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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. 4362

11 **GJPL INC., DBA SAINT JOHNS**  
12 **MEDICAL PLAZA PHARMACY;**  
13 **FARNAZ MAHDAVI**  
14 **1301 20th Street, #120**  
**Santa Monica, CA 90404**

**A C C U S A T I O N**

15 **Original Pharmacist License No. RPH42814**  
16 **Original Permit No. PHY 43536**

Respondents.

17  
18 Complainant alleges:

19 **PARTIES**

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

22 2. On or about August 10, 1989, the Board of Pharmacy issued Original Pharmacist  
23 License Number RPH 42814 to Farnaz Mahdavi ("Respondent Mahdavi"). The Pharmacist  
24 License was in full force and effect at all times relevant to the charges brought herein and will  
25 expire on August 31, 2013, unless renewed.

26 3. On or about May 20, 1998, the Board of Pharmacy issued Original Permit Number  
27 PHY 43536 to GJPL Inc., dba Saint Johns Medical Plaza Pharmacy; Farnaz Mahdavi  
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1 ("Respondent Pharmacy"). The Original Permit was in full force and effect at all times relevant  
2 to the charges brought herein and will expire on May 1, 2013, unless renewed.

3 **JURISDICTION**

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

7 **STATUTORY PROVISIONS**

8 5. Section 118, subdivision (b), provides that the suspension, expiration, surrender, or  
9 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary  
10 action during the period within which the license may be renewed, restored, reissued or  
11 reinstated.

12 6. Section 4300 provides, in pertinent part, that every license issued by the Board is  
13 subject to discipline, including suspension or revocation.

14 7. Section 4301 states, in pertinent part:

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

18 . . . .

19 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
20 violation of or conspiring to violate any provision or term of this chapter or of the applicable

21 federal and state laws and regulations governing pharmacy, including regulations established by  
22 the board or by any other state or federal regulatory agency."

23 8. Section 4022 states:

24 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in  
25 humans or animals, and includes the following:

26 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
27 prescription," "Rx only," or words of similar import.

28

1           (b) Any device that bears the statement: "Caution: federal law restricts this device to sale  
2 by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled  
3 in with the designation of the practitioner licensed to use or order use of the device.

4           (c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
5 prescription or furnished pursuant to Section 4006."

6           9. Section 4022.5 states, in pertinent part:

7           (a) "Designated Representative" means an individual to whom a license has been granted  
8 pursuant to Section 4053. A pharmacist fulfilling the duties of Section 4053 shall not be required  
9 to obtain a license as a designated representative."

10          10. Section 4053 states, in pertinent part:

11          (a) Notwithstanding Section 4051, the board may issue a license as a designated  
12 representative to provide sufficient and qualified supervision in a wholesaler or veterinary food-  
13 animal drug retailer. The designated representative shall protect the public health and safety in  
14 handling, storage, and shipment of dangerous drugs and dangerous devices in the wholesaler or  
15 veterinary food-animal drug retailer."

16          11. Section 4059.5 states, in pertinent part:

17          (a) Except as otherwise provided in this chapter, dangerous drugs or dangerous devices  
18 may only be ordered by an entity licensed by the board and shall be delivered to the licensed  
19 premises and signed for and received by a pharmacist. Where a licensee is permitted to operate  
20 through a designated representative, the designative representative shall sign for and receive the  
21 delivery."

22          12. Section 4081 states, in pertinent part:

23          (a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs  
24 or dangerous devices shall be at all times during business hours open to inspection by authorized  
25 officers of the law, and shall be preserved for at least three years from the date of making. A  
26 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary  
27 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,  
28 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,

1 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and  
2 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and  
3 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.”

4 13. Section 4342 states, in pertinent part:

5 “(a) The board may institute any action or actions as may be provided by law and that, in its  
6 discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not  
7 conform to the standard and tests as to quality and strength, provided in the latest edition of the  
8 United States Pharmacopoeia or the National Formulary, or that violate any provision of the  
9 Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division  
10 104 of the Health and Safety Code).”

11 14. Code of Federal Regulations 1301.75 states, in pertinent part:

12 “(b) Controlled substances listed in Schedules II, III, IV and V shall be stored in a securely  
13 locked, substantially constructed cabinet. However, pharmacies and institutional practitioners  
14 may disperse such substances throughout the stock of noncontrolled substances in such a manner  
15 as to obstruct the theft or diversion of the controlled substances.”

16 15. Code of Federal Regulations 1304.11 states, in pertinent part:

17 “(c) Biennial inventory date. After the initial inventory is taken, the registrant shall take a  
18 new inventory of all stocks of controlled substances on hand at least every two years. The  
19 biennial inventory may be taken on any date which is within two years of the previous biennial  
20 inventory date.”

21 16. California Code of Regulations, title 16, section 1714, states, in pertinent part:

22 “(e) The temporary absence authorized by this section shall be limited to the minimum  
23 period authorized for pharmacists by section 512 of the Labor Code or orders of the Industrial  
24 Welfare Commission and any meal shall be limited to 30 minutes. The pharmacist who is on  
25 break shall not be required to remain in the pharmacy area during the break period.

26 “(f) The pharmacy shall have written policies and procedures regarding the operations of  
27 the pharmacy during the temporary absence of the pharmacist for breaks and meal periods. The  
28 policies and procedures shall include the authorized duties of ancillary staff, the pharmacist’s

1 responsibilities for checking all work performed by ancillary staff and the pharmacist's  
2 responsibility for maintaining the security of the pharmacy. The policies and procedures shall be  
3 open to inspection by the board or its designee at all times during business hours."

4 **COST RECOVERY**

5 17. Section 125.3 states, in pertinent part, that the Board may request the administrative  
6 law judge to direct a licentiate found to have committed a violation or violations of the licensing  
7 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the  
8 case.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Failing to Maintain Records of Acquisition and Disposition of Dangerous Drugs)**

11 18. Respondent Mahdavi's Pharmacist License and Respondent Pharmacy's Original  
12 Permit are subject to disciplinary action under section 4081, subsection (a) in that Respondents  
13 Mahdavi and Pharmacy failed to maintain records, as required for three years, of the acquisition  
14 and disposition of dangerous drugs. The circumstances are as follows:

15 a. On or about September 26, 2011, an investigation of Saint Johns Medical Plaza  
16 Pharmacy ("Saint Johns") revealed that the pharmacy was in possession of trash bags full of  
17 prescription drug samples in addition to bottled prescription drugs that were labeled as previously  
18 distributed by other pharmacies. Saint Johns did not have any records pertaining to the  
19 acquisition or disposition of the prescription drug samples. Saint Johns also did not have any  
20 records pertaining to the acquisition or disposition of the "take back" medications that had been  
21 previously distributed by other pharmacies. Respondent Mahdavi stated that the prescription drug  
22 samples came from doctors in the adjacent medical building and that the prescription drugs from  
23 other pharmacies were given to Saint Johns by patients who had medication they no longer  
24 needed either because the medication had been prescribed to a deceased family member or the  
25 medication had expired. Respondent Mahdavi admitted to Board Inspector White that Saint  
26 Johns did not keep records of the "take back" medications or the prescription drug samples the  
27 pharmacy obtained.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Maintaining Misbranded or Unlabeled Dangerous Drugs)**

3 19. Respondent Mahdavi's Pharmacist License and Respondent Pharmacy's Original  
4 Permit are subject to disciplinary action under section 4342, subsection (a), in that Respondents  
5 Mahdavi and Pharmacy maintained dangerous drugs that were misbranded or unlabeled. The  
6 circumstances are as follows:

7 a. On or about September 26, 2011, Respondents Mahdavi and Pharmacy maintained  
8 unlabeled or misbranded tablets and capsules that were stored in the pharmacy's regular drug  
9 stock. Respondents also stored dangerous drugs in prescription bottles containing no label or  
10 identifying information regarding the drug name, strength, lot number or expiration date.  
11 Additionally, Respondents maintained unlabeled drugs in prescription bottles that were attached  
12 by rubber band to a manufacturer's labeled container.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Failure to Inventory Controlled Substances)**

15 20. Respondent Mahdavi's Pharmacist License and Respondent Pharmacy's Original  
16 Permit are subject to disciplinary action under section 4301, subsection (o), in that Respondents  
17 violated Code of Federal Regulations section 1304.11, subsection (c), by failing to inventory all  
18 controlled substances in stock at least every two years as required by the Drug Enforcement  
19 Administration ("DEA") Controlled Substances Inventory. The circumstances are as follows:

20 a. On or about July 14, 2010, the DEA biennial inventory was performed but  
21 Respondents Mahdavi and Pharmacy failed to include and inventory all controlled substances  
22 maintained at Saint Johns. Not included in the DEA biennial inventory were controlled liquids  
23 and anabolic steroids.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Improper Storage of Controlled Substances)**

26 21. Respondent Mahdavi's Pharmacist License and Respondent Pharmacy's Original  
27 Permit are subject to disciplinary action under section 4301, subsection (o), in that Respondents  
28 violated Code of Federal Regulations section 1301.75, subsection (b), by failing to securely lock

1 controlled substances or alternatively disperse the controlled substances throughout non  
2 controlled drug stock in a manner to obstruct the theft or diversion of controlled substances. The  
3 circumstances are as follows:

4 a. On or about September 26, 2011, an investigation of Saint Johns revealed that the  
5 pharmacy did not have a separate lockable prescription area. Additionally, considerable amounts  
6 of Schedule II controlled substances were found in Saint Johns stored in unsecured open baskets.

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Failure to Develop Policies for Operating without a Pharmacist)**

9 22. Respondent Mahdavi's Pharmacist License and Respondent Pharmacy's Original  
10 Permit are subject to disciplinary action under section 4301, subsection (o), in that Respondents  
11 violated California Code of Regulations section 1714, subsection (f), by failing to have written  
12 policies and procedures regarding the operation of the pharmacy during the temporary absence of  
13 the pharmacist. The circumstances are as follows:

14 a. On or about February 14, 2012, Board Inspector White arrived at Saint Johns for an  
15 inspection at approximately 8:40 a.m. When Board Inspector White arrived, Saint Johns was  
16 operating without a pharmacist present. Technician Mehrdad Mavadat, who was present at the  
17 time, stated that Respondent Mahdavi opened the pharmacy at 8:30 a.m. before going upstairs to  
18 visit doctors in the adjacent office building. Respondent Mahdavi arrived at the pharmacy at 9:05  
19 a.m. When questioned regarding her absence, Respondent Mahdavi admitted that there was no  
20 written policy governing temporary absences of the pharmacist.

21 **SIXTH CAUSE FOR DISCIPLINE**

22 **(Non-Pharmacist Signing for Drug Delivery)**

23 23. Respondent Mahdavi's Pharmacist License and Respondent Pharmacy's Original  
24 Permit are subject to disciplinary action under section 4059.5, subsection (a), in that Respondents  
25 Mahdavi and Pharmacy failed to comply with the requirement that only a pharmacist sign for the  
26 delivery of dangerous drugs. The circumstances are as follows:

27 a. On or about February 14, 2012, Technician Mehrdad Mavadat, while working at  
28 Saint Johns, was observed signing for a dangerous drug delivery associated with Cardinal Health

1 invoice numbers 5526219 and 552745 while Respondent Mahdavi was absent from the pharmacy.  
2 Records indicate Technician Mavadat has also signed for at least eighty-six (86) other dangerous  
3 drug deliveries from Cardinal Health.

4 PRAYER

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

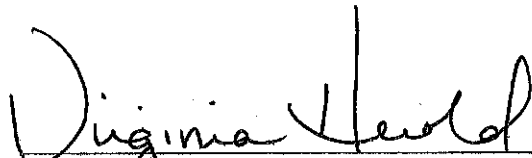
7 1. Revoking or suspending Original Permit Number PHY 43536, issued to GJPL Inc.,  
8 dba Saint Johns Medical Plaza Pharmacy; Farnaz Mahdavi;

9 2. Revoking or suspending Original Pharmacist License Number RPH 42814 issued to  
10 Farnaz Mahdavi;

11 3. Ordering Respondents GJPL Inc., dba Saint Joseph Medical Plaza Pharmacy and  
12 Farnaz Mahdavi to pay the Board of Pharmacy the reasonable costs of the investigation and  
13 enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

15  
16 DATED: 3/9/13



17 VIRGINIA HEROLD  
18 Executive Officer  
19 Board of Pharmacy  
20 Department of Consumer Affairs  
State of California  
*Complainant*

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