

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

In the Matter of the Accusation Against:

EKENE CHIDIMMA NNAH
13070 Sycamore Lane
Yucaipa, CA 92399

Pharmacist License No. RPH 65349

Respondent.

Case No. 4723

OAH 2014060643

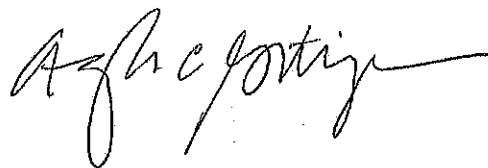
DECISION AND ORDER

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

This Decision shall become effective on June 11, 2015.

It is so ORDERED on June 4, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

AMARYLIS GUTIERREZ
Board President

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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 **EKENE CHIDIMMA NNAH**
13 **13070 Sycamore Lane**
14 **Yucaipa, CA 92399**

OAH No. 2014060643

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 **Pharmacist License No. RPH 65349**

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

21 PARTIES

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

26 2. Respondent Ekene Chidimma Nnah ("Respondent") is representing herself in this
27 proceeding and has chosen not to exercise her right to be represented by counsel.
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1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

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

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

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

2. Report to the Board

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

3. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff,

1 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
2 the period of probation, shall be considered a violation of probation.

3 **4. Cooperate with Board Staff**

4 Respondent shall cooperate with the board's inspection program and with the board's
5 monitoring and investigation of respondent's compliance with the terms and conditions of her
6 probation. Failure to cooperate shall be considered a violation of probation.

7 **5. Continuing Education**

8 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
9 pharmacist as directed by the board or its designee.

10 **6. Notice to Employers**

11 During the period of probation, respondent shall notify all present and prospective
12 employers of the decision in case number 4723 and the terms, conditions and restrictions imposed
13 on respondent by the decision, as follows:

14 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
15 respondent undertaking any new employment, respondent shall cause her direct supervisor,
16 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
17 tenure of employment) and owner to report to the board in writing acknowledging that the listed
18 individual(s) has/have read the decision in case number 4723, and terms and conditions imposed
19 thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s)
20 submit timely acknowledgment(s) to the board.

21 If respondent works for or is employed by or through a pharmacy employment service,
22 respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
23 licensed by the board of the terms and conditions of the decision in case number 4723 in advance
24 of the respondent commencing work at each licensed entity. A record of this notification must be
25 provided to the board upon request.

26 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
27 (15) days of respondent undertaking any new employment by or through a pharmacy employment
28 service, respondent shall cause her direct supervisor with the pharmacy employment service to

1 report to the board in writing acknowledging that she has read the decision in case number 4723
2 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
3 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

4 Failure to timely notify present or prospective employer(s) or to cause that/those
5 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
6 probation.

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

11 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
12 **Designated Representative-in-Charge, or Serving as a Consultant**

13 During the period of probation, respondent shall not supervise any intern pharmacist, be the
14 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board
15 nor serve as a consultant unless otherwise specified in this order. Assumption of any such
16 unauthorized supervision responsibilities shall be considered a violation of probation.

17 **8. Reimbursement of Board Costs**

18 As a condition precedent to successful completion of probation, respondent shall pay to the
19 board its costs of investigation and prosecution in the amount of \$6,436.08. Respondent shall
20 make said payments in a payment plan to be approved by the Board.

21 There shall be no deviation from this schedule absent prior written approval by the board or
22 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
23 probation.

24 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
25 reimburse the board its costs of investigation and prosecution.

26 **9. Probation Monitoring Costs**

27 Respondent shall pay any costs associated with probation monitoring as determined by the
28 board each and every year of probation. Such costs shall be payable to the board on a schedule as

1 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
2 be considered a violation of probation.

3 **10. Status of License**

4 Respondent shall, at all times while on probation, maintain an active, current license with
5 the board, including any period during which suspension or probation is tolled. Failure to
6 maintain an active, current license shall be considered a violation of probation.

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

11 **11. License Surrender While on Probation/Suspension**

12 Following the effective date of this decision, should respondent cease practice due to
13 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
14 respondent may tender her license to the board for surrender. The board or its designee shall have
15 the discretion whether to grant the request for surrender or take any other action it deems
16 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
17 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
18 record of discipline and shall become a part of the respondent's license history with the board.

19 Upon acceptance of the surrender, respondent shall relinquish her pocket and wall license to
20 the board within ten (10) days of notification by the board that the surrender is accepted.

21 Respondent may not reapply for any license from the board for three (3) years from the effective
22 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
23 of the date the application for that license is submitted to the board, including any outstanding
24 costs.

25 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
26 **Employment**

27 Respondent shall notify the board in writing within ten (10) days of any change of
28 employment. Said notification shall include the reasons for leaving, the address of the new

1 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
2 shall further notify the board in writing within ten (10) days of a change in name, residence
3 address, mailing address, or phone number.

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

6 13. Tolling of Probation

7 Except during periods of suspension, respondent shall, at all times while on probation, be
8 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any
9 month during which this minimum is not met shall toll the period of probation, i.e., the period of
10 probation shall be extended by one month for each month during which this minimum is not met.
11 During any such period of tolling of probation, respondent must nonetheless comply with all
12 terms and conditions of probation.

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

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

21 "Cessation of practice" means any calendar month during which respondent is
22 not practicing as a pharmacist for at least 40 hours, as defined by Business and
23 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
24 month during which respondent is practicing as a pharmacist for at least 40 hours as a
25 pharmacist as defined by Business and Professions Code section 4000 et seq.

26 14. Violation of Probation

27 If a respondent has not complied with any term or condition of probation, the board shall
28 have continuing jurisdiction over respondent, and probation shall automatically be extended, until

1 all terms and conditions have been satisfied or the board has taken other action as deemed
2 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
3 to impose the penalty that was stayed.

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

11 **15. Completion of Probation**

12 Upon written notice by the board or its designee indicating successful completion of
13 probation, respondent's license will be fully restored.

14 **16. Restricted Practice**

15 Respondent shall not prepare, oversee or participate in the preparation of sterile
16 compounded products during the first three year(s) of probation. If Respondent completes thirty
17 (30) hours of continuing education in the subject matter area of sterile compounding and such
18 coursework is pre-approved by the Board, this condition shall no longer apply. Respondent shall
19 submit proof satisfactory to the board of compliance with this term of probation. Failure to abide
20 by this restriction or to timely submit proof to the board of compliance therewith shall be
21 considered a violation of probation.

22 **17. Remedial Education**

23 Within ninety (90) days of the effective date of this decision, respondent shall submit to the
24 board or its designee, for prior approval, an appropriate program of remedial education related to
25 sterile compounding. The program of remedial education shall consist of at least 7.5 hours,
26 which shall be completed each year of probation at respondent's own expense. All remedial
27 education shall be in addition to, and shall not be credited toward, continuing education (CE)
28 courses used for license renewal purposes.

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

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

10 **18. Supervised Practice**

11 During the period of probation, respondent shall practice only under the supervision of a
12 licensed pharmacist not on probation with the board. Upon and after the effective date of this
13 decision, respondent shall not practice pharmacy and her license shall be automatically suspended
14 until a supervisor is approved by the board or its designee. The supervision shall be, as required
15 by the board or its designee, either:

16 Continuous - At least 75% of a work week

17 Substantial - At least 50% of a work week

18 Partial - At least 25% of a work week

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

20 Within thirty (30) days of the effective date of this decision, respondent shall have her
21 supervisor submit notification to the board in writing stating that the supervisor has read the
22 decision in case number 4723 and is familiar with the required level of supervision as determined
23 by the board or its designee. It shall be the respondent's responsibility to ensure that her
24 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
25 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
26 acknowledgements to the board shall be considered a violation of probation.

27 If respondent changes employment, it shall be the respondent's responsibility to ensure that
28 her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to

1 the board. Respondent shall have her new supervisor, within fifteen (15) days after employment
2 commences, submit notification to the board in writing stating the direct supervisor and
3 pharmacist-in-charge have read the decision in case number 4723 and is familiar with the level of
4 supervision as determined by the board. Respondent shall not practice pharmacy and her license
5 shall be automatically suspended until the board or its designee approves a new supervisor.
6 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
7 acknowledgements to the board shall be considered a violation of probation.

8 Within ten (10) days of leaving employment, respondent shall notify the board in writing.

9 During suspension, respondent shall not enter any pharmacy area or any portion of the
10 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
11 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
12 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
13 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
14 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
15 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
16 and controlled substances. Respondent shall not resume practice until notified by the board.

17 During suspension, respondent shall not engage in any activity that requires the
18 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
19 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
20 designated representative for any entity licensed by the board.

21 Subject to the above restrictions, respondent may continue to own or hold an interest in any
22 licensed premises in which she holds an interest at the time this decision becomes effective unless
23 otherwise specified in this order.

24 Failure to comply with this suspension shall be considered a violation of probation.

25 **19. No Ownership of Licensed Premises**

26 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
27 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
28 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell

1 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
2 days following the effective date of this decision and shall immediately thereafter provide written
3 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
4 documentation thereof shall be considered a violation of probation.

5 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
6 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
7 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
8 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
9 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
10 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
11 that interest, but only to the extent of that position or interest as of the effective date of this
12 decision. Violation of this restriction shall be considered a violation of probation.

13 **20. Tolling of Suspension**

14 During the period of suspension, respondent shall not leave California for any period
15 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
16 of the (10) days during suspension shall be considered a violation of probation. Moreover, any
17 absence from California during the period of suspension exceeding ten (10) days shall toll the
18 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
19 respondent is absent from California. During any such period of tolling of suspension,
20 respondent must nonetheless comply with all terms and conditions of probation.

21 Respondent must notify the board in writing within ten (10) days of departure, and must
22 further notify the board in writing within ten (10) days of return. The failure to provide such
23 notification(s) shall constitute a violation of probation. Upon such departure and return,
24 respondent shall not resume the practice of pharmacy until notified by the board that the period of
25 suspension has been satisfactorily completed.

26 **21. Ethics Course**

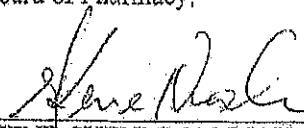
27 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
28 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.

1 Failure to initiate the course during the first year of probation, and complete it within the second
2 year of probation, is a violation of probation.

3 Respondent shall submit a certificate of completion to the board or its designee within five
4 days after completing the course.

5 ACCEPTANCE

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

10
11 DATED: 5/13/15 
12 EKENE CHIDIMMA NNAH
13 Respondent

14 ENDORSEMENT

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

17 DATED: 5/13/15
18 Respectfully submitted,
19 KAMALA D. HARRIS
20 Attorney General of California
21 GREGORY J. SALUTE
22 Supervising Deputy Attorney General
23 DESIREE A. KELLOGG
24 Deputy Attorney General
25 *Attorneys for Complainant*

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27 71081905.doc

28

Exhibit A

Accusation No. 4723

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
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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**
14 **HOSPITAL DISTRICT**
15 **600 N. Highland Springs Avenue**
Banning, CA 92220

ACCUSATION

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

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

19 **Pharmacist License No. RPH 65349**

20 and

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

23 **Pharmacist License No. RPH 67849**

24 Respondents.

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.

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1 8. Section 4300.1 of the Code states:

2 The expiration, cancellation, forfeiture, or suspension of a board-issued
3 license by operation of law or by order or decision of the board or a court of law,
4 the placement of a license on a retired status, or the voluntary surrender of a
5 license by a licensee shall not deprive the board of jurisdiction to commence or
6 proceed with any investigation of, or action or disciplinary proceeding against, the
7 licensee or to render a decision suspending or revoking the license.

8 STATUTORY PROVISIONS

9 9. Section 4022 of the Code states:

10 "Dangerous drug" or "dangerous device" means any drug or device unsafe
11 for self-use in humans or animals, and includes the following:

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

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

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

20 10. Section 4051(a) of the Code states:

21 (a) Except as otherwise provided in this chapter, it is unlawful for any person to
22 manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous
23 device, or to dispense or compound any prescription pursuant to Section 4040 of a
24 prescriber unless he or she is a pharmacist under this chapter.

25 11. Section 4081 of the Code states:

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

(b) The owner, officer, and partner of any pharmacy, wholesaler, or
veterinary food-animal drug retailer shall be jointly responsible, with the

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

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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.

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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.

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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.

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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.

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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

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,¹ 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 ¹ 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 **THIRD CAUSE FOR DISCIPLINE**

2 (Against Respondents San Gorgonio Memorial Hospital Pharmacy

3 Ekene Nnah and Prince Nnah)

4 (Permitting Unauthorized Access to Drugs)

5 44. Respondents are subject to disciplinary action under section 4301, subdivisions (j)
6 and(o) for violation of Business and Professions Code section 4116(a), in that Respondents
7 permitted a person other than a pharmacist, intern pharmacist, authorized officer of the law or a
8 person authorized to prescribe in the area, place or premises described in the license issued by the
9 Board wherein controlled substances, dangerous drugs or dangerous devices were stored,
10 possessed, compounded or dispensed, as set forth in paragraphs 31-41, which are incorporated
11 herein by reference.

12 **FOURTH CAUSE FOR DISCIPLINE**

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

14 (Failure to Conduct Biennial Controlled Substances Inventory)

15 45. Respondents are subject to disciplinary action under section 4301, subdivision (o) for
16 violation of Code of Federal Regulations, title 21, section 1304.11(c) and California Code of
17 Regulations, title 16, section 1718, in that Respondents did not possess the Biennial Drug
18 Enforcement Administration inventory readily retrievable during the inspection, as set forth in
19 paragraphs 31-41, which are incorporated herein by reference.

20 **FIFTH CAUSE FOR DISCIPLINE**

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

22 (Failure to Maintain Proper Inventory of Controlled Substances)

23 46. Respondents are subject to disciplinary action under section 4301, subdivision (o) for
24 violation of Code of Federal Regulations, title 21, section 1304.04(f)(2), in that Respondents
25 failed to properly maintain its records for controlled substances, as set forth in paragraphs 31-41,
26 which are 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 P R A Y E R

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;

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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

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VIRGINIA
HEROLD