

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

In the Matter of the Accusation Against:

**SAN GORGONIO MEMBORIAL  
HOSPITAL, DBA SAN GORGONIO  
MEMORIAL HOSPITAL DISTRICT  
600 N. Highland Springs Avenue  
Banning, CA 92220**

**Hospital Pharmacy Permit No. HPE 21784**

Respondent.

Case No. 4723

OAH 2014060643

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

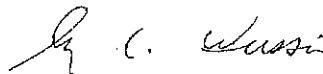
**DECISION AND ORDER**

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

This decision shall become effective on January 9, 2015.

It is so ORDERED on January 2, 2015.

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 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 DESIREE I. KELLOGG  
Deputy Attorney General  
4 State Bar No. 126461  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2996  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4723

12 **SAN GORGONIO MEMORIAL**  
13 **HOSPITAL, DBA SAN GORGONIO**  
14 **MEMORIAL HOSPITAL DISTRICT**  
600 N. Highland Springs Avenue  
15 Banning, CA 92220

OAH No. 2014060643

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

16 Hospital Pharmacy Permit No. HPE 21784

17 Respondents.

18  
19  
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
21 entitled proceedings that the following matters are true:

22 PARTIES

23 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.  
24 She brought this action solely in her official capacity and is represented in this matter by Kamala  
25 D. Harris, Attorney General of the State of California, by Desiree I. Kellogg, Deputy Attorney  
26 General.

1 2. Respondent San Gorgonio Memorial Hospital, dba San Gorgonio Memorial Hospital  
2 District ("Respondent") is represented in this proceeding by attorney Tom Curtis of Nossaman,  
3 LLP whose address is: 18101 Von Karman Avenue, Suite 1800, Irvine, CA 92612.

4 3. On or about November 16, 1981, the Board of Pharmacy issued Hospital Pharmacy  
5 Permit No. HPE 21784 to San Gorgonio Memorial Hospital, dba San Gorgonio Memorial  
6 Hospital District (Respondent). The Hospital Pharmacy Permit was in full force and effect at all  
7 times relevant to the charges brought in Accusation No. 4723 and will expire on November 1,  
8 2015, unless renewed.

9 JURISDICTION

10 4. Accusation No. 4723 was filed before the Board of Pharmacy (Board) , Department  
11 of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
12 statutorily required documents were properly served on Respondent on February 17, 2014.  
13 Respondent timely filed its Notice of Defense contesting the Accusation.

14 5. A copy of Accusation No. 4723 is attached as exhibit A and incorporated herein by  
15 reference.

16 ADVISEMENT AND WAIVERS

17 6. Respondent has carefully read, fully discussed with counsel, and understands the  
18 charges and allegations in Accusation No. 4723. Respondent has also carefully read, fully  
19 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
20 Order.

21 7. Respondent is fully aware of its legal rights in this matter, including the right to a  
22 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
23 the witnesses against them; the right to present evidence and to testify on its own behalf; the right  
24 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
25 documents; the right to reconsideration and court review of an adverse decision; and all other  
26 rights accorded by the California Administrative Procedure Act and other applicable laws.

27 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
28 every right set forth above.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 4723.

10. Respondent agrees that its Hospital Pharmacy Permit is subject to discipline and they agree to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that they 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 fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order 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.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Settlement 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 (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. 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:

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Hospital Pharmacy Permit No. HPE 21784 issued to  
3 Respondent San Gorgonio Memorial Hospital, dba San Gorgonio Memorial Hospital District  
4 (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on  
5 probation for three (3) years on the following terms and conditions.

6 **1. Obey All Laws**

7 Respondent owner shall obey all state and federal laws and regulations.

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

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

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

21 **2. Report to the Board**

22 Respondent owner shall report to the board quarterly, on a schedule as directed by the board  
23 or its designee. The report shall be made either in person or in writing, as directed. Among other  
24 requirements, respondent owner shall state in each report under penalty of perjury whether there  
25 has been compliance with all the terms and conditions of probation. Failure to submit timely  
26 reports in a form as directed shall be considered a violation of probation. Any period(s) of  
27 delinquency in submission of reports as directed may be added to the total period of probation.  
28 Moreover, if the final probation report is not made as directed, probation shall be automatically

1 extended until such time as the final report is made and accepted by the board.

2 **3. Interview with the Board**

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

8 **4. Cooperate with Board Staff**

9 Respondent owner shall cooperate with the board's inspection program and with the board's  
10 monitoring and investigation of respondent's compliance with the terms and conditions of their  
11 probation. Failure to cooperate shall be considered a violation of probation.

12 **5. Reimbursement of Board Costs**

13 As a condition precedent to successful completion of probation, respondent owner shall pay  
14 to the board its costs of investigation and prosecution in the amount of \$3,397.33. Respondent  
15 owner shall make said payment by the effective date of the decision. There shall be no deviation  
16 from this schedule absent prior written approval by the board or its designee. Failure to pay costs  
17 by the deadline(s) as directed shall be considered a violation of probation.

18 The filing of bankruptcy by respondent owner shall not relieve respondent of their  
19 responsibility to reimburse the board its costs of investigation and prosecution.

20 **6. Probation Monitoring Costs**

21 Respondent owner shall pay any costs associated with probation monitoring as determined  
22 by the board each and every year of probation. Such costs shall be payable to the board on a  
23 schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as  
24 directed shall be considered a violation of probation.

25 **7. Status of License**

26 Respondent owner shall, at all times while on probation, maintain current licensure with the  
27 board. If respondent owner submits an application to the board, and the application is approved,  
28 for a change of location, change of permit or change of ownership, the board shall retain

1 continuing jurisdiction over the license, and the respondent shall remain on probation as  
2 determined by the board. Failure to maintain current licensure shall be considered a violation of  
3 probation.

4 If respondent owner's license expires or is cancelled by operation of law or otherwise at any  
5 time during the period of probation, including any extensions thereof or otherwise, upon renewal  
6 or reapplication respondent owner's license shall be subject to all terms and conditions of this  
7 probation not previously satisfied.

#### 8 **8. License Surrender While on Probation/Suspension**

9 Following the effective date of this decision, should respondent owner discontinue  
10 business, respondent owner may tender the premises license to the board for surrender. The  
11 board or its designee shall have the discretion whether to grant the request for surrender or take  
12 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of  
13 the license, respondent will no longer be subject to the terms and conditions of probation.

14 Upon acceptance of the surrender, respondent owner shall relinquish the premises wall and  
15 renewal license to the board within ten (10) days of notification by the board that the surrender is  
16 accepted. Respondent owner shall further submit a completed Discontinuance of Business form  
17 according to board guidelines and shall notify the board of the records inventory transfer.

18 Respondent owner shall also, by the effective date of this decision, arrange for the  
19 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written  
20 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that  
21 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating  
22 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five  
23 days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a copy  
24 of the written notice to the board. For the purposes of this provision, "ongoing patients" means  
25 those patients for whom the pharmacy has on file a prescription with one or more refills  
26 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)  
27 days.

28 Respondent owner may not apply for any new licensure from the board for three (3) years

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

3 Respondent owner further stipulates that he or she shall reimburse the board for its costs of  
4 investigation and prosecution prior to the acceptance of the surrender.

#### 5 **9. Notice to Employees**

6 Respondent owner shall, upon or before the effective date of this decision, ensure that all  
7 employees involved in permit operations are made aware of all the terms and conditions of  
8 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.  
9 If the notice required by this provision is posted, it shall be posted in a prominent place and shall  
10 remain posted throughout the probation period. Respondent owner shall ensure that any  
11 employees hired or used after the effective date of this decision are made aware of the terms and  
12 conditions of probation by posting a notice, circulating a notice, or both. Additionally,  
13 respondent owner shall submit written notification to the board, within fifteen (15) days of the  
14 effective date of this decision, that this term has been satisfied. Failure to submit such  
15 notification to the board shall be considered a violation of probation.

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

#### 19 **10. Owners and Officers: Knowledge of the Law**

20 Respondent shall provide, within thirty (30) days after the effective date of this decision,  
21 signed and dated statements from its owners, including any owner or holder of ten percent (10%)  
22 or more of the interest in respondent or respondent's stock, and any officer, stating under penalty  
23 of perjury that said individuals have read and are familiar with state and federal laws and  
24 regulations governing the practice of pharmacy. The failure to timely provide said statements  
25 under penalty of perjury shall be considered a violation of probation.

#### 26 **11. Posted Notice of Probation**

27 Respondent owner shall prominently post a probation notice provided by the board in a  
28 place conspicuous and readable to the public. The probation notice shall remain posted during



1 the entire period of probation.

2 Respondent owner shall not, directly or indirectly, engage in any conduct or make any  
3 statement which is intended to mislead or is likely to have the effect of misleading any patient,  
4 customer, member of the public, or other person(s) as to the nature of and reason for the probation  
5 of the licensed entity.

6 Failure to post such notice shall be considered a violation of probation.

7 **12. Violation of Probation**

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

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

20 **13. Completion of Probation**

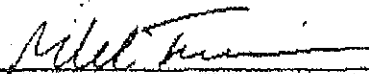
21 Upon written notice by the board or its designee indicating successful completion of  
22 probation, respondent license will be fully restored.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ACCEPTANCE


As the authorized agent on behalf of Respondent San Gorgonio Memorial Hospital, doing business as San Gorgonio Memorial Hospital District, I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with Respondent San Gorgonio Memorial Hospital, doing business as San Gorgonio Memorial Hospital District's attorney, Tom Curtis. I understand the stipulation and the effect it will have on the Hospital Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree that San Gorgonio Memorial Hospital, doing business as San Gorgonio Memorial Hospital District will be bound by the Decision and Order of the Board of Pharmacy.

DATED: 11/14/14

  
AUTHORIZED AGENT FOR SAN GORGONIO  
MEMORIAL HOSPITAL, DBA SAN GORGONIO  
MEMORIAL HOSPITAL DISTRICT  
Respondent

I have read and fully discussed with the authorized agent for Respondent San Gorgonio Memorial Hospital, doing business as San Gorgonio Memorial Hospital District, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 11/14/14

  
Tom Curtis  
Attorney for Respondent

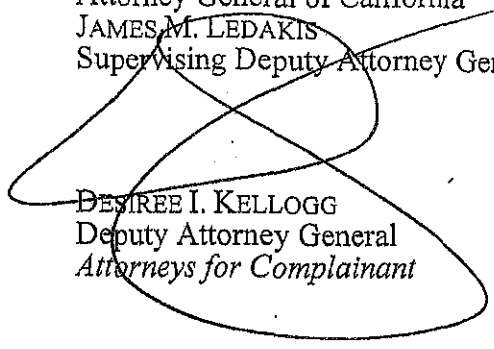
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ENDORSEMENT

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

DATED: November 19, 2014

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
~~JAMES M. LEDAKIS~~  
Supervising Deputy Attorney General



DESIREE I. KELLOGG  
Deputy Attorney General  
*Attorneys for Complainant*

SD2013705469  
70980554.doc

**Exhibit A**

**Accusation No. 4723**

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 DESIRÉE I. KELLOGG  
Deputy Attorney General  
4 State Bar No. 126461  
110 West "A" Street, Suite 1100  
5 San Diego, CA 92101  
P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2996  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 4723

12 **SAN GORGONIO MEMORIAL HOSPITAL**  
13 **DBA SAN GORGONIO MEMORIAL**  
**HOSPITAL DISTRICT**  
14 **600 N. Highland Springs Avenue**  
**Banning, CA 92220**

**ACCUSATION**

15 **Hospital Pharmacy Permit No. HPE 21784**

16 **EKENE CHIDIMMA NNAH**  
17 **12926 Foxwood Dr.**  
**Yucaipa, CA 92399**

18 **Pharmacist License No. RPH 65349**

19 **and**

20 **PRINCE NNAMDI NNAH**  
21 **12926 Foxwood Dr.**  
**Yucaipa, CA 92399**

22 **Pharmacist License No. RPH 67849**

23 Respondents.  
24  
25  
26  
27  
28

1 Complainant alleges:

2 **PARTIES**

3 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
4 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

5 2. On or about November 16, 1981, the Board of Pharmacy issued Hospital Pharmacy  
6 Permit Number HPE 21784 to San Gorgonio Memorial Hospital, doing business as San Gorgonio  
7 Memorial Hospital District (Respondent San Gorgonio Memorial Hospital Pharmacy). The  
8 Hospital Pharmacy Permit was in full force and effect at all times relevant to the charges brought  
9 herein and will expire on November 1, 2013, unless renewed. Ekene Chidimma Nnah was the  
10 Pharmacist-in-Charge from August 17, 2011 to March 6, 2013.

11 3. On or about April 11, 2011, the Board of Pharmacy issued Pharmacist License No.  
12 RPH 65349 to Ekene Chidimma Nnah (Respondent Ekene Nnah). The Pharmacist License was  
13 in full force and effect at all times relevant to the charges brought herein and will expire on  
14 January 31, 2015, unless renewed.

15 4. On or about August 23, 2012, the Board of Pharmacy issued Pharmacist License No.  
16 RPH 67849 to Prince Nnamdi Nnah (Respondent Prince Nnah.) The Pharmacist License will  
17 expire on December 31, 2013, unless renewed.

18 **JURISDICTION**

19 5. This Accusation is brought before the Board of Pharmacy (Board), Department of  
20 Consumer Affairs, under the authority of the following laws. All section references are to the  
21 Business and Professions Code unless otherwise indicated.

22 6. Section 4011 of the Code provides that the Board shall administer and enforce both  
23 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
24 Act [Health & Safety Code, § 11000 et seq.].

25 7. Section 4300(a) of the Code provides that every license issued by the Board may be  
26 suspended or revoked.

27

28



1 pharmacist-in-charge or representative-in-charge, for maintaining the records and  
2 inventory described in this section.

3  
4  
5 12. Section 4113(c) of the Code states:

6 The pharmacist-in-charge shall be responsible for a pharmacy's compliance  
7 with state and federal laws and regulations pertaining to the practice of pharmacy.

8  
9  
10 13. Section 4116(a) of the Code states:

11 No person other than a pharmacist, an intern pharmacist, an authorized  
12 officer of the law, or a person authorized to prescribe shall be permitted in that  
13 area, place, or premises described in the license issued by the board wherein  
14 controlled substances or dangerous drugs or dangerous devices are stored,  
15 possessed, prepared, manufactured, derived, compounded, dispensed, or  
16 repackaged. However, a pharmacist shall be responsible for any individual who  
17 enters the pharmacy for the purposes of receiving consultation from the pharmacist  
18 or performing clerical, inventory control, housekeeping, delivery, maintenance, or  
19 similar functions relating to the pharmacy if the pharmacist remains present in the  
20 pharmacy during all times as the authorized individual is present.

21  
22 14. Section 4332 of the Code states:

23 Any person who fails, neglects, or refuses to maintain the records required  
24 by Section 4081 or who, when called upon by an authorized officer or a member  
25 of the board, fails, neglects, or refuses to produce or provide the records within a  
26 reasonable time, or who willfully produces or furnishes records that are false, is  
27 guilty of a misdemeanor.

28 15. Section 4301 of the Code states in part:

The board shall take action against any holder of a license who is guilty of  
unprofessional conduct or whose license has been procured by fraud or  
misrepresentation or issued by mistake.

Unprofessional conduct shall include, but is not limited to, any of the  
following:

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

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



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

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

STATE REGULATORY PROVISIONS

16. California Code of Regulations, title 16, section 1714(b) and (d) states:

...  
(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice of pharmacy.

...  
(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of dangerous drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.

17. California Code of Regulations, title 16, section 1717(b)(1) states:

...  
In addition to the requirements of Business and Professions Code section 4040, the following information shall be maintained for each prescription on file and shall be readily receivable:

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

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

"Current inventory" as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of inventory.

19. California Code of Regulations, title 16, section 1735.2(j) states:

...  
(j) Prior to allowing any drug product to be compounded in a pharmacy, the pharmacist-in-charge shall complete a self-assessment for compounding pharmacies developed by the board. (Incorporated by reference is "Community Pharmacy & Hospital Outpatient Pharmacy Compounding Self-Assessment" Form 17M-39 Rev. 02/12.) That form contains a first section applicable to all compounding, and a second section applicable to sterile injectable compounding. The first section must be completed by the pharmacist-in-charge before any compounding is performed in the pharmacy. The second section must be completed by the pharmacist-in-charge before any sterile injectable compounding is performed in the pharmacy. The applicable sections of the self-assessment shall subsequently be completed before July 1 of each odd-numbered year, within 30 days of the start of a new pharmacist-in-charge, and within 30 days of the issuance of a new pharmacy license. The primary purpose of the self-assessment is to promote compliance through self-examination and education.

20. California Code of Regulations, title 16, section 1735.3(a) states:

California Code of Regulations, title 16, section 1735.3 states:

(a) For each compounded drug product, the pharmacy records shall include:

(1) The master formula record.

(2) The date the drug product was compounded.

(3) The identity of the pharmacy personnel who compounded the drug product.

(4) The identity of the pharmacist reviewing the final drug product.

(5) The quantity of each component used in compounding the drug product.

(6) The manufacturer, expiration date and lot number of each component. If the manufacturer name is demonstrably unavailable, the name of the supplier may be substituted. Exempt from the requirements in this paragraph are sterile products compounded on a one-time basis for administration within seventy-two (72) hours and stored in accordance with standards for "Redispensed CSPS" found in Chapter 797 of the United States Pharmacopeia - National Formulary (USP-NF) (35th Revision, Effective May 1, 2012), hereby incorporated by reference, to an inpatient in a health care facility licensed under section 1250 of the Health and Safety Code.

(7) A pharmacy assigned reference or lot number for the compounded drug product.

(8) The expiration date of the final compounded drug product.

(9) The quantity or amount of drug product compounded.

...

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

21. California Code of Regulations, title 16, section 1751(b)(5) states:

...

(b) Any pharmacy compounding sterile injectable drug products shall have a designated area for the preparation of sterile injectable products which shall meet the following standards.

...

(5) The pharmacy shall be arranged in accordance with Section 1250 of Title 24, Part 2, Chapter 12, of the California Code of Regulations. Items related to the compounding of sterile injectable products within the compounding area shall be stored in such a way as to maintain the integrity of an aseptic environment.

...

22. Code of Federal Regulations, title 21, section 1304.04(f)(2) states:

...

Each registered manufacturer, distributor, importer, exporter, narcotic treatment program and compounder for narcotic treatment program shall maintain inventories and records of controlled substances as follows:

...

Inventories and records of controlled substances listed in Schedules III, IV, and V shall be maintained separately from all other records of the registrant or in such form that the information required is readily retrievable from the ordinary records of the registrant.

...

23. Code of Federal Regulations, title 21, section 1304.11(c) states:

...

(c) Biennial inventory date. After the initial inventory is taken, the registrant shall take a new inventory of all stocks of controlled substances on hand at least every two years. The biennial inventory may be taken on any date which is within two years of the previous biennial inventory date.

...

1 COST RECOVERY

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

6 DRUGS

7 25. Dronabinol is a Schedule II controlled substance pursuant to Health and Safety Code  
8 section 11056(b) and is a dangerous drug pursuant to Business and Professions Code section  
9 4022.

10 26. Epinephrine is a dangerous drug pursuant to Business and Professions Code section  
11 4022.

12 27. Lidocaine is a dangerous drug pursuant to Business and Professions Code section  
13 4022.

14 28. Norco, is a brand name for acetaminophen and hydrocodone bitartrate, a Schedule II  
15 controlled substance pursuant to Health and Safety Code section 11056(3) and is a dangerous  
16 drug pursuant to Business and Professions Code section 4022.

17 29. Tetracaine is a dangerous drug pursuant to Business and Professions Code section  
18 4022.

19 30. Tylenol #3 is a brand name for acetaminophen with not more than 1.8 grams of  
20 Codeine per 100 milliliters or not more than 90 milligrams per dosage unit and with one or more  
21 active, non-narcotic ingredients in recognized therapeutic amount. It is a Controlled Substance  
22 pursuant to Health and Safety Code section 11056(e) and is a dangerous drug pursuant to  
23 Business and Professions Code section 4022.

24 FACTUAL ALLEGATIONS

25 31. From on or about August 17, 2011 to March 6, 2013, Respondent Ekene Nnah was  
26 the Pharmacist-in-Charge of Respondent San Gorgonio Memorial Hospital Pharmacy. From on  
27

28

1 or about July 18, 2011 to August 23, 2012, Respondent Prince Nnah was the Chief of Pharmacy  
2 Services for Respondent San Gorgonio Memorial Hospital Pharmacy.

3 32. The Chief of Pharmacy Services' principal tasks, duties and responsibilities included  
4 overseeing the "purchase, inventory maintenance, and distribution of all pharmaceutical items and  
5 ensures compliance by departmental locations and patient care units with established inventory  
6 control standards/procedures and federal and state regulations." The job summary explained that  
7 among other tasks, the Chief of Pharmacy Services "directs and controls the  
8 purchase/maintenance of pharmacy inventory including all pharmaceutical and related  
9 substances/supplies." Possession of a current California State license was a qualification for the  
10 Chief of Pharmacy Services for Respondent San Gorgonio Memorial Hospital Pharmacy. On or  
11 about July 18, 2011, Respondent Prince Nnah executed the document describing the Job  
12 Summary, Principal Tasks, Duties and Responsibilities and Qualifications for the Chief of  
13 Pharmacy Services and certified that he had "received, read and under[stood] both my job  
14 description and standards of performance."

15 33. Respondent Prince Nnah was not licensed as a pharmacist in California until August  
16 23, 2012.

17 34. On or about July 30, 2012 and after the Board received an anonymous complaint  
18 alleging that an unlicensed person was in charge of the San Gorgonio Memorial Hospital  
19 Pharmacy with unauthorized access to controlled substances, two Board inspectors conducted an  
20 inspection of Respondent San Gorgonio Memorial Hospital Pharmacy.

21 35. During the inspection, the Board inspector requested Respondent San Gorgonio  
22 Memorial Hospital Pharmacy's Compounding Self-Assessment Form. The Compounding Self-  
23 Assessment form had not been completed even though the pharmacy compounded drugs.

24 36. The Board inspector reviewed the compounding log and discovered that the records  
25 for the "LET" topical solution compounded on June 14, 2012 were incomplete. Specifically, the  
26 records did not identify the ingredients used in compounding, the lot numbers and the expiration  
27 dates for each ingredient and the name of the dispensing pharmacist.

28

1 37. The Board inspector observed that the designated area for compounding and storing  
2 sterile injectable drugs was located in a high traffic area, which did not maintain the integrity of  
3 an aseptic environment for the compounded drugs. On February 27, 2008, the Board inspector  
4 had noted this same deficiency and brought it to the attention of Respondent San Gorgonio  
5 Memorial Hospital Pharmacy. He was advised by the hospital pharmacy that it would be  
6 corrected. However, the designated compounding area was in the same location as it had been in  
7 2008.

8 38. The Biennial inventory for controlled substances as required by the Drug  
9 Enforcement Administration was requested by the Board inspectors. However, Respondent San  
10 Gorgonio Memorial Hospital Pharmacy was not able to produce it during the inspection. The  
11 Board inspector also observed that the invoices for Schedule III-V controlled substances were co-  
12 mingled and not maintained separately.

13 39. During the inspection, the Board inspector observed that Respondent Prince Nnah,  
14 who was an unlicensed person at that time, had access to Accudose,<sup>1</sup> had his own user ID code  
15 and possessed the key to the night locker closet containing drugs and the keys, including the  
16 alarm key to Respondent San Gorgonio Memorial Hospital Pharmacy.

17 40. On January 16, 2013, a Board Inspector requested audits of selected controlled  
18 substances from San Gorgonio Memorial Hospital Pharmacy. On that same day, the Board  
19 inspector received three Drug Enforcement Administration audits of controlled substances dated  
20 April 1, 2010, April 26, 2012 and July 30, 2012. On January 29, 2013, Respondent Prince Nnah  
21 submitted to the Board inspector the completed Selected Drug Audit Summary form for April 26,  
22 2011 to July 30, 2012, the completed Selected Drug Audit Summary form for July 30, 2012 to  
23 January 17, 2013 and the "Stock on Hand" taken on January 17, 2013.

24  
25 <sup>1</sup> Accudose" is a trade name for the automatic single-unit dose medication dispensing system that  
26 records information such as patient name, physician orders, the date and time the medication was  
27 withdrawn, and the name of the licensed individual who withdrew and administered the  
28 medication. Each user/operator is given a user identification code to operate the control panel.  
Controlled substances are stored in Accudose.

1 41. A review of these audits revealed discrepancies. Namely, the audit from April 26,  
2 2011 to July 30, 2012 showed that there were overages in the amount of 103 tablets for the  
3 hydrocodone/apap (Norco) 10/325 inventory, shortages in the amount of 15 capsules for the  
4 Marinol 2.5, dronabinol inventory and shortages in the amount of 8 tablets for the Tylenol #3,  
5 acetaminophen w/codeine 300 mg/30 mg inventory. The audit from July 30, 2012 to January 17,  
6 2013 showed that there were overages in the amount of 19 tablets for the hydrocodone/apap  
7 (Norco) 10/325 inventory, overages in the amount of 16 capsules for the Marinol 2.5, dronabinol  
8 inventory and overages in the amount of 157 tablets for the Tylenol #3, acetaminophen w/codeine  
9 300 mg/30mg inventory.

10 **FIRST CAUSE FOR DISCIPLINE**

11 **(Against Respondents San Gorgonio Memorial Hospital Pharmacy and Ekene Nnah)**

12 **(Failure to Complete Compounding Self-Assessment Form)**

13 42. Respondents are subject to disciplinary action under section 4301, subdivision (o) for  
14 violation of California Code of Regulations, title 16, section 1735.2(j), in that Respondents did  
15 not complete a self-assessment form prior to compounding drug products, as set forth in  
16 paragraphs 31-41, which are incorporated herein by reference.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Against Respondents San Gorgonio Memorial Hospital Pharmacy**

19 **Ekene Nnah and Prince Nnah)**

20 **(Failure to Secure Drugs)**

21 43. Respondents are subject to disciplinary action under section 4301, subdivision (o) for  
22 violation of California Code of Regulations, title 16, section 1714(d), in that Respondents allowed  
23 an unlicensed individual to possess keys to the pharmacy premises, the night locker containing  
24 drugs and the access code to the Accudose system, as set forth in paragraphs 31-41, which are  
25 incorporated herein by reference.





1 SIXTH CAUSE FOR DISCIPLINE

2 (Against Respondents San Gorgonio Memorial Hospital Pharmacy and Ekene Nnah)

3 (Improper Record-Keeping for Compounded Drugs)

4 47. Respondents are subject to disciplinary action under section 4301, subdivision (o) for  
5 violation of California Code of Regulations, title 16, sections 1735.3(a) and 1717(b)(1), in that  
6 Respondents did not maintain a complete record for the "LET" topical solution compounded on  
7 June 14, 2012 and failed to record the dispensing pharmacist for the "LET" topical solution, as set  
8 forth in paragraphs 31-41, which are incorporated herein by reference.

9 SEVENTH CAUSE FOR DISCIPLINE

10 (Against Respondents San Gorgonio Memorial Hospital Pharmacy and Ekene Nnah)

11 (Failure to Properly Maintain Compounded Facilities)

12 48. Respondents are subject to disciplinary action under section 4301, subdivision (o) for  
13 violation of California Code of Regulations, title 16, sections 1714(b) and 1751(b)(5), in that  
14 Respondents failed to maintain its facilities so that compounded drugs could be safely and  
15 properly prepared and maintained, as set forth in paragraphs 31-41, which are incorporated herein  
16 by reference.

17 EIGHTH CAUSE FOR DISCIPLINE

18 (Against Respondent Prince Nnah)

19 (Dishonest Acts)

20 49. Respondent is subject to disciplinary action under section 4301, subdivision (f) for  
21 committing acts of dishonesty when he gained unauthorized access as an unlicensed person to  
22 Accudose and the premises of Respondent San Gorgonio Memorial Hospital Pharmacy and when  
23 he executed the document describing the Chief of Pharmacy Services' Job Summary, Principal  
24 Tasks, Duties and Responsibilities and Qualifications and certified that he understood both the  
25 job description and standards of performance for the Chief of Pharmacy Services for Respondent  
26 San Gorgonio Memorial Hospital Pharmacy, as set forth in paragraphs 31-41, which are  
27 incorporated herein by reference.

28

1 NINTH CAUSE FOR DISCIPLINE

2 Against Respondents San Gorgonio Memorial Hospital Pharmacy

3 Ekene Nnah and Prince Nnah)

4 (Unlicensed Pharmacist Activities)

5 50. Respondents are subject to disciplinary action under section 4301, subdivisions (j)  
6 and(o) for violation of Business and Professions Code section 4051(a), in that Respondents  
7 allowed a person, Respondent Prince Nnah who was not licensed in California as a pharmacist to  
8 manufacture, compound, furnish, sell or dispense dangerous drugs or dangerous devices, as set  
9 forth in paragraphs 31-41 which are incorporated herein by reference.

10 **PRAYER**

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

13 1. Revoking or suspending Hospital Pharmacy Permit Number HPE 21784, issued to  
14 San Gorgonio Memorial Hospital, dba San Gorgonio Memorial Hospital District;

15 2. Revoking or suspending Pharmacist License Number RPH 65349, issued to Ekene  
16 Chidimma Nnah;

17 3. Revoking or suspending Pharmacist License Number RPH 67849, issued to Prince  
18 Nnamdi Nnah;

19 4. Ordering San Gorgonio Memorial Hospital, dba San Gorgonio Memorial Hospital  
20 District, Ekene Chidimma Nnah and Prince Nnamdi Nnah to pay the Board of Pharmacy the  
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
22 Professions Code section 125.3;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

5. Taking such other and further action as deemed necessary and proper.

DATED:

2/17/14



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

SD2013705469/80806474.doc

RECEIVED  
FEB 18 2014  
STATE OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS