

**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.

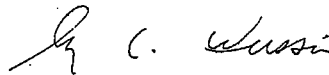
DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Respondent Paul Lim 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
4 State Bar No. 225325
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2542
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **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,**
15 **MICHAEL VOLDMAN, President**
19000 Hawthorne, Suite #302
Torrance, CA 90503

**STIPULATED SETTLEMENT
AND DISCIPLINARY ORDER FOR
RESPONDENT PAUL AQUINAS LIM**

16 **Pharmacy Permit No. 46138**

17 AND

18 **PAUL AQUINAS LIM**
1441 S. Huntington Drive, #1880
19 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.

1 9. Respondent Lim is fully aware of his legal rights in this matter, including the right to
2 a hearing on the charges and allegations in the First Amended Accusation; the right to be
3 represented by counsel at his own expense; the right to confront and cross-examine the witnesses
4 against him; the right to present evidence and to testify on his behalf; the right to the issuance of
5 subpoenas to compel the attendance of witnesses and the production of documents; the right to
6 reconsideration and court review of an adverse decision; and all other rights accorded by the
7 California Administrative Procedure Act and other applicable laws.

8 10. Respondent Lim voluntarily, knowingly, and intelligently waives and gives up each
9 and every right set forth above.

10 **CULPABILITY**

11 11. Respondent Lim admits the truth of each and every charge and allegation in First
12 Amended Accusation No. 3254.

13 12. Respondent Lim agrees that his pharmacist license is subject to discipline and he
14 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

15 **CONTINGENCY**

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

25 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
28 negotiations, and commitments, whether written or oral. This stipulated settlement may not be

1 altered, amended, modified, supplemented, or otherwise changed except by a writing executed by
2 an authorized representative of each of the parties.

3 15. The parties understand and agree that electronic or facsimile copies of this Stipulated
4 Settlement of License and Disciplinary Order, including electronic or facsimile signatures thereto,
5 shall have the same force and effect as an original.

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

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Pharmacist License Number RPH 40911 issued to
11 Respondent Paul Aquinas Lim is revoked. However, the order of revocation is stayed and the
12 Respondent is placed on probation for five (5) years on the following terms and conditions:

13 1. Obey All Laws. Respondent shall obey all state and federal laws and regulations.

14 Respondent shall report any of the following occurrences to the board, in writing, within
15 seventy-two (72) hours of such occurrence:

16 • An arrest or issuance of a criminal complaint for violation of any provision of the
17 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances
18 laws

19 • A plea of guilty or nolo contendere in any state or federal criminal proceeding to any
20 criminal complaint, information, or indictment

21 • A conviction of any crime

22 • Discipline, citation, or other administrative action filed by any state or federal agency
23 which involves Respondent's pharmacist license, or which is related to the practice of pharmacy
24 or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device
25 or controlled substance.

26 Failure to timely report any such occurrence shall be considered a violation of probation.

27 2. Report to the Board. Respondent shall report to the board quarterly, on a schedule as
28 directed by the board or its designee. The report shall be made either in person or in writing, as

1 directed. Among other requirements, respondent shall state in each report under penalty of
2 perjury whether there has been compliance with all the terms and conditions of probation. Failure
3 to submit timely reports in a form as directed shall be considered a violation of probation. Any
4 period(s) of delinquency in submission of reports as directed may be added to the total period of
5 probation. Moreover, if the final probation report is not made as directed, probation shall be
6 automatically extended until such time as the final report is made and accepted by the board.

7 3. Interview with the Board. Upon receipt of reasonable prior notice, respondent shall
8 appear in person for interviews with the board or its designee, at such intervals and locations as
9 are determined by the board or its designee. Failure to appear for any scheduled interview
10 without prior notification to board staff, or failure to appear at two (2) or more scheduled
11 interviews with the board or its designee during the period of probation, shall be considered a
12 violation of probation.

13 4. Cooperate with Board Staff. Respondent shall cooperate with the board's inspection
14 program and with the board's monitoring and investigation of respondent's compliance with the
15 terms and conditions of his or her probation. Failure to cooperate shall be considered a violation
16 of probation.

17 5. Continuing Education. Respondent shall provide evidence of efforts to maintain skill
18 and knowledge as a pharmacist as directed by the board or its designee.

19 6. Notice to Employers. During the period of probation, respondent shall notify all
20 present and prospective employers of the decision in case number 3254 and the terms, conditions
21 and restrictions imposed on respondent by the decision, as follows:

22 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
23 respondent undertaking any new employment, respondent shall cause his or her direct supervisor,
24 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
25 tenure of employment) and owner to report to the board in writing acknowledging that the listed
26 individual(s) has/have read the decision in case number 3254 and the terms and conditions
27 imposed thereby. It shall be respondent's responsibility to ensure that his or her employer(s)
28 and/or supervisor(s) submit timely acknowledgement(s) to the board.

1 If respondent works for or is employed by or through a pharmacy employment service,
2 respondent must notify his or her direct supervisor, pharmacist-in-charge and owner at every
3 pharmacy of the terms and conditions of the decision in case number 3254 in advance of the
4 respondent commencing work at each pharmacy. A record of this notification must be provided
5 to the board upon request.

6 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
7 (15) days of respondent undertaking any new employment by or through a pharmacy employment
8 service, respondent shall cause his or her direct supervisor with the pharmacy employment
9 service to report to the board in writing acknowledging that he or she has read the decision in case
10 number 3254 and the terms and conditions imposed thereby. It shall be respondent's
11 responsibility to ensure that his or her employer(s) and/or supervisor(s) submit timely
12 acknowledgment(s) to the board.

13 Failure to timely notify present or prospective employer(s) or to cause that/those
14 employer(s) to submit timely acknowledgements to the board shall be considered a violation of
15 probation.

16 "Employment" within the meaning of this provision shall include any full-time, part-time,
17 temporary or relief service or pharmacy management service as a pharmacist or any position for
18 which a pharmacist license is a requirement or criterion for employment, whether the respondent
19 is considered an employee, independent contractor or volunteer.

20 7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as
21 Designated Representative-in-Charge, or Serving as a Consultant. During the period of
22 probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge or
23 designated representative-in-charge of any entity licensed by the board nor serve as a consultant
24 unless otherwise specified in this order. Assumption of any such unauthorized supervision
25 responsibilities shall be considered a violation of probation.

26 8. Reimbursement of Board Costs. As a condition precedent to successful completion
27 of probation, respondent shall pay Twenty-Thousand dollars (\$20,000.00) to the Board of
28 Pharmacy for its costs of investigation and prosecution. Respondent shall be permitted to pay

1 these costs through a payment plan that shall be pre-approved by the Board. There shall be no
2 deviation from this schedule absent prior written approval by the Board or its designee. Failure to
3 pay costs by the deadline(s) as directed shall be considered a violation of probation.

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

6 9. Probation Monitoring Costs. Respondent shall pay any costs associated with
7 probation monitoring as determined by the board each and every year of probation. Such costs
8 shall be payable to the Board on a schedule as directed by the board or its designee. Failure to
9 pay such costs by the deadline(s) as directed shall be considered a violation of probation.

10 10. Status of License. Respondent shall, at all times while on probation, maintain an
11 active, current license with the board, including any period during which suspension or probation
12 is tolled. Failure to maintain an active, current license shall be considered a violation of
13 probation.

14 If respondent's license expires or is cancelled by operation of law or otherwise at any time
15 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
16 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
17 probation not previously satisfied.

18 11. License Surrender While on Probation/Suspension. Following the effective date of
19 this decision, should respondent cease work due to retirement or health, or be otherwise unable to
20 satisfy the terms and conditions of probation, respondent may tender his or her license to the
21 board for surrender. The board or its designee shall have the discretion whether to grant the
22 request for surrender or take any other action it deems appropriate and reasonable. Upon formal
23 acceptance of the surrender of the license, respondent will no longer be subject to the terms and
24 conditions of probation. This surrender constitutes a record of discipline and shall become a part
25 of the respondent's license history with the board.

26 Upon acceptance of the surrender, respondent shall relinquish his or her pocket and wall
27 license to the board within ten (10) days of notification by the board that the surrender is
28 accepted. Respondent may not reapply for any license, permit, or registration from the board for

1 three (3) years from the effective date of the surrender. Respondent shall meet all requirements
2 applicable to the license sought as of the date the application for that license is submitted to the
3 board.

4 12. Notification of a Change in Name, Residence Address, Mailing Address, or
5 Employment. Respondent shall notify the board in writing within ten (10) days of any change of
6 employment. Said notification shall include the reasons for leaving, the address of the new
7 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
8 shall further notify the board in writing within ten (10) days of a change in name, residence
9 address and mailing address, or phone number.

10 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
11 phone number(s) shall be considered a violation of probation.

12 13. Tolling of Probation. Except during periods of suspension, respondent shall, at all
13 times while on probation, be employed as a pharmacist in California for a minimum of forty (40)
14 hours per calendar month. Any month during which this minimum is not met shall toll the period
15 of probation, i.e., the period of probation shall be extended by one month for each month during
16 which this minimum is not met. During any such period of tolling of probation, respondent must
17 nonetheless comply with all terms and conditions of probation.

18 Should respondent, regardless of residency, for any reason (including vacation) cease
19 working as a pharmacist for a minimum of forty (40) hours per calendar month in California,
20 respondent must notify the board in writing within ten (10) days of cessation of practice and must
21 further notify the board in writing within ten (10) days of the resumption of the practice. Any
22 failure to provide such notification(s) shall be considered a violation of probation.

23 It is a violation of probation for respondent's probation to remain tolled pursuant to the
24 provisions of this condition for a total period, counting consecutive and non-consecutive months,
25 exceeding thirty-six (36) months.

26 "Cessation of practice" means calendar month during which respondent is not practicing as
27 a pharmacist for at least forty (40) hours, as defined in Business and Professions Code section
28 4000 et seq. "Resumption of practice" means any calendar month during which respondent is

1 practicing as a pharmacist for at least forty (40) hours as a pharmacist as defined by Business and
2 Professions Code section 4000 et seq.

3 Respondent is required to practice as a pharmacist in a licensed pharmacy setting that
4 dispenses medication for a minimum of one year prior to the completion of probation. After the
5 first year of probation, the board or its designee may consider a modification of this requirement.
6 If respondent fails to comply with this requirement or a subsequent modification thereto, such
7 failure shall be considered a violation of probation.

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

13 If respondent violates probation in any respect, the board, after giving respondent notice
14 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
15 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
16 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
17 a petition to revoke probation or an accusation is filed against respondent during probation, the
18 board shall have continuing jurisdiction, and the period of probation shall be automatically
19 extended until the petition to revoke probation or accusation is heard and decided.

20 15. Completion of Probation. Upon written notice by the board indicating successful
21 completion of probation, respondent's pharmacist license will be fully restored.

22 16. Community Services Program. Within sixty (60) days of the effective date of this
23 decision, respondent shall submit to the board or its designee, for prior approval, a community
24 service program in which respondent shall provide free health-care related services on a regular
25 basis to a community or charitable facility or agency for at least sixty (60) hours per year for the
26 first three (3) years of probation. Within thirty (30) days of board approval thereof, respondent
27 shall submit documentation to the board demonstrating commencement of the community service
28 program. A record of this notification shall be provided to the Board upon request. Respondent

1 shall report on progress with the community service program in the quarterly reports. Failure to
2 timely submit, commence, or comply with the program shall be considered a violation of
3 probation.

4 17. Remedial Education. Within sixty (60) days of the effective date of this decision,
5 respondent shall submit to the board or its designee, for prior approval, an appropriate program of
6 remedial education related to dispensing prescriptions and controlled substances. The program of
7 remedial education shall consist of at least ten (10) hours, which shall be completed within three
8 (3) years at respondent's own expense. All remedial education shall be in addition to, and shall
9 not be credited toward, continuing education (CE) courses used for license renewal purposes.

10 Failure to timely submit or complete the approved remedial education shall be considered a
11 violation of probation. The period of probation will be automatically extended until such
12 remedial education is successfully completed and written proof, in a form acceptable to the board,
13 is provided to the board or its designee.

14 Following the completion of each course, the board or its designee may require the
15 respondent, at his or her own expense, to take an approved examination to test the respondent's
16 knowledge of the course. If the respondent does not achieve a passing score on the examination,
17 this failure shall be considered a violation of probation. Any such examination failure shall
18 require respondent to take another course approved by the board in the same subject area.

19 18. No Ownership of Licensed Premises. Respondent shall not own, have any legal or
20 beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee,
21 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
22 licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any
23 entity licensed by the board within ninety (90) days following the effective date of this decision
24 and shall immediately thereafter provide written proof thereof to the board. Failure to timely
25 divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a
26 violation of probation.

27 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
28 manager, administrator, member, officer, director, trustee, associate, or partner of any additional

1 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
2 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
3 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
4 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
5 that interest, but only to the extent of that position or interest as of the effective date of this
6 decision. Violation of this restriction shall be considered a violation of probation.

7 ACCEPTANCE

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

12
13 DATED: May 17, 2013

Paul Aquinas Lim

14 PAUL AQUINAS LIM
Respondent

15 I have read and fully discussed with Respondent Paul Aquinas Lim the terms and
16 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
17 I approve its form and content.

18 DATED: May 17, 2013

*Noah Jussim on behalf of
Herb L Weinberg*

19 HERB L. WEINBERG
Attorney for Respondent Paul Lim

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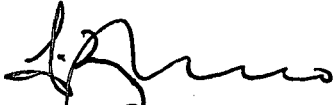
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ENDORSEMENT

The foregoing Stipulated Settlement 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
Telephone: (213) 897-2542
6 Facsimile: (213) 897-2804
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18 South Pasadena, CA 91030.
19 **Pharmacist License No. RPH 40911,**
20
21 Respondents.

FIRST AMENDED ACCUSATION

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 a pay
24 a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

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1 DRUG CLASSIFICATIONS

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 venlafaxine 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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1 **SECOND CAUSE FOR DISCIPLINE**

2 (Dispensing Uncertain Prescriptions)

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

7 (a) On or about March 10, 2008, Dr. M.R. wrote prescription number 119378 for Actonel
8 35 mg without providing directions for use. On or about March 22, 2008, Respondents dispensed
9 the prescription with instructions to "take 1 tablet by mouth weekly."

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

13 **THIRD CAUSE FOR DISCIPLINE**

14 (Deviating From Prescription Requirements Without Prescriber Consent)

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

20

Fill Date	Prescription Number	Prescription Requirements	As Dispensed without Prior Prescriber Consent
21 11/13/2007	114637	Effexor XR 37.5 mg	Effexor XR 75 mg
22 11/13/2007	114645	Lunesta 2 mg	Lunesta 3 mg
23 11/13/2007	114652	Effexor XR 37.5 mg	Effexor XR 75 mg
24 11/13/2007	114653	Nasonex "2 puffs daily"	Nasonex "1 puff 2 times daily"
25 11/13/2007	114657	Boniva 150 mg No use instructions	Boniva 150 mg "take 1 tablet by mouth

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			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

(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

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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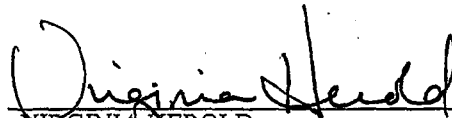
PRAYER

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