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

11  
12 Case No. 4578

12 In the Matter of the Accusation Against:

13 **BALBOA PHARMACY**  
14 **6465 Balboa Avenue, #101**  
**San Diego, CA 92111**

**FIRST AMENDED ACCUSATION**

15 **Pharmacy Permit No. PHY 53437**

16 and

17 **ROBERT YASMEH**  
18 **13652 Winstanley Way**  
**San Diego, CA 92130**

19 **Pharmacist License No. RPH 48357**

20 Respondents.

21  
22 Complainant alleges:

23 **PARTIES**

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

27 2. On or about January 18, 2002, the Board of Pharmacy issued Pharmacy Permit No.  
28 PHY 45633 to Robert Yasmeh, to do business as Balboa Pharmacy. On or about April 7, 2008,

1 the Board issued Pharmacy Permit Number PHY 45633 to RTY Pharmaceutical Inc., to do  
2 business as Balboa Pharmacy (Respondent Balboa Pharmacy). On or about April 17, 2015,  
3 Respondent Balboa Pharmacy moved addresses to 6465 Balboa Avenue, Ste. 101 in San Diego,  
4 California, 92111 and subsequently cancelled Pharmacy Permit No. PHY 45633. On or about  
5 April 17, 2015, the Board issued Pharmacy Permit No. PHY 53437 to Respondent Balboa  
6 Pharmacy at their new location. The Pharmacy Permit PHY 53437 will expire on April 1, 2016,  
7 unless renewed.

8 3. On or about September 1, 1995, the Board of Pharmacy issued Pharmacist License  
9 Number RPH 48357 to Robert Yasmeh (Respondent Yasmeh). The Pharmacist License was in  
10 full force and effect at all times relevant to the charges brought herein and will expire on July 31,  
11 2015, unless renewed.

## 12 JURISDICTION

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

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

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

21 7. Section 4300.1 of the Code states:

22 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
23 by operation of law or by order or decision of the board or a court of law, the  
24 placement of a license on a retired status, or the voluntary surrender of a license by a  
25 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
26 investigation of, or action or disciplinary proceeding against, the licensee or to render  
27 a decision suspending or revoking the license.  
28



1 furnishing dangerous drugs pursuant to this paragraph may only furnish a quantity  
2 sufficient to alleviate the temporary shortage.

3 (5) A patient or to another pharmacy pursuant to a prescription or as  
4 otherwise authorized by law.

5 (6) A health care provider that is not a pharmacy but that is authorized to  
6 purchase dangerous drugs.

7 (7) To another pharmacy under common control.

8 (b) Notwithstanding any other provision of law, a violation of this section  
9 may subject the person or persons who committed the violation to a fine not to  
10 exceed the amount specified in Section 125.9 for each occurrence pursuant to a  
11 citation issued by the board.

12 (c) Amounts due from any person under this section on or after January 1,  
13 2005, shall be offset as provided under Section 12419.5 of the Government Code.  
14 Amounts received by the board under this section shall be deposited into the  
15 Pharmacy Board Contingent Fund.

16 (d) For purposes of this section, "common control" means the power to  
17 direct or cause the direction of the management and policies of another person  
18 whether by ownership, by voting rights, by contract, or by other means.

19 13. Section 4160 of the Code provides, in pertinent part, that a wholesaler license shall be  
20 required for a person or entity to act as a wholesaler, that every wholesaler shall be supervised or  
21 managed by a Designated Representative in Charge, and that the Designated Representative in  
22 Charge shall be responsible for the wholesaler's compliance with state and federal laws.

23 14. Section 4301 of the Code states in pertinent part:

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

28 . . . .

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

. . . .

1 **REGULATORY PROVISIONS**

2 15. California Code of Regulations, title 16, section 1709.1(a) states that “[t]he  
3 pharmacist-in-charge of a pharmacy shall be employed at that location and shall have  
4 responsibility for the daily operation of the pharmacy.”

5 **COST RECOVERY**

6 16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
7 administrative law judge to direct a licentiate found to have committed a violation or violations of  
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
9 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
10 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
11 included in a stipulated settlement.

12 **FACTUAL ALLEGATIONS**

13 17. Since January 18, 2002, Respondent Yasmeh has been the Pharmacist-in-Charge  
14 (PIC) of Respondent Balboa Pharmacy. Respondent Balboa Pharmacy has never been licensed as  
15 a wholesaler by the Board of Pharmacy.

16 18. From March 12, 2010 to July 15, 2011, Respondents sold or furnished 650 dangerous  
17 drugs to three wholesalers, on 187 different occasions (631 different invoice/prescription  
18 numbers) for total sales in the amount of \$415,490.37. The three wholesalers that Respondents  
19 sold to were Dubin Medical Inc., Vital Healthcare and Gulf Coast Pharmaceuticals, Inc.<sup>1</sup>

20 19. The drug ordering process with Dubin Medical Inc., was as follows: Dubin Medical  
21 representatives contacted Respondents with desired drugs and quantities; Dubin Medical then  
22 provided a purchase order; Respondents documented the sales in their computer system with  
23 Dubin Medical as the patient and doctor and listed the drugs as if they were filled as a  
24 prescription; Dubin Medical sent a delivery person to sign for and pick up the medications from  
25 Respondents; and Dubin Medical sent a check to Respondents based on the price listed on the

26 <sup>1</sup> On or about November 13, 2002, the Board of Pharmacy issued Wholesaler Permit  
27 Number 4212 to Dubin Medical Inc., to do business and Dubin Medical Inc. Vital Healthcare  
28 LLC and Gulf Coast Pharmaceuticals, Inc., hold Wholesaler Out-of-State Distributor (OSD)  
Licenses with the Board of Pharmacy.

1 patient printout provided by Respondents at pick up. From May 12, 2010 to July 15, 2011,  
2 Respondents sales for dangerous drugs sold to Dubin Medical totaled \$401,168.50.

3 20. The drug ordering process with Vital Health Care and Gulf Coast Pharmaceuticals,  
4 Inc., was as follows: Respondents would receive a request (purchase order) for short supply  
5 items; if the items were available or if the allocation was anticipated, Respondents filled the  
6 order; the purchase order request was entered into the pharmacy software and invoiced by the  
7 pharmacy system; Respondents would invoice and package the items; the package was shipped or  
8 picked up by the company representative. From March 12, 2010 to September 20, 2010,  
9 Respondents sales for dangerous drugs to Vital Healthcare and Gulf Coast Pharmaceuticals were  
10 \$3,790.00 and \$10,531.87, respectively.

11 **FIRST CAUSE FOR DISCIPLINE**

12 **(Functioning as an Unlicensed Wholesaler)**

13 21. Respondents are subject to disciplinary action under Code section 4301(o), for  
14 violating section 4160 of the Code, in that Respondents “sold” or furnished dangerous drugs to  
15 Dubin Medical and by doing so acted as an unlicensed wholesaler, as set forth in paragraphs 17  
16 through 20, which are incorporated herein by reference.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Selling Dangerous Drugs Under Unauthorized Conditions)**

19 22. Respondents are subject to disciplinary action under Code section 4301(o), for  
20 violating pharmacy law, by selling or furnishing dangerous drugs to Dubin Medical under  
21 unauthorized conditions, in violation of Code section 4126.5, as set forth in paragraphs 17  
22 through 20, which are incorporated herein by reference.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(General Unprofessional Conduct)**

25 23. Respondents are subject to disciplinary action under Code section 4301, for general  
26 unprofessional conduct in that Respondents acted as a purchasing agent for wholesalers and  
27 removed drugs from normal distribution to increase the wholesaler’s supply of a scare drug,  
28 thereby affecting the allocation system implemented by the manufacturer and authorized

1 distributors of the drug, as set forth in paragraphs 17 through 20, which are incorporated herein  
2 by reference.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Failing to Deliver Dangerous Drugs)**

5 24. Respondents are subject to disciplinary action under Code section 4301(o), for  
6 violating Code section 4059.5(a), in that Respondents did not deliver dangerous drugs to the  
7 licensed premises, but instead allowed a representative of the wholesaler to pick up the drugs at  
8 Respondent Balboa Pharmacy, as set forth in paragraphs 17 through 20, which are incorporated  
9 herein by reference.

10 **DISCIPLINARY CONSIDERATIONS**

11 25. To determine the degree of discipline, if any, to be imposed on Respondents,  
12 Complainant alleges:

13 26. On or about August 9, 2011, the Board of Pharmacy issued Citation No. CI 2010  
14 47313 to Respondent Balboa Pharmacy for violation of California Code of Regulations, Title 16,  
15 sections 1714(c) and 1716 and Business and Professions Code section 4115(e), in that on April  
16 14, 2011, Respondent allowed a non-licensed individual to perform the duties of a pharmacy  
17 technician, dispensed a prescription that varied from the dosage as written on the prescription and  
18 the pharmacy did not have hot running water for use. The Board assessed a fine in the amount of  
19 \$1,000.00 and Respondent Balboa Pharmacy complied with Citation No. CI 2010 47313.

20 27. On or about August 9, 2011, the Board of Pharmacy issued Citation No. CI 2011  
21 49175 to Respondent Yasmeh for violation of California Code of Regulations, Title 16, sections  
22 1714(c) and 1716 and Business and Professions Code section 4115(e), as set forth in paragraph  
23 26, above. The Board assessed a fine the in amount of \$575.00 and Respondent Yasmeh  
24 complied with Citation No. CI 2011 49175.

25 28. On or about October 12, 2012, the Board of Pharmacy issued Citation No. CI 2011  
26 48852 to Respondent Balboa Pharmacy for violation of Business and Professions Code sections  
27 4126.5(a)(4) and 4059(b), for illegally furnishing dangerous drugs to a wholesaler, Optimal  
28 Pharmaceutical, and for failing to correctly or accurately list the quantities of dangerous drugs on

1 sales records. The Board assessed a fine in the amount of \$6,850.00 and Respondent Balboa  
2 Pharmacy complied with Citation No. CI 2011 48852.

3 29. On or about October 12, 2012, the Board of Pharmacy issued Citation No. 2012  
4 54032 to Respondent Yasmeh for violation of Business and Professions Code sections  
5 4126.5(a)(4) and 4059(b), as set forth in paragraph 28, above. The Board assessed a fine in the  
6 amount of \$5,500.00 and Respondent Yasmeh complied with Citation No. 2012 54032.

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:

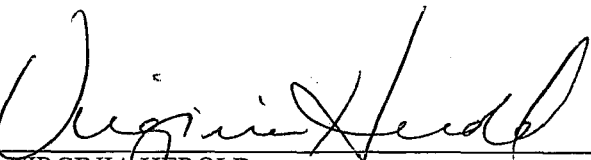
10 1. Revoking or suspending Pharmacy Permit Number 53437, issued to Balboa  
11 Pharmacy;

12 2. Revoking or suspending Pharmacist License Number RPH 48357, issued to Robert  
13 Yasmeh;

14 3. Ordering Balboa Pharmacy and Robert Yasmeh to pay the Board of Pharmacy the  
15 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
16 Professions Code section 125.3;

17 4. Taking such other and further action as deemed necessary and proper.  
18  
19

20  
21 DATED: 10/28/15



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

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

11 Case No. 4578

12 In the Matter of the Accusation Against:

13 **BALBOA PHARMACY**  
14 **5222 Balboa Avenue**  
**San Diego, CA 92117**

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

15 **Pharmacy Permit No. PHY 45633**

16 and

17 **ROBERT YASMEH**  
18 **13652 Winstanley Way**  
**San Diego, CA 92130**

19 **Pharmacist License No. RPH 48357**

20 Respondents.

21  
22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about January 18, 2002, the Board of Pharmacy issued Pharmacy Permit  
27 Number PHY 45633 to Robert Yasmeh, to do business as Balboa Pharmacy. On or about April 7,  
28 2008, the Board issued Pharmacy Permit Number PHY 45633 to RTY Pharmaceutical Inc., to do

1 business as Balboa Pharmacy (Respondent Balboa Pharmacy). The Pharmacy Permit was in full  
2 force and effect at all times relevant to the charges brought herein and will expire on January 1,  
3 2016, unless renewed.

4 3. On or about September 1, 1995, the Board of Pharmacy issued Pharmacist License  
5 Number RPH 48357 to Robert Yasmeh (Respondent Yasmeh). The Pharmacist License was in  
6 full force and effect at all times relevant to the charges brought herein and will expire on July 31,  
7 2015, unless renewed.

### 8 JURISDICTION

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

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

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

17 7. Section 4300.1 of the Code states:

18 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
19 by operation of law or by order or decision of the board or a court of law, the  
20 placement of a license on a retired status, or the voluntary surrender of a license by a  
21 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
22 investigation of, or action or disciplinary proceeding against, the licensee or to render  
23 a decision suspending or revoking the license.

### 24 STATUTORY PROVISIONS

25 8. Section 4022 of the Code states:

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

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

(b) Any device that bears the statement: "Caution: federal law restricts this  
device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import,

1 the blank to be filled in with the designation of the practitioner licensed to use or  
2 order use of the device.

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

5 9. Section 4043 of the Code, in pertinent part, defines "wholesaler" to mean and include  
6 "a person who acts as a wholesale merchant, broker, jobber, customs broker, reverse distributor,  
7 agent, or a nonresident wholesaler, who sells for resale, or negotiates for distribution, or takes  
8 possession of, any drug or device included in Section 4022."

9 10. Section 4059.5, subdivision (a) of the Code states:

10 Except as otherwise provided in this chapter, dangerous drugs or dangerous  
11 devices may only be ordered by an entity licensed by the board and shall be  
12 delivered to the licensed premises and signed for and received by a pharmacist.  
13 Where a licensee is permitted to operate through a designated representative, the  
14 designated representative shall sign for and receive the delivery.

15 11. Section 4113, subdivision (c) of the Code states: "The pharmacist-in-charge shall be  
16 responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining  
17 to the practice of pharmacy."

18 12. Section 4126.5 of the Code states:

19 (a) A pharmacy may furnish dangerous drugs only to the following:

20 (1) A wholesaler owned or under common control by the wholesaler from  
21 whom the dangerous drug was acquired.

22 (2) The pharmaceutical manufacturer from whom the dangerous drug was  
23 acquired.

24 (3) A licensed wholesaler acting as a reverse distributor.

25 (4) Another pharmacy or wholesaler to alleviate a temporary shortage of a  
26 dangerous drug that could result in the denial of health care. A pharmacy  
27 furnishing dangerous drugs pursuant to this paragraph may only furnish a quantity  
28 sufficient to alleviate the temporary shortage.

(5) A patient or to another pharmacy pursuant to a prescription or as  
otherwise authorized by law.

(6) A health care provider that is not a pharmacy but that is authorized to  
purchase dangerous drugs.

(7) To another pharmacy under common control.

(b) Notwithstanding any other provision of law, a violation of this section  
may subject the person or persons who committed the violation to a fine not to

1 exceed the amount specified in Section 125.9 for each occurrence pursuant to a  
2 citation issued by the board.

3 (c) Amounts due from any person under this section on or after January 1,  
4 2005, shall be offset as provided under Section 12419.5 of the Government Code.  
5 Amounts received by the board under this section shall be deposited into the  
6 Pharmacy Board Contingent Fund.

7 (d) For purposes of this section, "common control" means the power to  
8 direct or cause the direction of the management and policies of another person  
9 whether by ownership, by voting rights, by contract, or by other means.

10 13. Section 4160 of the Code provides, in pertinent part, that a wholesaler license shall be  
11 required for a person or entity to act as a wholesaler, that every wholesaler shall be supervised or  
12 managed by a Designated Representative in Charge, and that the Designated Representative in  
13 Charge shall be responsible for the wholesaler's compliance with state and federal laws.

14 14. Section 4301 of the Code states in pertinent part:

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

19 . . . .

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

25 . . . .

#### 26 REGULATORY PROVISIONS

27 15. California Code of Regulations, title 16, section 1709.1(a) states that "[t]he  
28 pharmacist-in-charge of a pharmacy shall be employed at that location and shall have  
responsibility for the daily operation of the pharmacy."

#### COST RECOVERY

16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
administrative law judge to direct a licentiate found to have committed a violation or violations of  
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
enforcement of the case, with failure of the licentiate to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
2 included in a stipulated settlement.

### 3 **FACTUAL ALLEGATIONS**

4 17. Since January 18, 2002, Respondent Yasmeh has been the Pharmacist-in-Charge  
5 (PIC) of Respondent Balboa Pharmacy. Respondent Balboa Pharmacy has never been licensed as  
6 a wholesaler by the Board of Pharmacy.

7 18. From March 12, 2010 to July 15, 2011, Respondents sold or furnished 650 dangerous  
8 drugs to three wholesalers, on 187 different occasions (631 different invoice/prescription  
9 numbers) for total sales in the amount of \$415,490.37. The three wholesalers that Respondents  
10 sold to were Dubin Medical Inc., Vital Healthcare and Gulf Coast Pharmaceuticals, Inc.<sup>1</sup>

11 19. The drug ordering process with Dubin Medical Inc., was as follows: Dubin Medical  
12 representatives contacted Respondents with desired drugs and quantities; Dubin Medical then  
13 provided a purchase order; Respondents documented the sales in their computer system with  
14 Dubin Medical as the patient and doctor and listed the drugs as if they were filled as a  
15 prescription; Dubin Medical sent a delivery person to sign for and pick up the medications from  
16 Respondents; and Dubin Medical sent a check to Respondents based on the price listed on the  
17 patient printout provided by Respondents at pick up. From May 12, 2010 to July 15, 2011,  
18 Respondents sales for dangerous drugs sold to Dubin Medical totaled \$401,168.50.

19 20. The drug ordering process with Vital Health Care and Gulf Coast Pharmaceuticals,  
20 Inc., was as follows: Respondents would receive a request (purchase order) for short supply  
21 items; if the items were available or if the allocation was anticipated, Respondents filled the  
22 order; the purchase order request was entered into the pharmacy software and invoiced by the  
23 pharmacy system; Respondents would invoice and package the items; the package was shipped or  
24 picked up by the company representative. From March 12, 2010 to September 20, 2010,

25  
26 <sup>1</sup> On or about November 13, 2002, the Board of Pharmacy issued Wholesaler Permit  
27 Number 4212 to Dubin Medical Inc., to do business and Dubin Medical Inc., Vital Healthcare  
28 LLC and Gulf Coast Pharmaceuticals, Inc., hold Wholesaler Out-of-State Distributor (OSD)  
Licenses with the Board of Pharmacy.

1 Respondents sales for dangerous drugs to Vital Healthcare and Gulf Coast Pharmaceuticals were  
2 \$3,790.00 and \$10,531.87, respectively.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Functioning as an Unlicensed Wholesaler)**

5 21. Respondents are subject to disciplinary action under Code section 4301(o), for  
6 violating section 4160 of the Code, in that Respondents "sold" or furnished dangerous drugs to  
7 Dubin Medical and by doing so acted as an unlicensed wholesaler, as set forth in paragraphs 17  
8 through 20, which are incorporated herein by reference.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Selling Dangerous Drugs Under Unauthorized Conditions)**

11 22. Respondents are subject to disciplinary action under Code section 4301(o), for  
12 violating pharmacy law, by selling or furnishing dangerous drugs to Dubin Medical under  
13 unauthorized conditions, in violation of Code section 4126.5, as set forth in paragraphs 17  
14 through 20, which are incorporated herein by reference.

15 **THIRD CAUSE FOR DISCIPLINE**

16 **(General Unprofessional Conduct)**

17 23. Respondents are subject to disciplinary action under Code section 4301, for general  
18 unprofessional conduct in that Respondents acted as a purchasing agent for wholesalers and  
19 removed drugs from normal distribution to increase the wholesaler's supply of a scare drug,  
20 thereby affecting the allocation system implemented by the manufacturer and authorized  
21 distributors of the drug, as set forth in paragraphs 17 through 20, which are incorporated herein  
22 by reference.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Failing to Deliver Dangerous Drugs)**

25 24. Respondents are subject to disciplinary action under Code section 4301(o), for  
26 violating Code section 4059.5(a), in that Respondents did not deliver dangerous drugs to the  
27 licensed premises, but instead allowed a representative of the wholesaler to pick up the drugs at  
28

1 Respondent Balboa Pharmacy, as set forth in paragraphs 17 through 20, which are incorporated  
2 herein by reference.

### 3 DISCIPLINARY CONSIDERATIONS

4 25. To determine the degree of discipline, if any, to be imposed on Respondents,  
5 Complainant alleges:

6 26. On or about August 9, 2011, the Board of Pharmacy issued Citation No. CI 2010  
7 47313 to Respondent Balboa Pharmacy for violation of California Code of Regulations, Title 16,  
8 sections 1714(c) and 1716 and Business and Professions Code section 4115(e), in that on April  
9 14, 2011, Respondent allowed a non-licensed individual to perform the duties of a pharmacy  
10 technician, dispensed a prescription that varied from the dosage as written on the prescription and  
11 the pharmacy did not have hot running water for use. The Board assessed a fine in the amount of  
12 \$1,000.00 and Respondent Balboa Pharmacy complied with Citation No. CI 2010 47313.

13 27. On or about August 9, 2011, the Board of Pharmacy issued Citation No. CI 2011  
14 49175 to Respondent Yasmeh for violation of California Code of Regulations, Title 16, sections  
15 1714(c) and 1716 and Business and Professions Code section 4115(e), as set forth in paragraph  
16 26, above. The Board assessed a fine the in amount of \$575.00 and Respondent Yasmeh  
17 complied with Citation No. CI 2011 49175.

18 28. On or about October 12, 2012, the Board of Pharmacy issued Citation No. CI 2011  
19 48852 to Respondent Balboa Pharmacy for violation of Business and Professions Code sections  
20 4126.5(a)(4) and 4059(b), for illegally furnishing dangerous drugs to a wholesaler, Optimal  
21 Pharmaceutical, and for failing to correctly or accurately list the quantities of dangerous drugs on  
22 sales records. The Board assessed a fine in the amount of \$6,850.00 and Respondent Balboa  
23 Pharmacy complied with Citation No. CI 2011 48852.

24 29. On or about October 12, 2012, the Board of Pharmacy issued Citation No. 2012  
25 54032 to Respondent Yasmeh for violation of Business and Professions Code sections  
26 4126.5(a)(4) and 4059(b), as set forth in paragraph 28, above. The Board assessed a fine in the  
27 amount of \$5,500.00 and Respondent Yasmeh complied with Citation No. 2012 54032.

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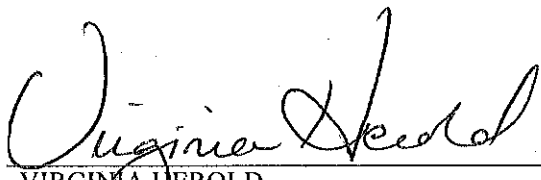
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**PRAYER**

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. Revoking or suspending Pharmacy Permit Number PHY 45633, issued to Balboa Pharmacy;
2. Revoking or suspending Pharmacist License Number RPH 48357, issued to Robert Yasmeh;
3. Ordering Balboa Pharmacy and Robert Yasmeh 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;
4. Taking such other and further action as deemed necessary and proper.

DATED: 9/11/15



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

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