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

In the Matter of the First Amended Accusation Against:

Case No. 4723

OAH No. 2014060643

PRINCE NNAMDI NNAH 12926 Foxwood Drive Yucaipa, CA 92399

Pharmacist License No. RPH 67849

Respondent.

#### 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

I	}		
1	KAMALA D. HARRIS		
2	Attorney General of California GREGORY J. SALUTE		
3	Supervising Deputy Attorney General DESIREE I. KELLOGG		
4	Deputy Attorney General State Bar No. 126461		
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7	Telephone: (619) 645-2996 Facsimile: (619) 645-2061		
8	Attorneys for Complainant		
9	BEFOR BOARD OF I		
10	DEPARTMENT OF C STATE OF C	ONSUMER AFFAIRS	
11			
12	In the Matter of the Accusation Against:	Case No. 4723	
13	PRINCE NNAMDI NNAH 12926 Foxwood Drive	OAH No. 2014060643	
14	Yucaipa, CA 92399	STIPULATED SURRENDER OF	
15	Pharmacist License No. RPH 67849	LICENSE AND ORDER	
16	Respondents.		
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19		EED by and between the parties to the above-	
20	entitled proceedings that the following matters are		
21	PAR'		
22		Executive Officer of the Board of Pharmacy.	
23	She brought this action solely in her official capa		
24	D. Harris, Attorney General of the State of Califo	rnia, by Desiree I. Kellogg, Deputy Attorney	
25	General.		
26		representing himself in this proceeding and has	٠
20	chosen not to exercise his right to be represented	by counsel.	
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3. On or about August 23, 2012, the Board of Pharmacy issued Pharmacist License No. 1 RPH 67849 to Prince Nnamdi Nnah (Respondent). The Pharmacist License was in full force and 2 effect at all times relevant to the charges brought in First Amended Accusation No. 4723 and will 3 expire on December 31, 2015, unless renewed. 4 JURISDICTION 5 4. First Amended Accusation No. 4723 was filed before the Board of Pharmacy (Board). 6 Department of Consumer Affairs, and is currently pending against Respondent. The First 7 Amended Accusation and all other statutorily required documents were properly served on 8 Respondent on May 21, 2015. Respondent timely filed his Notice of Defense contesting the First 9 Amended Accusation. A copy of First Amended Accusation No. 4723 is attached as Exhibit A 10 and incorporated by reference. 11 ADVISEMENT AND WAIVERS 12 Respondent has carefully read, and understands the charges and allegations in First 5. 13

Amended Accusation No. 4723. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

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

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

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#### **CULPABILITY**

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8. Respondent admits the truth of each and every charge and allegation in First
 Arnended Accusation No. 4723, agrees that cause exists for discipline and hereby surrenders his
 Pharmacist License No. RPH 67849 for the Board's formal acceptance.

Stipulated Surrender of License (Case No. 4723)

9. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Pharmacist License without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this 10 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter. 12

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

This Stipulated Surrender of License and Order is intended by the parties to be an 12. 16 integrated writing representing the complete, final, and exclusive embodiment of their agreement. 17 It supersedes any and all prior or contemporaneous agreements, understandings, discussions, 18 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order 19 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing 20 executed by an authorized representative of each of the parties. 21

In consideration of the foregoing admissions and stipulations, the parties agree that 22 13. the Board may, without further notice or formal proceeding, issue and enter the following Order: 23

#### ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 67849, issued to Respondent 25 Prince Nnamdi Nnah, is surrendered and accepted by the Board of Pharmacy. 26

1. The surrender of Respondent's Pharmacist License and the acceptance of the 27surrendered license by the Board shall constitute the imposition of discipline against Respondent. 28

This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board of Pharmacy.

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

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

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

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

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

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Stipulated Surrender of License (Case No. 4723)

ACCEPTANCE 1 I have carefully read the Stipulated Surrender of License and Order. I understand the 2. stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated 3 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound 4 by the Decision and Order of the Board of Pharmacy. 5 6 DATED: 7 FN AMDI NNAH 8 Respondent 9 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 DATED: Respectfully submitted, 14 Kamala D. Harris 15 Attorney General of California GREGORY J. SALUTE 16 upervising Deputy Attorney General 17 18 LLOGG 19 Deputy Attorney General Attorneys for Complainant 2021 22 SD2013705469 71086162.doc 23 24 25 26 27 28 5

Stipulated Surrender of License (Case No 4723)

# Exhibit A

First Amended Accusation No. 4723

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1	KAMALA D. HARRIS Attorney General of California	
2	LINDA K. SCHNEIDER Supervising Deputy Attorney General	
3	DESIREE I. KELLOGG	
4	Deputy Attorney General State Bar No. 126461	
5	110 West "A" Street, Suite 1100 San Diego, CA 92101	
6	P.O. Box 85266 San Diego, CA 92186-5266	
7	Telephone: (619) 645-2996 Facsimile: (619) 645-2061	
	Attorneys for Complainant	
8	BEFORE T	HE
9	BOARD OF PHA DEPARTMENT OF CON	RMACY
10	STATE OF CAL	
11		
12	In the Matter of the Accusation Against:	Case No. 4723
13	SAN GORGONIO MEMORIAL HOSPITAL DBA SAN GORGONIO MEMORIAL	·
14	HOSPITAL DISTRICT 600 N. Highland Springs Avenue	FIRST AMENDED ACCUSATION AGAINST PRINCE NNAMDI NNAH
15	Banning, CA 92220	ONLY
16	Hospital Pharmacy Permit No. HPE 21784	
	EKENE CHIDIMMA NNAH	
17	12926 Foxwood Dr. Yucaipa, CA 92399	
18	Pharmacist License No. RPH 65349	
19	and	
20	•	
21	PRINCE NNAMDI NNAH 12926 Foxwood Dr.	
22	Yucaipa, CA 92399	
23	Pharmacist License No. RPH 67849	
24	Respondents.	
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Complainant alleges:

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### PARTIES

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

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

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

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

JURISDICTION

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

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

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7. Section 4300(a) of the Code provides that every license issued by the Board may be
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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, the placement of a license on a retired status, or the voluntary surrender of a
4	license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the
5	licensee or to render a decision suspending or revoking the license.
6	STATUTORY PROVISIONS
7	9. Section 4022 of the Code states:
8	"Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:
10	(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.
11	(b) Any device that bears the statement: "Caution: federal law restricts this
12	device to sale by or on the order of a," "Rx only," or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or
13	order use of the device.
14	(c) Any other drug or device that by federal or state law can be lawfully
15	dispensed only on prescription or furnished pursuant to Section 4006.
16	10. Section 4051(a) of the Code states:
17 18	(a) Except as otherwise provided in this chapter, it is unlawful for any person to manufacture, compound, furnish, sell, or dispense any dangerous drug or dangerous device, or to dispense or compound any prescription pursuant to Section 4040 of a prescriber unless he or she is a pharmacist under this chapter.
19	11. Section 4081 of the Code states:
20	
21	(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours
22	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
23	every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer,
24	physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license,
25	permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section
26	16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.
27	(b) The owner, officer, and partner of any pharmacy, wholesaler, or
28	veterinary food-animal drug retailer shall be jointly responsible, with the

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First Amended Accusation

pharmacist-in-charge or representative-in-charge, for maintaining the records and 1 inventory described in this section. 2 12. Section 4113(c) of the Code states: 3 The pharmacist-in-charge shall be responsible for a pharmacy's compliance 4. with state and federal laws and regulations pertaining to the practice of pharmacy. Section 4116(a) of the Code states: 5 13. 6 No person other than a pharmacist, an intern pharmacist, an authorized officer of the law, or a person authorized to prescribe shall be permitted in that 7 area, place, or premises described in the license issued by the board wherein controlled substances or dangerous drugs or dangerous devices are stored, 8 possessed, prepared, manufactured, derived, compounded, dispensed, or 9 repackaged. However, a pharmacist shall be responsible for any individual who enters the pharmacy for the purposes of receiving consultation from the pharmacist 10 or performing clerical, inventory control, housekeeping, delivery, maintenance, or similar functions relating to the pharmacy if the pharmacist remains present in the 11 pharmacy during all times as the authorized individual is present. 12 Section 4332 of the Code states: 14 13 Any person who fails, neglects, or refuses to maintain the records required by Section 4081 or who, when called upon by an authorized officer or a member 14 of the board, fails, neglects, or refuses to produce or provide the records within a 15 reasonable time, or who willfully produces or furnishes records that are false, is guilty of a misdemeanor. 16 15. Section 4301 of the Code states in part: 17 The board shall take action against any holder of a license who is guilty of 18 unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. 19 Unprofessional conduct shall include, but is not limited to, any of the 20following: 21 22 (f) The commission of any act involving moral turpitude, dishonesty, fraud, 23deceit, 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. 24 25 26(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. 2728 4

First Amended Accusation

1 2	(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or
3	federal regulatory agency.
4	• • • •
5	STATE REGULATORY PROVISIONS
6	16. California Code of Regulations, title 16, section 1714(b) and (d) states:
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8	(b) Each pharmacy licensed by the board shall maintain its facilities, space,
9	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.
10	area to accommodate the safe practice of pharmacy.
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12	(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft
13	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
14	controlled substances are stored shall be restricted to a pharmacist.
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16	17. California Code of Regulations, title 16, section 1717(b)(1) states:
17	•••
18	In addition to the requirements of Business and Professions Code section
19	4040, the following information shall be maintained for each prescription on file and shall be readily receivable:
20	(1) The date dispensed, and the name or initials of the dispensing
21	pharmacist. All prescriptions filled or refilled by an intern pharmacist must also be initialed by the supervising pharmacist before they are dispensed.
22	18. California Code of Regulations, title 16, section 1718 states:
23	vo. Camornia Couc of Regulations, this 10, section 1716 states:
24	"Current inventory" as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include compete accountability for all
25	dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.
26	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
27	inventory.
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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.

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

California Code of Regulations, title 16, section 1751(b)(5) states: 1 21. 2 3 (b) Any pharmacy compounding sterile injectable drug products shall have a designated area for the preparation of sterile injectable products which shall meet the 4 following standards. 5 (5) The pharmacy shall be arranged in accordance with Section 1250 of Title 6 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 7 stored in such a way as to maintain the integrity of an aseptic environment. 8 9 10Code of Federal Regulations, title 21, section 1304.04(f)(2) states: 22, 11 12 Each registered manufacturer, distributor, importer, exporter, narcotic treatment program and compounder for narcotic treatment program shall maintain 13 inventories and records of controlled substances as follows: .14 15 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 16 the registrant. 17 18 Code of Federal Regulations, title 21, section 1304.11(c) states: 23. 19 2021 (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 22 two years. The biennial inventory may be taken on any date which is within two years of the previous biennial inventory date. 23 24 25 2627 28

## . COST RECOVERY

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2	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. <u>Dronabinol</u> is a Schedule II controlled substance pursuant to Health and Safety Code
Contraction of the second seco	section 11056(b) and is a dangerous drug pursuant to Business and Professions Code section
	4022.
	26. <u>Epinephrine</u> 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. <u>Norco</u> , 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. <u>Tetracaine</u> is a dangerous drug pursuant to Business and Professions Code section
	4022.
	30. <u>Tylenol #3</u> 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
ALL OF AL	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
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First Amended Accusation

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

32. The Chief of Pharmacy Services' principal tasks, duties and responsibilities included 3 overseeing the "purchase, inventory maintenance, and distribution of all pharmaceutical items and 4 ensures compliance by departmental locations and patient care units with established inventory 5 control standards/procedures and federal and state regulations." The job summary explained that 6 among other tasks, the Chief of Pharmacy Services "directs and controls the 7 purchase/maintenance of pharmacy inventory including all pharmaceutical and related 8 substances/supplies...PRINCIPAL TASKS, DUTIES AND RESPONSIBILITIES...Oversees the 9 purchase, inventory maintenance, and distribution of all pharmaceutical items and ensures 10 compliance by departmental locations and patient care units with established inventory control 11 standards/procedures and federal and state regulations. Directs and participates in the 12 development/revision, implementation and communication of goals, policies, guidelines, and 13 standards for the Pharmacy Department in accordance with the facility's policies, objectives and 14 JCAHO standards...Assists and participates in the Human Resources Management function for 15 the Pharmacy Department: coordinates the selection, promotion, orientation, and performance 16 appraisal of employees. Coordinates the department's inservice training and ensures the 17 maintenance of the staff's skill/education levels." Possession of a current California State license 18 was a qualification for the Chief of Pharmacy Services for Respondent San Gorgonio Memorial 19 Hospital Pharmacy. On or about July 18, 2011, Respondent Prince Nnah executed the document 20describing the Job Summary, Principal Tasks, Duties and Responsibilities and Qualifications for 21 the Chief of Pharmacy Services and certified that he had "received, read and under stood] both 22my job description and standards of performance." 23

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

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

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

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

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

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

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

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

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

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

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Accudose" is a trade name for the automatic single-unit dose medication dispensing system that records information such as patient name, physician orders, the date and time the medication was withdrawn, and the name of the licensed individual who withdrew and administered the 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,	
	12	

First Amended Accusation

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

(Against Respondents San Gorgonio Memorial Hospital Pharmacy and Ekene Nnah) (Failure to Conduct Biennial Controlled Substances Inventory)

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

### FIFTH CAUSE FOR DISCIPLINE

(Against Respondents San Gorgonio Memorial Hospital Pharmacy and Ekene Nnah) (Failure to Maintain Proper Inventory of Controlled Substances)

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

#### SIXTH CAUSE FOR DISCIPLINE

(Against Respondents San Gorgonio Memorial Hospital Pharmacy and Ekene Nnah) (Improper Record-Keeping for Compounded Drugs)

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

1	SEVENTH CAUSE FOR DISCIPLINE
2	(Against Respondents San Gorgonio Memorial Hospital Pharmacy and Ekene Nnah)
3	(Failure to Properly Maintain Compounded Facilities)
4	48. Respondents are subject to disciplinary action under section 4301, subdivision (o) for
5	violation of California Code of Regulations, title 16, sections 1714(b) and 1751(b)(5), in that
6	Respondents failed to maintain its facilities so that compounded drugs could be safely and
7	properly prepared and maintained, as set forth in paragraphs 31-41, which are incorporated herein
8	by reference.
9	EIGHTH CAUSE FOR DISCIPLINE
10	(Against Respondent Prince Nnah)
11	(Dishonest Acts)
12	49. Respondent is subject to disciplinary action under section 4301, subdivision (f) for
13	committing acts of dishonesty when he gained unauthorized access as an unlicensed person to
14	Accudose and the premises of Respondent San Gorgonio Memorial Hospital Pharmacy and when
15	he executed the document describing the Chief of Pharmacy Services' Job Summary, Principal
16	Tasks, Duties and Responsibilities and Qualifications and certified that he understood both the
17	job description and standards of performance for the Chief of Pharmacy Services for Respondent
18	San Gorgonio Memorial Hospital Pharmacy but performed the functions of a pharmacist, as set
19	forth in paragraphs 31-41, which are incorporated herein by reference.
20	NINTH CAUSE FOR DISCIPLINE
21	(Against Respondents San Gorgonio Memorial Hospital Pharmacy
22	Ekene Nnah and Prince Nnah)
23	(Unlicensed Pharmacist Activities)
24	50. Respondents are subject to disciplinary action under section 4301, subdivision (o) for
25	violation of Business and Professions Code section 4051(a), in that Respondents allowed a
26	person, Respondent Prince Nnah who was not licensed in California as a pharmacist to
27	manufacture, compound, furnish, sell or dispense dangerous drugs or dangerous devices and
28	Respondent Prince Nnah performed the functions of a pharmacist, including furnishing, selling
	14

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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1	5. Taking such other and further action	h as deemed necessary and proper.
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3		Virginia Hecold
4	DATED: May 20, 2015	
5		VIRGINIA HEROLD Executive Officer
6	• · · · · · · · · · · · · · · · · · · ·	Board of Pharmacy
7		Department of Consumer Affairs State of California
8		Complainant
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1	KAMALA D. HARRIS Attorney General of California	•
2	LINDA K. SCHNEIDER Supervising Deputy Attorney General	
3	DESIREE I. KELLOGG Deputy Attorney General	
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5	San Diego, CA 92101	
6	P.O. Box 85266 San Diego, CA 92186-5266	
7	Telephone: (619) 645-2996 Facsimile: (619) 645-2061	
8	Attorneys for Complainant	
9	BEFORE TI BOARD OF PHAI	
	DEPARTMENT OF CONS	UMER AFFAIRS
10	STATE OF CALL	FORNIA
11	In the Matter of the Accusation Against:	Case No. 4723
12	SAN GORGONIO MEMORIAL HOSPITAL	
13	DBA SAN GORGONIO MEMORIAL HOSPITAL DISTRICT	ACCUSATION
14	600 N. Highland Springs Avenue	ACCUSATION
15	Banning, CA 92220	
16	Hospital Pharmacy Permit No. HPE 21784	
17	EKENE CHIDIMMA NNAH 12926 Foxwood Dr.	
18	Yucaipa, CA 92399	
19	Pharmacist License No. RPH 65349	
	and	
20	PRINCE NNAMDI NNAH	
21	12926 Foxwood Dr. Yucaipa, CA 92399	
22	Pharmacist License No. RPH 67849	. •
23	Respondents.	
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		Accusation

Complainant alleges:

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#### PARTIES

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

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

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

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

#### JURISDICTION

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

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

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

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Accusation

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Section 4300.1 of the Code states:

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

#### STATUTORY PROVISIONS

9. Section 4022 of the Code states:

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

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

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

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

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

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

11. Section 4081 of the Code states:

(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours 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

pharmacist-in-charge or representative-in-charge, for maintaining the records and 1 inventory described in this section. 2 Section 4113(c) of the Code states: 12. 3 The pharmacist-in-charge shall be responsible for a pharmacy's compliance with state and federal laws and regulations pertaining to the practice of pharmacy, 4 Section 4116(a) of the Code states: 13. 5 б No person other than a pharmacist, an intern pharmacist, an authorized officer of the law, or a person authorized to prescribe shall be permitted in that 7 area, place, or premises described in the license issued by the board wherein controlled substances or dangerous drugs or dangerous devices are stored, 8 possessed, prepared, manufactured, derived, compounded, dispensed, or repackaged. However, a pharmacist shall be responsible for any individual who 9 enters the pharmacy for the purposes of receiving consultation from the pharmacist 10 or performing clerical, inventory control, housekeeping, delivery, maintenance, or similar functions relating to the pharmacy if the pharmacist remains present in the 11 pharmacy during all times as the authorized individual is present. 12 Section 4332 of the Code states: 14. 13 Any person who fails, neglects, or refuses to maintain the records required by Section 4081 or who, when called upon by an authorized officer or a member 14 of the board, fails, neglects, or refuses to produce or provide the records within a 15 reasonable time, or who willfully produces or furnishes records that are false, is guilty of a misdemeanor. 16 Section 4301 of the Code states in part: 17 The board shall take action against any holder of a license who is guilty of 18 unprofessional conduct or whose license has been procured by fraud or misrepresentation or issued by mistake. 19 Unprofessional conduct shall include, but is not limited to, any of the 20 following: 21 22 (f) The commission of any act involving moral turpitude, dishonesty, fraud, 23 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. 24 25 (j) The violation of any of the statutes of this state, of any other state, or of 26 the United States regulating controlled substances and dangerous drugs. 27 28 4 Accusation (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

#### STATE REGULATORY PROVISIONS

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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 compete 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:

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2	(j) Prior to allowing any drug product to be compounded in a pharmacy,
3	the pharmacist-in-charge shall complete a self-assessment for compounding pharmacies developed by the board. (Incorporated by reference is "Community
4	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.
6	The first section must be completed by the pharmacist-in-charge before any compounding is performed in the pharmacy. The second section must be
7	completed by the pharmacist-in-charge before any sterile injectable compounding is performed in the pharmacy. The applicable sections of the self-assessment shall
-8	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
9	of a new pharmacy license. The primary purpose of the self-assessment is to promote compliance through self-examination and education.
10	20. California Code of Regulations, title 16, section 1735.3(a) states:
11	California Code of Regulations, title 16, section 1735.3 states:
12	(a) For each compounded drug product, the pharmacy records shall include:
13	(1) The master formula record.
14	
15	(2) The date the drug product was compounded.
16	(3) The identity of the pharmacy personnel who compounded the drug product.
17	(4) The identity of the pharmacist reviewing the final drug product.
18 19	(5) The quantity of each component used in compounding the drug product.
	(6) The manufacturer, expiration date and lot number of each component.
20	may be substituted. Exempt from the requirements in this paragraph are sterile
21	products compounded on a one-time basis for administration within seventy-two (72) hours and stored in accordance with standards for "Redispensed CSPS" found
22	(35th Revision Effective May 1, 2012), hereby incorporated by reference, to an
23	inpatient in a health care facility licensed under section 1250 of the reality and Safety Code.
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2:	5 product.
20	6 (8) The expiration date of the final compounded drug product.
2	7 (9) The quantity or amount of drug product compounded.
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California Code of Regulations, title 16, section 1751(b)(5) states:

3 (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. 4 5 ... (5) The pharmacy shall be arranged in accordance with Section 1250 of Title 6 24, Part 2, Chapter 12, of the California Code of Regulations. Items related to the 7 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. 8 9 10 Code of Federal Regulations, title 21, section 1304.04(f)(2) states: 22. 11 12 Each registered manufacturer, distributor, importer, exporter, narcotic treatment program and compounder for narcotic treatment program shall maintain 13 inventories and records of controlled substances as follows: 14 15 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 16 form that the information required is readily retrievable from the ordinary records of the registrant. 17 18 23. Code of Federal Regulations, title 21, section 1304.11(c) states: 19 20 21(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 22 two years. The biennial inventory may be taken on any date which is within two years of the previous biennial inventory date. 23 24 25 26 27 28 7

#### 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. <u>Dronabinol</u> 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. <u>Epinephrine</u> is a dangerous drug pursuant to Business and Professions Code section 4022.

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 27. <u>Lidocaine</u> is a dangerous drug pursuant to Business and Professions Code section
 4022.

28. <u>Norco</u>, 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. <u>Tetracaine</u> is a dangerous drug pursuant to Business and Professions Code section 4022.

30. <u>Tylenol #3</u> 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

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

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

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

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

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

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

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

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

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

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

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Accudose" is a trade name for the automatic single-unit dose medication dispensing system that records information such as patient name, physician orders, the date and time the medication was withdrawn, and the name of the licensed individual who withdrew and administered the 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, 2011 to July 30, 2012 showed that there were overages in the amount of 103 tablets for the hydrocodone/apap (Norco) 10/325 inventory, ahortages in the amount of 1 to apsules for the         3       Marinol 2.5, dronabinol inventory and shortages in the amount of 1 to apsules for the Tylenol #3, acetaminophen w/codeine 300 mg/30 mg inventory. The audit from July 30, 2012 to January 17, 2013 showed that there were overages in the amount of 19 tablets for the hydrocodone/apap (Norco) 10/325 inventory, overages in the amount of 19 tablets for the Marinol 2.5, dronabinol inventory and overages in the amount of 15 tablets for the Marinol 2.5, dronabinol 2.5, dronabinol         8       inventory and overages in the amount of 15 tablets for the Marinol 2.5, dronabinol         9       300 mg/30mg inventory.         11 <b>EIRST CAUSE FOR DISCIPLINE</b> 12       (Against Respondents San Gorgonio Memorial Hospital Pharmacy and Ekene Nnah)         13 <b>Failure to Complete Compounding Self-Assessment Form</b> )         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 <b>SECOND CAUSE FOR DISCIPLINE</b> 18       (Against Respondents San Gorgonio Memorial Hospital Pharmacy         19 <b>Ekene Nnah and Prince Nnah</b>		
2       2011 to July 30, 2012 showed that there were overages in the amount of 103 tablets for the         3       hydrocodone/npap (Norco) 10/325 inventory, shortages in the amount of 15 capsules for the         4       Marinel 2.5, dronabinel 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/spap         7       (Norco) 10/325 inventory, overages in the amount of 19 tablets for the Marinol 2.5, dronabinel         8       inventory and overages in the amount of 15 capsules for the Marinol 2.5, dronabinel         9       300 mg/30mg inventory.         10 <b>EIRST CAUSE FOR DISCIPLINE</b> 11       (Against Respondents San Gorgonio Memorial Hospital Pharmacy and Ekene Nnah)         12 <b>FIRST CAUSE FOR DISCIPLINE</b> 13       (Against 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 <b>SECOND CAUSE FOR DISCIPLINE</b> 18       (Aga	11	
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4       Marinel 2.5, dronabiaol 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/30 mg inventory.         10       FIRST CAUSE FOR DISCIPLINE         11       (Against Respondents San Gorgonio Memorial Hospital Pharmacy and Ekene Nnah)         12       (Raginet acesometers are subject to disciplinary action under section 4301, subdivision (o) for         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       (Yailure to Secure Dru		· · · · · ·
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<ul> <li>43. Respondents are subject to disciplinary action under section 4301, subdivision (o) for</li> <li>violation of California Code of Regulations, title 16, section 1714(d), in that Respondents allowed</li> <li>an unlicensed individual to possess keys to the pharmacy premises, the night locker containing</li> <li>drugs and the access code to the Accudose system, as set forth in paragraphs 31-41, which are</li> <li>incorporated herein by reference.</li> </ul>		
<ul> <li>violation of California Code of Regulations, title 16, section 1714(d), in that Respondents allowed</li> <li>an unlicensed individual to possess keys to the pharmacy premises, the night locker containing</li> <li>drugs and the access code to the Accudose system, as set forth in paragraphs 31-41, which are</li> <li>incorporated herein by reference.</li> </ul>		
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<ul> <li>drugs and the access code to the Accudose system, as set forth in paragraphs 31-41, which are</li> <li>incorporated herein by reference.</li> </ul>		
<ul> <li>25 incorporated herein by reference.</li> <li>26</li> <li>27</li> <li>28</li> <li>11</li> </ul>	,	
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27 28 11		incorporated herein by reference.
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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)	ļ
5	44. Respondents are subject to disciplinary action under section 4301, subdivisions (j)	
6	and(0) 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	ļ
8	person authorized to prescribe in the area, place or premises described in the license issued by the	ł
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	ļ
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)	ļ
15	45. Respondents are subject to disciplinary action under section 4301, subdivision (o) for	ł
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)	1
22	(Failure to Maintain Proper Inventory of Controlled Substances)	1
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.	
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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.
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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(0) 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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Taking such other and further action as deemed necessary and proper. 5. DATED: VIRGINIA HEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs State of California *Complainant* 7. SD2013705469/80806474.doc 13-Accusation {

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