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

In the Matter of the Statement of Issues Against:

Case No. 4892

CAREPOINT PHARMACY and BHAVESH R. PATEL, PRESIDENT 911B N. Plum Grove Road Schaumburg, IL 60173

Nonresident Pharmacy Permit Applicant

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 on August 22, 2014.

It is so ORDERED on August 19, 2014.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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By

STAN C. WEISSER Board President

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1	KAMALA D. HARRIS Attorney General of California							
2	KENT D. HARRIS Supervising Deputy Attorney General							
3	PHILLIP L. ARTHUR Deputy Attorney General							
4	State Bar No. 238339 1300 I Street, Suite 125							
5	P.O. Box 944255							
6	Sacramento, CA 94244-2550 Telephone: (916) 322-0032							
7	Facsimile: (916) 327-8643 E-mail: Phillip.Arthur@doj.ca.gov							
8	Attorneys for Complainant							
9	BEFOR BOARD OF I							
10	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA							
11								
12	In the Matter of the Statement of Issues Against:	Case No. 4892						
13	CAREPOINT PHARMACY	STIPULATED SETTLEMENT AND						
13	and	DISCIPLINARY ORDER FOR PUBLIC REPROVAL						
14	BHAVESH R. PATEL, PRESIDENT	[Bus. & Prof. Code § 495]						
	Nonresident Pharmacy Permit Applicant							
16	Respondents.							
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18	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-							
19	entitled proceedings that the following matters are true:							
20	PAR	TIES						
21	1. VIRGINIA HEROLD (Complainant) is the Executive Officer of the Board of							
22	Pharmacy. She brought this action solely in her official capacity and is represented in this matter							
23	by Kamala D. Harris, Attorney General of the State of California, by Phillip L. Arthur, Deputy							
24	Attorney General.							
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26	2. Respondent Carepoint Pharmacy (Respondent Carepoint) and Respondent Bhavesh R. Patel (Respondent Patel) are represented in this proceeding by atterneys at the Restrict &							
27	R. Patel (Respondent Patel) are represented in this proceeding by attorneys at the Roetzel &							
28	Andress law firm, whose address is: 20 S. Clark Street, Suite 300, Chicago, IL, 60603.							
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3. On or about April 22, 2013, Respondent Carepoint filed an application dated March 1 14, 2013, with the Board of Pharmacy to obtain a Nonresident Pharmacy Permit.  $2^{\circ}$ JURISDICTION 3 4. Statement of Issues No. 4892 was filed before the Board of Pharmacy (Board), 4 Department of Consumer Affairs and is currently pending against Respondents. The Statement of 5 Issues and all other statutorily required documents were properly served on Respondents on 6 7 October 15, 2013. Respondents timely filed their Notice of Defense contesting the Statement of Issues. A copy of Statement of Issues No. 4892 is attached as exhibit A and incorporated herein 8 by reference. 9 10 ADVISEMENT AND WAIVERS 5. Respondents have carefully read, fully discussed with counsel, and understand the 11 charges and allegations in Statement of Issues No. 4892. Respondents have also carefully read, 12 fully discussed with counsel, and understand the effects of this Stipulated Settlement and 13 Disciplinary Order for Public Reproval. 14 6. Respondents are fully aware of their legal rights in this matter, including the right to a 15 hearing on the charges and allegations in the Statement of Issues; the right to be represented by 16 17 counsel at their own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their own behalf; the right to the issuance of 18 subpoenas to compel the attendance of witnesses and the production of documents; the right to 19 reconsideration and court review of an adverse decision; and all other rights accorded by the 20 California Administrative Procedure Act and other applicable laws. 21 7. Respondents voluntarily, knowingly, and intelligently waive and give up each and 22 every right set forth above. 23 **CULPABILITY** 24 8. Respondents admit the truth of each and every charge and allegation in Statement of 25 Issues No. 4892. 26 111 27 117 28 2

9. Respondents agree that their Nonresident Pharmacy Permit application is subject to denial and they agree to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

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## **CONTINGENCY**

10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents 5 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may 6 communicate directly with the Board regarding this stipulation and settlement, without notice to 7 or participation by Respondents or their counsel. By signing the stipulation, Respondents 8 understand and agree that they may not withdraw their agreement or seek to rescind the 9 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this 10 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public 11 Reproval shall be of no force or effect, except for this paragraph, it shall be inadmissible in any 12 legal action between the parties, and the Board shall not be disqualified from further action by 13 having considered this matter. 14

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

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

13. 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:

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, -	DISCIPLINARY ORDER
2 IT IS HEREBY ORDERED that a Nonresident Pharmacy Permit will be issued to	
	Respondent Carepoint Pharmacy. This Nonresident Pharmacy Permit shall, by way of letter from
4	the Board's Executive Officer, be publicly reproved. The letter shall be in the same form as the
Ś	letter attached as Exhibit B to this stipulation.
e	ACCEPTANCE
7	I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
8	Reproval and have fully discussed it with my attorneys. I understand the stipulation and the
ç	effect it will have on my Nonresident Pharmacy Permit. I enter into this Stipulated Settlement
1(	and Disciplinary Order for Public Reproval voluntarily, knowingly, and intelligently, and agree to
11	be bound by the Decision and Order of the Board of Pharmacy. I have the authority to bind
12	Carepoint Pharmacy to all the terms of this agreement.
13	
14	DATED:AREFORM CAREPOINT PHARMACY
1:	BHAVESH R. PATEL, PRESIDENT
10	Respondent
17	DATED: 7-115/2014. BHAVESH R. PATEL
. 18	Respondent
19	I have read and fully discussed with Respondents Calepoint I handay and bilayesh R.
20	Fater the terms and conditions and other matters contained in the above bupmated betachtent and
2	Disciplinary Order for r done Reprovat. I approve its form and comente
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. 2	DATED, 112-11
2	Attorney for Respondents
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1	ENDORSEMENT							
2	The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval is hereby							
3	respectfully submitted for consideration by the Board of Pharmacy of the Department of							
4	Consumer Affairs.							
5	Detail $\frac{2}{2}$							
6	Dated: 7/28/19 Respectfully submitted, KAMALA D. HARRIS							
7	Attorney General of California KENT D. HARRIS							
8	Supervising Deputy Attorney General							
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10	PHILIPP L. ARTHUR							
11	Deputy Attorney General Attorneys for Complainant							
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	STIPULATED SETTLEMENT (4892)							

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# Exhibit A

Statement of Issues No. 4892

KAMALA D. HARRIS 1 Attorney General of California 2 KENT D. HARRIS Supervising Deputy Attorney General 3 PHILLIP L, ARTHUR Deputy Attorney General .4 State Bar No. 238339 1300 I Street, Suite 125 P.O. Box 944255 5 Sacramento, CA 94244-2550 Telephone: (916) 322-0032 Facsimile: (916) 327-8643 E-mail: Phillip.Arthur@doj.ca.gov б . 7 Attorneys for Complainant 8 BEFORE THE 9 BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIR 10 STATE OF CALIFORNIA 11 In the Matter of the Statement of Issues Case No. 4892 12 Against: 13 CAREPOINT PHARMACY and STATEMENT OF ISSUES 14 BHAVESH R, PATEL 15 Nonresident Pharmacy Permit Applicant 16 Respondents. 17 18 19 Complainant alleges: 20 PARTIES 21 Virginia Herold (Complainant) brings this Statement of Issues solely in her official 1. 22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, 23 On or about April 22, 2013, the Board of Pharmacy, Department of Consumer Affairs 2. 24 received an application for a Nonresident Pharmacy Permit from Carepoint Pharmacy 25 (Respondent Carepoint). On or about March 14, 2013, Bhayesh Patel (Respondent Patel), who is 26the president of Carepoint, certified under penalty of perjury to the truthfulness of all statements. 27 answers, and representations in the application, and certified that he would serve as pharmacist-28 in-charge for Carepoint. The Board denied the application on June 19, 2013. STATEMENT OF ISSUES (Case No. 4892)

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•	1	IURISDICTION	
, I	2	3. This Statement of Issues is brought before the Board of Pharmacy (Board),	
	3	Department of Consumer Affairs, under the authority of the following laws. All section	
	4	references are to the Business and Professions Code unless otherwise indicated,	
· ·	5	STATUTORY PROVISIONS	
	6	4. Section 480 of the Code states:	
	7	"(a) A board may deny a license regulated by this code on the grounds that the applicant	
	8	has one of the following;	
•	9	n • • • •	
·	10	"(3)(A) Done any act that if done by a licentiate of the business or profession in question,	
•	11	would be grounds for suspension or revocation of license.	
· · ·	12	(B) The board may deny a license pursuant to this subdivision only if the crime or act is	
	13.	substantially related to the qualifications, functions, or duties of the business or profession for	
· · · ·	14	which application is made"	•
۰. ۱	15	5. Section 4300 of the Code states, in pertinent part, that the board may refuse a license	
· · ·	·15	to any applicant guilty of unprofessional conduct.	
	17	6. Section 4301 of the Code states, in pertinent part:	
an a	18	"The board shall take action against any holder of a license who is guilty of unprofessional	
• • • •	19	conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.	
· · · · · ·	20	Unprofessional conduct shall include; but is not limited to, any of the following:	
•	21		
	22	(n) The revocation, suspension, or other discipline by another state of a license to practice	:
•••	-23	pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter	
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• •	,	2 STATEMENT OF ISSUES (Case No. 4892)	•
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### REGULATORY PROVISIONS

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

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

#### FIRST CAUSE FOR DENIAL OF APPLICATION

(Commission of Act Substantially Related to the Qualifications, Functions, or Duties of the

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# Business)

Respondent Carepoint's application is subject to denial under section 480, subsection (a)(3) of the Code, in conjunction with California Code of Regulations, title 16, section 1770, in that on or about September 27, 2012, through a consent order in Department of Financial and Professional Regulation, Division of Professional Regulation of the State of Illinois v. Bhavesh R. Patel, State of Illinois, Illinois Department of Financial and Professional Regulation, Division of Professional Regulation, case no. 2010-07314, Respondent Patel's Illinois pharmacist license was reprimanded. The circumstances are as follows:

Respondent Patel was the pharmacist-in-charge of Orsini Pharmaceutical Services ("Orsini"), ... The Illinois Department of Financial and Professional Regulation, Division . of Professional Regulation ("Department") received information indicating that Orsini dispensed expired IV products to a patient. In addition, a Department inspection of Orsini revealed several violations of the Illinois Pharmacy Practice Act including: (1) controlled substances invoices . were not separated; (2) stock bottles were not properly labeled with the lot number and expiration date; (3) expired products were found in the automated dispensing machine; (4) pharmacy staff members were found not to be wearing name badges; (5) controlled substances were not separated or distinguished; and (6) allergy information was not recorded on the patient's profile in some instances. Through the consent order, Respondent admitted these allegations.

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STATEMENT OF ISSUES (Case No. 4892)

# . SECOND CAUSE FOR DENIAL OF APPLICATION

(Unprofessional Conduct-Out of State Discipline)

9. Respondent Carepoint's application is subject to denial under section 4301, subsection
(n) of the Code in that on or about September 27, 2012, Respondent Patel's pharmacist license
was reprimanded in Illinois, as more fully set forth in paragraph 8 and its subpart.

#### <u>PRAYER</u>

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

1. Denying the application of Carepoint Pharmacy for a Nonresident Pharmacy Permit; and

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

DATED:

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STATEMENT OF ISSUES (Case No. 4892)

# Exhibit B

# Letter of Public Reproval in Case No. 4892

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

August 19, 2014

Carepoint Pharmacy Bhavesh R. Patel National Registered Agents, Inc. 2875 Michelle Drive, Suite 100 Irvine, CA 92606

## Re: LETTER OF PUBLIC REPROVAL In the Matter of the Statement of Issues Against: <u>Carepoint Pharmacy and Bhavesh R. Patel, Nonresident Pharmacy Permit</u> <u>Applicant</u>

Dear Carepoint Pharmacy and Mr. Patel:

On September 19, 2013, the Board of Pharmacy, Department of Consumer Affairs, State of California, filed a Statement of Issues against your Nonresident Pharmacy Permit application. The Statement of Issues alleged that Bhavesh R. Patel, while a pharmacist-in-charge of Orsini Pharmaceutical Services, engaged in unprofessional conduct under 225 ILCS 85/30(a)(2) (2011); Ill. Admin. Code tit. 68, § 1330.660(e) (2010); Ill. Admin. Code tit. 68, § 1330.730 (2010); Ill. Admin. Code tit. 68, § 1330.40(b)(5) (2010); Ill. Admin. Code tit. 68, § 1330.30 (2010); and 225 ILCS 85/30(a)(7) (2011). The Statement of Issues alleged that on June 23, 2011, Mr. Patel was found to be in violation of the Illinois Pharmacy Practice Act as follows: (1) controlled substances invoices were not separated; (2) stock bottles were not properly labeled with the lot number and expiration date; (3) expired products were found in the automated dispensing machine; (4) pharmacy staff members were found not to be wearing name badges; (5) controlled substances prescriptions were not separated or distinguished; and (6) allergy information was not recorded on the patient's profile in some instances.

The Board of Pharmacy, Department of Consumer Affairs, takes into consideration that: (1) the above-described conduct has been corrected and you have taken steps to prevent future occurrences of such conduct; (2) you have implemented new policies and procedures to prevent similar conduct from occurring in the future; (3) you have re-trained your staff; and (4) you fully cooperated with the Illinois Department of Financial and Professional Regulation, Division of Professional Regulation, with the investigation of the above-described conduct. Also taking into consideration that there are other mitigating circumstances in this case that support the determination that you are safe to practice under a Nonresident Pharmacy Permit, the Board has decided that the charges warrant a public reproval of Mr. Patel as a condition to issuing a Nonresident Pharmacy Permit to Carepoint Pharmacy. Letter of Public Reproval Carepoint Pharmacy and Bhavesh R. Patel Page 2

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 reproval.

Sincerely,

Virginia He

VIRGINIA HEROLD Executive Officer Board of Pharmacy Department of Consumer Affairs