice only under the
18 supervision of a pharmacist not on probation with the Board. Respondent shall not
19 practice until the supervisor is approved by the Board. The supervision shall be, as
20 required by the Board, either:

21 Continuous - 75% to 100% of a work week

22 Substantial - At least 50% of a work week

23 Partial - At least 25% of a work week

24 Daily Review - Supervisor's review of probationer's daily activities within 24
25 hours

26 Within 30 days of the effective date of this decision, Respondent shall have his supervisor
27 submit notification to the Board in writing stating the supervisor has read the decision in case
28 number 2661 and is familiar with the level of supervision as determined by the Board.

1 If Respondent changes employment, Respondent shall have his new supervisor,
2 within 15 days after employment commences, submit notification to the Board in writing
3 stating the direct supervisor and pharmacist-in-charge have read the decision in case number
4 2661 and is familiar with the level of supervision as determined by the Board.

5 Within 10, days of leaving employment, Respondent shall notify the Board in
6 writing.

7 21. **No Ownership of Premises.** Respondent shall not own, have any legal
8 or beneficial interest in, or serve as a manager, administrator, member, officer, director,
9 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
10 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any
11 entity licensed by the Board within 90 days following the effective date of this decision and
12 shall immediately thereafter provide written proof thereof to the Board.

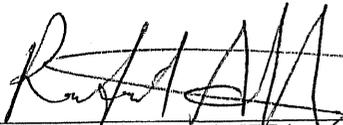
13 22. **Tolling of Suspension.** If Respondent leaves California to reside or
14 practice outside this state, for any period exceeding 10 days (including vacation), Respondent
15 must notify the Board in writing of the dates of departure and return. Periods of residency or
16 practice outside the state - or any absence exceeding a period of 10 days shall not apply to the
17 reduction of the suspension period.

18 Respondent shall not practice pharmacy upon returning to this state until
19 notified by the Board that the period of suspension has been completed.

20 ACCEPTANCE

21 I have carefully read the Stipulated Settlement and Disciplinary Order. I
22 understand the stipulation and the effect it will have on my Pharmacist License. I enter into
23 this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,
24 and agree to be bound by the Decision and Order of the Board of Pharmacy.

25 DATED: 4/13/2004.

26 
27 _____
28 RAFAAT FAYEZ ATTIA
Respondent

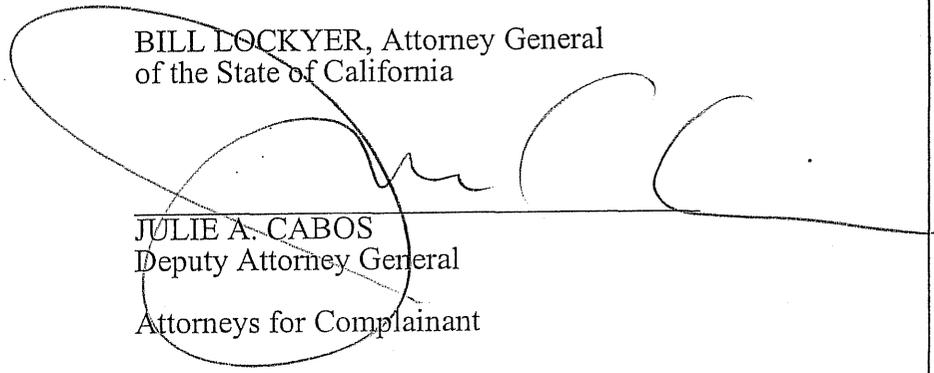
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ENDORSEMENT

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: 4/20/04.

BILL DOCKYER, Attorney General
of the State of California

A large, handwritten signature in black ink, appearing to read 'Julie A. Cabos', is written over a horizontal line. The signature is partially enclosed by a hand-drawn circle.

JULIE A. CABOS
Deputy Attorney General
Attorneys for Complainant

DOJ Docket/Matter ID Number: 03583110-LA2003600355
STIPULATION.wpd

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

In the Matter of the Accusation Against:

RAAFAT FAYEZ ATTIA
13997 Tom Ct.
Victorville, CA 92392

Pharmacist License No. RPH 48581

Respondent.

Case No. 2661

OAH No.

DECISION AND ORDER

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

This Decision shall become effective on June 24, 2004.

It is so ORDERED May 25, 2004.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Exhibit A
Accusation No. 2661

1 BILL LOCKYER, Attorney General
of the State of California
2 JULIE A. CABOS, State Bar No. 162356
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
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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. 2661

12 RAAFAT FAYEZ ATTIA
13 13997 Tom Ct.
Victorville, CA 92392

ACCUSATION

14 Pharmacist License No. RPH 48581

15 Respondent.

16
17 Complainant alleges:

18 PARTIES

19 1. Patricia F. Harris (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
21 Affairs.

22 2. On or about March 14, 1996, the Board of Pharmacy issued Pharmacist
23 License No. RPH 48581 to Raafat Fayeze Attia (Respondent). The Pharmacist license was in full
24 force and effect at all times relevant to the charges brought herein and will expire on August 31,
25 2003, unless renewed.

26 JURISDICTION

27 3. This Accusation is brought before the Board of Pharmacy (Board),
28 Department of Consumer Affairs, under the authority of the following laws.

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4. Business and Professions Code section 4300 states:

"(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.

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

"(4) Revoking his or her license.

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

5. Business and Professions Code section 4301 states, in pertinent part:

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

....

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

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

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

....

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

3

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

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

9 6. Business and Professions Code section 4324 of the Code states:

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

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

18 7. Business and Professions Code section 4022 states:

19 "'Dangerous drug' or 'dangerous device' means any drug or device unsafe for
20 self-use, except veterinary drugs that are labeled as such, and includes the following:

21 "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing
22 without prescription,' 'Rx only,' or words of similar import.

23 "(b) Any device that bears the statement: "Caution: federal law restricts this
24 device to sale by or on the order of a _____," "Rx only," or words of similar import, the
25 blank to be filled in with the designation of the practitioner licensed to use or order use of the
26 device.

27 "(c) Any other drug or device that by federal or state law can be lawfully
28 dispensed only on prescription or furnished pursuant to Section 4006."

1 8. Business and Professions Code section 4059, subdivision (a), states, in
2 pertinent part: " A person may not furnish any dangerous drug, except upon the prescription of a
3 physician, dentist, podiatrist, optometrist, or veterinarian."

4 9. Business and Professions Code section 4060 states, in pertinent part: "No
5 person shall possess any controlled substance, except that furnished to a person upon the
6 prescription of a physician, dentist, podiatrist, or veterinarian."

7 10. Health and Safety Code section 11377, subdivision (a), states, in pertinent
8 part:

9 "Except as authorized by law and as otherwise provided in subdivision (b) or
10 Section 11375, or in Article 7 (commencing with Section 4211) . . . of the Business and
11 Professions Code, every person who possesses any controlled substance which is classified in
12 Schedule III, IV, or V, and which is not a narcotic drug . . . unless upon the prescription of a
13 physician, dentist, podiatrist, or veterinarian, licensed to practice in this state, shall be punished
14 by imprisonment in a county jail for a period of not more than one year or in the state prison."

15 11. Health and Safety Code section 11170 states: "No person shall prescribe,
16 administer, or furnish a controlled substance for himself."

17 12. Health and Safety Code section 11173, subdivision (a), states:

18 "No person shall obtain or attempt to obtain controlled substances, or procure or
19 attempt to procure the administration of or prescription for controlled substances, (1) by fraud,
20 deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

21 13. Business and Professions Code section 118, subdivision (b) states:

22 "The suspension, expiration, or forfeiture by operation of law of a license issued
23 by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or
24 by order of a court of law, or its surrender without the written consent of the board, shall not,
25 during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board
26 of its authority to institute or continue a disciplinary proceeding against the licensee upon any
27 ground provided by law or to enter an order suspending or revoking the license or otherwise
28 taking disciplinary action against the licensee on any such ground."

1 14. Business and Professions Code section 125.3, subdivision (a), states, in
2 pertinent part:

3 "Except as otherwise provided by law, in any order issued in resolution of a
4 disciplinary proceeding before any board within the department . . . the board may request the
5 administrative law judge to direct a licentiate found to have committed a violation or violations
6 of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
7 enforcement of the case."

8 15. DANGEROUS DRUGS/CONTROLLED SUBSTANCES

9 a. "Valium," a brand name for diazepam, is a benzodiazepam derivative, is
10 categorized as a dangerous drug pursuant to Business and Professions Code section 4022, and is
11 a Schedule IV controlled substance pursuant to Health and Safety Code section 11057,
12 subdivision (d)(9).

13 b. "Fioricet," a brand name for Butalbital/Acetaminophen/Caffeine, is
14 categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

15 FIRST CAUSE FOR DISCIPLINE

16 (Prescribe, Administer Controlled Substances to Self)

17 16. Respondent is subject to disciplinary action under Business and
18 Professions Code section 4300, and section 4301, subdivisions (h), (j), (o), and (p), on the
19 grounds of unprofessional conduct, and for violating Health and Safety Code section 11170, in
20 that Respondent furnished and administered controlled substances to himself. The circumstances
21 are as follows:

22 a. On or about April 11, 2002, while performing his duties as a pharmacist at
23 Prime Med Pharmacy, located at 16850 Bear Valley Road, in Victorville, California, Respondent
24 gave to Pharmacy Technician (PT) Cynthia Larez a prescription to fill that Respondent had
25 reduced to writing and which appeared to be a telephone prescription. The prescription was
26 written for injectable Valium (Diazepam), and appeared to be prescribed by Ostuka Takahiro,
27 M.D., for Respondent's mother, patient E.K..

28 b. Prime Med Pharmacy did not have injectable Valium in stock.

1 Consequently, Respondent told PT Larez to arrange to borrow 20 multidose 10ml vials of
2 Diazepam 10mg/2cc from Desert Valley Hospital's inpatient pharmacy. Pharmacy Technician
3 Booker Chatman was sent to pick up the borrowed Diazepam.

4 c. After PT Chatman returned with the borrowed Diazepam from the Desert
5 Valley Hospital, Respondent filled the prescription for patient E.K. (5 mg/ml 10 multidose vials
6 #20). A few minutes later, Respondent left the pharmacy to use the restroom and was gone for
7 approximately 45 minutes.

8 d. When Respondent returned to the pharmacy, PT Larez noted that
9 Respondent seemed to be talking and walking in slow motion, and that he could not concentrate.
10 Shortly thereafter, PT Larez observed Respondent leave the pharmacy again.

11 e. PT Larez checked the bag containing the prescription for Respondent's
12 mother, patient E.K.. PT Larez noticed that several vials were missing from the bag.

13 f. PT Larez asked Pharmacy Technician Booker Chatman to go to the men's
14 restroom to check on Respondent. Upon PT Chatman's arrival at the men's restroom, PT
15 Chatman saw band-aids and rubber bands on the floor, and found Respondent in one of the
16 bathroom stalls, with a syringe in his hand.

17 g. When Respondent returned to the pharmacy, PT Larez noticed that
18 Respondent had blood on his lab coat, that he looked very pale, that his speech was slurred, and
19 that he could not keep his balance. PT Larez told Respondent that he did not look well, and
20 suggested he go home. Respondent said he was fine, and left for lunch, taking the prescription
21 for patient E.K. with him.

22 h. When Respondent returned from lunch, PT Larez noted that Respondent's
23 condition had worsened. Respondent left the pharmacy again and went to the restroom. PT
24 Larez called security for assistance, and sent PT Chatman to check on Respondent in the
25 restroom.

26 i. PT Chatman followed Respondent to a restroom at the south end of the
27 hospital, and entered the restroom shortly after Respondent did. PT Chatman observed broken
28 vials and a bloody napkin in the bathroom stall with Respondent.

1 j. Paul Kleinsmith from Desert Valley Hospital Security arrived and also
2 looked into Respondent's bathroom stall. Kleinsmith observed a syringe in Respondent's hand
3 and broken vials on the floor.

4 k. When Respondent returned to the pharmacy, he was disoriented, was
5 making prescription errors, could not talk properly and was falling down. At that point, PT Larez
6 told Respondent to go home. Respondent left the pharmacy.

7 l. Immediately after Respondent left the pharmacy, PT Chatman and Paul
8 Kleinsmith retrieved the broken vials, syringes, and other items that they observed being used by
9 Respondent, which Respondent had left in the restroom. PT Chatman gave them to PT Larez.
10 PT Larez, who turned them over to Prime Med's corporate vice-president, Prasaad Reddy.

11 m. The items which Respondent had left behind and were retrieved from the
12 restroom included: nine broken/empty vials of injectable Diazepam 10 mg 2 mil; three syringes
13 with needles; two needles; rubber bands; and a bloody alcohol swab. Additionally, Respondent's
14 lab coat with blood spots was taken from him on April 11, 2002.

15 SECOND CAUSE FOR DISCIPLINE

16 (Obtain, Furnish or Possess Dangerous Drug or Controlled Substance without Prescription)

17 17. Respondent is subject to disciplinary action under Business and
18 Professions Code section 4300 and section 4301, subdivisions (j), (o), and (p), on the grounds of
19 unprofessional conduct for violating Business and Professions Code sections 4059 and 4060, and
20 Health and Safety Code section 11137, in that Respondent obtained, furnished or possessed
21 dangerous drugs and/or controlled substances without a prescription, as more fully set forth
22 above in paragraph 16.

23 THIRD CAUSE FOR DISCIPLINE

24 (Falsely Make, Alter or Forge Prescriptions)

25 18. Respondent is subject to disciplinary action under Business and
26 Professions Code section 4300 and section 4301, subdivisions (g), (j), and (o) on the grounds of
27 unprofessional conduct, and for violating Business and Professions Code section 4324,
28 subsections (a) and (b) and Health and Safety Code section 11173, in that Respondent falsely

1 made, altered or forged prescriptions for his personal use. The circumstances are as follows:

2 a. The facts set forth in paragraphs 16.a. through 16.m. are re-alleged and
3 incorporated by reference as though fully set forth herein.

4 b. On or about April 16, 2003, the inspector for the Board requested a
5 printout of all prescriptions filled at Prime Med Pharmacy for Respondent's mother, patient E.K.
6 A review of the printout showed two prescriptions for Diazepam injectable (Valium) were filled
7 at Prime Med for patient E.K.:

<u>Prescription No.</u>	<u>Date</u>	<u>Prescribing Physician</u>
00310275	4/10/02	Dr. Archana Sood
00310336	4/11/02	Dr. Otsuka Takahiro

11 c. On or about May 6, 2003, Dr. Takahiro provided the Board's inspector
12 with a written statement indicating he had reviewed prescription No. 310336, and that he neither
13 prescribed nor authorized the prescription of injectable Valium for patient E.K.

14 d. On or about May 7, 2003, Dr. Sood provided the Board's inspector with a
15 written statement indicating that he has never treated patient E.K., and that he has never, in his
16 clinical practice, written a prescription for injectable Diazepam (Valium).

17 e. On or about April 16, 2003, the inspector for the Board requested a
18 printout of all prescriptions filled at Prime Med pharmacy for Respondent. A review of the
19 printout showed a prescription for Butalbital/Acetaminophen/Caffeine (Fioricet) was filled for
20 Respondent:

<u>Prescription No.</u>	<u>Date</u>	<u>Prescribing Physician</u>
00305918	3/14/02	Dr. Waseem Ibrahim

23 f. On or about April 21, 2003, Dr. Ibrahim provided the Board's inspector
24 with a written statement stating that neither he nor any of his staff authorized a new prescription
25 for Fioricet for Respondent on March 14, 2002.

26 FOURTH CAUSE FOR DISCIPLINE

27 (Moral Turpitude)

28 19. Respondent is subject to disciplinary action under Business and

1 Professions Code section 4300, and section 4301(f) on the grounds of unprofessional conduct in
2 that Respondent committed acts involving moral turpitude, dishonesty, fraud or deceit, as set
3 forth above in paragraphs 16 through 18.

4 PRAYER

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

7 20. Revoking or suspending Pharmacist License No RPH 48581, issued to
8 Raafat Fayeze Attia;

9 21. Ordering Raafat Fayeze Attia to pay the Board of Pharmacy the reasonable
10 costs of the investigation and enforcement of this case, pursuant to Business and Professions
11 Code section 125.3;

12 22. Taking such other and further action as deemed necessary and proper.

13 DATED: 1/12/04

14
15 
16 PATRICIA F. HARRIS
17 Executive Officer
18 Board of Pharmacy
19 Department of Consumer Affairs
20 State of California

21 Complainant

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24 (prepared by cak 08/04)

25 jac 11/5/03; rse 11/6/03