

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

In the Matter of the First Amended Accusation Against: Case No. 3254

MIV CARE, INC.,
d.b.a. RX CARE PHARMACY
MICHAEL VOLDMAN, President
19000 Hawthorne, Suite #302
Torrance, CA 90503
Pharmacy Permit No. PHY 46138

OAH Case No. 2012100134

AND

PAUL AQUINAS LIM
1441 S. Huntington Drive, #1880
South Pasadena, CA 91030
Pharmacist License No. RPH 40911

Respondent.

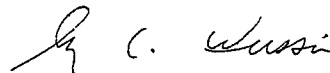
DECISION AND ORDER

The attached Stipulated Revocation of Pharmacy Permit and Disciplinary Order for Respondent MIV Care, Inc., doing business as RX Care Pharmacy, with Michael Voldman as President is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on November 27, 2013.

It is so ORDERED on November 20, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
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300 So. Spring Street, Suite 1702
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Attorneys for Complainant
7

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

11 In the Matter of the First Amended Accusation
12 Against:

Case No. 3254; OAH No. 2012100134

13 **MIV CARE, INC.,**
14 **d.b.a. RX CARE PHARMACY,**
MICHAEL VOLDMAN, President
15 19000 Hawthorne, Suite #302
Torrance, CA 90503

STIPULATED REVOCATION OF
PHARMACY PERMIT AND
DISCIPLINARY ORDER FOR
RESPONDENT MIV CARE, INC.,
d.b.a. RX CARE PHARMACY,
MICHAEL VOLDMAN, President

16 **Pharmacy Permit No. 46138**

17 **AND**

18 **PAUL AQUINAS LIM**
19 1441 S. Huntington Drive, #1880
South Pasadena, CA 91030

20 **Pharmacist License No. RPH 40911**

21 Respondents.

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

24 **PARTIES**

25 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy
26 ("Board"). She brought this action solely in her official capacity and is represented in this matter
27 by Kamala D. Harris, Attorney General of the State of California, by Armando Zambrano,
28 Supervising Deputy Attorney General.

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ADVISEMENT AND WAIVERS

7. Respondent Rx Care, through its authorized representative, has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 3254.

8. Respondent Rx Care, through its authorized representative, has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Revocation of Pharmacy Permit and Disciplinary Order.

9. Respondent Rx Care, through its authorized representative, is fully aware of its legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel at its own expense; the right to confront and cross-examine the witnesses against it; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

10. Respondent Rx Care, through its authorized representative, voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

11. Respondent Rx Care, through its authorized representative, admits the truth of each and every charge and allegation in First Amended Accusation No. 3254.

12. Respondent Rx Care, through its authorized representative, agrees that cause exists for discipline against its pharmacy permit.

13. Respondent Rx Care, through its authorized representative, stipulates to the revocation of Pharmacy Permit Number 46138.

RESERVATION

14. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Pharmacy or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

CONTINGENCY

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15. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent Rx Care, through its authorized representative, understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulated revocation, without notice to or participation by Respondent Rx Care, or its counsel. By signing the stipulation, Respondent Rx Care, understands and agrees that it may not withdraw its agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board of Pharmacy fails to adopt this stipulated revocation as its Decision and Order, the stipulation shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

16. This Stipulated Revocation of Pharmacy Permit and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments, whether written or oral. This stipulated revocation shall not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

17. The parties understand and agree that electronic or facsimile copies of this Stipulated Revocation of Pharmacy Permit and Disciplinary Order, including electronic or facsimile signatures thereto, shall have the same force and effect as an original.

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

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1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacy Permit Number 46138 issued to MIV Care, Inc.,
3 doing business as Rx Care Pharmacy, with Michael Voldman as President is revoked.

4 1. Respondent Rx Care through its authorized representative shall, by the effective date
5 of this decision, arrange for the destruction of, the transfer to, sale of or storage in a facility
6 licensed by the board of all controlled substances and dangerous drugs and devices. Respondent
7 Rx Care shall provide written proof of such disposition and submit a completed Discontinuance
8 of Business form to the Board.

9 2. Respondent Rx Care shall return the wall and renewal license to the board within five
10 (5) days of disposition.

11 3. Respondent Rx Care through its authorized representative shall, by the effective date
12 of this decision, arrange for the continuation of care for ongoing patients of the pharmacy by, at
13 minimum, providing a written notice to ongoing patients that specifies the anticipated closing
14 date of the pharmacy and that identifies one or more area pharmacies capable of taking up the
15 patients' care, and by cooperating as may be necessary in the transfer of records or prescriptions
16 for ongoing patients. Within five days of its provision to the pharmacy's ongoing patients,
17 Respondent owner shall provide a copy of the written notice to the Board. For the purposes of
18 this provision, "ongoing patients" means those patients for whom the pharmacy has on file a
19 prescription with one or more refills outstanding, or for whom the pharmacy has filled a
20 prescription within the preceding sixty (60) days.

21 4. No Ownership of Licensed Premises. Michael Voldman shall be prohibited from
22 owning, having any legal or beneficial interest in, or serving as a manager, administrator,
23 member, officer, director, trustee, associate, or partner of any business, firm, partnership, or
24 corporation currently or hereinafter licensed by the Board. Michael Voldman shall sell or transfer
25 any legal or beneficial interest in any entity licensed by the board within ninety (90) days
26 following the effective date of this decision and shall immediately thereafter provide written
27 proof thereof to the Board. The prohibition shall continue until the pharmacy permit is re-issued
28 or reinstated.

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ACCEPTANCE

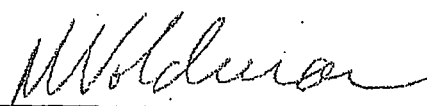
I have carefully read the above Stipulated Revocation of Pharmacy Permit and Disciplinary Order and have fully discussed it with my attorney, Herb L. Weinberg. I understand the stipulation and the effect it will have on Pharmacy Permit Number 46138. I enter into this stipulation voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: May 20th, 2013



MIV CARE, INC., dba RX CARE PHARMACY
by MICHAEL VOLDMAN, President
Respondent

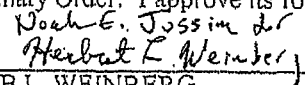
DATED: May 20th, 2013



MICHAEL VOLDMAN
Respondent

I have read and fully discussed with Respondent Rx Care through its authorized representative, the terms and conditions and other matters contained in the above Stipulated Revocation of Pharmacy Permit and Disciplinary Order. I approve its form and content.

DATED: May 20, 2013



HERB L. WEINBERG
Attorney for MIV Care, Inc., dba Rx Care Pharmacy

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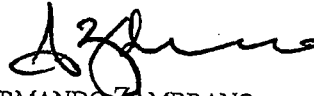
ENDORSEMENT

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

DATED: May 20, 2013

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
KAREN B. CHAPPELLE
Supervising Deputy Attorney General



ARMANDO ZAMBRANO
Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 3254

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA BARRIOS
Supervising Deputy Attorney General
3 ARMANDO ZAMBRANO
Deputy Attorney General
4 State Bar No. 225325
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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6 Facsimile: (213) 897-2804
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MICHAEL VOLDMAN, President
14 19000 Hawthorne, Suite #302
Torrance, CA 90503

FIRST AMENDED ACCUSATION

15 **Pharmacy Permit No. 46138,**

16 **AND**

17 **PAUL AQUINAS LIM**
18 1441 S. Huntington Drive, #1880
South Pasadena, CA 91030

19 **Pharmacist License No. RPH 40911,**

20 Respondents.
21

22 Complainant alleges:

23 **PARTIES**

24 1. Virginia Herold ("Complainant") brings this First Amended Accusation solely in her
25 official capacity as the Executive Officer of the Board of Pharmacy ("Board"), Department of
26 Consumer Affairs.

27 2. On or about October 8, 2002, the Board issued Pharmacy Permit Number 46138 to
28 MIV Care, Inc., doing business as Rx Care Pharmacy, with Michael Voldman as President

1 ("Respondent Rx Care"). The Pharmacy Permit was in full force and effect at all times relevant
2 to the charges brought herein. The Pharmacy Permit expired on October 1, 2011, but it is subject
3 to renewal. The Board has jurisdiction to discipline the Pharmacy Permit during the period in
4 which it is subject to renewal.

5 3. On or about June 5, 1987, the Board issued Pharmacist License Number RPH 40911
6 to Paul Aquinas Lim ("Respondent Lim"). The Pharmacist License was in full force and effect at
7 all times relevant to the charges brought herein and will expire on February 28, 2013, unless it is
8 renewed. Respondent Lim is the Pharmacist-In-Charge of MIV Care, Inc., d.b.a. Rx Care
9 Pharmacy, and has been employed in that capacity since November 14, 2006.

10 JURISDICTION

11 4. The First Amended Accusation is brought before the Board under the authority of the
12 following laws. All section references are to the Business and Professions Code ("Code") unless
13 otherwise indicated.

14 STATUTORY PROVISIONS

15 5. Section 4040 of the Code provides, in pertinent part:

16 "(a) 'Prescription' means an oral, written, or electronic transmission order that is both of
17 the following:

18 "(a)(1) Given individually for the person or persons for whom ordered that includes all of
19 the following:

20 "(A) The name or names and address of the patient or patients.

21 "(B) The name and quantity of the drug or device prescribed and the
22 directions for use.

23 "(C) The date of issue.

24 ...

25 "(a)(2) Issued by a physician [or other lawful prescriber]...licensed in this state."

26 6. Section 4063 of the Code provides:

27 "No prescription for any dangerous drug or dangerous device may be refilled except upon
28 authorization of the prescriber. The authorization may be given orally or at the time of giving the

1 original prescription. No prescription for any dangerous drug that is a controlled substance may
2 be designated refillable as needed.”

3 7. Section 4076 of the Code provides:

4 “(a) A pharmacist shall not dispense any prescription except in a container that meets the
5 requirements of state and federal law and is correctly labeled with all of the following:

6 ...

7 “(9) The expiration date of the effectiveness of the drug dispensed.”

8 8. Section 4081 of the Code provides, in pertinent part:

9 “(a) All records or other documentation of the acquisition and disposition of dangerous
10 drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed
11 premises in a readily retrievable form.”

12 9. Section 4126.5 of the Code provides, in pertinent part:

13 “(b) Drugs purchased pursuant to Section 256b of Title 42 of the United States Code
14 and received by a pharmacy shall be segregated from the pharmacy's other drug stock by either
15 physical or electronic means. All records of acquisition and disposition of these drugs shall be
16 readily retrievable in a form separate from the pharmacy's other records.”

17 10. Section 4300 of the Code provides:

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

19 11. Section 4301 of the Code states:

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

23 ...

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

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

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

...

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

12. Section 4342 of the Code provides, in pertinent part:

“(a) The board may institute any action or actions as may be provided by law and that, in its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not conform to the standard and tests as to quality and strength, provided in the latest edition of the United States Pharmacopoeia or the National Formulary, or that violate any provision of the Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of the Health and Safety Code).”

13. Health and Safety Code section 11153 provides, in pertinent part:

“(a) A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription.”

14. Health and Safety Code section 11162.1 provides, in pertinent part:

“(a) The prescription forms for controlled substances shall be printed with the following features:

“(1) A latent, repetitive ‘void’ pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word ‘void’ shall appear in a pattern across the entire front of the prescription.

“(2) A watermark shall be printed on the backside of the prescription blank; the watermark

1 shall consist of the words 'California Security Prescription.'

2 "(3) A chemical void protection that prevents alteration by chemical washing.

3 "(4) A feature printed in thermochromic ink.

4 "(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

5 "(6) A description of the security features included on each prescription form."

6 15. Health and Safety Code section 11164 provides, in pertinent part:

7 "Except as provided in Section 11167, no person shall...fill, compound, or dispense a
8 prescription for a controlled substance, unless it complies with the requirements of this section.

9 "(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V,
10 except as authorized by subdivision (b), shall be made on a controlled substance prescription form
11 as specified in Section 11162.1."

12 16. Health and Safety Code section 11200 provides, in pertinent part:

13 "(b) No prescription for a Schedule III or IV substance may be refilled more than five
14 times and in an amount, for all refills of that prescription taken together, exceeding a 120-day
15 supply."

16 **REGULATORY PROVISIONS**

17 17. California Code of Regulations, title 16, section 1716 provides:

18 "Pharmacists shall not deviate from the requirements of a prescription except upon the prior
19 consent of the prescriber or to select the drug product in accordance with Section 4073 of the
20 Business and Professions Code.

21 "Nothing in this regulation is intended to prohibit a pharmacist from exercising commonly-
22 accepted pharmaceutical practice in the compounding or dispensing of a prescription."

23 18. California Code of Regulations, title 16, section 1717 provides, in pertinent part:

24 "(b) In addition to the requirements of Section 4040, Business and Professions Code, the
25 following information shall be maintained for each prescription on file and shall be readily
26 retrievable:

27 "(1) The date dispensed, and the name or initials of the dispensing pharmacist. All
28 prescriptions filled or refilled by an intern pharmacist must also be initialed by the supervising

1 pharmacist before they are dispensed.”

2 19. California Code of Regulations, title 16, section 1735.2 provides, in pertinent part:

3 “(h) Every compounded drug product shall be given an expiration date representing the date
4 beyond which, in the professional judgment of the pharmacist performing or supervising the
5 compounding, it should not be used. This ‘beyond use date’ of the compounded drug product
6 shall not exceed 180 days from preparation or the shortest expiration date of any component in
7 the compounded drug product, unless a longer date is supported by stability studies of finished
8 drugs or compounded drug products using the same components and packaging. Shorter dating
9 than set forth in this subsection may be used if it is deemed appropriate in the professional
10 judgment of the responsible pharmacist.”

11 20. California Code of Regulations, title 16, section 1761 provides, in pertinent part:

12 “(a) No pharmacist shall compound or dispense any prescription which contains any
13 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any
14 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
15 validate the prescription.”

16 21. United States Code of Federal Regulations, title 21, section 1305.13 provides, in
17 pertinent part:

18 “(e) The purchaser must record on Copy 3 of the DEA Form 222 the number of commercial
19 or bulk containers furnished on each item and the dates on which the containers are received by
20 the purchaser.”

21 **COST RECOVERY**

22 22. Under section 125.3 of the Code, the Board may request the administrative law judge
23 to direct a licentiate found to have committed a violation or violations of the licensing act to pay
24 a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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DRUG CLASSIFICATIONS

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2 23. Actonel, a trade name for risendronate, is an oral bisphosphonate indicated for
3 postmenopausal osteoporosis. Actonel is defined as a dangerous drug by Code section 4022.

4 24. Ambien, a trade name for zolpidem tartrate, is a non-benzodiazepine hypnotic drug
5 indicated for insomnia. Ambien is defined as a dangerous drug by Code section 4022 and is
6 classified as a Schedule IV controlled substance under Health and Safety Code section 11057,
7 subdivision (d)(32).

8 25. Ativan, a trade name for lorazepam, is a psychotropic drug indicated for the
9 management of anxiety disorders or for the short-term relief of the symptoms of anxiety. Ativan
10 is defined as a dangerous drug by Code section 4022 and is classified as a Schedule IV controlled
11 substance under Health and Safety Code section 11057, subdivision (d)(32).

12 26. Boniva, a trade name for ibandronate, is an oral bisphosphonate indicated for
13 postmenopausal osteoporosis. Boniva is defined as a dangerous drug by Code section 4022.

14 27. Effexor, a trade name for venlafaxime hydrochloride, is an elective serotonin and
15 norepinephrine reuptake inhibitor indicated for depression. Effexor is defined as a dangerous
16 drug by Code section 4022.

17 28. Lomotil, a trade name for dephenoxylate with atropine, is indicated for diarrhea.
18 Lomotil is defined as a dangerous drug by Code section 4022 and is classified as a Schedule IV
19 controlled substance under Health and Safety Code section 11058, subdivision (c)(4).

20 29. Lunesta, a trade name for eszopiclone, is a hypnotic drug indicated for insomnia.
21 Lunesta is defined as a dangerous drug by Code section 4022 and is classified as a Schedule IV
22 controlled substance under Health and Safety Code section 11057, subdivision (d).

23 30. Lyrica, a trade name for pregabalin, is indicated for neuropathic pain. Lyrica is
24 defined as a dangerous drug by Code section 4022 and is classified as a Schedule V controlled
25 substance under Health and Safety Code section 11058, subdivision (b).

26 31. Nasonex, a trade name for mometasone, is a steroidal nasal inhalation drug indicated
27 for allergies. Nasonex is defined as a dangerous drug by Code section 4022.

28 32. Opana, a trade name for oxymorphone, is an opiate analgesic indicated for moderate

1 to severe pain. Opana is defined as a dangerous drug by Code section 4022 and is classified as a
2 Schedule II controlled substance under Health and Safety Code section 11055, subdivision
3 (b)(1)(o).

4 33. Provigil, a trade name for modafinil, is a wakefulness promoting agent indicated for
5 excessive sleepiness incident to narcolepsy or shift work sleep disorder. Provigil is defined as a
6 dangerous drug by Code section 4022 and is classified as a Schedule IV controlled substance
7 under Health and Safety Code section 11057, subdivision (f)(3).

8 34. Restoril, a trade name for temazepam, is a benzodiazepine indicated for insomnia.
9 Restoril is defined as a dangerous drug by Code section 4022 and is classified as a Schedule IV
10 controlled substance under Health and Safety Code section 11057, subdivision (d)(29).

11 35. Veramyst, a trade name for fluticasone, is a corticosteroid indicated for allergies.
12 Veramyst is defined as a dangerous drug by Code section 4022.

13 **PHARMACY INSPECTION**

14 36. On or about May 29, 2008, representatives of the Board conducted an inspection of
15 Respondent Rx Care. The inspection revealed the following violations of Pharmacy Law:

16 **FIRST CAUSE FOR DISCIPLINE**

17 (Dispensing Drugs of Unknown Quality)

18 37. Respondents are subject to disciplinary action under Code section 4301, subdivisions
19 (j) and (o), and Code Section 4342, for unprofessional conduct in that Respondents dispensed
20 drugs that do not conform to the standard and tests as to quality and strength provided in the latest
21 edition of the United States Pharmacopeia or National Formulary. On or about May 29, 2008, a
22 review of pharmacy inventory indicated that Respondents comingled with regular pharmacy
23 inventory dangerous drugs that were expired, unlabeled, or improperly labeled, as well as
24 dangerous drugs that were filled by other pharmacies and dangerous drugs that were returned to
25 Respondent RX Care by Board and Care facilities (Health & Saf. Code, §§ 1569.10, et seq.).

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SECOND CAUSE FOR DISCIPLINE

(Dispensing Uncertain Prescriptions)

38. Respondents are subject to disciplinary action under Code section 4301, subdivisions (j) and (o), in conjunction with California Code of Regulations, title 16, section 1761, for unprofessional conduct in that Respondents dispensed the following prescriptions containing a significant error, omission, irregularity, uncertainty, or ambiguity:

(a) On or about March 10, 2008, Dr. M.R. wrote prescription number 119378 for Actonel 35 mg without providing directions for use. On or about March 22, 2008, Respondents dispensed the prescription with instructions to "take 1 tablet by mouth weekly."

(b) On or about November 13, 2007, Dr. M.R. wrote prescription number 114657 for Boniva 150 mg and failed to provide directions for use. On or about November 13, 2007, Respondents dispensed the prescription with instructions to "take 1 tablet by mouth month [sic]."

THIRD CAUSE FOR DISCIPLINE

(Deviating From Prescription Requirements Without Prescriber Consent)

39. Respondents are subject to disciplinary action under Code section 4301, subdivisions (j) and (o), in conjunction with California Code of Regulations, title 16, section 1716, for unprofessional conduct in that Respondents deviated from the requirements of a prescription without the prior consent of the prescriber. Respondents dispensed the following non-conforming prescriptions without the prior consent of the prescriber:

| Fill Date | Prescription Number | Prescription Requirements | As Dispensed without Prior Prescriber Consent |
|------------|---------------------|--------------------------------------|---|
| 11/13/2007 | 114637 | Effexor XR 37.5 mg | Effexor XR 75 mg |
| 11/13/2007 | 114645 | Lunesta 2 mg | Lunesta 3 mg |
| 11/13/2007 | 114652 | Effexor XR 37.5 mg | Effexor XR 75 mg |
| 11/13/2007 | 114653 | Nasonex "2 puffs daily" | Nasonex "1 puff 2 times daily" |
| 11/13/2007 | 114657 | Boniva 150 mg No use instructions | Boniva 150 mg "take 1 tablet by mouth" |

| | | | |
|-----------|--------|---|--|
| | | | month [sic]" |
| 3/22/2008 | 119364 | Lunesta 2 mg | Lunesta 3 mg |
| 3/22/2008 | 119370 | Veramyst "one puff every day" | Veramyst "2 sprays daily" |
| 3/22/2008 | 119378 | Actonel 35 mg No use instructions | Actonel 35 mg "1 tablet by mouth weekly" |
| 3/22/2008 | 119732 | Provigil 200 mg "1 tablet twice daily" | Provigil 200 mg "1 tablet by mouth daily" |

FOURTH CAUSE FOR DISCIPLINE

(Refilling Prescriptions for Dangerous Drugs Without the Prescriber's Authorization)

40. Respondents are subject to disciplinary action under Code section 4301, subdivisions (j) and (o), and Code Section 4063 for unprofessional conduct in that Respondents refilled prescriptions for the dangerous drug Boniva without the prescriber's authorization, as follows.

(a) On or about August 8, 2007, Dr. M.R. wrote patient F.V. prescription number 111448 for Boniva 150 mg. No refills were authorized. On or about August 8, 2007, Respondents filled the prescription. On or about the dates indicated, Respondents dispensed the following four (4) refills without the prescriber's authorization:

| Fill Date | Refill Number |
|------------|---------------|
| 8/27/2007 | First Refill |
| 12/19/2007 | Second Refill |
| 3/24/2008 | Third Refill |
| 5/3/2008 | Fourth Refill |

(b) On or about August 29, 2007, Dr. M.R. wrote patient G.G. prescription number 112086 for Boniva 150 mg. No refills were authorized. On or about August 29, 2007, Respondents filled the prescription. On or about the dates indicated, Respondents dispensed the following two (2) refills without the prescriber's authorization:

| Fill Date | Refill Number |
|-----------|---------------|
| 1/15/2008 | First Refill |
| 5/3/2008 | Second Refill |

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(c) On or about January 9, 2008, Dr. M.R. wrote patient Z.F. prescription number 116662 for Boniva 150 mg. No refills were authorized. On or about January 11, 2008, Respondents filled the prescription. On or about the dates indicated, Respondents dispensed the following two (2) refills without the prescriber's authorization:

| Fill Date | Refill Number |
|-----------|---------------|
| 5/3/2008 | First Refill |
| 7/3/2008 | Second Refill |

(d) On or about June 20, 2007, Dr. M.R. wrote patient R.R. prescription number 110383 for Boniva 150 mg. No refills were authorized. On or about July 8, 2007, Respondents filled the prescription. On or about the dates indicated, Respondents dispensed the following six (6) refills without the prescriber's authorization:

| Fill Date | Refill Number |
|------------|---------------|
| 8/2/2007 | First Refill |
| 8/27/2007 | Second Refill |
| 11/2/2007 | Third Refill |
| 12/14/2007 | Fourth Refill |
| 1/11/2008 | Fifth Refill |
| 5/3/2008 | Sixth Refill |

(e) On or about January 24, 2008, Dr. M.R. wrote patient S.R. prescription number 117236 for the drug Boniva 150 mg. No refills were authorized. On or about January 26, 2008, Respondents filled the prescription. On or about May 3, 2008, Respondents refilled the prescription without the prescriber's authorization.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 (Refilling Schedule IV Controlled Substances More Than Five Times)

3 41. Respondents are subject to disciplinary action under Code section 4301, subdivisions
4 (j) and (o), in conjunction with Health and Safety Code Section 11200, subdivision (b), for
5 unprofessional conduct in that Respondents refilled Schedule IV controlled substances more than
6 five times. Respondents refilled the following Schedule IV controlled substances more than five
7 times on or about the dates indicated:

8

| Last Date Dispensed | Prescription Number | Substance | Schedule | Total Refills |
|---------------------|---------------------|------------|-------------|---------------|
| 4/25/2008 | 110315 | Provigil | Schedule IV | 10 |
| 4/26/2008 | 113021 | Clonazepam | Schedule IV | 7 |
| 5/3/2008 | 109104 | Lorazepam | Schedule IV | 10 |
| 5/3/2008 | 115806 | Temazepam | Schedule IV | 7 |
| 5/6/2008 | 112063 | Clonazepam | Schedule IV | 7 |

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15 **SIXTH CAUSE FOR DISCIPLINE**

16 (Dispensing Prescriptions Not Written on California Security Prescription Forms)

17 39. Respondents are subject to disciplinary action under Code section 4301, subdivisions
18 (j) and (o), in conjunction with Health and Safety Code section 11164, subdivision (a), for
19 unprofessional conduct in that Respondents dispensed the following prescriptions for Schedule II,
20 IV, and V controlled substances, which were not written on California Security forms:

21

| Date Dispensed | Prescription Number | Substance | Schedule |
|----------------|---------------------|-----------|-------------|
| 11/13/2007 | 114643 | Ambien | Schedule IV |
| 11/13/2007 | 114655 | Ambien | Schedule IV |
| 11/13/2007 | 114645 | Lunesta | Schedule IV |
| 11/13/2007 | 114656 | Lunesta | Schedule IV |
| 11/13/2007 | 114659 | Lyrica | Schedule V |
| 11/13/2007 | 114658 | Opana ER | Schedule II |
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| Date Dispensed | Prescription Number | Substance | Schedule |
|----------------|---------------------|-----------|-------------|
| 3/21/2008 | 119341 | Lunesta | Schedule IV |
| 3/22/2008 | 119358 | Lunesta | Schedule IV |
| 3/22/2008 | 119364 | Lunesta | Schedule IV |
| 3/22/2008 | 119365 | Lyrica | Schedule V |
| 3/22/2008 | 119372 | Provigil | Schedule IV |

SEVENTH CAUSE FOR DISCIPLINE

(Failing to Record Date Dispensed and Name and Initials of Pharmacist on Prescriptions)

42. Respondents are subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code of Regulations, title 16, section 1717, subdivision (b)(1), for unprofessional conduct in that Respondents failed to record on each prescription the date they dispensed it and the name or initials of the dispensing pharmacist. On or about May 3, 2008, Respondents dispensed the following prescriptions without recording the dispensing date or the name or initials of the dispensing pharmacist:

| Rx. Number | Drug Dispensed | Rx. Number | Drug Dispensed |
|------------|------------------|------------|------------------------|
| 112388 | Fosamax 70 mg | 112468 | Exelon 1.5 mg |
| 111488 | Aricept 10 mg | 118686 | Coumadin 5 mg |
| 111487 | Namenda 10 mg | 119392 | Nitrolingual SPR |
| 111486 | Risperdal 0.5 mg | 109761 | Docusate Sodium 100 mg |
| 115777 | Zetia 10 mg | 110261 | Aspirin 31 mg |
| 118640 | Lantus 100 ml | 110262 | Timolol 0.5% |
| 110995 | Arimidex 1 mg | 110264 | Premarin 0.3 mg |
| 113168 | Lovaza 1 g | 112466 | Airicept 5mg |
| 113034 | Janumet 50/1000 | 112467 | Buspirone 5mg |
| 117463 | Amlodopine 5 mg | 119140 | Nitrolingual SPR |
| 112469 | Trazadone 50 mg | 118689 | Benicar/HCTZ 40/25 mg |

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| Rx. Number | Drug Dispensed | Rx. Number | Drug Dispensed |
|------------|--------------------|------------|----------------------------|
| 120011 | Simvastatin 20mg | 120013 | Aspirin 81 mg |
| 117859 | Furosemide 40mg | 116501 | Hyzaar 12.5 mg |
| 120016 | Lexapro 10 mg | 120017 | Meloxicam 7.5 mg |
| 116800 | Aspirin 81 mg t | 118687 | Simvastatin 20 mg |
| 118810 | Coreg CR 20 mg | 115725 | Diovan HCT 160/12.5 |
| 120066 | Meloxicam 7.5 mg | 118905 | Nexium 40 mg |
| 118808 | Diovan 80 mg | 120071 | Meloxicam 7.5 mg |
| 117382 | Singulair 10 mg | 113408 | Namenda 10 mg |
| 113406 | Exelon 1.5 mg | 113429 | Januvia 100 mg |
| 114517 | Ascensia Elite 100 | 113427 | Lipitor 40 mg |
| 113430 | Plavix 75 mg | 116033 | Docusate Sodium 250 mg |
| 113434 | Glimepride 4 mg | 113426 | Actos 45 mg |
| 113433 | Amantadine 100 mg | 113432 | Carbidopoa/Levad ER 50/200 |
| 114518 | Lancets 100 | 109104 | Lorazepam 1 mg |
| 108197 | Nexium 40 mg | | |

EIGHTH CAUSE FOR DISCIPLINE

(Failing to Record Schedule II Controlled Substances on Copy 3 of DEA Form 222)

43. Respondents are subject to disciplinary action under Code section 4301, subdivisions (j) and (o), in conjunction with United States Code of Federal Regulations, title 21, section 1305.13, subdivision (e), for unprofessional conduct in that Respondents failed to record on Copy 3 of Drug Enforcement Administration Form 222 the number of containers and the dates on which Respondents received Schedule II controlled substances.

NINTH CAUSE FOR DISCIPLINE

(Commission of an Act Involving Dishonesty, Fraud, or Deceit)

44. Respondent Rx Care is subject to disciplinary action under Code section 4301, subdivision (f), for unprofessional conduct in that Respondent Rx Care committed an act

1 involving dishonesty, fraud, or deceit. On or about August 2, 2002, Michael Voldman, in his
2 capacity as an officer of MIV Care, Inc., d.b.a. Rx Care Pharmacy, submitted to the Board a
3 certification of personnel form containing a false statement of fact. Michael Voldman certified
4 under penalty of perjury to the truth and accuracy of all statements, answers, and representations
5 made in the form on or about August 2, 2002. Question seven of the form asked whether any
6 owner, director, officer, major shareholder, or pharmacist-in-charge shared a financial interest or
7 was associated in business with any person whose pharmacy permit was revoked. Michael
8 Voldman answered in the negative by placing an "x" in the box corresponding to the word "no."
9 Between approximately September of 1999 and August of 2002, Respondent Rx Care operated in
10 the same office space and used the same phone number as Integrated Design Services, Inc., a
11 business owned and operated by Zina Frayman, whose pharmacy permits for Lenark pharmacy
12 and Shell pharmacy were revoked in December of 1999 and March of 2000, respectively.
13 Respondent Rx Care had knowledge of the revocation of Zina Frayman's licenses, but failed to
14 disclose to the Board the financial interest it shared with Zina Frayman.

15 **TENTH CAUSE FOR DISCIPLINE**

16 (Knowingly Making or Signing Any Certificate or Other Document That Falsely Represents the
17 Existence or Nonexistence of a State of Facts)

18 45. Respondent Rx Care is subject to disciplinary action under Code section 4301,
19 subdivision (g), for unprofessional conduct in that Respondent Rx Care knowingly made and
20 signed a certificate that falsely represented the existence or nonexistence of a state of facts.
21 Complainant refers to and by this reference incorporates the allegations set forth in paragraph 44,
22 as though set forth fully.

23 **ELEVENTH CAUSE FOR DISCIPLINE**

24 (Unprofessional Conduct)

25 46. Respondents are subject to disciplinary action under Code section 4301 for
26 unprofessional conduct. Complainant refers to and by this reference incorporates the allegations
27 set forth in paragraphs 36-45, inclusive, as though set forth fully.

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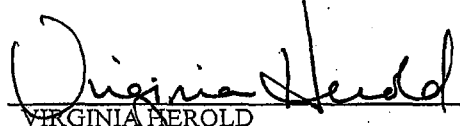
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PRAYER

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

1. Revoking or suspending Pharmacy Permit Number 46138, issued to MIV Care, Inc., d.b.a. Rx Care Pharmacy.
2. Revoking or suspending Pharmacist License Number RPH 40911, issued to Paul Aquinas Lim.
3. Ordering MIV Care, Inc., d.b.a. Rx Care Pharmacy, and Paul Aquinas Lim to pay the Board the reasonable costs of the investigation and enforcement of this case pursuant to Code section 125.3; and
4. Taking such other and further action as deemed necessary and proper.

DATED: 8/14/12



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

LA2009602431/51116895.doc/08.13.2012