

**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 AND
DISCIPLINARY ORDER AS TO
RESPONDENT NOURI NOURANI 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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7
8 BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
9 STATE OF CALIFORNIA

10 In the Matter of the Accusation Against

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STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT NOURI NOURANI ONLY

16 Respondent.

17 IT IS HEREBY STIPULATED AND AGREED by and between the parties¹ 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. Fanselow, Deputy Attorney
23 General.

24 2. Respondent Nouri Nourani is represented in this proceeding by attorney Herbert L.
25 Weinberg, whose address is: McGuire Woods LLP, 1800 Century Park East, 8th Floor, Los
26 Angeles, CA 90067.

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

1
STIPULATED SETTLEMENT (4790)

3. On or about September 8, 2006, the Board of Pharmacy issued Original Pharmacist License No. RPH 58760 to Nouri Nourani ("Respondent Nourani"). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 4790 and will expire on May 31, 2016, unless renewed.

JURISDICTION

4. Accusation No. 4790 was filed before the Board of Pharmacy ("Board"), Department of Consumer Affairs, and is currently pending against Respondent Nourani. The Accusation and all other statutorily required documents were properly served on Respondent Nourani on February 28, 2014.

5. Respondent Nourani failed to file a Notice of Defense and the Board issued a Default Decision and Order on July 2, 2014, with an effective date of August 1, 2014.

6. On or about July 8, 2014, Respondent Nourani submitted a Motion for Relief From Default Decision and Order and the Board issued an order vacating the Default Decision and Order effective July 21, 2014. Respondent Nourani then filed his Notice of Defense contesting the Accusation.

7. A copy of Accusation No. 4790 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

8. Respondent Nourani has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 4790. Respondent Nourani has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

9. Respondent Nourani is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the 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

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

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

5 **CULPABILITY**

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

8 12. Respondent Nourani agrees that his Original Pharmacist License is subject to
9 discipline and he agrees to be bound by the Board's probationary terms 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 Nourani 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 Nourani or his counsel. By signing the
16 stipulation, Respondent Nourani understands and agrees that he may not withdraw his 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
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Original Pharmacist License No. RPH 58760 issued to
8 Respondent Nouri Nourani is revoked. However, the revocation is stayed and Respondent
9 Nourani is placed on probation for five (5) years on the following terms and conditions.

10 I. Suspension

11  As part of probation, Respondent Nourani is suspended from the practice of pharmacy for
12 ~~forty-five (45)~~ ^{thirty (30)} days beginning the effective date of this decision.

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

21 Respondent Nourani shall not engage in any activity that requires the professional judgment
22 of a pharmacist. Respondent Nourani shall not direct or control any aspect of the practice of
23 pharmacy. Respondent Nourani shall not perform the duties of a pharmacy technician or a
24 designated representative for any entity licensed by the board.

25 Subject to the above restrictions, Respondent Nourani may continue to own or hold an
26 interest in any licensed premises in which he holds an interest at the time this decision becomes
27 effective unless otherwise specified in this order.

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

1 **2. Obey All Laws**

2 Respondent Nourani shall obey all state and federal laws and regulations.

3 Respondent Nourani shall report any of the following occurrences to the board, in writing,

4 within seventy-two (72) hours of such occurrence:

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

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

16 **3. Report to the Board**

17 Respondent Nourani shall report to the board quarterly, on a schedule as directed by the

18 board or its designee. The report shall be made either in person or in writing, as directed. Among

19 other requirements, Respondent Nourani shall state in each report under penalty of perjury

20 whether there has been compliance with all the terms and conditions of probation. Failure to

21 submit timely reports in a form as directed shall be considered a violation of probation. Any

22 period(s) of delinquency in submission of reports as directed may be added to the total period of

23 probation. Moreover, if the final probation report is not made as directed, probation shall be

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

25 **4. Interview with the Board**

26 Upon receipt of reasonable prior notice, Respondent Nourani shall appear in person for

27 interviews with the board or its designee, at such intervals and locations as are determined by the

28 board or its designee. Failure to appear for any scheduled interview without prior notification to

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

5. Cooperate with Board Staff

Respondent Nourani shall cooperate with the board's inspection program and with the board's monitoring and investigation of Respondent Nourani's compliance with the terms and conditions of his probation. Failure to cooperate shall be considered a violation of probation.

6. Continuing Education

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

7. Notice to Employers

During the period of probation, Respondent Nourani shall notify all present and prospective employers of the decision in case number 4790 and the terms, conditions and restrictions imposed on Respondent Nourani by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent Nourani undertaking any new employment, Respondent Nourani shall cause his direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent Nourani's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 4790, and terms and conditions imposed thereby. It shall be Respondent Nourani's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

If Respondent Nourani works for or is employed by or through a pharmacy employment service, Respondent Nourani must notify his direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions of the decision in case number 4790 in advance of the Respondent Nourani commencing work at each licensed entity. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent Nourani undertaking any new employment by or through a pharmacy employment service, Respondent Nourani shall cause his direct supervisor with the pharmacy

1 employment service to report to the board in writing acknowledging that he has read the decision
2 in case number 4790 and the terms and conditions imposed thereby. It shall be Respondent
3 Nourani's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
4 acknowledgment(s) to the board.

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

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

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

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

19 **9. Reimbursement of Board Costs**

20 As a condition precedent to successful completion of probation, Respondent Nourani shall
21 pay to the board its costs of investigation and prosecution in the amount of \$25,483.50.

22 Respondent Nourani shall make said payments on a payment plan approved by the Board.

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

26 The filing of bankruptcy by Respondent Nourani shall not relieve Respondent Nourani of
27 his responsibility to reimburse the board its costs of investigation and prosecution.

28 **10. Probation Monitoring Costs**

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

11. Status of License

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

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

12. License Surrender While on Probation/Suspension

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

Upon acceptance of the surrender, Respondent Nourani shall relinquish his pocket and wall license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent Nourani may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent Nourani shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

13. Notification of a Change in Name, Residence Address, Mailing Address or

B

STIPULATED SETTLEMENT (4790)

Employment

Respondent Nourani shall notify the board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule if known. Respondent Nourani shall further notify the board in writing within ten (10) days of a change in name, residence address, mailing address, or phone number.

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

14. Tolling of Probation

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

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

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

"Cessation of practice" means any calendar month during which Respondent Nourani is not practicing as a pharmacist for at least forty (40) hours, as defined by Business and Professions Code section 4000 et seq. "Resumption of practice" means any calendar month during which Respondent Nourani is practicing as a pharmacist

for at least forty (40) hours as a pharmacist as defined by Business and Professions Code section 4000 et seq.

15. Violation of Probation

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

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

16. Completion of Probation

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

17. Community Services Program

Within sixty (60) days of the effective date of this decision, Respondent Nourani shall submit to the board or its designee, for prior approval, a community service program in which Respondent Nourani shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least sixty-four (64) hours per year for the first three years of probation. Within thirty (30) days of board approval thereof, Respondent Nourani shall submit documentation to the board demonstrating commencement of the community service program. A record of this notification must be provided to the board upon request. Respondent Nourani shall report on progress with the community service program in the quarterly reports.

1 Failure to timely submit, commence, or comply with the program shall be considered a violation
2 of probation.

3 **18. Supervised Practice**

4 During the period of probation, Respondent Nourani shall practice only under the
5 supervision of a licensed pharmacist not on probation with the board. Upon and after the
6 effective date of this decision, Respondent Nourani shall not practice pharmacy and his license
7 shall be automatically suspended until a supervisor is approved by the board or its designee. The
8 supervision shall be, as required by the board or its designee, either:

9 Continuous - At least 75% of a work week

10 Substantial - At least 50% of a work week

11 Partial - At least 25% of a work week

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

13 Within thirty (30) days of the effective date of this decision, Respondent Nourani shall have
14 his supervisor submit notification to the board in writing stating that the supervisor has read the
15 decision in case number 4790 and is familiar with the required level of supervision as determined
16 by the board or its designee. It shall be the Respondent Nourani's responsibility to ensure that his
17 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
18 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
19 acknowledgements to the board shall be considered a violation of probation.

20 If Respondent Nourani changes employment, it shall be the Respondent Nourani's
21 responsibility to ensure that his employer(s), pharmacist-in-charge and/or supervisor(s) submit
22 timely acknowledgement(s) to the board. Respondent Nourani shall have his new supervisor,
23 within fifteen (15) days after employment commences, submit notification to the board in writing
24 stating the direct supervisor and pharmacist-in-charge have read the decision in case number 4790
25 and is familiar with the level of supervision as determined by the board. Respondent Nourani
26 shall not practice pharmacy and his license shall be automatically suspended until the board or its
27 designee approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-
28 charge to submit timely acknowledgements to the board shall be considered a violation of

1 probation.

2 Within ten (10) days of leaving employment, Respondent Nourani shall notify the board in
3 writing.

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

13 During suspension, Respondent Nourani shall not engage in any activity that requires the
14 professional judgment of a pharmacist. Respondent Nourani shall not direct or control any aspect
15 of the practice of pharmacy. Respondent Nourani shall not perform the duties of a pharmacy
16 technician or a designated representative for any entity licensed by the board.

17 Subject to the above restrictions, Respondent Nourani may continue to own or hold an
18 interest in any licensed premises in which he holds an interest at the time this decision becomes
19 effective unless otherwise specified in this order.

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

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

22 Respondent Nourani shall not own, have any legal or beneficial interest in, or serve as a
23 manager, administrator, member, officer, director, trustee, associate, or partner of any business,
24 firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent
25 Nourani shall sell or transfer any legal or beneficial interest in any entity licensed by the board
26 within ninety (90) days following the effective date of this decision and shall immediately
27 thereafter provide written proof thereof to the board. Failure to timely divest any legal or
28 beneficial interest(s) or provide documentation thereof shall be considered a violation of

1 probation.

2 20. Tolling of Suspension

3 During the period of suspension, Respondent Nourani shall not leave California for any
4 period exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in
5 excess of the (10) days during suspension shall be considered a violation of probation. Moreover,
6 any absence from California during the period of suspension exceeding ten (10) days shall toll the
7 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
8 Respondent Nourani is absent from California. During any such period of tolling of suspension,
9 Respondent Nourani must nonetheless comply with all terms and conditions of probation.

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

15 21. Ethics Course

16 Within sixty (60) calendar days of the effective date of this decision, Respondent Nourani
17 shall enroll in a course in ethics, at Respondent Nourani's expense, approved in advance by the
18 board or its designee. Failure to initiate the course during the first year of probation, and
19 complete it within the second year of probation, is a violation of probation.

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

22 ///

23 ///

24 ///

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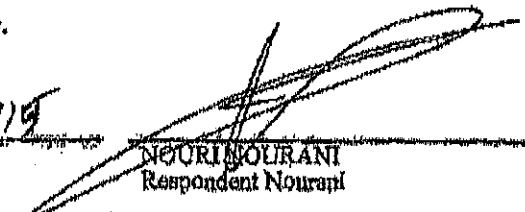
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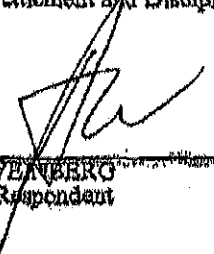
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Herb Weinberg. I understand the stipulation and the effect it will have on my Original Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 04/27/15
NOURI NOURANI
Respondent Nourani

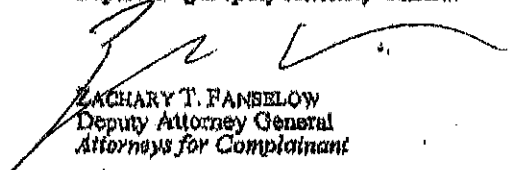
I have read and fully discussed with Respondent Nouri Nourani the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 4/27/2015
HERBERT WEINBERG
Attorney for RespondentENDORSEMENT

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

Dated: 4/27/15

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General
ZACHARY T. FARNELOW
Deputy Attorney General
Attorneys for Complainant

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8 **BEFORE THE**
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9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 4790

11 **TARZANA PHARMACY; NOURI**
12 **NOURANI**
13 **18370 Burbank Blvd., Ste. 104**
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 a. On or about September 17, 2010, Respondent pharmacy dispensed prescription
2 number 970622 for Voltaren 1% Gel.¹ 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 ¹ 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:

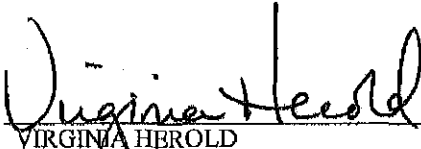
6 1. Revoking or suspending Original Permit Number PHY 49879, issued to Tarzana
7 Pharmacy; Nouri Nourani;

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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