

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

In the Matter of the Petition for Early
Termination of Probation of:

COMPLETE INFUSION CARE, CIC, INC.,
Pharmacy Permit No. PHY 53829,
Sterile Compounding License No. LSC
100883,

Petitioner.

Case No. 4907

OAH No. 2018120123

In the Matter of the Petition for Early
Termination of Probation of:

ALI POURMOLA,
Pharmacist License No. RPH 48035,

Petitioner.

Case No. 4907

OAH No. 2018120124

DECISION

A quorum of the Board of Pharmacy (Board) heard these matters on December 14, 2018, in Irvine, California. Administrative Law Judge Howard W. Cohen of the Office of Administrative Hearings presided.

Desiree Tulleners, Deputy Attorney General, represented the Attorney General under Business and Professions Code section 4309 and Government Code section 11522.

Michael Houske, Attorney at Law, General Counsel and Executive Vice President of Complete Infusion Care, CIC, Inc., (CIC) represented petitioners CIC and Ali Pourmola, who was present. The parties stipulated that both petitions should be heard together and a single decision should issue.

Evidence was received, the record was closed, and the matters were submitted for decision on December 14, 2018, following which the Board met in executive session and decided the matters on the day of hearing.

FACTUAL FINDINGS

Parties and Jurisdiction

1. The Board issued Pharmacy Permit number PHY 46839 to petitioner CIC on September 22, 2004. The permit expired on March 4, 2016. The Board issued Sterile Compounding License number LSC 99250 to petitioner CIC on November 15, 2004. The license expired on March 7, 2016. The Board issued petitioner CIC its current Pharmacy Permit, number PHY 53829, on March 4, 2016; the permit is scheduled to expire on March 1, 2019. The Board issued petitioner CIC its current Sterile Compounding License, number LSC 100883, on March 7, 2016; the license is scheduled to expire on March 1, 2019. The original pharmacy permit and sterile compounding license were subject to discipline in Case No. 4907; in exchange for issuing CIC a new permit and license for a new pharmacy location, petitioner agreed that Pharmacy Permit number PHY 53829 and Sterile Compounding License number LSC 100883 would be subject to the disciplinary order issued with respect to the original permit and license in Case No. 4907. (See Factual Finding 4.)

2. The Board issued Pharmacist License number RPH 48035 to petitioner Pourmola on August 8, 1995. The license is scheduled to expire on October 31, 2020.

3. On July 5, 2018, CIC filed a Petition for Early Termination of Probation with the Board. On October 12, 2018, petitioner Pourmola filed a Petition for Early Termination with the Board.

Disciplinary History

4. On May 18, 2016, the Board issued a Decision and Order in Case No. 4907, effective June 17, 2016, adopting a Stipulated Settlement and Disciplinary Order as to Complete Infusion Care and Ali Pourmola. The Decision and Order revoked petitioner CIC's retail pharmacy permit and sterile compounding license, stayed the revocation, and placed petitioner CIC on four years' probation on certain terms and conditions, including that petitioner CIC pay the Board \$10,333 for costs of investigation and prosecution and \$10,000 as an administrative penalty, stipulate to the Board's continuing jurisdiction over a new permit and license to be issued at petitioner CIC's request as a result of a change in location, comply with all laws governing the practice of pharmacy, pay monitoring costs, and cooperate with Board-requested inspections.

5. On September 23, 2016, the Board issued a Decision and Order in Case No. 4907, effective October 24, 2016, adopting a Stipulated Settlement and Disciplinary Order as to Ali Pourmola. The Decision and Order revoked petitioner Pourmola's pharmacist license, stayed the revocation, and placed petitioner Pourmola on four years' probation on certain terms and conditions, including that petitioner Pourmola pay the Board \$10,333 for costs of investigation and prosecution and \$10,000 as an administrative penalty, stipulate to the Board's continuing jurisdiction, comply with all laws governing the practice of pharmacy, cooperate with Board-requested inspections, complete at least 10 hours of remedial education relating to

compounding and enroll in an ethics program, and engage in the supervised practice of pharmacy for 50 percent of the work week.

6. Both the CIC and the Pourmola Decision and Orders recited that the petitioner in each matter admitted that the charges and allegations in the Fourth Amended Accusation (Accusation) filed in the case, if proven at a hearing, would constitute cause for license discipline, that the complainant could establish a factual basis for the charges, that petitioner waived its right to contest those charges, and that its permit and license was subject to discipline.

7. The Accusation was based on an October 2012 inspection that revealed various violations. The Accusation stated, against petitioner CIC, three causes for discipline for unprofessional conduct (staff training in injectable compounding, compounding limitations and requirements, and recordkeeping of compounded drug products), and five additional causes for discipline, for sale of drugs lacking quality of strength, erroneous or uncertain prescription, labeling requirements, sterile injectable labeling requirements, and records of compounding products. Only the fifth cause for discipline, for erroneous or uncertain prescription, was also stated against petitioner Pourmola.

Petition for Reinstatement

8. Both petitioners are in full compliance with their terms of probation. Petitioners CIC and Pourmola have paid the Board's costs in full. Petitioner CIC has been paying monitoring costs as required. Petitioner Pourmola has completed the ethics course and the continuing education courses required by the terms of his probation.

9. Collective rehabilitative efforts since the 2012 violations demonstrate significant changes in the pharmacy's operations, including such areas as training, sterile compounding procedures, oversight, labeling, and recordkeeping. Since Dr. Avedis Kojayan became Pharmacist-in-Charge (PIC) in January 2, 2013, petitioner CIC has not been cited for any violations.

10. Petitioner Pourmola testified that, with respect to the Fourth Amended Accusation, he was entirely responsible for failing to document his correction of an incorrect prescription dose, and that he recognizes the importance of accurate documentation. Changes have been made to pharmacy policies and procedures to ensure accurate documentation.

11. The Board has considered all evidence petitioners CIC and Pourmola presented in support of the Petitions. Petitioners established, by clear and convincing evidence, rehabilitation sufficient to warrant early termination of probation. They have implemented safety measures and redundant systems and have passed nine inspections. The current PIC at CIC understands the issues leading to the Accusation and has taken all necessary remedial actions. Petitioner Pourmola has accepted full responsibility for his actions and is in full compliance with the terms of his probation. Neither petitioner poses a clear risk to public safety.

LEGAL CONCLUSIONS

1. A petitioner must prove rehabilitation and that probation should be terminated early by clear and convincing evidence. (See, e.g., *Flanzer v. Board of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398; *Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1091-1092.) The showing of rehabilitation must be sufficient to overcome the Board’s former adverse determination. (See, e.g., *Housman v. Board of Medical Examiners* (1948) 84 Cal.App.2d 308, 315-316.) In deciding whether to grant a petition for early termination of probation, the Board may consider, among other factors, petitioner’s activities since discipline was imposed, petitioner’s offense, and petitioner’s documented rehabilitative efforts. (Bus. & Prof. Code, § 4309, subd. (d).)

2. Based on its factual findings, the Board concludes that cause exists to grant the Petitions for Early Termination of Probation under Government Code section 11522 and Business and Professions Code section 4309.

ORDER

The Petition for Early Termination of Probation of Pharmacy Permit number 53829 (originally imposed on permit number 46839) and Sterile Compounding License number 100883 (originally imposed on license number 99250), issued to petitioner Complete Infusion Care, CIC, Inc., is granted.

The Petition for Early Termination of Probation of Pharmacist License number RPH 48035, issued to petitioner Ali Pourmola, is granted.

This Decision shall be effective March 7, 2019.

DATED: February 28, 2019



Victor Law, R.Ph., President
Board of Pharmacy
State of California

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

In the Matter of the Fourth Amended
Accusation Against:

COMPLETE INFUSION CARE; ALI
POURMOLA
2310 South Sepulveda Blvd.
Los Angeles, CA 90064
Pharmacy Permit No. PHY 46839
Sterile Compounding License No. LSC
99250

and

ALI POURMOLA
P.O. Box 49251
Los Angeles, CA 90049
Pharmacist License No. RPH 48035

Case No. 4907

OAH No. 2015020271

Respondents.

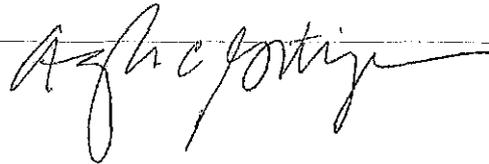
DECISION AND ORDER

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 October 24, 2016.

It is so ORDERED on September 23, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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

10 In the Matter of the Fourth Amended
11 Accusation Against:

Case No. 4907
OAH No. 2015020271

12 **COMPLETE INFUSION CARE; ALI**
13 **POURMOLA**
2310 South Sepulveda Blvd.
Los Angeles, CA 90064
14 Pharmacy Permit No. PHY 46839
15 Sterile Compounding License No. LSC
99250,

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO ALI
POURMOLA

16 and

17
18 **ALI POURMOLA**
P.O. Box 49251
19 Los Angeles, CA 90049
20 Pharmacist License No. RPH 48035,

21
22 Respondents.

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

26 **PARTIES**

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

1 D. Harris, Attorney General of the State of California, by Leslie A. Walden, Deputy Attorney
2 General.

3 2. Respondent Ali Pourmola ("Respondent") is represented in this proceeding by
4 attorney: Michael Houske, whose address is: Complete Infusion Care, CIC, 2310 South
5 Sepulveda Blvd., Los Angeles, CA 90064.

6 3. On or about August 8, 1995, the Board of Pharmacy issued Pharmacist License
7 Number RPH 48035 to Ali Pourmola. The Pharmacy License is in full force and effect and
8 expires on October 31, 2016, unless renewed.

9 **JURISDICTION**

10 4. Accusation No. 4907 was filed before the Board of Pharmacy (Board), Department of
11 Consumer Affairs, and is currently pending against Respondent. The original Accusation and all
12 other statutorily required documents were properly served on Respondent on September 5, 2014.
13 Respondent timely filed his Notice of Defense contesting the Accusation. The Accusation was
14 subsequently amended and the operative Accusation in the matter is the Fourth Amended
15 Accusation, which was served on February 2, 2016.

16 5. A copy of the Fourth Amended Accusation No. 4907 is attached as exhibit A and
17 incorporated herein by reference.

18 **ADVISEMENT AND WAIVERS**

19 6. Respondent has carefully read, fully discussed with counsel, and understands the
20 charges and allegations in the Fourth Amended Accusation No. 4907. Respondent has also
21 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
22 Settlement and Disciplinary Order.

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

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

5 **CULPABILITY**

6 9. Respondent understands and agrees that the charges and allegations in the Fourth
7 Amended Accusation No. 4907, if proven at a hearing, constitute cause for imposing discipline
8 upon his Pharmacist License Number RPH 48035.

9 10. For the purpose of resolving the Fourth Amended Accusation without the expense
10 and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could
11 establish a factual basis for the charges in the Fourth Amended Accusation, and that Respondent
12 hereby gives up his right to contest those charges.

13 11. Respondent agrees that his Pharmacy License is subject to discipline and he agrees to
14 be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

15 **CONTINGENCY**

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

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

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

2 **2. Report to the Board**

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

11 **3. Interview with the Board**

12 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
13 with the board or its designee, upon request at such intervals and locations as are determined by
14 the board or its designee. Failure to appear for any scheduled interview without prior notification
15 to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its
16 designee during the period of probation, shall be considered a violation of probation.

17 **4. Cooperate with Board Staff**

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

21 **5. Notice to Employers**

22 During the period of probation, respondent shall notify all present and prospective
23 employers of the decision in case number 4907 and the terms, conditions and restrictions imposed
24 on respondent by the decision, as follows:

25 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
26 respondent undertaking any new employment, respondent shall cause his direct supervisor,
27 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
28 tenure of employment) and owner to report to the board in writing acknowledging that the listed

1 individual(s) has/have read the decision in case number 4907, and terms and conditions imposed
2 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
3 submit timely acknowledgment(s) to the board.

4 If respondent works for or is employed by or through a pharmacy employment service,
5 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
6 licensed by the board of the terms and conditions of the decision in case number 4907 in advance
7 of the respondent commencing work at each licensed entity. A record of this notification must be
8 provided to the board upon request.

9 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
10 (15) days of respondent undertaking any new employment by or through a pharmacy employment
11 service, respondent shall cause his direct supervisor with the pharmacy employment service to
12 report to the board in writing acknowledging that he has read the decision in case number 4907
13 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
14 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

18 "Employment" within the meaning of this provision shall include any full-time, part-time,
19 temporary, relief or pharmacy management service as a pharmacist or any position for which a
20 pharmacist license is a requirement or criterion for employment, whether the respondent is an
21 employee, independent contractor or volunteer.

22 **6. Reimbursement of Board Costs**

23 As a condition precedent to successful completion of probation, respondent shall pay to the
24 board its costs of investigation and prosecution in the amount of \$10,339.00. Failure to pay costs
25 by the deadline(s) as directed shall be considered a violation of probation.

26 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
27 reimburse the board its costs of investigation and prosecution.
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1 **7. Probation Monitoring Costs**

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

6 **8. Status of License**

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

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

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

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

22 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
23 the board within ten (10) days of notification by the board that the surrender is accepted.

24 Respondent may not reapply for any license from the board for three (3) years from the effective
25 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
26 of the date the application for that license is submitted to the board, including any outstanding
27 costs.

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1 **10. Notification of a Change in Name, Residence Address, Mailing Address or**
2 **Employment**

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

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

10 **11. Tolling of Probation**

11 Except during periods of suspension, respondent shall, at all times while on probation, be
12 employed as a pharmacist in California for a minimum of 35 hours per calendar month. Any
13 month during which this minimum is not met shall toll the period of probation, i.e., the period of
14 probation shall be extended by one month for each month during which this minimum is not met.
15 During any such period of tolling of probation, respondent must nonetheless comply with all
16 terms and conditions of probation.

17 Should respondent, regardless of residency, for any reason (including vacation) cease
18 practicing as a pharmacist for a minimum of 35 hours per calendar month in California,
19 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
20 must further notify the board in writing within ten (10) days of the resumption of practice. Any
21 failure to provide such notification(s) shall be considered a violation of probation.

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

25 "Cessation of practice" means any calendar month during which respondent is
26 not practicing as a pharmacist for at least 35 hours, as defined by Business and
27 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
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1 month during which respondent is practicing as a pharmacist for at least 35 hours as a
2 pharmacist as defined by Business and Professions Code section 4000 et seq.

3 **12. Violation of Probation**

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

9 If respondent violates probation in any respect, the board, after giving respondent notice
10 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
11 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
12 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If

13 a petition to revoke probation or an accusation is filed against respondent during probation, the
14 board shall have continuing jurisdiction, and the period of probation shall be automatically
15 extended, until the petition to revoke probation or accusation is heard and decided, and the
16 charges and allegations in the Fourth Amended Accusation shall be deemed true and correct.

17 **13. Completion of Probation**

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

20 **14. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
21 **Designated Representative-in-Charge, or Serving as a Consultant.**

22 During the period of probation, respondent shall not supervise any intern pharmacist,
23 be the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the
24 board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
25 unauthorized supervision responsibilities shall be considered a violation of probation.

26 **15. No New Ownership of Licensed Premises**

27 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
28 manager, administrator, member, officer, director, trustee, associate, or partner of any additional

1 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or
2 has any legal or beneficial interest in, or serve as a manager, administrator, member, officer,
3 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
4 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
5 that interest, but only to the extent of that position or interest as of the effective date of this
6 decision. Violation of this restriction shall be considered a violation of probation.

7 **16. Remedial Education**

8 Within ninety (90) days of the effective date of this decision, respondent shall submit to the
9 board or its designee, for prior approval, an appropriate program of remedial education related to
10 compounding. The program of remedial education shall consist of at least 10 hours, which shall
11 be completed within two (2) years at respondent's own expense. All remedial education shall be
12 in addition to, and shall not be credited toward, continuing education (CE) courses used for
13 license renewal purposes.

14 Failure to timely submit or complete the approved remedial education shall be considered a
15 violation of probation. The period of probation will be automatically extended until such
16 remedial education is successfully completed and written proof, in a form acceptable to the board,
17 is provided to the board or its designee.

18 Following the completion of each course, the board or its designee may require the
19 respondent, at his or her own expense, to take an approved examination to test the respondent's
20 knowledge of the course. If the respondent does not achieve a passing score on the examination,
21 this failure shall be considered a violation of probation. Any such examination failure shall
22 require respondent to take another course approved by the board in the same subject area.

23 **17. Supervised Practice**

24 During the period of probation, respondent shall practice only under the supervision of a
25 licensed pharmacist not on probation with the board. Upon and after the effective date of this
26 decision, respondent shall not practice pharmacy and his or her license shall be automatically
27 suspended until a supervisor is approved by the board or its designee. The supervision shall be,
28 as required by the board or its designee, either:

1 Continuous -- At least 75% of a work week

2 Substantial - At least 50% of a work week

3 Partial - At least 25% of a work week

4 Daily Review - Supervisor's review of probationer's daily activities within 24 hours. Within
5 thirty (30) days of the effective date of this decision, respondent shall have his or her supervisor
6 submit notification to the board in writing stating that the supervisor has read the decision in case
7 number 4907 and is familiar with the required level of supervision as determined by the board or
8 its designee. It shall be the respondent's responsibility to ensure that his employer, pharmacist-
9 in-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Failure to cause
10 the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the
11 board shall be considered a violation of probation.

12 If respondent changes employment, it shall be the respondent's responsibility to ensure that
13 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
14 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
15 commences, submit notification to the board in writing stating the direct supervisor and
16 pharmacist-in-charge have read the decision in case number 4907 and is familiar with the level of
17 supervision as determined by the board. Respondent shall not practice pharmacy and his license
18 shall be automatically suspended until the board or its designee approves a new supervisor.
19 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
20 acknowledgements to the board shall be considered a violation of probation.

21 Within ten (10) days of leaving employment, respondent shall notify the board in writing.

22 During suspension, respondent shall not enter any pharmacy area or any portion of the
23 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
24 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
25 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
26 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
27 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
28 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs

1 and controlled substances. Respondent shall not resume practice until notified by the board.

2 During suspension, respondent shall not engage in any activity that requires the
3 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
4 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
5 designated representative for any entity licensed by the board.

6 Subject to the above restrictions, respondent may continue to own or hold an interest in any
7 licensed premises in which he or she holds an interest at the time this decision becomes effective
8 unless otherwise specified in this order.

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

10 **18. Consultant for Owner or Pharmacist-In-Charge**

11 During the period of probation, respondent shall not supervise any intern pharmacist or
12 serve as a consultant to any entity licensed by the board. Respondent may be a pharmacist-in-
13 charge. However, if during the period of probation respondent serves as a pharmacist-in-charge,
14 respondent shall retain an independent consultant at his or her own expense who shall be
15 responsible for reviewing pharmacy operations on a quarterly basis for compliance by respondent
16 with state and federal laws and regulations governing the practice of pharmacy and for
17 compliance by respondent with the obligations of a pharmacist-in-charge. The consultant shall be
18 a pharmacist licensed by and not on probation with the board and whose name shall be submitted
19 to the board or its designee, for prior approval, within thirty (30) days of the effective date of this
20 decision. Respondent shall not be a pharmacist-in-charge at more than one pharmacy or at any
21 pharmacy of which he or she is not the sole owner. Failure to timely retain, seek approval of, or
22 ensure timely reporting by the consultant shall be considered a violation of probation.

23 **19. Ethics Course**

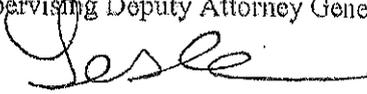
24 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
25 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
26 Failure to initiate the course during the first year of probation, and complete it within the second
27 year of probation, is a violation of probation. Respondent shall submit a certificate of completion
28 to the board or its designee within five days after completing the course.

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ENDORSEMENT

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

Dated: 8/22/14

Respectfully submitted,
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Exhibit A

Accusation No. 4907

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

10 In the Matter of the Fourth Amended
11 Accusation Against:
12 **COMPLETE INFUSION CARE; ALI**
POURMOLA
13 **8588 Venice Blvd.**
Los Angeles, CA 90034
14 **Pharmacy Permit No. PHY 46839**
Sterile Compounding License No. LCS
15 **99250,**
16 **and**
17
18 **ALI POURMOLA**
P.O. Box 49251
Los Angeles, CA 90049
19 **Pharmacist License No. RPH 48035,**
20
21 Respondents.
22

Case No. 4907
FOURTH AMENDED ACCUSATION

23 Complainant alleges:

24 **PARTIES**

25 1. Virginia Herold (Complainant) brings this Fourth Amended Accusation solely in her
26 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
27 Affairs.
28

1 may issue the license subject to any terms or conditions not contrary to public policy, including,
2 but not limited to, the following:

3 "(1) Medical or psychiatric evaluation.

4 "(2) Continuing medical or psychiatric treatment.

5 "(3) Restriction of type or circumstances of practice.

6 "(4) Continuing participation in a board-approved rehabilitation program.

7 "(5) Abstention from the use of alcohol or drugs.

8 "(6) Random fluid testing for alcohol or drugs.

9 "(7) Compliance with laws and regulations governing the practice of pharmacy.

10 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary
11 certificate of licensure for any violation of the terms and conditions of probation. Upon
12 satisfactory completion of probation, the board shall convert the probationary certificate to a
13 regular certificate, free of conditions.

14 "(e) The proceedings under this article shall be conducted in accordance with Chapter 5
15 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board
16 shall have all the powers granted therein. The action shall be final, except that the propriety of
17 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of
18 Civil Procedure."

19 7. Section 4301 of the Code states:

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

23 "...

24 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
25 violation of or conspiring to violate any provision or term of this chapter or of the applicable
26 federal and state laws and regulations governing pharmacy, including regulations established by
27 the board or by any other state or federal regulatory agency.

28 "(p) Actions or conduct that would have warranted denial of a license."

1 8. Section 4300.1 of the Code states:

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

7 9. Section 4076 of the Code states:

8 "(a) A pharmacist shall not dispense any prescription except in a container that meets the
9 requirements of state and federal law and is correctly labeled with all of the following:

10 "..."

11 (9) The expiration date of the effectiveness of the drug dispensed.

12 "...."

13 10. Section 4342 of the Code states:

14 "(a) The board may institute any action or actions as may be provided by law and that, in its
15 discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not
16 conform to the standard and tests as to quality and strength, provided in the latest edition of the
17 United States Pharmacopoeia or the National Formulary, or that violate any provision of the
18 Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division
19 104 of the Health and Safety Code)."

20 "(b) Any knowing or willful violation of any regulation adopted pursuant to Section 4006
21 shall be subject to punishment in the same manner as is provided in Sections 4336 and 4321."

22 11. Section 4169 of the Code states:

23 "(a) A person or entity may not do any of the following:

24 "..."

25 "(3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably
26 should have known were misbranded, as defined in Section 111335 of the Health and Safety
27 Code."

28 "...."

1 12. Section 4307 of the Code states:

2 "Individuals with Denied, Revoked, Suspended, etc. Licenses Prohibited From Pharmacy
3 Ownership or Association with Board Licensed Entities"

4 "(a) Any person who has been denied a license or whose license has been revoked or is
5 under suspension, or who has failed to renew his or her license while it was under suspension, or
6 who has been a manager, administrator, owner, member, officer, director, associate, or partner of
7 any partnership, corporation, firm, or association whose application for a license has been denied
8 or revoked, is under suspension or has been placed on probation, and while acting as the manager,
9 administrator, owner, member, officer, director, associate, or partner had knowledge of or
10 knowingly participated in any conduct for which the license was denied, revoked, suspended, or
11 99 placed on probation, shall be prohibited from serving as a manager, administrator, owner,
12 member, officer, director, associate, or partner of a licensee as follows:

13 "(1) Where a probationary license is issued or where an existing license is placed on
14 probation, this prohibition shall remain in effect for a period not to exceed five years.

15 "(2) Where the license is denied or revoked, the prohibition shall continue until the license
16 is issued or reinstated.

17 "(b) "Manager, administrator, owner, member, officer, director, associate, or partner," as
18 used in this section and Section 4308, may refer to a pharmacist or to any other person who serves
19 in that capacity in or for a licensee.

20 "(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to
21 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.
22 However, no order may be issued in that case except as to a person who is named in the caption,
23 as to whom the pleading alleges the applicability of this section, and where the person has been
24 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part
25 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision
26 shall be in addition to the board's authority to proceed under Section 4339 or any other provision
27 of law."

28

1 REGULATIONS

2 13. California Code of Regulations, title 16, section 1770, states:

3 "For the purpose of denial, suspension, or revocation of a personal or facility license
4 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
5 crime or act shall be considered substantially related to the qualifications, functions or duties of a
6 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
7 licensee or registrant to perform the functions authorized by his license or registration in a manner
8 consistent with the public health, safety, or welfare."

9 14. California Code of Regulations, title 16, section 1751.6, subdivisions (a) (b) and (c)
10 states:

11 "(a) Consultation shall be available to the patient and/or primary caregiver concerning
12 proper use of sterile injectable products and related supplies furnished by the pharmacy."

13 "(b) The pharmacist-in-charge shall be responsible to ensure all pharmacy personnel
14 engaging in compounding sterile injectable drug products shall have training and demonstrated
15 competence in the safe handling and compounding of sterile injectable products, including
16 cytotoxic agents if the pharmacy compounds products with cytotoxic agents."

17 "(c) Records of training and demonstrated competence shall be available for each individual
18 and shall be retained for three years beyond the period of employment."

19 15. California Code of Regulations, title 16, section 1735.2 subdivision (d)(5), states:

20 "..."

21 "(d) A drug product shall not be compounded until the pharmacy has first prepared a
22 written master formula record that includes at least the following elements:"

23 "..."

24 "(5) Process and/or procedure used to prepare the drug."

25 16. California Code of Regulations, title 16, section 1735.3 subdivision (a)(7), states:

26 "(a) For each compounded drug product, the pharmacy records shall include:

27 "..."

1 “(7) A pharmacy assigned reference or lot number for the compounded drug
2 product.”

3 17. California Code of Regulations, title 16, section 1761 subdivision (a) states:

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

8 18. California Code of Regulations, title 16, section 1751.2 subdivision (c) states:

9 “In addition to the labeling information required under Business and Professions Code
10 section 4076 and section 1735.4, a pharmacy which compounds sterile injectable products shall
11 include the following information on the labels for those products:

12 “...”

13 “(c) Instructions for storage and handling.”

14 “....”

15 19. California Code of Regulations, title 16, section 1735.4 states:

16 “(a) In addition to the labeling information required under Business and Professions Code
17 section 4076, the label of a compounded drug product shall contain the generic name(s) of the
18 principal active ingredient(s).”

19 “(b) A statement that the drug has been compounded by the pharmacy shall be included on
20 the container or on the receipt provided to the patient.”

21 “(c) Drug products compounded into unit-dose containers that are too small or otherwise
22 impractical for full compliance with subdivisions (a) and (b) shall be labeled with at least the
23 name(s) of the active ingredient(s), concentration or strength, volume or weight, pharmacy
24 reference or lot number, and expiration date.”

25 20. California Code of Regulations, title 16, section 1735.3 subdivision (a)(2) states:

26 “(a) For each compounded drug product, the pharmacy records shall include:

27 “...”

28 “(2) The date the drug product was compounded.”

1 prepare and compound the preservative free non-sterile to sterile morphine 50 mg/ml +
2 bupivacaine 30 mg/ml compound on the Compound Sheet under "Mix Instructions".

3 **THIRD CAUSE FOR DISCIPLINE**

4 [Unprofessional Conduct (Record Keeping of Compounded Drug Products) - Complete Infusion
5 Care]

6 31. Respondent Complete Infusion Care is subject to disciplinary action under Business
7 and Professions Code section 4301, subdivision (o) in conjunction with California Code of
8 Regulations, title 16, section 1735.3 subdivision (a), which states (a) for each compounded drug
9 product, the pharmacy records failed to include: (7) the equipment used in compounding the drug
10 product. The circumstances are as follows:

11 32. On or about October 16, 2012, an onsite inspection by the Board of Pharmacy
12 revealed that at Complete Infusion Care, the compounding records dated January 23, 2012 for RX
13 6850 and June 7, 2012 for RX 8437 for patient C.B.¹ did not document the equipment used in the
14 compounding of the preservative free non-sterile to sterile morphine 50 mg/ml + bupivacaine 30
15 mg/ml compound on the Compound Sheet.

16 **FOURTH CAUSE FOR DISCIPLINE**

17 [Sale of Drugs Lacking Quality of Strength - Complete Infusion Care]

18 33. Respondents Complete Infusion Care is subject to disciplinary action under Business
19 and Professions Code section 4342 and 4169 subdivision (a)(3) in that Respondent sold and/or
20 transferred dangerous drugs that a reasonable person would know or reasonably should have
21 known were misbranded. The circumstances are as follows:

22 34. On or about March 8, 2012, April 9, 2012, and May 25, 2012, Respondent dispensed
23 sterile injectable compound Carimune 20gm RX Nos. 7267, 7673, and 8258 with labeled
24 expiration dates of six (6) days, six (6) days and three (3) days, respectively, after preparation.
25 The manufacturers beyond the use date for Carimune was within twenty-four hours of
26 reconstitution of the drug. Complete Infusion Care conducted and obtained extended stability and

27 ¹ The patient's initials are used throughout this pleading in lieu of the patient name in
28 order to protect patient privacy rights.

1 potency testing results for Carimune on April 25, 2014, but did not have extended stability and
2 potency data at the time the Carimune was dispensed on March 8, 2012, April 9, 2012, and May
3 25, 2012.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 [Erroneous or Uncertain Prescription - Complete Infusion Care and Ali Pourmola]

6 35. Respondents Complete Infusion Care and Ali Pourmola are subject to disciplinary
7 action under Business and Professions Code section 4300 in conjunction with California Code of
8 Regulations, title 16, section 1761 subdivision (a) in that Respondents dispensed a prescription
9 which contained significant errors, omissions, irregularities, uncertainties, ambiguities, or
10 alterations without contacting the prescriber for clarification. The circumstances are as follows:

11 36. On or about March 8, 2012, April 9, 2012, and May 22, 2012, Respondents dispensed
12 uncertain and ambiguous prescriptions for Carimune 20gm RX, Nos. 7267, 7673, and 8258 to
13 patient E.L.² without first clarifying the dose of the prescriptions with the prescriber.

14 Specifically, E.L.'s Carimune prescriptions were written incorrectly for a daily dose of "0.4
15 mg/kg" for a calculated dose of 20mg per day and not the correct dose of "0.4gm/kg" for a
16 calculated dose of 20gm per day. The prescriptions were dispensed by Respondents without first
17 obtaining clarification of the correct ordered dose from the prescriber.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 [Labeling Requirements - Complete Infusion Care]

20 37. Respondent Complete Infusion Care is subject to disciplinary action under Business
21 and Professions Code section 4076 subdivision (a)(9) which precludes a pharmacist from
22 dispensing any prescription unless in a container that is correctly labeled with the expiration dates
23 of the effectiveness of the drug dispensed. The circumstances are as follows:

24 38. On or about May 25, 2012, Respondent dispensed five bags of Carimune RX# 8258
25 to patient E.L. labeled with the incorrect expiration date of May 28, 2012. Specifically, on or
26 about May 25, 2012, Respondent dispensed a five (5) day course of Carimune 20gm RX # 8258

27 ² Patient initials are used in lieu of real names in order to protect the privacy rights of the
28 individuals.

1 with a labeled expiration dated of May 28, 2012, which resulted in the last two (2) days of the
2 five (5) day Carimune doses being labeled as expired at the time of use.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 [Sterile Injectable Labeling Requirements - Complete Infusion Care]

5 39. Respondent Complete Infusion Care is subject to disciplinary action under Business
6 and Professions Code section 4076 in conjunction with California Code of Regulations, title 16,
7 section 1751.2 and 1735.4, which requires a pharmacy that compounds sterile injectable products
8 to include on the label the instructions for storage and handling. The circumstances are as
9 follows:

10 40. On or about March 8, 2012 and April 9, 2012, Respondent dispensed Carimune 20gm
11 RX Nos. 7267 and 7673 labeled with instructions to store medication at room temperature instead
12 of being stored by the required method of refrigeration.

13 **EIGHTH CAUSE FOR DISCIPLINE**

14 [Records of Compounding Products - Complete Infusion Care]

15 41. Respondent Complete Infusion Care is subject to disciplinary action under Business
16 and Professions Code section 4300 in conjunction with California Code of Regulations, title 16,
17 section 1735.3 subdivisions (a)(2), (3), (4), (6), and (10), which requires for each compounded
18 product, that the pharmacy records include the date the drug was compounded, the identity of the
19 pharmacy personnel who compounded the product, the identity of the pharmacist reviewing the
20 final product, the manufacturer and a lot number of each component, and the quantity or amount
21 of the drug compounded. The circumstances are as follows:

22 42. On or about March 8, 2012, April 9, 2012, and May 25, 2012, Respondent dispensed
23 sterile injectable compound Carimune 20gm, RX nos. 7267, 7673 and 8258 without maintaining
24 proper compounding records for each of the products dispensed.

25 **OTHER MATTERS**

26 173. Pursuant to Code section 4307, if discipline is imposed on Pharmacy
27 Permit Number PHY 46839 or Sterile Compounding License Number LSC 99250, issued to
28 Complete Infusion Care, and Ali Pourmola (Pourmola) while acting as the manager,

1 administrator, owner, member, officer, director, associate, or partner of Complete Infusion Care
2 had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number
3 PHY 46939 or Sterile Compounding License Number LSC 99250, issued to Complete Infusion
4 Care was revoked, suspended or placed on probation, Pourmola shall be prohibited from serving
5 as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee
6 for five years if Pharmacy Permit Number PHY 46839 or Sterile Compounding License Number
7 LSC 99250, issued to Complete Infusion Care is placed on probation or until Pharmacy Permit
8 Number PHY 46839 or Sterile Compounding License Number LSC 99250, issued to Complete
9 Infusion Care is reinstated if it is revoked.

10
11 **DISCIPLINE CONSIDERATIONS**

12 43. To determine the degree of discipline, if any, to be imposed on Respondents,
13 Complainant alleges as follows:

14 a) On or about October 15, 2009, in a prior action, the Board of Pharmacy issued
15 Citation Number CI 2009 41466 to Respondent Ali Pourmola for violations of Business and
16 Professions Code section 4059, subdivision (a) (furnishing dangerous drugs without prescription)
17 and Health & Safety Code section 11200, subdivision (c) (no prescription for Schedule II
18 substance may be refilled). Respondent was ordered to pay \$4000. On or about March 21, 2012,
19 the Citation was modified and reduced. Respondent was ordered to pay \$1000. That Citation is
20 now final and is incorporated by reference as if fully set forth.

21 b) On or about October 15, 2009, in a prior action, the Board of Pharmacy issued
22 Citation Number CI 2008 38864 to Respondent Complete Infusion Care for violations of
23 Business and Professions Code section 4059, subdivision (a) (furnishing dangerous drugs without
24 prescription) and Health & Safety Code section 11200, subdivision (c) (no prescription for
25 Schedule II substance may be refilled). Respondent was ordered to pay \$4000. On or about April
26 20, 2012, the Citation was modified and reduced. Respondent was ordered to pay \$1500. That
27 Citation is now final and is incorporated by reference as if fully set forth.

1 c) On or about July 1, 2013, in a prior action, the Board of Pharmacy issued
2 Citation Number CI 2012 53606 to Respondent Complete Infusion Care for violations of
3 Business and Professions Code Section 4115 subdivision (e) and California Code of Regulations
4 section 1793.2 subdivision (b) (no person shall act as a pharmacy technician without being
5 licensed by the Board) and ordered Respondent to pay \$1000. That Citation is now final and is
6 incorporated by reference as if fully set forth.

7 PRAYER

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

- 10 1. Revoking or suspending Pharmacy Permit Number PHY 46839, issued to Complete
11 Infusion Care; Ali Pourmola
- 12 2. Revoking or suspending Sterile Compounding License Number LSC 99250, issued to
13 Complete Infusion Care; Ali Pourmola;
- 14 3. Revoking or suspending Pharmacy License Number RPH 48035 issued to Ali
15 Pourmola;
- 16 4. Prohibiting Ali Pourmola from serving as a manager, administrator, owner,
17 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
18 Number 46839 or Sterile Compounding License Number LSC 99250 issued to Complete Infusion
19 Care is placed on probation or until Pharmacy Permit Number 46839 or Sterile Compounding
20 License Number LSC 99250 issued to Complete Infusion Care is reinstated if Pharmacy Permit
21 Number 46839 or Sterile Compounding License Number LSC 99250 issued to Complete Infusion
22 Care issued is revoked;
- 23 5. Ordering Complete Infusion Care and Ali Pourmola to pay the Board of Pharmacy
24 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
25 Professions Code section 125.3; and

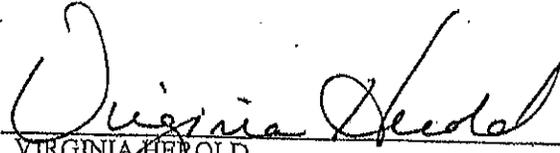
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6. Taking such other and further action as deemed necessary and proper.

DATED:

1/29/16



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

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