

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

In the Matter of the Accusation Against:

**ENCINO CARE PHARMACY, INC., DBA
ENCINO CARE PHARMACY II**
16001 Ventura Blvd., Suite 135
Encino, CA 91436

Pharmacy Permit No. PHY 50459

and

NIRA HARIRI
16950 Strawberry Drive
Encino, CA 91436

Pharmacist License No. RPH 52003

Respondents.

Case No. 5004

OAH Case No. 2015030962

DECISION AND ORDER

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

This Decision shall become effective on December 4, 2015.

It is so ORDERED on November 4, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President



California State Board of Pharmacy

1625 N. Market Blvd, N219, Sacramento, CA 95834
Phone: (916) 574-7900
Fax: (916) 574-8618
www.pharmacy.ca.gov

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
DEPARTMENT OF CONSUMER AFFAIRS
GOVERNOR EDMUND G. BROWN JR.

November 4, 2015

Nira Hariri
16950 Strawberry Drive
Encino, CA 91436

Re: LETTER OF PUBLIC REPROVAL
In the Matter of the Accusation Against:
ENCINO CARE PHARMACY, INC. DBA ENCINO CARE PHARMACY II, Pharmacy
License No. PHY 50459, and NIRA HARIRI, Pharmacist License No. 52003,
Respondents
Board of Pharmacy Case No. 5004

Dear Ms. Hariri:

On September 5, 2014, the California State Board of Pharmacy, Department of Consumer Affairs, filed an Accusation against the Pharmacist License issued to you. The Accusation alleged that your Pharmacist License is subject to discipline for violations of state law discovered during investigations conducted during or prior to August 8, 2013 in Encino Care Pharmacy II, for which you were then serving as Pharmacist-in-Charge (PIC), including: (1) Misbranded Drugs (Bus. & Prof. Code, § 4301, subdivisions (j) and/or (o) and 4169, subdivision (a)(3) and Health & Saf. Code, §§ 111330, 111335, 111340, subdivision (b), and/or 111440); (2) Unprofessional Conduct (Bus. & Prof. Code, § 4301). You have admitted to these violations for purposes of settlement.

These are serious violations. However, taking into account your lack of prior disciplinary history, the Board has decided that the charges warrant a public reproof.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Pharmacy, Department of Consumer Affairs, issues this letter of public reproof. You have waived any right to contest or appeal this letter, and it is final as of the date of issuance. This letter constitutes license discipline.

Sincerely,

VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 HELENE E. SWANSON
Deputy Attorney General
4 State Bar No. 130426
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 620-3005
6 Facsimile: (213) 897-2804
E-mail: Helene.Swanson@doj.ca.gov
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

12 **ENCINO CARE PHARMACY, INC., DBA**
13 **ENCINO CARE PHARMACY II**
16001 Ventura Blvd., Suite 135
Encino, CA 91436

14 **Pharmacy Permit No. PHY 50459**

15 **and**

16 **NIRA HARIRI**
17 16950 Strawberry Drive
Encino, CA 91436

18 **Pharmacist License No. RPH 52003**

19 Respondents.
20

Case No. 5004

OAH Case No. 2015030962

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL

[Bus. & Prof. Code, § 495]

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

23 **PARTIES**

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
25 She brought this action solely in her official capacity and is represented in this matter by Kamala
26 D. Harris, Attorney General of the State of California, by Helene E. Swanson, Deputy Attorney
27 General.
28

1 to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to
2 compel the attendance of witnesses and the production of documents; the right to reconsideration
3 and court review of an adverse decision; and all other rights accorded by the California
4 Administrative Procedure Act and other applicable laws.

5 9. Respondents voluntarily, knowingly, and intelligently waive and gives up each and
6 every right set forth above.

7 10. Further, Respondents voluntarily, knowingly, and intelligently waive and give up any
8 right they may have to appeal or contest the letters of public reproof to be issued pursuant to this
9 agreement, and agree that letters of public reproof issued in substantially the same form as those
10 attached hereto as Exhibit B shall be final and non-appealable as issued. Respondents waive any
11 rights accorded by the California Administrative Procedure Act and other applicable laws.

12 CULPABILITY

13 11. Respondent understands and agrees that the charges and allegations in Accusation
14 No. 5004, if proven at a hearing, constitute cause for imposing discipline upon her Pharmacist
15 License No. 52003. Respondent hereby gives up her right to contest those charges.

16 12. Respondent Encino Care agrees that its Pharmacy License is subject to discipline and
17 agrees to the Disciplinary Order below. Respondent Hariri agrees that her Pharmacist License is
18 subject to discipline and she agrees to be bound by the Board's Disciplinary Order below.

19 RESERVATION

20 13. The admissions made by Respondents herein are only for the purposes of this
21 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
22 licensing agency is involved, and shall not be admissible in any other criminal or civil
23 proceeding.

24 CONTINGENCY

25 14. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
26 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
27 communicate directly with the Board regarding this stipulation and settlement, without notice to
28 or participation by Respondents or their counsel. By signing the stipulation, Respondents

1 understand and agree that they may not withdraw their agreement or seek to rescind the
2 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
3 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public
4 Repeval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any
5 legal action between the parties, and the Board shall not be disqualified from further action by
6 having considered this matter.

7 15. The parties understand and agree that Portable Document Format (PDF) and facsimile
8 copies of this Stipulated Settlement and Disciplinary Order for Public Repeval, including
9 Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and
10 effect as the originals.

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

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

21 **DISCIPLINARY ORDER**

22 IT IS HEREBY ORDERED that Pharmacy License No. PHY 50459, issued to Respondent
23 Encino Care Pharmacy, Inc., dba Encino Care Pharmacy II, and Pharmacist License No. RPH
24 52003, issued to Respondent Nira Hariri, shall, by way of a letter subsequently issued by the
25 Board's Executive Officer, be publicly reprovved. The letters shall be in substantially the same
26 form as the letters attached hereto as Exhibit B.

27 IT IS FURTHER ORDERED that within one (1) year of the effective date of this decision,
28 Respondents are jointly and severally liable for paying the following to the Board:

1 (1) Costs of investigation and prosecution of \$15,980.75. The filing of bankruptcy by
2 either or both Respondents shall not relieve either Respondent of the obligation to reimburse the
3 Board for its costs of investigation and prosecution.

4 There shall be no deviation from this schedule absent prior written approval by the Board or
5 its designee. Any failure to fully pay the full amount of the civil penalty or the full amount of the
6 costs of investigation and prosecution within the deadline set by this decision or extended by the
7 Board or its designee shall constitute unprofessional conduct actionable under Business and
8 Professions Code section 4301 by both Respondents, and shall be a basis for license discipline.

9 Furthermore, if any amount of the civil penalty or the costs of investigation and prosecution
10 is unpaid at the deadline, neither Respondent shall be allowed to renew the Pharmacy License or
11 the Pharmacist License until all of these debts owed to the Board are paid in full.

12 IT IS FURTHER ORDERED that within ninety (90) days of the effective date of this
13 decision, Respondent Hariri shall submit to the Board or its designee, for prior approval, an
14 appropriate program of remedial education related to pharmacy operations. The program of
15 remedial education shall consist of at least ten (10) hours, which shall be completed within one
16 (1) year at Respondent's own expense. All remedial education shall be in addition to, and shall not
17 be credited toward, continuing education (CE) courses used for license renewal purposes.
18 Written proof of completion of the required number of remedial education hours shall be
19 submitted in a form acceptable to the Board or its designee. Failure to timely submit a proposed
20 remedial education program, timely complete the approved remedial education program, or
21 timely submit proof of such completion, shall constitute unprofessional conduct actionable under
22 Business and Professions Code section 4301, and shall be a basis for license discipline.
23 Following the completion of each course, the Board or its designee may require Respondent, at
24 her own expense, to take an approved examination to test her knowledge of the course. If
25 Respondent does not achieve a passing score on the examination, the Board or its designee may
26 require Respondent to take another course approved by the Board or its designee in the same
27 subject area, at Respondent's expense, until passage is achieved.


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ACCEPTANCE

I am authorized to sign for Respondent Encore Care Pharmacy, Inc. aka Encore Care Pharmacy II. I have carefully read the above stipulation and have fully discussed it with my attorney, Herbert L. Wernberg. I understand the stipulation and the effect it will have on my Pharmacy License. I enter into this Stipulated Settlement and Disciplinary Order for Public Reprimand voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 9/24/15


Nira Hariri, President, for
ENCORE CARE PHARMACY, INC., aka ENCORE
CARE PHARMACY II,
Respondent


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

DATED: 9/24/15


NIRA HARIRI Respondent

I have read and fully discussed with Respondent Encore Care Pharmacy, Inc. aka Encore Care Pharmacy II, Nira Hariri the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its terms and content.

DATED: 9/24/15

FENTON LAW GROUP, PLLC

HERBERT L. WERNBERG, ESQ.
Attorney for Respondents

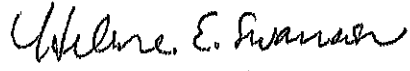
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ENDORSEMENT

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

Dated: August 24, 2015

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General


HELENE E. SWANSON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A
Accusation No. 5004

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 HELENE E. SWANSON
Deputy Attorney General
4 State Bar No. 130426
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 620-3005
6 Facsimile: (213) 897-2804
Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 5004

11 **ENCINO CARE PHARMACY, INC., DBA**
12 **ENCINO CARE PHARMACY II**
13 16001 Ventura Blvd., Suite 135
Encino, CA 91436

ACCUSATION

14 Pharmacy Permit No. PHY 50459

15 and

16 **NIRA HARIRI**
17 16950 Strawberry Drive
Encino, CA 91436

18 Pharmacist License No. RPH 52003

19 Respondents.

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21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about November 10, 2010, the Board of Pharmacy issued Pharmacy Permit
26 Number PHY 50459 to Encino Care Pharmacy, Inc., dba Encino Care Pharmacy II; Nira Hariri,
27 President, located at 16001 Ventura Blvd., Suite 135, Encino, CA 91436 (Respondent). The
28

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

3 3. On or about September 6, 2000, the Board of Pharmacy issued Original Pharmacist
4 License No. RPH 52003 to Nira Hariri. The pharmacist license was in full force and effect at all
5 times relevant to the charges brought herein and will expire on January 31, 2016, unless renewed.

6 **JURISDICTION**

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

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

13 6. Section 4300, subdivision (a) provides that every license issued by the Board may be
14 suspended or revoked.

15 7. Section 118, subdivision (b) provides, in pertinent part, that the suspension,
16 expiration, surrender, or cancellation of a license shall not deprive the Board of jurisdiction to
17 proceed with a disciplinary action during the period within which the license may be renewed,
18 restored, reissued or reinstated.

19 8. Section 4402(e) of the Code provides that any pharmacist license issued by the Board
20 may be canceled by the Board if not renewed within three years after its expiration, and any
21 license canceled in this fashion may not be reissued but will instead require a new application.
22 Any other license issued by the Board may be canceled by the Board if not renewed within 60
23 days of its expiration.

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1 Reasonable variations from the requirements of subdivision (b) shall be
2 permitted. Requirements for placement and prominence of the information and
3 exemptions as to small packages shall be established in accordance with regulations
4 adopted pursuant to Section 110380.

5 14. Health and Safety Code section 111440 states that "[i]t is unlawful for any person to
6 manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded."

7 DANGEROUS DRUGS

8 15. "Benicar" (olmesartan) is used for controlling blood pressure and is a dangerous
9 drug under Section 4022.

10 16. "Clozapine" is an anti-psychotic medication and is a dangerous drug under Section
11 4022.

12 FACTUAL BACKGROUND

13 FIRST BOARD INSPECTION – MAY 7, 2013

14 17. On or about May 7, 2013, an inspection was done by the Board at Encino Care
15 Pharmacy II, which is a closed door pharmacy that primarily services patients in assisted living
16 and board and care facilities. Medications are processed and prepared and then delivered to each
17 facility. The pharmacy compounds non-sterile preparations.

18 SECOND BOARD INSPECTION – August 8, 2013

19 18. On or about June 10, 2013, the Board received an anonymous complaint that stated:
20 "I am not a patient I work in the facility and am being forced to use packaged medicine that has
21 been returned from facilities for new facilities. I also have viewed this store to release controlled
22 and narcotics without hard copy prescriptions." The informant also indicated the filling area was
23 dirty.

24 19. On or about August 8, 2013, the Board conducted a second inspection at Encino Care
25 Pharmacy II (the pharmacy). The inspection determined that misbranded drugs were held in the
26 pharmacy's normal drug stock. A random sample of medication stock bottles which were
27 potentially overfilled were counted, and the results were as follows:

28 **Table 1. Stock Bottle Labeled Quantity versus Physical Count**

Medication	Labeled Quantity by Manufacturer	Count Inside Bottle
galantamine 8 mg #1	30	78
4		

Accusation

1	galantamine 8 mg #2	30	60
	Benicar 20/12.5 #1	30	145
	Benicar 20/12.5 #2	30	146
2	carbidopa/levodopa 50/200	100	131.5
	carbidopa/levodopa/entacapone 37.5/150/200 #1	100	155
3	carbidopa/levodopa/entacapone 37.5/150/200 #2	100	158
4	levothyroxine 88 mcg	100	258
5	Azor 5/40	30	83
	Azor 10/40	30	86
6	carbidopa/levodopa ER 25/100	100	176
	Ramipril 2.5 mg	100	148
7	clozapine 25 mg	100	239
	fluphenazine 10 mg	100	216
8	galantamine er 16 mg	30	54
	Bystolic 2.5 mg	30	79
9	flurazepam 30	100	143
	Norvasc 5 mg	90	257
10	Geodon 20 mg	60	141
	Stalevo 75	100	123
11	bupirone 5 mg	500	846
12	Seroquel 50 mg	100	328
	levofloxacin 250 mg	50	91
13	mirtazapine 45 mg	30	71
	clozapine 100 mg #1	100	133.5
14	Detrol LA 4 mg #1	90	130
	Abilify 15 mg	30	80
15	Detrol LA 4 mg #2	90	130
	clozapine 100 mg #2	100	240
16	Metoclopramide 5 mg	100	305
	fenofibrate 145 mg	90	94
17	oxybutynin 5 mg	100	155
	felodipine 5 mg	100	130
18	Menest 0.3 mg	100	137
	doxepin 25 mg	100	114
19	spironolactone 50 mg	100	140
	nortriptyline 25 mg	100	120
20	cefadroxil 500	50	67
	Lipitor 40 mg	90	120
21	methimazole 10 mg	100	122
22	Prandin 2 mg	100	193

23
24 . 20. With respect to the Carbidopa/Levodopa/Entacapone 37.5/150/200 and Detrol LA 4
25 mg., both the lot numbers and the expiration dates were the same. However, with respect to the
26 Benicar 20/12/5 and Clozapine 100 mg, the lot numbers or the expiration dates were different.
27 The medications which Respondent was holding in the pharmacy were misleading and/or
28 inaccurate because the bottles contained more tablets/capsules than the quantity which was

1 indicated on the bottles, and/or some bottles of medications did not include an accurate statement
2 about the quantity of the contents in terms of weight, measure, or numerical count, in violation of
3 Health & Safety Code sections 111330, 111335, 111340, subdivision (b).

4 **FIRST CAUSE FOR DISCIPLINE**

5 (Misbranded Drugs)

6 21. Respondents are subject to disciplinary action for unprofessional conduct under
7 Sections 4301, subdivisions (j) and/or (o) and 4169, subdivision (a)(3), in conjunction with
8 Health and Safety Code sections 111330, 111335, 111340, subdivision (b) and 111440, for
9 holding in the pharmacy misbranded drugs, in that the drugs contained inaccurate statements of
10 the numerical count and/or the quantity of drugs was not listed on the label and/or the bottles of
11 medications that had the quantity of drugs on the label held more tablets and/or capsules than the
12 quantity which was stated on the label. Complainant incorporates by reference the allegations of
13 Paragraphs 17 through 20, as though fully set forth.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (Unprofessional Conduct)

16 22. Respondents are subject to disciplinary action under Section 4301 for unprofessional
17 conduct. Complainant refers to and by this reference incorporates the allegations set forth in
18 Paragraphs 17 through 21, inclusive, as though set forth fully.

19 **PRAYER**

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

- 22 1. Revoking or suspending Pharmacy Permit Number PHY 50459, issued to Encino
23 Care Pharmacy, Inc., dba Encino Care Pharmacy II; Nira Hariri ;
24 2. Revoking or suspending Original Pharmacist License No. RPH 52003 issued to Nira
25 Hariri;

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3. Ordering Encino Care Pharmacy, Inc., dba Encino Care Pharmacy II and Nira Hariri, jointly and severally, to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 9/5/14 Virginia Herold
VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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Exhibit B

Letters of Public Reproval in Case No. 5004

Date: _____

Encino Care Pharmacy, Inc. dba Encino Care Pharmacy II
Attn: Nira Hariri, President
16001 Ventura Blvd., Suite 135
Encino, CA 91436

Re: LETTER OF PUBLIC REPROVAL
In the Matter of the Accusation Against:
ENCINO CARE PHARMACY, INC. DBA ENCINO CARE PHARMACY II, Pharmacy
License No. PHY 50459, and NIRA HARIRI, Pharmacist License No. 52003,
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These are serious violations. However, taking into account your lack of prior disciplinary history, the Board has decided that the charges warrant a public reproof.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Pharmacy, Department of Consumer Affairs, issues this letter of public reproof. You have waived any right to contest or appeal this letter, and it is final as of the date of issuance. This letter constitutes license discipline.

Sincerely,

VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs

Date: _____

Nira Hariri
16950 Strawberry Drive
Encino, CA 91436

Re: LETTER OF PUBLIC REPROVAL
In the Matter of the Accusation Against:
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These are serious violations. However, taking into account your lack of prior disciplinary history, the Board has decided that the charges warrant a public reproof.

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Sincerely,

VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs