

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

In the Matter of the Accusation Against:

**VITSHANTA, INC.  
DBA SIERRA PHARMACY  
4108 N. Sierra Way  
San Bernardino, CA 92407  
Pharmacy Permit No. PHY 49260**

**AND**

**PRADEEP KUMAR AMIN  
4108 N. Sierra Way  
San Bernardino, CA 92407  
Pharmacist License No. RPH 40574**

Case No. 4826

OAH No. 2015051106

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

**[SIERRA PHARMACY  
(SAN BERNARDINO LOCATION)  
ONLY]**

Respondents.

**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 at 5:00 p.m. on April 1, 2016.

It is so ORDERED on March 2, 2016.

**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 THOMAS L. RINALDI  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*  
7

8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 4826

12 **VITSHANTA, INC.**  
13 **DBA SIERRA PHARMACY**  
4108 N. Sierra Way  
14 San Bernardino, CA 92407

OAH No. 2015051106

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 Pharmacy Permit No. PHY 49260

**[SIERRA PHARMACY  
(SAN BERNARDINO LOCATION)  
ONLY]**

16 **AND**

17 **PRADEEP KUMAR AMIN**  
4108 N. Sierra Way  
18 San Bernardino, CA 92407

19 Pharmacist License No. RPH 40574  
20

21 Respondents.

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

24 **PARTIES**

25 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.  
26 She brought this action solely in her official capacity and is represented in this matter by Kamala  
27  
28

1 D. Harris, Attorney General of the State of California, by Susan Melton Wilson, Deputy Attorney  
2 General.

3 2. On or about December 5, 2008, the Board of Pharmacy issued Pharmacy Permit No.  
4 49260 to Vitshanta, Inc. dba Sierra Pharmacy (San Bernardino location)..The Pharmacy Permit  
5 was in full force and effect at all times relevant to the charges brought in Accusation No. 4826  
6 and will expire on December 1, 2015, unless renewed.

7 3. Pradeep Kumar Amin is an owner and authorized representative of Vitshanta, Inc.  
8 dba Sierra Pharmacy, located on Sierra Way in the city of San Bernardino, CA ("Respondent"),  
9 which is represented in this proceeding by attorney Tony J. Park, Pharm.D., J.D., whose address  
10 is: 2855 Michelle Drive, Suite 180, Irvine, CA 92606-1027

#### 11 JURISDICTION

12 4. Accusation No. 4826 was filed before the Board of Pharmacy (Board) , Department  
13 of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other  
14 statutorily required documents were properly served on Respondent on September 26, 2014.  
15 Respondent timely filed its Notice of Defense contesting the Accusation.

16 5. A copy of Accusation No. 4826 is attached as **Exhibit A** and incorporated herein by  
17 reference.

#### 18 ADVISEMENT AND WAIVERS

19 6. Respondent, by its authorized representative, has carefully read, fully discussed with  
20 counsel, and understands the charges and allegations in Accusation No. 4826. Respondent has  
21 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated  
22 Settlement and Disciplinary Order.

23 7. Respondent, by its authorized representative, is fully aware of his legal rights in this  
24 matter, including the right to a hearing on the charges and allegations in the Accusation; the right  
25 to be represented by counsel at his own expense; the right to confront and cross-examine the  
26 witnesses against him; the right to present evidence and to testify on his own behalf; the right to  
27 the issuance of subpoenas to compel the attendance of witnesses and the production of  
28

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.

8. Respondent, by its authorized representative, voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

#### CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 4826, if proven at a hearing, constitute cause for imposing discipline upon its Pharmacy Permit.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent, by its authorized representative, agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up its right to contest those charges.

11. Respondent, by its authorized representative, agrees that its Pharmacy Permit is subject to discipline and agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

#### CONTINGENCY

12. 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 settlement, without notice to or participation by Respondent or his counsel. 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 Settlement and Disciplinary Order shall be of no force or effect, except for this 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.

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

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

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

## DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Permit No. 49260 issued to Respondent Vitshanta, Inc. dba Sierra Pharmacy Sierra (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

## 1. Suspension

Pharmacy Permit No. PHY 49260, issued to respondent Vitshanta, Inc., dba Sierra Pharmacy is suspended for a period of seven (7) days, said suspension beginning thirty (30) days after the effective of this decision.

Respondent shall cease all pharmacy operations during the period of suspension. Failure to comply with this suspension shall be considered a violation of probation.

## 2. Obey All Laws

Respondent owner shall obey all state and federal laws and regulations.

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

- ☐ an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- ☐ a plea of guilty or nolo contendere in any state or federal criminal proceeding to any

1 criminal complaint, information or indictment

2 ☐ a conviction of any crime

3 ☐ discipline, citation, or other administrative action filed by any state or federal agency  
4 which involves respondent's Pharmacy Permit No. PHY 49260 or which is related to  
5 the practice of pharmacy or the manufacturing, obtaining, handling or distributing,  
6 billing, or charging for any drug, device or controlled substance.

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

8 **3. Report to the Board**

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

17 **4. Interview with the Board**

18 Upon receipt of reasonable prior notice, respondent owner shall appear in person for  
19 interviews with the board or its designee, at such intervals and locations as are determined by the  
20 board or its designee. Failure to appear for any scheduled interview without prior notification to  
21 board staff, or failure to appear for two (2) or more scheduled interviews with the board or its  
22 designee during the period of probation, shall be considered a violation of probation.

23 **5. Cooperate with Board Staff**

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

27 **6. Reimbursement of Board Costs**

28 As a condition precedent to successful completion of probation, Respondent owner

1 Vitshanta, Inc., dba Sierra Pharmacy and individual licensee Pradeep Kumar Amin  
2 ("Respondents") shall be jointly and severally liable to pay to the board its costs of investigation  
3 and prosecution in the amount of \$12,500.00. Respondents shall be permitted to pay these costs in  
4 a payment plan approved by the Board or its designee, with payments to be completed no later  
5 than one month prior to the end of the probation term. There shall be no deviation from this  
6 schedule absent prior written approval by the board or its designee. Failure to pay costs by the  
7 deadline(s) as directed shall be considered a violation of probation.

8 The filing of bankruptcy by Respondents, and each of them, shall not relieve them of the  
9 responsibility to reimburse the board its costs of investigation and prosecution.

10 **7. Probation Monitoring Costs**

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

15 **8. Status of License**

16 Respondent owner shall, at all times while on probation, maintain current licensure with the  
17 board. If respondent owner submits an application to the board, and the application is approved,  
18 for a change of location, change of permit or change of ownership, the board shall retain  
19 continuing jurisdiction over the license, and the respondent shall remain on probation as  
20 determined by the board. Failure to maintain current licensure shall be considered a violation of  
21 probation.

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

26 **9. License Surrender While on Probation/Suspension**

27 Following the effective date of this decision, should respondent owner discontinue  
28 business, respondent owner may tender the premises license to the board for surrender. The

1 board or its designee shall have the discretion whether to grant the request for surrender or take  
2 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of  
3 the license, respondent will no longer be subject to the terms and conditions of probation.

4 Upon acceptance of the surrender, respondent owner shall relinquish the premises wall and  
5 renewal license to the board within ten (10) days of notification by the board that the surrender is  
6 accepted. Respondent owner shall further submit a completed Discontinuance of Business form  
7 according to board guidelines and shall notify the board of the records inventory transfer.

8 Respondent owner shall also, by the effective date of this decision, arrange for the  
9 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written  
10 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that  
11 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating  
12 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five  
13 days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a copy  
14 of the written notice to the board. For the purposes of this provision, "ongoing patients" means  
15 those patients for whom the pharmacy has on file a prescription with one or more refills  
16 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)  
17 days.

18 Respondent owner may not apply for any new licensure from the board for three (3) years  
19 from the effective date of the surrender. Respondent owner shall meet all requirements applicable  
20 to the license sought as of the date the application for that license is submitted to the board.

21 Respondent owner further stipulates that he or she shall reimburse the board for its costs of  
22 investigation and prosecution prior to the acceptance of the surrender.

#### 23 10. Notice to Employees

24 Respondent owner shall, upon or before the effective date of this decision, ensure that all  
25 employees involved in permit operations are made aware of all the terms and conditions of  
26 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.  
27 If the notice required by this provision is posted, it shall be posted in a prominent place and shall  
28 remain posted throughout the probation period. Respondent owner shall ensure that any



1 employees hired or used after the effective date of this decision are made aware of the terms and  
2 conditions of probation by posting a notice, circulating a notice, or both. Additionally,  
3 respondent owner shall submit written notification to the board, within fifteen (15) days of the  
4 effective date of this decision, that this term has been satisfied. Failure to submit such  
5 notification to the board shall be considered a violation of probation.

6 "Employees" as used in this provision includes all full-time, part-time,  
7 volunteer, temporary and relief employees and independent contractors employed or  
8 hired at any time during probation.

9 **11. Owners and Officers: Knowledge of the Law**

10 Respondent shall provide, within thirty (30) days after the effective date of this decision,  
11 signed and dated statements from its owners, including any owner or holder of ten percent (10%)  
12 or more of the interest in respondent or respondent's stock, and any officer, stating under penalty  
13 of perjury that said individuals have read and are familiar with state and federal laws and  
14 regulations governing the practice of pharmacy. The failure to timely provide said statements  
15 under penalty of perjury shall be considered a violation of probation.

16 **12. Posted Notice of Probation**

17 Respondent owner shall prominently post a probation notice provided by the board in a  
18 place conspicuous and readable to the public. The probation notice shall remain posted during  
19 the entire period of probation.

20 Respondent owner shall not, directly or indirectly, engage in any conduct or make any  
21 statement which is intended to mislead or is likely to have the effect of misleading any patient,  
22 customer, member of the public, or other person(s) as to the nature of and reason for the probation  
23 of the licensed entity.

24 Failure to post such notice shall be considered a violation of probation.

25 **13. Violation of Probation**

26 If a respondent owner has not complied with any term or condition of probation, the board  
27 shall have continuing jurisdiction over respondent license, and probation shall be automatically  
28 extended until all terms and conditions have been satisfied or the board has taken other action as

1 deemed appropriate to treat the failure to comply as a violation of probation, to terminate  
2 probation, and to impose the penalty that was stayed.

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

#### 11 14. Completion of Probation

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

#### 14 15. Community Services Program

15 Within sixty (60) days of the effective date of this decision, respondent owner shall submit  
16 to the board or its designee, for prior approval, a community service program in which respondent  
17 shall provide free health-care related services to a community or charitable facility or agency  
18 during the term of probation - in the form of distribution of pre-paid self-addressed "mail back"  
19 containers, *or* free sharps disposal services, *or* no-cost immunizations *or* other pre-approved  
20 services to the community, said services having a value of at least \$15,000.00, during the term of  
21 probation.

22 Within thirty (30) days of board approval thereof, respondent owner shall submit  
23 documentation to the board demonstrating commencement of the community service program.  
24 Respondent owner shall report on progress with the community service program in the quarterly  
25 reports.

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

#### 28 16. Posted Notice of Suspension

1 Respondent owner shall prominently post a suspension notice provided by the board in a  
2 place conspicuous and readable to the public. The suspension notice shall remain posted during  
3 the entire period of suspension ordered by this decision.

4 Respondent owner shall not, directly or indirectly, engage in any conduct or make any  
5 statement, orally, electronically or in writing, which is intended to mislead or is likely to have the  
6 effect of misleading any patient, customer, member of the public, or other person(s) as to the  
7 nature of and reason for the closure of the licensed entity.

8 **17. Consultant for Owner or Pharmacist-In-Charge**

9 Respondent owner shall retain an independent consultant at its own expense who shall be  
10 responsible for reviewing pharmacy operations on a monthly basis for compliance by respondent  
11 owner with state and federal laws and regulations governing the practice of pharmacy and for  
12 compliance by respondent with the obligations of a pharmacist-in-charge. The consultant shall be  
13 a pharmacist licensed by and not on probation with the board and whose name shall be submitted  
14 to the board or its designee, for prior approval. Within thirty (30) days of the effective date of  
15 this decision.

16 After twelve monthly reports have been submitted timely, Respondent owner may request  
17 that the Board or its designee approve transition to quarterly review and reporting by the  
18 consultant. Approval or denial of such transition shall be within the discretion of the Board or its  
19 designee.

20 Failure to timely retain, seek approval of, or ensure timely reporting by the consultant shall  
21 be considered a violation of probation.

22 ACCEPTANCE

23 I Pradeep Kumar Amin am an owner and authorized representative of Respondent  
24 Vitshanta, Inc. dba Sierra Pharmacy, holder of Pharmacy Permit No. PHY 49260, and have  
25 carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it  
26 with my attorney, Tony J. Park. I understand the stipulation and the effect it will have on the  
27 Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,  
28

1 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of  
2 Pharmacy.

3  
4 DATED: 11/4/2015

  
5 SIERRA PHARMACY  
6 By: PRADEEP KUMAR AMIN  
Respondent

7 I have read and fully discussed with Pradeep Kumar Amin, the authorized representative of  
8 Respondent Vitshanta, Inc. dba Sierra Pharmacy, holder of Pharmacy Permit No. PHY 49260, the  
9 terms and conditions and other matters contained in the above Stipulated Settlement and  
10 Disciplinary Order. I approve its form and content.

11 DATED: \_\_\_\_\_

12 TONY J. PARK, PHARM.D., J.D.  
Attorney for Respondent

13  
14 ENDORSEMENT

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

18 Dated: \_\_\_\_\_

Respectfully submitted,

19 KAMALA D. HARRIS  
Attorney General of California  
20 THOMAS L. RINALDI  
Supervising Deputy Attorney General

21  
22 SUSAN MELTON WILSON  
Deputy Attorney General  
23 Attorneys for Complainant

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1 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of  
2 Pharmacy.

3  
4 DATED: \_\_\_\_\_

SIERRA PHARMACY  
By: PRADEEP KUMAR AMIN  
Respondent

5  
6  
7 I have read and fully discussed with Pradeep Kumar Amin, the authorized representative of  
8 Respondent Vitshanta, Inc. dba Sierra Pharmacy, holder of Pharmacy Permit No. PHY 49260, the  
9 terms and conditions and other matters contained in the above Stipulated Settlement and  
10 Disciplinary Order. I approve its form and content.

11 DATED: 11/04/2015

  
TONY J. PARK, PHARM.D., J.D.  
Attorney for Respondent

13  
14 ENDORSEMENT

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

18 Dated:

11-5-15

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
THOMAS L. RINALDI  
Supervising Deputy Attorney General

21  
22   
SUSAN MELTON WILSON  
Deputy Attorney General  
Attorneys for Complainant

24  
25 LA2013509861  
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**Exhibit A**

**Accusation No. 4826**

1 KAMALA D. HARRIS  
Attorney General of California  
2 LINDA K. SCHNEIDER  
Supervising Deputy Attorney General  
3 DESIREE I. KELLOGG  
Deputy Attorney General  
4 State Bar No. 126461  
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6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2061.  
*Attorneys for Complainant*

8  
9 **BEFORE THE**  
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13 **DBA SIERRA PHARMACY**  
14 **4108 N. Sierra Way**  
**San Bernardino, CA 92407**

**ACCUSATION**

15 **Pharmacy Permit No. PHY 49260**

16 **PRADEEP KUMAR AMIN**  
17 **4108 N. Sierra Way**  
**San Bernardino, CA 92407**

18 **Pharmacist License No. RPH 40574**

19 Respondent.

20  
21  
22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about December 5, 2008, the Board of Pharmacy issued Pharmacy Permit  
27 Number PHY 49260 to Vitshanta, Inc., doing business as Sierra Pharmacy (Respondent Sierra  
28

1 Pharmacy). The Pharmacy Permit was in full force and effect at all times relevant to the charges  
2 brought herein and will expire on December 1, 2014, unless renewed.

3 3. On or about September 24, 1986, the Board of Pharmacy issued Pharmacist License  
4 Number RPH 40574 to Pradeep Kumar Amin (Respondent Pradeep Amin). The Pharmacist  
5 License was in full force and effect at all times relevant to the charges brought herein and will  
6 expire on December 1, 2016, unless renewed.

### 7 JURISDICTION

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

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

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

16 7. Section 4300.1 of the Code states:

17 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
18 by operation of law or by order or decision of the board or a court of law, the  
19 placement of a license on a retired status, or the voluntary surrender of a license by a  
20 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.

### 21 STATUTORY AND REGULATORY PROVISIONS

22 8. Section 4301 of the Code states in pertinent part:

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

25 ...

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

28 ...



1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
2 abetting the violation of or conspiring to violate any provision or term of this chapter  
3 or of the applicable federal and state laws and regulations governing pharmacy,  
4 including regulations established by the board or any other state or federal regulatory  
5 agency.

6 ...  
7 9. Section 4113 (c) of the Code states:

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

10 10. Section 4306.5 of the Code states, in pertinent part:

11 Unprofessional conduct for a pharmacist may include any of the following:

12 Acts or omissions that involve, in whole or in part, the inappropriate exercise of  
13 his or her education, training, or experience as a pharmacist, whether or not the act  
14 or omission arises in the course of the practice of pharmacy or the ownership,  
15 management, administration, or operation of a pharmacy or other entity licensed by  
16 the board.

17 Acts or omissions that involve, in whole or in part, the failure to consult  
18 appropriate patient, prescription, and other records pertaining to the performance of  
19 any pharmacy function.

20 ...  
21 11. Code section 4115 (f)(1) states:

22 A pharmacy with only one pharmacist shall have no more than one pharmacy  
23 technician performing the tasks specified in subdivision (a). The ratio of pharmacy  
24 technicians performing the tasks specified in subdivision (a) to any additional  
25 pharmacist shall not exceed 2:1, except that this ratio shall not apply to personnel  
26 performing clerical functions pursuant to Section 4116 or 4117. This ratio is  
27 applicable all practice settings, except for an inpatient of a licensed health facility, a  
28 patient of a licensed home health agency, as specified in paragraph (2), an inmate of a  
correctional facility of the Department of Corrections and Rehabilitation, and for a  
person receiving treatment in a facility operated by the State Department of State  
Hospitals, the State Department of Developmental Services, or the Department of  
Veterans Affairs.

29 12. Health and Safety Code section 11153 (a) states:

30 A prescription for a controlled substance shall only be issued for a legitimate  
31 medical purpose by an individual practitioner acting in the usual course of his or her  
32 professional practice. The responsibility for the proper prescribing and dispensing of  
33 controlled substances is upon the prescribing practitioner, but a corresponding  
34 responsibility rests with the pharmacist who fills the prescription. Except as  
35 authorized by this division, the following are not legal prescriptions: (1) an order  
36 purporting to be a prescription which is issued not in the usual course of  
37 professional treatment or in legitimate and authorized research; or (2) an order for an  
38 addict or habitual user of controlled substances, which is issued not in the course of  
professional treatment or as part of an authorized narcotic treatment program, for the  
purpose of providing the user with controlled substances, sufficient to keep him or

her comfortable by maintaining customary use.

13. Health and Safety Code section 11165 (d) states, in pertinent part:

To assist law enforcement and regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II, Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and research, the Department of Justice shall, contingent upon the availability of adequate funds from the Contingent Fund of the Medical Board of California, the Pharmacy Board Contingent Fund, the State Dentistry Fund, the Board of Registered Nursing Fund, and the Osteopathic Medical Board of California Contingent Fund, maintain the Controlled Substance Utilization Review and Evaluation System (CURES) for the electronic monitoring of, and Internet access to information regarding, the prescribing and dispensing of Schedule II, Schedule III and Schedule IV controlled substances by all practitioners authorized to prescribe or dispense these controlled substances.

For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedule in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy or clinic shall provide the following information to the Department of Justice on a weekly basis and in a format specified by the Department of Justice:

14. Section 1761 of title 16, California Code of Regulations states:

(a) No pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.

(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense a controlled substance prescription where the pharmacist knows or has objective reason to know that said prescription was not issued for a legitimate medical purpose.

#### COST RECOVERY

15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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

16. Hydrocodone/APAP, is the generic name for Vicodin and Norco, a Schedule III controlled substance pursuant to Health and Safety Code section 11056 (e)(5) and a dangerous drug pursuant to Business and Professions Code section 4022.

17. Phenergan with Codeine is the brand name for promethazine with codeine, a Schedule V controlled substance pursuant to Health and Safety Code section 11058 (c)(1) and is a dangerous drug pursuant to Business and Professions Code section 4022.

18. Xanax is the brand name for alprazolam, a Schedule IV controlled substance pursuant to Health and Safety Code section 11057 (d)(1) and a dangerous drug pursuant to Business and Professions Code section 4022.

## FACTUAL ALLEGATIONS

19. From December 5, 2008 and at all times mentioned herein, Respondent Pradeep Amin was the Pharmacist-in-Charge of Respondent Sierra Pharmacy.

20. From January 4, 2010 to September 26, 2011, Respondents filled 1,220 prescriptions for controlled substances which were written by Dr. A.S. None of the five pharmacies closest in geographical proximity to Respondent Sierra Pharmacy dispensed a single prescription written by Dr. A.S. The amounts of hydrocodone/apap dispensed by Respondents during the same time frame was higher than neighboring pharmacies.

21. On July 22, 2005, an accusation was filed against Dr. A.S., a physician with a primary practice area of family and general practice, charging Dr. A.S. with gross negligence, repeated negligent acts, incompetence, dishonesty and prescribing without medical indication or performing a good faith physical examination, among other violations of the Medical Practice Act. On April 30, 2007, a stipulated settlement and disciplinary order was adopted by the Medical Board, placing Dr. A.S. on probation for four years.

22. On June 18, 2009, another accusation and a petition to revoke probation was filed against Dr. A.S. charging him with dishonesty and failing to comply with the term and condition of his probation requiring him to maintain a drug log for all controlled substances ordered, prescribed, dispensed, administered or possessed by him. On March 26, 2010, another stipulated

1 settlement and disciplinary order was adopted by the Medical Board, extending his probation for  
2 four additional years on the same terms and conditions in addition to prohibiting him from  
3 writing prescriptions for Schedule II controlled substances.

4 23. On September 20, 2012, an interim suspension order was issued against Dr. A.S. On  
5 November 7, 2012, a third accusation and second petition to revoke probation was filed against  
6 Dr. A.S. charging him with gross negligence, repeated negligent acts, incompetence, prescribing  
7 to addicts, prescribing without performing physical examination or medical indication or both,  
8 failure to maintain adequate and accurate medical records, excessive prescribing and violation of  
9 drug statutes, as well as writing prescriptions for Schedule II controlled substances in violation of  
10 the terms and conditions of his probation.

11 24. To obtain controlled substances from Respondents, Dr. A.S.'s patients traveled an  
12 average of 46 miles from their residences to Respondent Sierra Pharmacy and traveled an average  
13 of 56 miles from Dr. A.S.'s offices to Respondent Sierra Pharmacy.

14 25. Groups of patients were furnished controlled substances by Respondents at the same  
15 time.

16 26. Respondents dispensed and filled prescriptions for controlled substances which were  
17 written in an identical fashion for multiple patients. For example, many prescriptions were  
18 written by Dr. A.S., each for different patients, for hydrocodone/apap 10/325, alprazolam 2mg  
19 and promethazine with codeine 480ml. Almost ninety-five percent of the prescriptions written by  
20 Dr. A.S. and filled by Respondents were for controlled substances.

21 27. Not all of prescriptions written by Dr. A.S. and filled by Respondents identified  
22 diagnoses for his patients. For the prescriptions written for alprazolam where a diagnosis was  
23 documented, the diagnosis was identical, "anxiety." For the prescriptions written for  
24 promethazine with codeine where a diagnosis was documented, the diagnosis was identical,  
25 "bronchitis," without a concurrent prescription for an antibiotic or other respiratory medication.  
26 For the majority of the prescriptions written for hydrocodone/apap with a diagnosis documented,  
27 the diagnosis was identical, "back pain" with no referral to a pain specialist and concurrent  
28

1 prescriptions written for other medications routinely prescribed for chronic pain such as  
2 amitriptyline and gabapentin.

3 28. Respondents did not verify or otherwise research whether the prescriptions described  
4 in paragraph 20 were written for a legitimate medical purpose before filling them, including  
5 verifying whether there were any disciplinary proceedings pending against Dr. A.S.'s license to  
6 practice medicine.

7 29. From January 2010 through November 2012, Respondents did not provide any  
8 information for each prescription dispensed for a Schedule II, Schedule III or Schedule IV  
9 controlled substance to the Department of Justice on a weekly basis for inclusion in the  
10 Controlled Substance Utilization Review and Evaluation System ("CURES").

11 30. On December 20, 2012, two pharmacy technicians were on duty and performing  
12 packaging, manipulative, repetitive, or other nondiscretionary tasks while there was only one  
13 pharmacist on duty at Respondent Sierra Pharmacy.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Failing to Comply with Corresponding Responsibility**  
16 **for Legitimate Controlled Substance Prescriptions)**

17 31. Respondents are subject to disciplinary action under Code section 4301(j), for  
18 violating Health and Safety Code section 11153(a), in that they failed to comply with their  
19 corresponding responsibility to ensure that controlled substances were dispensed for a legitimate  
20 medical purpose when Respondents furnished prescriptions for controlled substances even though  
21 "red flags" were present to indicate those prescriptions were not issued for a legitimate medical  
22 purpose, as set forth in paragraphs 19 through 30 above, which are incorporated herein by  
23 reference.

24 **SECOND CAUSE FOR DISCIPLINE**

25 **(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions,**  
26 **Irregularities, Uncertainties, Ambiguities or Alterations)**

27 32. Respondents are subject to disciplinary action under Code section 4301(o), for  
28 violating title 16, California Code of Regulations, sections 1761(a) and (b), in that they dispensed

1 prescriptions for controlled substances, which contained significant errors, omissions,  
2 irregularities, uncertainties, ambiguities or alterations, as set forth in paragraphs 19 through 30  
3 above, which are incorporated herein by reference.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Failure to Exercise or Implement Best Professional Judgment or Corresponding**  
6 **Responsibility when Dispensing Controlled Substances**  
7 **against Respondent Pradeep Amin)**

8 33. Respondent Pradeep Amin is subject to disciplinary action under Code section  
9 4301(o), for violating Business and Professions Code section 4306.5(a) and (b), in that he failed  
10 to exercise or implement his best professional judgment or corresponding responsibility when  
11 dispensing controlled substances, as set forth in paragraphs 19 through 30 above, which are  
12 incorporated herein by reference.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Failure to Report Dispensing of Controlled Prescriptions to CURES against Respondents)**

15 34. Respondents are subject to disciplinary action under Code section 4301(j), for  
16 violating Health and Safety Code section 11165(d), in that they failed to provide any information  
17 for each prescription dispensed of a Schedule II, Schedule III or Schedule IV controlled substance  
18 to the Department of Justice on a weekly basis for inclusion in CURES, as set forth in paragraphs  
19 19 through 30 above, which are incorporated herein by reference.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 **(Failure to Adhere to Pharmacy Technician Ratios)**

22 35. Respondents are subject to disciplinary action under Code section 4301(o), for  
23 violating Business and Professions Code section 4115(f)(1), in that on December 20, 2012, two  
24 pharmacy technicians were on duty and performing their tasks with only one pharmacist present  
25 and on duty, as set forth in paragraphs 19 through 30 above, which are incorporated herein by  
26 reference.

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