

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

In the Matter of the Accusation Against:

**TARZANA PHARMACY; NOURI  
NOURANI  
18370 Burbank Blvd., Ste. 104  
Tarzana, CA 91356**

**Original Pharmacist License No. RPH 58760  
Original Permit No. PHY 49879**

Respondents.

Case No. 4790

OAH No. 2014080272

**STIPULATED SETTLEMENT TO  
REVOKE AND DISCIPLINARY ORDER  
AS TO RESPONDENT TARZANA  
PHARMACY ONLY**

**DECISION AND ORDER**

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

This Decision shall become effective on September 18, 2015.

It is so ORDERED August 19, 2015.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

1 KAMALA D. HARRIS  
 Attorney General of California  
 2 MARC D. GREENBAUM  
 Supervising Deputy Attorney General  
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 Attorneys for Complainant

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14 Original Pharmacist License No. RPM 58760  
 15 Original Permit No. PHY 49879

**STIPULATED SETTLEMENT AND  
 DISCIPLINARY ORDER AS TO  
 RESPONDENT TARZANA PHARMACY  
 ONLY**

16 Respondent.

17 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties<sup>1</sup> to the above-  
 18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.  
 21 She brought this action solely in her official capacity and is represented in this matter by Kamala  
 22 D. Harris, Attorney General of the State of California, by Zachary T. PanseLOW, Deputy Attorney  
 23 General.

24 2. Tarzana Pharmacy ("Respondent Pharmacy") is represented in this proceeding by  
 25 attorney Herbert Weinberg, whose address is McGuire Woods LLP, 1800 Century Park East, 8<sup>th</sup>  
 26 Floor, Los Angeles, CA 90067.

27  
 28 <sup>1</sup> This stipulation is between the Board of Pharmacy and Respondent Tarzana Pharmacy  
 only. Respondent Nouri Nourani is not a party to this stipulation.

## JURISDICTION

## ADVISEMENT AND WAIVERS

2

1 and court review of an adverse decision; and all other rights accorded by the California  
2 Administrative Procedure Act and other applicable laws.

3 10. Respondent Pharmacy voluntarily, knowingly, and intelligently waives and gives up  
4 each and every right set forth above.

5 CULPABILITY

6 11. Respondent Pharmacy admits the truth of each and every charge and allegation in  
7 Accusation No. 4790.

8 12. Respondent Pharmacy agrees that its Original Permit Number PHY 49879 is subject  
9 to discipline and it agrees to be bound by the Board's imposition of discipline as set forth in the  
10 Disciplinary Order below.

11 CONTINGENCY

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

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

25 15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
28 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
2 writing executed by an authorized representative of each of the parties.

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


5 ORDER

6 IT IS HEREBY ORDERED that Original Permit No. PHY 49879, issued to Respondent  
7 Tarzana Pharmacy; Nouri Nourani, is revoked.

8 ACCEPTANCE

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

14  
15 DATED: 4/27/15

  
16 TARZANA PHARMACY; NOURI NOURANI  
17 Respondent Pharmacy

18 I have read and fully discussed with Respondent Tarzana Pharmacy; Nouri Nourani the  
19 terms and conditions and other matters contained in this Stipulated Settlement and Disciplinary  
20 Order. I approve its form and content.

21  
22 DATED: 4/27/2015

  
23 HERBERT WEINBERG  
24 Attorney for Respondent Pharmacy  
25  
26  
27  
28

**ENDORSEMENT**

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

Dated: 4/27/15

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
MARC D. GREENBAUM  
Supervising Deputy Attorney General

ZACHARY T. FANSELOW  
Deputy Attorney General  
*Attorneys for Complainant*

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12 **NOURANI**  
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Tarzana, CA 91356

**A C C U S A T I O N**

14 Original Pharmacist License No. RPH 58760  
15 Original Permit No. PHY 49879

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about September 8, 2006, the Board of Pharmacy issued Original Pharmacist  
22 License No. RPH 58760 to Nouri Nourani ("Respondent Nourani" or "Respondents"). The  
23 Pharmacist License was in full force and effect at all times relevant to the charges brought herein  
24 and will expire on May 31, 2014, unless renewed.

25 3. On or about April 1, 2009, the Board of Pharmacy issued Original Permit Number  
26 PHY 49879 to Tarzana Pharmacy; Nouri Nourani ("Respondent Pharmacy" or "Respondents").  
27 The Original Permit was in full force and effect at all times relevant to the charges brought herein  
28 and will expire on April 1, 2014, unless renewed.

1 **JURISDICTION**

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

5 5. Section 4300 provides, in pertinent part, that every license issued by the Board is  
6 subject to discipline, including suspension or revocation.

7 6. Section 4300.1 states:

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

13 **STATUTORY PROVISIONS**

14 7. Section 4301 states, in pertinent part:

15 "The board shall take action against any holder of a license who is guilty of unprofessional  
16 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.  
17 Unprofessional conduct shall include, but is not limited to, any of the following:

18 ....

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

22 "(g) Knowingly making or signing any certificate or other document that falsely represents  
23 the existence or nonexistence of a state of facts.

24 ....

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

27 '....



"(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.

8. Section 4022 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."

9. Section 4051 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.

"(b) Notwithstanding any other law, a pharmacist may authorize the initiation of a prescription, pursuant to Section 4052, and otherwise provide clinical advice or information or patient consultation if all of the following conditions are met:

"(1) The clinical advice or information or patient consultation is provided to a health care professional or to a patient.

"(2) The pharmacist has access to prescription, patient profile, or other relevant medical information for purposes of patient and clinical consultation and advice.

"(3) Access to the information described in paragraph (2) is secure from unauthorized access and use."

1       10. Section 4059, subdivision (a) states: "A person may not furnish any dangerous drug,  
2 except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
3 naturopathic doctor pursuant to Section 3640.7. A person may not furnish any dangerous device,  
4 except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
5 naturopathic doctor pursuant to Section 3640.7."

6       11. Section 4063 states: "No prescription for any dangerous drug or dangerous device  
7 may be refilled except upon authorization of the prescriber. The authorization may be given orally  
8 or at the time of giving the original prescription. No prescription for any dangerous drug that is a  
9 controlled substance may be designated refillable as needed."

10       12. Section 4324 states:

11       "(a) Every person who signs the name of another, or of a fictitious person, or falsely makes,  
12 alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any  
13 drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the  
14 state prison, or by imprisonment in the county jail for not more than one year.

15       "(b) Every person who has in his or her possession any drugs secured by a forged  
16 prescription shall be punished by imprisonment in the state prison, or by imprisonment in the  
17 county jail for not more than one year."

18                               **COST RECOVERY**

19       13. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
20 administrative law judge to direct a licensee found to have committed a violation or violations of  
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
22 enforcement of the case.

23                               **FIRST CAUSE FOR DISCIPLINE**

24                               **(Deviation from prescription)**

25       14. Respondent Nourani's Pharmacist License and Respondent Pharmacy's Original  
26 Permit are subject to disciplinary action under section 4301, subdivision (o), in that Respondents  
27 violated California Code of Regulations, title 16, section 1716, and section 4063 by deviating from  
28 a prescription without the prior consent of the prescriber. The circumstances are as follows:

1 a. On or about September 17, 2010, Respondent pharmacy dispensed prescription  
2 number 970622 for Voltaren 1% Gel.<sup>1</sup> Prescription number 970622 was originally written for  
3 Voltaren 1% 100mg and to have no refills, but was altered by Respondent without the consent of  
4 the prescriber to have three refills. Prescription number 970622 was dispensed as Voltaren 1%  
5 300mg and subsequently refilled.

6 **SECOND CAUSE FOR DISCIPLINE**

7 **(Unauthorized Refills)**

8 15. Respondent Nourani's Pharmacist License and Respondent Pharmacy's Original  
9 Permit are subject to disciplinary action under section 4063 in that Respondents' refilled and  
10 created refills for prescriptions without the authorization of the prescriber. The circumstances are  
11 as follows:

12 a. On or about July 19, 2011, Respondents created a refill authorization request for  
13 Voltaren 1% gel with prescription number 970622. Respondent created the refill authorization  
14 request without securing authorization from the prescriber. Respondent's refill authorization form  
15 indicated that there were seven refills for prescription number 970622 authorized by "MD." No  
16 such authorization was received. Respondent also changed the address and phone number from  
17 what was listed on the original prescription, and changed the prescription number to 994819. The  
18 refills were dispensed as prescription 994819 on or about July 19, 2011, and then again on or  
19 about August 25, 2011.

20 b. On or about May 6, 2011, Respondents created a telephone prescription for  
21 clotrimazole / betamethasone with prescription number 989078. No refills were indicated on this  
22 originally authorized prescription. The prescription was originally dispensed on May 19, 2011.  
23 On or about August 25, 2011, Respondents created a refill authorization request for prescription  
24 number 989078 without authorization from the prescriber. Respondent's refill authorization form  
25 indicated that there were four refills for prescription number 989078 authorized by "MD/Nancy."

26  
27  
28 <sup>1</sup> Voltaren 1% Gel is an anti-inflammatory medication often prescribed to treat joint pain.

1 No such authorization was received. The refills for prescription number 989078 were then  
2 dispensed on or about August 25, 2011, September 22, 2011, and January 24, 2012.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Fraudulent Prescription)**

5 16. Respondent Nourani's Pharmacist License and Respondent Pharmacy's Original  
6 Permit are subject to disciplinary action under section 4059, subdivision (a), section 4063 and for  
7 unprofessional conduct under section 4301, subdivision (g) in that Respondents furnished,  
8 dispensed and refilled an unauthorized prescription. The circumstances are as follows:

9 a. On or about January 24, 2012, Respondents created a telephone prescription for  
10 Voltaren 1% Gel as prescription number 1011884 without authorization from the prescriber. The  
11 physician listed as the prescriber stated that this prescription was not called in to Respondent  
12 Pharmacy.

13 b. On or about April 26, 2012, Respondents refilled prescription number 1011884 for  
14 Voltaren 1% Gel without authorization from the prescriber. The physician listed as the prescriber  
15 confirmed that the telephone prescription was not called in to Respondent Pharmacy.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct)**

18 17. Respondent Nourani's Pharmacist License and Respondent Pharmacy's Original  
19 Permit are subject to disciplinary action for unprofessional conduct under section 4301,  
20 subdivision (f), in that Respondents committed acts involving moral turpitude, dishonesty, fraud,  
21 deceit, or corruption. The circumstances are as follows:

22 a. On or about September 17, 2010, Respondents altered prescription number 970622,  
23 originally written as one 100 gram tube of 1% Voltaren Gel with no refills, to three 100 gram  
24 tubes of 1% Voltaren gram tubes with three refills. The original prescription totaled 100 grams of  
25 1% Voltaren Gel, the altered prescription, including refills, totaled 900 grams of 1% Voltaren Gel.  
26 Prescription number 970622 was originally dispensed on or about September 17, 2010.  
27 Prescription number 970622 was then refilled on or about January 26, 2011, with a different  
28 address for Dr. Nazarian than what was on the original prescription.

1           b. On or about July 19, 2011, Respondents added 7 additional refills to prescription  
2 number 970622 without authorization from the prescriber, changed the address and phone number  
3 from what was listed on the original prescription, and changed the prescription number to 994819.  
4 The refills were dispensed as prescription 994819 on or about July 19, 2011, and then again on or  
5 about August 25, 2011.

6           c. On or about May 16, 2011, Respondents created a telephone prescription for  
7 prescription number 989078. The number of refills on the original authorized prescription was not  
8 indicated. The prescription was originally dispensed on May 19, 2011. On or about August 25,  
9 2011, Respondents added 4 refills to prescription number 989078 without authorization from the  
10 prescriber. The refills for prescription number 989078 were then dispensed on August 25, 2011,  
11 September 22, 2011, and January 24, 2012.

12           d. On or about January 24, 2012, Respondents created a telephone prescription for  
13 Voltaren 1% Gel with prescription number 1011884 without authorization from the prescriber.  
14 On or about April 26, 2012, Respondents refilled prescription number 1011884 without  
15 authorization from the prescriber.

16                                   **DISCIPLINARY CONSIDERATIONS**

17           18. To determine the degree of discipline, if any, to be imposed on Respondent,  
18 Complainant alleges the following:

19           a. On or about August 30, 2010, the Board of Pharmacy issued Respondent Pharmacy  
20 Citation Number CI 2009 43793, with no associated fine. Respondent Pharmacy complied with  
21 the citation and it is final. The citation alleged that on or about February 13, 2010, Respondent  
22 Pharmacy furnished Advair 250/50 on a prescription refill written and labeled for Advair 100/50.

23           b. On or about April 20, 2012, the Board of Pharmacy issued Respondent Pharmacy  
24 Citation Number CI 2010 45716, with no associated fine. Respondent Pharmacy complied with  
25 the citation and it is final. The citation alleged that on or about August 25, 2010, Respondent  
26 Pharmacy failed to advise patient MI of the generic substitute of her Zestoretic prescription.

27           c. On or about April 20, 2012, the Board of Pharmacy issued Respondent Pharmacy  
28 Citation Number CI 2010 48152, with a \$2,500.00 fine. Respondent Pharmacy complied with the

1 citation and it is final. The citation alleged that Respondent Pharmacy dispensed medications for  
2 SP and MP without reviewing their drug therapy.

3 d. On or about February 4, 2013, the Board of Pharmacy issued Respondent Pharmacy  
4 Citation Number CI 2012 53909, with no associated fine. Respondent Pharmacy complied with  
5 the citation and it is final. The citation alleged that on or about September 11, 2012, Respondent  
6 Pharmacy gave a computer and original prescription records to another pharmacy, which then  
7 placed the records in an off-site storage location such that they were not open or available for  
8 required inspection.

9 e. On or about July 21, 2009, the Board of Pharmacy issued Respondent Nourani  
10 Citation Number CI 2009 40867, with a \$1,000.00 fine. Respondent Nourani complied with the  
11 citation and it is final. The citation alleged that on or about June 3, 2009, Respondent Nourani  
12 failed to provide oral consultation on two new prescriptions for patient DH for Azithromycin and  
13 Albuterol inhaler when they were sold to DH's mother by a pharmacy clerk.

14 f. On or about April 20, 2012, the Board of Pharmacy issued Respondent Nourani  
15 Citation Number CI 2011 52004, with a \$500.00 fine. Respondent Nourani complied with the  
16 citation and it is final. The citation alleged that on or about August 25, 2010, Respondent Nourani  
17 failed to advise patient MI of the generic substitute of her Zestoretic prescription.

18 g. On or about April 20, 2012, the Board of Pharmacy issued Respondent Nourani  
19 Citation Number CI 2011 52005, with a \$2,500.00 fine. Respondent Nourani complied with the  
20 citation and it is final. The citation alleged that Respondent Nourani dispensed medications for SP  
21 and MP without reviewing their drug therapy.

22 h. On or about February 4, 2013, the Board of Pharmacy issued Respondent Nourani  
23 Citation Number CI 2012 55357, with fines totaling \$1,125.00. Respondent Nourani complied  
24 with the citation and it is final. The citation alleged that on or about September 11, 2012,  
25 Respondent Pharmacy gave a computer and original prescription records to another pharmacy,  
26 without having a duplicate set of records on the licensed premises, which then placed the records  
27 in an off-site storage location such that they were not open for required inspection. The citation  
28 further alleges that on or about September 5, 2012, Respondent Nourani reported the loss of

1 controlled substances due to a burglary that occurred on June 13, 2012. This loss was not  
2 reported within thirty days as required.

3 **PRAYER**

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

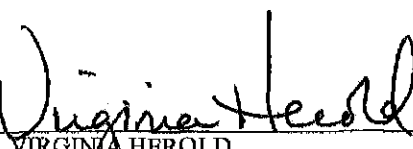
6 1. Revoking or suspending Original Permit Number PHY 49879, issued to Tarzana  
7 Pharmacy; Nouri Nourani;

8 2. Revoking or suspending Original Pharmacist License Number RPH 58760, issued to  
9 Nouri Nourani;

10 3. Ordering Tarzana Pharmacy and Nouri Nourani to pay the Board of Pharmacy the  
11 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
12 Professions Code section 125.3; and,

13 4. Taking such other and further action as deemed necessary and proper.  
14

15  
16 DATED: 2/17/14

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

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22 51394228.doc  
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