

1 BILL LOCKYER, Attorney General
of the State of California
2 MICHEL W. VALENTINE, State Bar No. 153078
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-1034
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

13 TOTAL CARE PHARMACY
10223 B Colima Road
14 Whittier, CA 90603

15 Original Pharmacy Permit No. PHY 44701

16 and

17 FRED O. GREGORIAN, RPH
19360 Riwaldi Street, No. 262
18 Porter Ranch, CA 92326-1607

19 Original Pharmacist License No. RPH 47542

20 Respondents.

Case No. CI 2002 24086
AC 2669

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

22 In the interest of a prompt and speedy settlement of this matter, consistent with the
23 public interest and the responsibility of the Board of Pharmacy of the Department of Consumer
24 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
25 which will be submitted to the Board for approval and adoption as the final disposition of the
26 Accusation solely with respect to Total Care Pharmacy, and Fred O. Gregorian, Pharmacist-in-
27 Charge.

28 //

1 PARTIES

2 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
3 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
4 by Bill Lockyer, Attorney General of the State of California, by Michel W. Valentine, Deputy
5 Attorney General.

6 2. Respondent Total Care Pharmacy (Respondent Pharmacy) and Fred O.
7 Gregorian (Respondent Gregorian) are represented in this proceeding by attorney Donald B.
8 Brown, whose address is 3848 Carson Street, Suite 206, Torrance, California 90503.

9 3. On or about March 21, 2000, the Board of Pharmacy issued Original
10 Pharmacy Permit No. PHY 44701 to Total Care Pharmacy. The Permit expired on March 1,
11 2003, and has not been renewed. Fred O. Gregorian was listed as the Pharmacist-in-Charge.

12 4. On or about August 12, 1994, the Board of Pharmacy issued Original
13 Pharmacist License No. RPH 47542 to Respondent Fred O. Gregorian. Respondent Gregorian's
14 license expired on November 30, 2003, and has not been renewed.

15 JURISDICTION

16 5. Accusation No. CI 2002 24086 was filed before the Board of Pharmacy
17 (Board), Department of Consumer Affairs, and is currently pending against Respondents. The
18 Accusation and all other statutorily required documents were properly served on Respondents on
19 January 22, 2004, February 4, 2004, and March 9, 2004. Respondents timely filed their Notice of
20 Defense contesting the Accusation. A copy of Accusation, Bd. Case No. CI 2002 24086, is
21 attached as exhibit A and incorporated herein by reference.

22 ADVISEMENT AND WAIVERS

23 6. Respondents have carefully read, fully discussed with counsel, and
24 understand the charges and allegations in Accusation No. CI 2002 24086. Respondents have also
25 carefully read, fully discussed with counsel, and understand the effects of this Stipulated
26 Settlement and Disciplinary Order.

27 7. Respondents are fully aware of their legal rights in this matter, including
28 the right to a hearing on the charges and allegations in the Accusation; the right to be represented

1 by counsel at its own expense; the right to confront and cross-examine the witnesses against
2 them; the right to present evidence and to testify on their own behalf; the right to the issuance of
3 subpoenas to compel the attendance of witnesses and the production of documents; the right to
4 reconsideration and court review of an adverse decision; and all other rights accorded by the
5 California Administrative Procedure Act and other applicable laws.

6 8. Respondents voluntarily, knowingly, and intelligently waive and give up
7 each and every right set forth above.

8 CULPABILITY

9 9. Respondents admit the truth of each and every charge and allegation in
10 Accusation No. CI 2002 24086.

11 10. Respondents agree that its Original Pharmacy Permit No. PHY 44701
12 (Respondent Pharmacy) and Original Pharmacist License No. RPH 47542 (Respondent
13 Gregorian) are subject to discipline and they agree to be bound by the Board's imposition of
14 discipline as set forth in the Disciplinary Order below.

15 CONTINGENCY

16 11. This stipulation shall be subject to approval by the Board of Pharmacy.
17 Respondents understand and agree that counsel for Complainant and the staff of the Board of
18 Pharmacy may communicate directly with the Board regarding this stipulation and settlement,
19 without notice to or participation by Respondents or their counsel. By signing the stipulation,
20 Respondents understand and agree that they may not withdraw their agreement or seek to rescind
21 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
22 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
23 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
24 between the parties, and the Board shall not be disqualified from further action by having
25 considered this matter.

26 12. The admissions made by Respondents herein are only for the purpose of
27 this proceeding, or any other proceedings in which the Board of Pharmacy or other professional
28 licensing agency is involved, and shall not be admissible in any other criminal or civil

1 proceeding.

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

5 14. In consideration of the foregoing admissions and stipulations, the parties
6 agree that the Board may, without further notice or formal proceeding, issue and enter the
7 following Disciplinary Order:

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that Original Pharmacy Permit No. PHY 44701
10 issued to Respondent Total Care Pharmacy is revoked. Original Pharmacist License No. RPH
11 47542 issued to Respondent Fred O. Gregorian is revoked. However, the revocation of
12 Respondent Gregorian is stayed and Respondent Gregorian is placed on probation for three (3)
13 years on the following terms and conditions.

14 1. **Actual Suspension - Pharmacist.** License No. RPH 47542, issued to
15 Respondent Gregorian is suspended from the practice of pharmacy for 180 days beginning the
16 effective date of this decision.

17 2. **Reexamination Prior to Resuming Work.** Respondent shall be
18 suspended from working as an exemptee until he takes and passes the exemption examination as
19 scheduled by the Board after the effective date of the decision.

20 During suspension, Respondent shall not enter any pharmacy area or any
21 portion of the licensed premises of a wholesaler, medical device retailer or any other
22 distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous
23 drugs, controlled substances or legend drugs are maintained. Respondent shall not practice
24 pharmacy nor do any act involving drug selection, selection of stock, manufacturing,
25 compounding, dispensing or patient consultation; nor shall Respondent manage, administer,
26 or be a consultant to any licensee of the Board, or have access to or control the ordering,
27 manufacturing or dispensing of dangerous drugs or controlled substances of dangerous drugs
28 or controlled substances. Respondent shall not direct or control any aspect of the practice of

1 pharmacy. Subject to the above restrictions, Respondent may continue to own or hold an
2 interest in any pharmacy in which he holds an interest at the time this decision becomes
3 effective.

4 3. **Obey All Laws.** Respondent shall obey all state and federal laws and
5 regulations substantially related to or governing the practice of pharmacy.

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

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

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

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

28 6. **Cooperation with Board Staff.** Respondent shall cooperate with the

1 Board's inspectional program and in the Board's monitoring and investigation of Respondent's
2 compliance with the terms and conditions of their probation. Failure to comply shall be
3 considered a violation of probation.

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

6 8. **Notice to Employers.** Respondent shall notify all present and
7 prospective employers of the decision in Board Case No. CI 2002 24086 and the terms,
8 conditions and restrictions imposed on Respondent by the decision. Within 30 days of the
9 effective date of this decision, and within 15 days of Respondent undertaking new
10 employment, Respondent shall cause their direct supervisor, pharmacist-in-charge and/or
11 owner to report to the Board in writing acknowledging the employer has read the decision in
12 Board Case No. CI 2002 24086.

13 If Respondent works for or is employed by or through a pharmacy employment
14 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at
15 every pharmacy of the and terms conditions of the decision in Case No. CI 2002 24086 in
16 advance of the Respondent commencing work at each pharmacy. "Employment" within the
17 meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy
18 management service as a pharmacist, whether the Respondent is considered an employee or
19 independent contractor.

20 9. **Reimbursement of Board Costs.** Respondent shall pay to the Board
21 its costs of investigation and prosecution in the amount of \$25,000. Respondent shall make
22 quarterly payments. If payment of \$25,000 is not made by the end of the three (3) year
23 probation period, the probationary term shall continue until such sum is paid in full.

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

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

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

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

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

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

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

20 13. **Notification of Employment/Mailing Address Change.** Respondent
21 shall notify the Board in writing within 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 10 days of a change in name, mailing address or phone number.

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

1 shall not apply to the reduction of the probation period. It is a violation of probation for
2 Respondent's probation to remain tolled pursuant to the provisions of this condition for a
3 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 15. **Violation of Probation.** If Respondent violates probation in any
8 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke
9 probation and carry out the disciplinary order which was stayed. If a petition to revoke
10 probation or an accusation is filed against Respondent during probation, the Board shall have
11 continuing jurisdiction and the period of probation shall be extended, until the petition to
12 revoke probation or accusation is heard and decided.

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

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

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

26 18. **Tolling of Suspension.** If Respondent leaves California to reside or
27 practice outside this state, for any period exceeding 10 days (including vacation), Respondent
28 must notify the Board in writing of the dates of departure and return. Periods of residency or

1 practice outside the state - or any absence exceeding a period of 10 days shall not apply to the
2 reduction of the suspension period.

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

5
6 ACCEPTANCE

7 We have carefully read the above Stipulated Settlement and Disciplinary Order
8 and have fully discussed it with our attorney, Donald B. Brown. We understand the
9 stipulation and the effect it will have on my Original Pharmacy Permit. We enter into this
10 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and
11 agree to be bound by the Decision and Order of the Board of Pharmacy.

12 DATED: JAN 31 2005

13
14 

15 TOTAL CARE PHARMACY
16 FRED O. GREGORIAN, RPH
17 Respondents

18
19 I have read and fully discussed with Respondent Total Care Pharmacy the
20 terms and conditions and other matters contained in the above Stipulated Settlement and
21 Disciplinary Order. I approve its form and content.

22 DATED: JAN 31 2005

23
24 

25 DONALD B BROWN
26 Attorney for Respondents
27
28

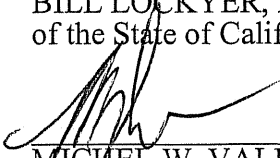
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ENDORSEMENT

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: 1/31/05

BILL LOCKYER, Attorney General
of the State of California



MICHEL W. VALENTINE
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:

TOTAL CARE PHARMACY
10223 B Colima Road
Whittier, CA 90603

Original Pharmacy Permit No. PHY 44701

and

FRED O. GREGORIAN, RPH
19360 Riwaldi Street, No. 262
Porter Ranch, CA 92326-1607

Respondents.

Case No. CI 2002 24086
AC 2669

DECISION AND ORDER

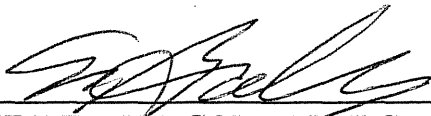
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 20, 2005.

It is so ORDERED March 21, 2005.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY W. GOLDENBERG
Board President

Exhibit A

Accusation No. CI 2002 24086

1 BILL LOCKYER, Attorney General
of the State of California
2 MICHEL VALENTINE, State Bar No. 153078
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-1034
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BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:
12 TOTAL CARE PHARMACY
10223 B Colima Road,
13 Whittier, CA 90603
14 Original Pharmacy Permit No. PHY 44701
15 and
16 FRED O. GREGORIAN, RPH
19360 Riwaldi Street, No. 262
17 Porter Ranch, CA 92326-1607
18 Original Pharmacist License No. RPH 47542
19 Respondents.

Bd. Case No. CI 2002 24086

A C C U S A T I O N

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 March 21, 2000 the Board of Pharmacy issued Original
27 Pharmacy Permit No. PHY 44701 to Total Care Pharmacy (Respondent Pharmacy). The license
28 expired on March 1, 2003. Fred O. Gregorian was listed as the Pharmacist-in-Charge.

1 "(1) Medical or psychiatric evaluation.

2 "(2) Continuing medical or psychiatric treatment.

3 "(3) Restriction of type or circumstances of practice.

4 "(4) Continuing participation in a board-approved rehabilitation program.

5 "(5) Abstention from the use of alcohol or drugs.

6 "(6) Random fluid testing for alcohol or drugs.

7 "(7) Compliance with laws and regulations governing the practice of pharmacy.

8 "(d) The board may initiate disciplinary proceedings to revoke or suspend any
9 probationary certificate of licensure for any violation of the terms and conditions
10 of probation. Upon satisfactory completion of probation, the board shall convert
11 the probationary certificate to a regular certificate, free of conditions.

12 "(e) The proceedings under this article shall be conducted in accordance with
13 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
14 Government Code, and the board shall have all the powers granted therein. The
15 action shall be final, except that the propriety of the action is subject to review by
16 the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

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
20 misrepresentation or issued by mistake. Unprofessional conduct shall include, but
21 is not limited to, any of the following:

22 * * *

23 "(b) Incompetence.

24 "(c) Gross negligence.

25 * * *

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

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

3 * * *

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

6 * * *

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

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

12 8. Section 4059 of the Code states, in pertinent part, that a person may not
13 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,
14 optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the
15 prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

16 9. Section 4060 of the Code in pertinent part states:

17 "No person shall possess any controlled substance, except that furnished to
18 a person upon the prescription of a physician, dentist, podiatrist, or veterinarian,
19 or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant
20 to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician
21 assistant pursuant to Section 3502.1. This section shall not apply to the
22 possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
23 physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse
24 practitioner, or physician assistant, when in stock in containers correctly labeled
25 with the name and address of the supplier or producer. . . ."

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1 10. Section 4081 of the Code states:

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

13 "(b) The owner, officer, and partner of any pharmacy, wholesaler, or
14 veterinary food-animal drug retailer shall be jointly responsible, with the
15 pharmacist-in-charge or exemptee, for maintaining the records and inventory
16 described in this section.

17 "(c) The pharmacist-in-charge or exemptee shall not be criminally
18 responsible for acts of the owner, officer, partner, or employee that violate this
19 section and of which the pharmacist-in-charge or exemptee had no knowledge, or
20 in which he or she did not knowingly participate."

21 11. California Code of Regulations, title 16, section 1718 states:

22 "'Current Inventory' as used in Section 4081 and 4332 of the Business and
23 Profession Code shall be considered to include complete accountability of all
24 dangerous drugs handled by every licensee enumerated in Sections 4081 and
25 4332."

26 12. Section 4105, subdivision (a) of the Code states that all records or other
27 documentation of the acquisition and disposition of dangerous drugs and dangerous devices by

28 ///

1 any entity licensed by the Board shall be retained on the licensed premises in a readily
2 retrievable form.

3 13. Section 4113 of the Code states:

4 "(a) Every pharmacy shall designate a pharmacist-in-charge and within 30 days
5 thereof, shall notify the Board in writing of the identity and license number of that
6 pharmacist and the date he or she was designated.

7 "(b) The pharmacist-in-charge shall be responsible for a pharmacy's compliance
8 with all state and federal laws and regulations pertaining to the practice of
9 pharmacy."

10 14. California Code of Regulations, title 16, section 1708.2 states that any permit
11 holder shall contact the Board prior to transferring or selling any dangerous drugs, devices or
12 hypodermics inventory as a result of termination of business or bankruptcy proceedings and shall
13 follow official instructions given by the Board applicable to the transaction.

14 15. Section 4332 of the Code provides, in pertinent part, that a person who fails,
15 neglects or refuses to maintain the records required by Section 4081 or who fails, neglects or
16 refuses to provide the records when called upon by an authorized authority is guilty of a
17 misdemeanor.

18 16. Section 4333 of the Code states, in pertinent part, that all prescriptions filled
19 by a pharmacy and all other records required by Section 4081 shall be maintained on the
20 premises and available for inspection by authorized officers of the law for a period of at least
21 three years. In cases where the pharmacy discontinues business, these records shall be
22 maintained in a Board-licensed facility for at least three years.

23 17. Section 4059 states, in pertinent part, that a person may not furnish any
24 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist, or
25 veterinarian.

26 18. Section 4061 of the Code prohibits distribution of any dangerous drug or
27 dangerous device as a complimentary sample of without the written request of a physician,
28 dentist, podiatrist or veterinarian.

1 19. Section 4063 of the Code states that no prescription for any dangerous drug or
2 dangerous device may be refilled except upon the authorization of the prescriber. The
3 authorization may be given orally or at the time of giving the original prescription. No
4 prescription for any dangerous drug that is a controlled substance may be designated as refillable
5 as needed.

6 20. Section 4076 provides in pertinent part that a pharmacist shall not dispense
7 any prescription except in a container that meets the requirements of state and federal law and is
8 correctly labeled with, among other items, the name of the drug, the directions for its use, the
9 name of the patient, the name of the prescriber, the date of issue, the name of the pharmacy and
10 its location, the strength of the drug dispensed, the quantity of the drug dispensed, and the
11 expiration date of the drug dispensed.

12 21. California Code of Regulations, title 16, section 1715.6 provides that "The
13 owner shall report to the Board within thirty (30) days of discovery of any loss of the controlled
14 substances, including their amounts and strengths."

15 22. California Code of Regulations, title 16, section 1761, provides that "No
16 pharmacist shall compound or dispense any prescription which contains any significant error,
17 omission, irregularity, uncertainty, ambiguity or alteration. . . ."

18 23. Section 125.3 of the Code states, 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 DANGEROUS DRUGS

23 24. The following are dangerous drugs within the meaning of the Code,
24 Section 4022.

- 25 a. Allegra, a brand name for Fexofenadine, is used for the treatment of allergies.
- 26 b. Alupent, a brand name for Metaproternol, is used for the treatment of asthma.
- 27 c. Amoxil, a brand name for Amoxicillin, is used as an antibiotic.
- 28 d. Atrovent, a brand name for Ipratropium, is used for the treatment of asthma.

- 1 e. Catapress, a brand name for Clonidine, is used for the treatment of
2 hypertension.
- 3 f. Celexa, a brand name for Citalopram, is used for the treatment of depression.
- 4 g. Chlortrimeton, a brand name for Chlorpheniramine, is used as an antihistamine.
- 5 h. Coreg, a brand name for Carvedilol, is used for the treatment of hypertension.
- 6 i. DDAVP, a brand name for Desmopressin, is a hormone used for the treatment
7 of bed wetting.
- 8 j. Effexor XR is a brand name for Venlafaxine, is used for the treatment of
9 depression.
- 10 k. Hyzaar, a brand name for Hydrochlorothiazide/losartan, is used for the treatment
11 of hypertension.
- 12 l Lidex, a brand name for Fluocinonide is used as a topical steroid.
- 13 n. Nexium, a brand name for Esomeprazole is used for the treatment of ulcers.
- 14 p. Prevacid, a brand name for Lansoprazole, is used for the treatment of ulcers.
- 15 q. Prilosec, a brand name for Omeprazole, is used for the treatment of ulcers.
- 16 r. Proventil Repetab, a brand name for Albuterol, is used for the treatment of
17 asthma.
- 18 s. Rebetron, a brand name for Ribavirin/Interferon alpha 2b (recombinant) is used
19 for the treatment of hepatitis C.
- 20 t. Rocephin, a brand name for Ceftriaxone, is used as an antibiotic.
- 21 u. Seroquel, a brand name for Quetiapine is used for the treatment of
22 schizophrenia.
- 23 v. Serostim, a brand name for Somatropin, is used as a growth hormone.
- 24 w. Vioxx, a brand name for Rofecoxib, is used for the treatment of pain.
- 25 x. Xylocaine, a brand name for Lidocaine, is used as a local anesthetic.
- 26 z. Zoloft, a brand name for Sertraline, is used as an antidepressant.
- 27 aa. Zyprexa, a brand name for Olanzapine, is used as an antipsychotic.

28 ///

FIRST CAUSE FOR DISCIPLINE

(Erroneous or Uncertain Prescriptions)

25. Respondents Pharmacy and Gregorian are subject to discipline for unprofessional conduct as specified in Section 4301, subdivision (o) as it relates to California Code of Regulations section 1761 in that Respondent Pharmacy, with Respondent Gregorian in charge, filled several prescriptions too soon, filled prescriptions for patients who already had prescriptions in the same class of drugs, and filled prescriptions for the same patient for the same drugs. Specifically,

a. On 2/22/02 Carrie F. had Rx no. 6027273, prescribed by Jack Azad, MD., aka Jack Vossoughazad, M.D. filled for 30 capsules of Prilosec 20 mg. Rx no. 6027273 was dispensed on 2/22/02. Then on 2/25/02, Carrie F. had Rx no. 6020889 filled, written by D. Reyes, M.D. Rx no. 6020889 was refilled one day later, for 30 capsules of Prilosec 20 mg, on 2/26/02.

b. Maria G. had a Rx no. 6043721 written for 30 capsules of Prilosec 20 mg prescribed by A. Islami, M.D., filled on 9/17/2002. Within 30 days, Maria G. had another prescription, Rx no. 6044867 written by A. Lopez, M.D. for 30 capsules Prilosec 20 mg, which was filled on 9/30/02. Two days later, Respondents filled a third prescription for the same medicine, Rx no. 6045116, written by A. Lopez, M.D., for 90 capsules of Prilosec 20 mg.

c. Laoura G. had prescriptions of Prilosec 20 mg, Prevacid 30 mg and Nexium 40 mg (generic name for Esomeprazole, a dangerous drug) all classified as proton pump inhibitors with a similar mechanism. These prescriptions were filled concurrently.

Nexium was filled:	Prevacid was filled:	Prilosec was filled:
1/7/02	1/7/02	-----
4/4/02	-----	-----
5/3/02	5/31/02	-----
5/24/02	-----	-----
-----	6/12/02	-----
7/23/02	7/15/02	7/15/02

9/9/02

9/9/02

1 -----
2 d. On 6/26/02, Anaida F. was dispensed 180 capsules of Prevacid, 15 mg, for a
3 90 day supply, Rx no. 6038009. On 8/28/02, 63 days later, Rx no. 6038009 was refilled for 180
4 capsules of Prevacid 30 mg. P. Chen, M.D. wrote both prescriptions. In addition, on 8/5/02
5 Anaida F. was dispensed 90 capsules, of Prevacid, 15 mg, a 90 day supply, Rx. no. 6040899. P.
6 Chen, M.D. wrote the prescription. On 10/3/02, prescription 6040899 was refilled for another 90
7 capsules of Prevacid 15 mg, a 90 day supply.

8 e. Betty C. was receiving two different prescriptions for Prevacid. For Rx no.
9 601856 Betty C. was dispensed 30 capsules, coded as 90 day supply, of Prevacid 30 mg on
10 3/01/02. On 3/29/02 for Betty C. a new prescription, Rx no. 6030661, was dispensed for 30
11 capsules of Prevacid 30 mg, coded as a 30 day supply. Three days later, 4/1/02, Rx no. 6018156
12 was dispensed as a refilled prescription for another 30 capsules or a 30-day supply of Prevacid 30
13 mg. On 5/13/02, for Betty C. respondents refilled prescription Rx no. 6030661, dispensed as 30
14 capsules, a 30 day supply, of Prevacid 30 mg. Yet 22 days later, on 6/4/02, Rx no. 6030661
15 was refilled for another 30 capsules or 30 day supply. Respondent Pharmacy filled all of these
16 prescriptions.

17 f. On 1/4/02 Brenda G., for Rx no. 6022076, was dispensed 90 capsules, 90
18 days' supply, of Prilosec. On 1/7/02 for Brenda G. Respondents filled Rx no. 6017205 for 30
19 capsules (a 30 day supply) of Prevacid 30 mg, a drug with a mechanism similar to Prilosec. On
20 1/24/02, seventeen days later a new prescription, Rx no. 06024150, for Prevacid 30 mg was filled
21 for 30 capsules, a 30 day supply. On 2/5/02, twelve days later, another new prescription, Rx no.
22 6025294, for Prevacid 30 mg was filled for 30 capsules, a 30 day supply. Rx no. 6022076, for
23 Prilosec 20 mg was also refilled on 2/28/02 for 90 capsules, a 90 day supply.

24 SECOND CAUSE FOR DISCIPLINE

25 (Dispensing without a Prescription)

26 26. Respondent Pharmacy and Gregorian are subject to discipline for failure to
27 comply with Section 4059 of the Code, in that prescriptions for dangerous drugs, as defined by
28 Section 4022 of the Code, were billed to third party payors as dispensed prescriptions, without a

1 prescription authorized by a prescriber. Specifically the following prescriptions were filled
2 without a prescription from a prescriber.

3 a. For Serostim 6 mg., the physicians denied that they wrote prescriptions for Rx
4 no. 6022015, Rx no. 6022017, Rx no. 6026637, Rx no. 6032528, Rx no. 6033713,, Rx no.
5 6039590,, Rx no. 6030950, Rx. no. 6039893 and Rx no. 6040472.

6 b. For Celexa 20 mg, the physician denied that he wrote Rx no. 6024618..

7 c. For DDAVP, the physician denied that he wrote Rx no. 6042466.

8 d. For Allegra, the physician denied that he wrote Rx no. 6042465.

9 e. For Vioxx 25 mg the physician denied that he wrote Rx no. 6042590.

10 f. For Hyzaar 100 mg, the physician denied that he wrote Rx no. 6042591

11 g. For Rebetron 100 therapy pak, the physician denied that he wrote Rx no.
12 6042592.

13 THIRD CAUSE FOR DISCIPLINE

14 (Wrong Information on Prescription Label)

15 26. Respondents Pharmacy and Gregorian are subject to discipline pursuant to
16 Code, section 4076 in that one prescription was processed with the incorrect quantity and six
17 prescriptions were processed with the incorrect prescriber's name. Specifically,

18 a. Rx no. 6039956, was written for Amparo C. for Prevacid 30 mg, 30 capsules;
19 incorrectly, Respondents filled the prescription for Prevacid 30 mg, 90 capusles.

20 The following were labeled with a prescriber's name other than the name of the
21 prescriber listed on the prescription:

22 b. Rx no. 6038094, written for Helen H. for 1 Alupent 650 mcg inhaler, 14
23 grams, by C. Foster, M.D. and filled under the prescriber name of J. Azad, M.D.

24 c. Rx. no 6036884, written for Johnnie H. for Atrovent 0.02 % solution, 300 ml,
25 by Voss, M.D. and filled under the prescriber name of A. Aschrafina, M.D.

26 d. Rx no. 6036891, written for Doris M. for 12 Compazine 25 mg suppositories,
27 by Dr. Ass and filled under the prescriber name of J. Azad, M.D.

28 ///

1 e. Rx no. 6036892, written for Doris M. for Floucinolone 0.01 % cream, by Dr.
2 Ass, was filled under the prescriber name of J. Azad, M.D.

3 f. Rx no. 6036894, written for Doris M. for Preventil 4 mg tabs, by Dr. Ass, was
4 filled under the prescriber name of J. Azad, M.D.

5 g. Rx no. 6036883, written for Johnnie H., for Volmax 8 mg, 120 tabs was
6 written by Voss, M.D. and was filled under the prescriber name of A. Aschrafina.

7 FOURTH CAUSE FOR DISCIPLINE

8 (Failure to Produce Records)

9 27. Respondents Pharmacy is subject to discipline for violation of Section 4081
10 of the Code regarding the production of records. Specifically, Respondent Pharmacy did not
11 have any prescriptions on file for patients to whom the Pharmacy dispensed Serostim. During an
12 inspection of Respondent Pharmacy on November 15, 2002, there were no prescriptions for the
13 Serostim dispensed for John W., Brenda G., Stephanie C., James C., Valerie C., Raffee S.,
14 Brenda J. and Clifford W.

15 FIFTH CAUSE FOR DISCIPLINE

16 (Possession of Drug Samples)

17 28. Respondents Pharmacy and Gregorian are subject to discipline for
18 noncompliance with Section 4061 of the Code in that Respondent Pharmacy had physician drug
19 samples of Coreg on its premises. Specifically, on November 11, 2002, during an inspection of
20 Respondent Pharmacy, Inspector Soriya Ly located 52 boxes of Coreg 3.125 mg and 8 boxes of
21 Coreg patient titration kits, that is, physician drug samples within the premises.

22 SIXTH CAUSE FOR DISCIPLINE

23 (Failure to Maintain Current Inventory)

24 29. Respondent Pharmacy and Gregorian are subject to discipline for being out of
25 compliance with Section 4081 of the Code, as defined in California Code of Regulations, title 16,
26 section 1718, for failing to keep a current and accurate inventory of dangerous drugs as follows.

27 In an audit for inventory from 1/1/02 to 11/15/02:

28 ///

	<u>Dangerous Drug</u>	<u>Overage</u>
1		
2	Prilosec 20 mg	1610 capsules
3	Prevacid 15 mg	990 capsules
4	Prevacid 30 mg	5026 capsules
5	Serostim 6 mg	140 vials
6	Zoloft 50 mg	1693 tablets
7	Zoloft 100 mg	3090 tablets
8	Zyprexa 2.5 mg	60 tablets
9	Zyprexa 5 mg	1140 tablets
10	Zyprexa 7.5 mg	60 tablets
11	Zyprexa 10 mg	1263 tablets

12 SEVENTH CAUSE FOR DISCIPLINE

13 (Failure to Report Losses)

14 30. Respondent Pharmacy and Gregorian are subject to discipline in that it was
15 not in compliance with California Code of Regulation , title 16, section 1715.6 in that it did not
16 report to the Board, within 30 days, the loss of controlled substances, including the quantity and
17 strengths after the burglary of the Respondent Pharmacy. Specifically, on or about November 19,
18 2002, Respondent Pharmacy reported to the Whittier Police Department the theft of Vicodin and
19 other controlled substances. As of March 24, 2003, the Board had not received a report from the
20 Respondent Pharmacy reporting the strengths and quantity of controlled substances lost through
21 the burglary.

22 EIGHTH CAUSE FOR DISCIPLINE

23 (Failure to Produce Records: Invoices)

24 31. Respondent Pharmacy is subject to discipline in that it was not in compliance
25 with Section 4332 of the Code in that it failed to submit to the Board invoices for the following
26 drugs:

27 Serostim 6 mg,
28 Prilosec 20 mg,

1 Prevacid 15 mg and 30 mg,
2 Zyprexa 2.5 mg, 5 mg, 7.5 mg, and 10 mg,
3 Zoloft, 50 mg and 100 mg.

4 Specifically, on November 15, 2002 Respondent Gregorian was instructed after an
5 inspection of Respondent Pharmacy to submit to the Board all invoices for the above drugs.
6 Respondent Gregorian furnished only one report from a wholesaler and also wrote to the Board,
7 "I need to get invoices from the other wholesalers and other pharmacies." As of March 24, 2003,
8 the Board had received no additional invoices from Respondent Pharmacy.

9 NINTH CAUSE FOR DISCIPLINE

10 (Fraudulent Prescriptions)

11 32. Respondent Gregorian is subject to discipline for unprofessional conduct
12 pursuant to Section 4301, subdivision (g) of the Code in that prescriptions were billed to third
13 party payors as dispensed prescriptions but were for prescriptions that were not authorized by the
14 prescriber. In specific, the following were written as telephone prescriptions by Respondent
15 Gregorian but were not authorized by the prescriber. The physician in question denied under
16 oath that he had prescribed the medication for his patients.

- 17 Rx no. 6042466 for DDAVP,
18 Rx no. 6042465 for Allegra 60 mg,
19 Rx no. 6042590 for Vioxx 25 mg,
20 Rx no. 6042592 for Rebetrol,
21 Rx no. 6042591 Hyzaar 100 mg, and
22 Rx no. 6042767 for Lidex.

23 TENTH CAUSE FOR DISCIPLINE

24 (Maintaining Records at an Unlicensed Premise)

25 33. Respondents Pharmacy and Gregorian are further subject to discipline for a
26 violation of Section 4333 in that the records of acquisition and disposal of dangerous drugs and
27 controlled substances have been stored at a premise not licensed by the Board. In specific, on
28 March 19, 2003 Respondent Pharmacy filed a Discontinuance of Business form and stated that

1 the location of all records of acquisition and disposal for dangerous drugs was 10231 S. Colima
2 Road, a business named "Mini U Storage," which is not a premise licensed by the Board. The
3 transfer of the records from a licensed premise to an unlicensed premise contravenes California
4 Code of Regulations, title 16, section 1708.2.

5 PRAYER

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

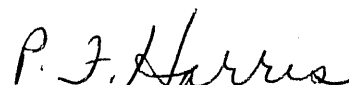
8 1. Revoking or suspending Original Pharmacy Permit PHY 44701, issued to
9 TOTAL CARE PHARMACY;

10 2. Revoking or suspending Original Pharmacist License RPH 47542, issued
11 to FRED O. GREGORIAN;

12 3. Ordering TOTAL CARE PHARMACY and FRED O. GREGORIAN to
13 pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,
14 pursuant to Business and Professions Code section 125.3;

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

16 DATED: 1/12/04

17
18 
19 PATRICIA F. HARRIS
20 Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

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24 JRD: totalpharmacy.2
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26 jrd: 11-20-03
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28