

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

In the Matter of the First Amended Accusation
Against:

PRINCE NNAMDI NNAH
12926 Foxwood Drive
Yucaipa, CA 92399

Pharmacist License No. RPH 67849

Respondent.

Case No. 4723

OAH No. 2014060643

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 July 8, 2015.

It is so ORDERED on July 1, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

AMARYLIS GUTIERREZ
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
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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:
12
13 **PRINCE NNAMDI NNAH**
12926 Foxwood Drive
Yucaipa, CA 92399
14
15 **Pharmacist License No. RPH 67849**
16
17 Respondents.

Case No. 4723
OAH No. 2014060643
**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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

20 PARTIES

- 21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Kamala
23 D. Harris, Attorney General of the State of California, by Desiree I. Kellogg, Deputy Attorney
24 General.
25 2. Prince Nnamdi Nnah (Respondent) is representing himself in this proceeding and has
26 chosen not to exercise his right to be represented by counsel.
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1 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
2 license history with the Board of Pharmacy.

3 2. Respondent shall lose all rights and privileges as a pharmacist in California as of the
4 effective date of the Board's Decision and Order.

5 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
6 issued, his wall certificate on or before the effective date of the Decision and Order.

7 4. If he ever applies for licensure or petitions for reinstatement in the State of California,
8 the Board shall treat it as a new application for licensure. Respondent must comply with all the
9 laws, regulations and procedures for licensure in effect at the time the application or petition is
10 filed, and all of the charges and allegations contained in First Amended Accusation No. 4723
11 shall be deemed to be true, correct and admitted by Respondent when the Board determines
12 whether to grant or deny the application or petition.

13 5. Respondent shall pay the agency its costs of investigation and enforcement in the
14 amount of \$6,436.08 prior to issuance of a new or reinstated license.

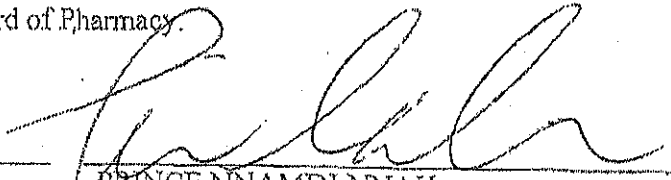
15 6. If Respondent should ever apply or reapply for a new license or certification, or
16 petition for reinstatement of a license, by any other health care licensing agency in the State of
17 California, all of the charges and allegations contained in First Amended Accusation No. 4723
18 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement
19 of Issues or any other proceeding seeking to deny or restrict licensure.

20 7. Respondent may not apply, reapply, or petition for any licensure or registration of the
21 Board for three (3) years from the effective date of the Decision and Order.

1 ACCEPTANCE

2 I have carefully read the Stipulated Surrender of License and Order. I understand the
3 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated
4 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
5 by the Decision and Order of the Board of Pharmacy.

6
7 DATED: 5/22/15


8 PRINCE NNAMDI NNAH
9 Respondent

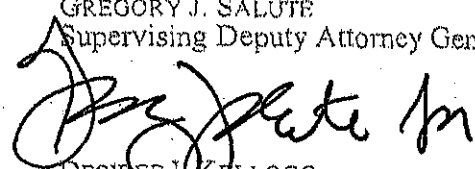
10 ENDORSEMENT

11 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
12 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

13
14 DATED: 5/26/15

Respectfully submitted,

15 KAMALA D. HARRIS
16 Attorney General of California
17 GREGORY J. SALUTE
18 Supervising Deputy Attorney General


19 DESIREE J. KELLOGG
20 Deputy Attorney General
21 *Attorneys for Complainant*

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Exhibit A

First Amended Accusation No. 4723

1 KAMALA D. HARRIS
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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
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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

FIRST AMENDED ACCUSATION
AGAINST PRINCE NNAMDI NNAH
ONLY

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.
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1 Complainant alleges:

2 **PARTIES**

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

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

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

16 4. On or about August 23, 2012, the Board of Pharmacy issued Pharmacist License No.
17 RPH 67849 to Prince Nnamdi Nnah (Respondent Prince Nnah.) The Pharmacist License will
18 expire on December 31, 2015, unless renewed.

19 **JURISDICTION**

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

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

26 7. Section 4300(a) of the Code provides that every license issued by the Board may be
27 suspended or revoked.
28

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.

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

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

7
8 13. Section 4116(a) of the Code states:

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

19
20 14. Section 4332 of the Code states:

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

26
27 15. Section 4301 of the Code states in part:

28 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.

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COST RECOVERY

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

DRUGS

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

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

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

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

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

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

FACTUAL ALLEGATIONS

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

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...PRINCIPAL TASKS, DUTIES AND RESPONSIBILITIES...Oversees the
10 purchase, inventory maintenance, and distribution of all pharmaceutical items and ensures
11 compliance by departmental locations and patient care units with established inventory control
12 standards/procedures and federal and state regulations. Directs and participates in the
13 development/revision, implementation and communication of goals, policies, guidelines, and
14 standards for the Pharmacy Department in accordance with the facility's policies, objectives and
15 JCAHO standards...Assists and participates in the Human Resources Management function for
16 the Pharmacy Department; coordinates the selection, promotion, orientation, and performance
17 appraisal of employees. Coordinates the department's inservice training and ensures the
18 maintenance of the staff's skill/education levels." Possession of a current California State license
19 was a qualification for the Chief of Pharmacy Services for Respondent San Gorgonio Memorial
20 Hospital Pharmacy. On or about July 18, 2011, Respondent Prince Nnah executed the document
21 describing the Job Summary, Principal Tasks, Duties and Responsibilities and Qualifications for
22 the Chief of Pharmacy Services and certified that he had "received, read and under[stood] both
23 my job description and standards of performance."

24 33. From on or about July 18, 2011 through August 23, 2013, Respondent Prince Nnah,
25 as a pharmacist attended, made presentations, developed the policies, procedures or protocols
26 referred to in Business and Professions Code sections 4052, 4052.1 and 4052.2 for San Gorgonio
27 Memorial Hospital, provided professional information, including clinical or pharmacological
28 information, advice or consultation and otherwise participated in San Gorgonio Memorial

1 Hospital's Pharmacy and Therapeutics Committee meetings in accordance with California Code
2 of Regulations, title 22, section 70263 and Medication Error Reduction Plan Committee meetings
3 in accordance with Health & Safety Code section 1339.63. Respondent Prince Nnah also
4 evaluated pharmacists and pharmacy technicians for competency in performing their licensed
5 functions, trained pharmacists and pharmacy technicians, oversaw the drug inventory and ensured
6 its compliance with federal and state regulations, had overall responsibility for the pharmaceutical
7 service of San Gorgonio Memorial Hospital pursuant to California Code of Regulations, title 22,
8 section 70265 and dispensed, furnished and sold medications to patients. Respondent Prince
9 Nnah was not licensed as a pharmacist in California until August 23, 2012.

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

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

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

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

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

6 39. During the inspection, the Board inspector observed that Respondent Prince Nnah,
7 who was an unlicensed person at that time, had access to Accudose,¹ had his own user ID code
8 and possessed the key to the night locker closet containing drugs and the keys, including the
9 alarm key to Respondent San Gorgonio Memorial Hospital Pharmacy.

10 40. On January 16, 2013, a Board Inspector requested audits of selected controlled
11 substances from San Gorgonio Memorial Hospital Pharmacy. On that same day, the Board
12 inspector received three Drug Enforcement Administration audits of controlled substances dated
13 April 1, 2010, April 26, 2012 and July 30, 2012. On January 29, 2013, Respondent Prince Nnah
14 submitted to the Board inspector the completed Selected Drug Audit Summary form for April 26,
15 2011 to July 30, 2012, the completed Selected Drug Audit Summary form for July 30, 2012 to
16 January 17, 2013 and the "Stock on Hand" taken on January 17, 2013.

17 41. A review of these audits revealed discrepancies. Namely, the audit from April 26,
18 2011 to July 30, 2012 showed that there were overages in the amount of 103 tablets for the
19 hydrocodone/apap (Norco) 10/325 inventory, shortages in the amount of 15 capsules for the
20 Marinol 2.5, dronabinol inventory and shortages in the amount of 8 tablets for the Tylenol #3,
21 acetaminophen w/codeine 300 mg/30 mg inventory. The audit from July 30, 2012 to January 17,
22 2013 showed that there were overages in the amount of 19 tablets for the hydrocodone/apap
23 (Norco) 10/325 inventory, overages in the amount of 16 capsules for the Marinol 2.5, dronabinol
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 inventory and overages in the amount of 157 tablets for the Tylenol #3, acetaminophen w/codeine
2 300 mg/30mg inventory.

3 **FIRST CAUSE FOR DISCIPLINE**

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

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

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

10 **SECOND CAUSE FOR DISCIPLINE**

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

12 **Ekene Nnah and Prince Nnah)**

13 **(Failure to Secure Drugs)**

14 43. Respondents are subject to disciplinary action under section 4301, subdivision (o) for
15 violation of California Code of Regulations, title 16, section 1714(d), in that Respondents allowed
16 an unlicensed individual to possess keys to the pharmacy premises, the night locker containing
17 drugs and the access code to the Accudose system and Respondent Prince Nnah possessed such
18 keys and the access code to the Accudose system, as set forth in paragraphs 31-41, which are
19 incorporated herein by reference.

20 **THIRD CAUSE FOR DISCIPLINE**

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

22 **Ekene Nnah and Prince Nnah)**

23 **(Permitting Unauthorized Access to Drugs)**

24 44. Respondents are subject to disciplinary action under section 4301, subdivisions (j)
25 and(o) for violation of Business and Professions Code section 4116(a), in that Respondents
26 permitted a person other than a pharmacist, intern pharmacist, authorized officer of the law or a
27 person authorized to prescribe in the area, place or premises described in the license issued by the
28 Board wherein controlled substances, dangerous drugs or dangerous devices were stored,

1 possessed, compounded or dispensed, and Respondent Prince Nnah was in that area, as set forth
2 in paragraphs 31-41, which are incorporated herein by reference.

3 **FOURTH CAUSE FOR DISCIPLINE**

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

5 **(Failure to Conduct Biennial Controlled Substances Inventory)**

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

11 **FIFTH CAUSE FOR DISCIPLINE**

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

13 **(Failure to Maintain Proper Inventory of Controlled Substances)**

14 46. Respondents are subject to disciplinary action under section 4301, subdivision (o) for
15 violation of Code of Federal Regulations, title 21, section 1304.04(f)(2), in that Respondents
16 failed to properly maintain its records for controlled substances, as set forth in paragraphs 31-41,
17 which are incorporated herein by reference.

18 **SIXTH CAUSE FOR DISCIPLINE**

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

20 **(Improper Record-Keeping for Compounded Drugs)**

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

1 and dispensing drugs, having overall responsibility for the pharmaceutical service of San
2 Gorgonio Memorial Hospital pursuant to California Code of Regulations, title 22, section 70265,
3 overseeing the drug inventory and ensuring its compliance with federal and state regulations,
4 evaluating the competency of pharmacists and pharmacy technicians, training pharmacists and
5 pharmacy technicians and attending, providing professional information, developing policies,
6 procedures and protocols for San Gorgonio Memorial Hospital as required by Business and
7 Professions Code sections 4052, 4052.1 and 4052.2 and participating in the Pharmacy and
8 Therapeutics Committee and Medication Error Reduction Plan Committee meetings, as set forth
9 in paragraphs 31-41 which are incorporated herein by reference.

10 **TENTH CAUSE FOR DISCIPLINE**

11 **(Against Prince Nnah)**

12 **(Unprofessional Conduct)**

13 51. Respondent Prince Nnah is subject to disciplinary action under Code section 4301 for
14 unprofessional conduct in that he engaged in the activities described in paragraphs 31 through 41
15 above, which are incorporated herein by reference.

16 **PRAYER**

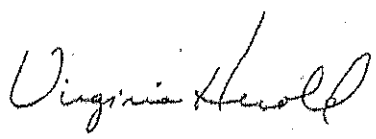
17 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
18 and that following the hearing, the Board of Pharmacy issue a decision:

- 19 1. Revoking or suspending Hospital Pharmacy Permit Number HPE 21784, issued to
20 San Gorgonio Memorial Hospital, dba San Gorgonio Memorial Hospital District;
- 21 2. Revoking or suspending Pharmacist License Number RPH 65349, issued to Ekene
22 Chidimma Nnah;
- 23 3. Revoking or suspending Pharmacist License Number RPH 67849, issued to Prince
24 Nnamdi Nnah;
- 25 4. Ordering San Gorgonio Memorial Hospital, dba San Gorgonio Memorial Hospital
26 District, Ekene Chidimma Nnah and Prince Nnamdi Nnah to pay the Board of Pharmacy the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3;

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

DATED: May 20, 2015



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

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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.
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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.

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.

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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.

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COST RECOVERY

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

DRUGS

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

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

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

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

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

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

FACTUAL ALLEGATIONS

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

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 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;

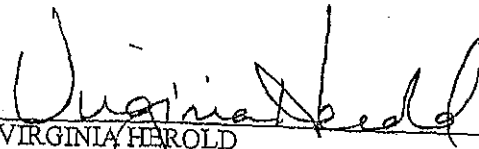
17 3. Revoking or suspending Pharmacist License Number RPH 67849, issued to Prince
18 Nnamdi Nnah;

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;

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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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