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

11 In the Matter of the Accusation Against:  
12 **SAN DIMAS PHARMACY &**  
13 **COMPOUNDING CENTER;**  
14 **KALPANA PATEL AKA KALPANA**  
**KALPESHKUMAR PATEL,**  
15 **President**  
16 **3805 San Dimas Street, Suite A**  
**Bakersfield, CA 93301**

Case No. 5192

**FIRST AMENDED**  
**ACCUSATION**

17 **Pharmacy Permit No. PHY 48922**

18 **and**

19 **KALPANA PATEL**  
20 **AKA KALPANA KALPESHKUMAR**  
**PATEL**  
21 **5111 Vista Rica Court**  
**Bakersfield, CA 93311**

22 **Pharmacist License No. RPH 49676**

23 Respondents.  
24

25 Complainant alleges:  
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1 **PARTIES**

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

5 2. On or about January 7, 2008, the Board of Pharmacy issued Pharmacy Permit  
6 Number PHY 48922 to San Dimas Pharmacy & Compounding Center (Respondent San Dimas).  
7 The Pharmacy Permit was in full force and effect at all times relevant to the charges brought in  
8 this First Amended Accusation and will expire on January 1, 2016, unless renewed.

9 3. On or about August 22, 1997, the Board of Pharmacy issued Pharmacist License  
10 Number RPH 49676 to Kalpana Patel, also known as Kalpana Kalpeshkumar Patel (Respondent  
11 Patel). The Pharmacist License was in full force and effect at all times relevant to the charges  
12 brought in this First Amended Accusation and will expire on November 30, 2016, unless  
13 renewed.

14 **JURISDICTION**

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

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

21 6. Section 4300 of the Code states, in pertinent part:

22 "(a) Every license issued may be suspended or revoked.

23 "(b) The board shall discipline the holder of any license issued by the board, whose default  
24 has been entered or whose case has been heard by the board and found guilty, by any of the  
25 following methods:

26 "(1) Suspending judgment.

27 "(2) Placing him or her upon probation.

28 "(3) Suspending his or her right to practice for a period not exceeding one year.



1           "(E) A legible, clear notice of the condition or purpose for which the drug is being  
2 prescribed, if requested by the patient or patients.

3           "(F) If in writing, signed by the prescriber issuing the order, or the certified nurse-midwife,  
4 nurse practitioner, physician assistant, or naturopathic doctor who issues a drug order pursuant to  
5 Section 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist who issues a drug  
6 order pursuant to Section 4052.1, 4052.2, or 4052.6."

7           9.     Section 4051 of the Code states, in pertinent part:

8           "(a) Except as otherwise provided in this chapter, it is unlawful for any person to  
9 manufacture, compound, furnish, sell, or dispense a dangerous drug or dangerous device, or to  
10 dispense or compound a prescription pursuant to Section 4040 of a prescriber unless he or she is a  
11 pharmacist under this chapter."

12          10.    Section 4301 of the Code states, in pertinent part:

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

16          ...

17          "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
18 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
19 whether the act is a felony or misdemeanor or not.

20          "(g) Knowingly making or signing any certificate or other document that falsely represents  
21 the existence or nonexistence of a state of facts.

22          ...

23          "(l) The conviction of a crime substantially related to the qualifications, functions, and  
24 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
25 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
26 substances or of a violation of the statutes of this state regulating controlled substances or  
27 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the  
28 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

1 The board may inquire into the circumstances surrounding the commission of the crime, in order  
2 to fix the degree of discipline or, in the case of a conviction not involving controlled substances  
3 or dangerous drugs, to determine if the conviction is of an offense substantially related to the  
4 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
5 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
6 of this provision. The board may take action when the time for appeal has elapsed, or the  
7 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
8 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
9 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
10 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
11 indictment."

12 11. Section 4307 of the Code states:

13 "(a) Any person who has been denied a license or whose license has been revoked or is  
14 under suspension, or who has failed to renew his or her license while it was under suspension, or  
15 who has been a manager, administrator, owner, member, officer, director, associate, or partner of  
16 any partnership, corporation, firm, or association whose application for a license has been denied  
17 or revoked, is under suspension or has been placed on probation, and while acting as the manager,  
18 administrator, owner, member, officer, director, associate, or partner had knowledge of or  
19 knowingly participated in any conduct for which the license was denied, revoked, suspended, or  
20 placed on probation, shall be prohibited from serving as a manager, administrator, owner,  
21 member, officer, director, associate, or partner of a licensee as follows:

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

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

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

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

9           12. Section 11164 of the Health and Safety Code states, in pertinent part:

10           "Except as provided in Section 11167, no person shall prescribe a controlled substance, nor  
11 shall any person fill, compound, or dispense a prescription for a controlled substance, unless it  
12 complies with the requirements of this section.

13           "(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V,  
14 except as authorized by subdivision (b), shall be made on a controlled substance prescription  
15 form as specified in Section 11162.1 and shall meet the following requirements:

16           "(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the  
17 prescriber's address and telephone number; the name of the ultimate user or research subject, or  
18 contact information as determined by the Secretary of the United States Department of Health and  
19 Human Services; refill information, such as the number of refills ordered and whether the  
20 prescription is a first-time request or a refill; and the name, quantity, strength, and directions for  
21 use of the controlled substance prescribed."

22           13. Section 11167 of the Health and Safety Code states:

23           "Notwithstanding subdivision (a) of Section 11164, in an emergency where failure to issue  
24 a prescription may result in loss of life or intense suffering, an order for a controlled substance  
25 may be dispensed on an oral order, an electronic data transmission order, or a written order not  
26 made on a controlled substance form as specified in Section 11162.1, subject to all of the  
27 following requirements:

28           "(a) The order contains all information required by subdivision (a) of Section 11164.

1           "(b) Any written order is signed and dated by the prescriber in ink, and the pharmacy  
2 reduces any oral or electronic data transmission order to hard copy form prior to dispensing the  
3 controlled substance.

4           "(c) The prescriber provides a written prescription on a controlled substance prescription  
5 form that meets the requirements of Section 11162.1, by the seventh day following the  
6 transmission of the initial order; a postmark by the seventh day following transmission of the  
7 initial order shall constitute compliance.

8           "(d) If the prescriber fails to comply with subdivision (c), the pharmacy shall so notify the  
9 Department of Justice in writing within 144 hours of the prescriber's failure to do so and shall  
10 make and retain a hard copy, readily retrievable record of the prescription, including the date and  
11 method of notification of the Department of Justice.

12           "(e) This section shall become operative on January 1, 2005."

13           14. Section 11200 of the Health and Safety Code states, in pertinent part:

14           "(b) No prescription for a Schedule III or IV substance may be refilled more than five times  
15 and in an amount, for all refills of that prescription taken together, exceeding a 120-day supply."

16           15. California Code of Regulations, title 16, section 1717 states, in pertinent part:

17           "Promptly upon receipt of an orally transmitted prescription, the pharmacist shall reduce it  
18 to writing, and initial it, and identify it as an orally transmitted prescription. If the prescription is  
19 then dispensed by another pharmacist, the dispensing pharmacist shall also initial the prescription  
20 to identify him or herself. All orally transmitted prescriptions shall be received and transcribed by  
21 a pharmacist prior to compounding, filling, dispensing, or furnishing. Chart orders as defined in  
22 section 4019 of the Business and Professions Code are not subject to the provisions of this  
23 subsection."

24           16. California Code of Regulations, title 16, section 1735.2 states, in pertinent part:

25           "(f) The pharmacist performing or supervising compounding is responsible for the integrity,  
26 potency, quality, and labeled strength of a compounded drug product until it is dispensed.

27           ...

28

1           "(h) Every compounded drug product shall be given an expiration date representing the date  
2 beyond which, in the professional judgment of the pharmacist performing or supervising the  
3 compounding, it should not be used. This "beyond use date" of the compounded drug product  
4 shall not exceed 180 days from preparation or the shortest expiration date of any component in  
5 the compounded drug product, unless a longer date is supported by stability studies of finished  
6 drugs or compounded drug products using the same components and packaging. Shorter dating  
7 than set forth in this subsection may be used if it is deemed appropriate in the professional  
8 judgment of the responsible pharmacist."

9           17. California Code of Regulations, title 16, section 1735.3 states, in pertinent part:

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

11           "(1) The master formula record.

12           "(2) The date the drug product was compounded.

13           "(3) The identity of the pharmacy personnel who compounded the drug product.

14           "(4) The identity of the pharmacist reviewing the final drug product.

15           "(5) The quantity of each component used in compounding the drug product.

16           "(6) The manufacturer, expiration date and lot number of each component. If the  
17 manufacturer name is demonstrably unavailable, the name of the supplier may be substituted.  
18 Exempt from the requirements in this paragraph are sterile products compounded on a one-time  
19 basis for administration within seventy-two (72) hours and stored in accordance with standards  
20 for "Redispensed CSPS" found in Chapter 797 of the United States Pharmacopeia - National  
21 Formulary (USP-NF) (35th Revision, Effective May 1, 2012), hereby incorporated by reference,  
22 to an inpatient in a health care facility licensed under section 1250 of the Health and Safety Code.

23           "(7) A pharmacy assigned reference or lot number for the compounded drug product.

24           "(8) The expiration date of the final compounded drug product.

25           "(9) The quantity or amount of drug product compounded."

26           18. Code of Federal Regulations, title 21, section 1304.04 states, in pertinent part:  
27  
28





**FACTUAL STATEMENT**

1  
2 27. From about January 1, 2008, to the present, Respondent San Dimas Pharmacy &  
3 Compounding Center (Respondent San Dimas) has been operating as a pharmacy in Bakersfield,  
4 California. From about January 7, 2008, to the present, Kalpana Patel (Respondent Patel) has  
5 been the pharmacist-in-charge (PIC) at Respondent San Dimas.

6 **2012 Complaint and Investigation**

7  
8 28. On or about May 9, 2012, a private individual submitted an online complaint to the  
9 Board, alleging that Respondent San Dimas was committing various license violations, including  
10 filling faxed copies of prescriptions in non-emergency situations and failing to obtain the original  
11 hard copies of the prescriptions until much later; and sometimes submitting invoices to insurance  
12 companies for larger quantities of medication than the pharmacy actually dispensed to the  
13 insurance companies' customers and never giving the customers their remaining balance of  
14 medication.

15  
16 29. On or about August 29, 2012, in response to the complaint, a Board inspector  
17 (inspector) conducted an inspection at Respondent San Dimas.

18  
19 30. While at the pharmacy, the inspector found five prescriptions for Schedule II  
20 controlled substances that the pharmacy had filled even though the prescriptions were not signed  
21 and dated in ink by the original prescriber. The specifics of the five prescriptions are as follows:

22 a. A prescription dated August 24, 2012, for oxycodone. The prescription was a  
23 photocopy of the original prescription. The prescription was not signed and dated in ink by the  
24 prescriber.

25 b. A prescription dated March 15, 2012, for methadone. The prescription was on a  
26 faxed refill authorization request form. The prescription was not signed and dated in ink by the  
27 prescriber.

1 c. A prescription dated March 17, 2012, for morphine. The prescription was on a faxed  
2 refill authorization request form. The prescription was not signed and dated in ink by the  
3 prescriber.

4 d. A prescription dated April 6, 2012, for oxycodone. The prescription was on a faxed  
5 refill authorization request form. The prescription was not signed and dated in ink by the  
6 prescriber.

7 e. A prescription dated May 16, 2012, for Vyvanse. The prescription was on a faxed  
8 refill authorization request form. The prescription was not signed and dated in ink by the  
9 prescriber.

10 31. Respondent Patel told the inspector that she filled these five prescriptions for  
11 Schedule II controlled substances without the required signatures because there was a possibility  
12 the patients would run out of their medications while their doctors' offices were closed. The  
13 inspector informed Respondent Patel that she could not provide Schedule II controlled substances  
14 without a properly signed prescription unless there was a true emergency situation, meaning that  
15 not providing the medication would result in harm to the patient. The inspector did not believe  
16 that the patients with the five prescriptions in question had been in true emergency situations.

17 32. Respondents San Dimas and Patel did not obtain the original prescriptions, signed  
18 and dated in ink by the prescriber, within seven days of filling the prescriptions. The investigator  
19 asked Respondents San Dimas and Patel to show her the original prescriptions, but they could not  
20 produce these documents.

21 33. The inspector found a folder in the pharmacy containing many labels bearing the  
22 words "balance owed". The inspector determined that these labels showed the quantity of  
23 medications still owed to patients on prescriptions that they had purchased from Respondent San  
24 Dimas.

25 34. Respondent Patel did not reverse the insurance claims she submitted for the  
26 prescriptions where there was a balanced owed. She also did not resubmit the claims for the  
27 actual quantity of medication the pharmacy had provided to the patient. Respondent Patel instead  
28

1 waited for the patients who were owed additional medication to return to the pharmacy to request  
2 the balance owed.

3 35. From approximately September 24, 2010, to August 15, 2012, Respondents San  
4 Dimas and Patel failed to completely fill 178 prescriptions and submit invoices to the insurance  
5 companies for the amount of medication the pharmacy actually dispensed. None of the patients  
6 for these 178 prescriptions returned to the pharmacy and claimed their owed balances of  
7 medication.

### 8 **2013 Investigation**

9 36. On or about August 28, 2013, Board inspectors (inspectors) conducted another  
10 inspection at Respondent San Dimas.

11 37. One of the inspectors found that Respondents had expired and non-expired bulk stock  
12 medications intermixed on their active use medication shelving. The inspector reviewed  
13 Respondents' completed compounding log sheets and found that several of the expired products  
14 had been used to prepare compounded products with an assigned beyond use date greater than the  
15 expiration date of at least one of the ingredients.

16 38. The inspectors noticed that a number of entries on Respondents' compounding log  
17 sheets were incomplete because Respondents failed to include necessary documentation,  
18 including the ingredient lot numbers, manufacturer's name, and/or ingredient expiration dates.  
19 Respondents failed to include the generic active ingredients on many of the labels on the  
20 compounded drugs.

21 39. The inspectors noticed that Respondents had a number of containers labeled "sample  
22 cream" on the premises. Respondents said that occasionally, when their customers had to wait  
23 for approval from their insurance companies for payment for a compound drug, Respondents'  
24 staff members would ask the patients' physicians for permission to provide "sample creams"  
25 during the interim period.

26 40. One of Respondents' pharmacy technicians would speak with patients' physicians'  
27 offices to ask for approval to give patients "sample cream". The technicians would write down  
28 the order for the "sample cream" on the original prescription copy. The sample creams contained

1 dangerous drugs. The orders were not valid prescriptions because a pharmacist did not orally  
2 receive them and a physician did not handwrite or transmit them. The approved prescriptions  
3 were incomplete because they did not include the name of the physician's office's staff member  
4 who authorized the prescription, the list of ingredients, the quantity or length of time, directions,  
5 or the initials of Respondents' staff member who received the oral prescription.

6 41. Many of the compound prescriptions were on pre-printed prescription forms provided  
7 by Respondents to the patients' physicians' offices. Respondents' preprinted prescription forms,  
8 which included controlled substance prescriptions, were multiple, check-off prescription blank  
9 forms. Three of the prescription "formulas" on the preprinted prescription forms contained  
10 ketamine, a controlled substance. Prescriptions for controlled substance are required to be  
11 written on a secure blank prescription form, faxed with a physician's signature and date, or orally  
12 prescribed by the patient's physician to the pharmacist. Respondents' controlled substance pre-  
13 printed prescriptions were not on secure blank prescription forms or orally received by  
14 Respondents' pharmacists.

15 42. On one of the physician-approved prescriptions for the Schedule III controlled  
16 substance ketamine, the physician authorized 11 refills and did not record the date on which s/he  
17 approved the prescription.

18 43. Respondents failed to identify ketamine as a Schedule III controlled substance in their  
19 compounding software program. Due to this oversight, Respondents did not record prescriptions  
20 using or incorporating ketamine as controlled substance prescriptions. Respondents did not  
21 ensure that prescriptions using or incorporating ketamine were written on secure blank  
22 prescription forms or that oral prescriptions using or incorporating ketamine were only received  
23 by the pharmacist. Respondents did not report prescriptions using or incorporating ketamine to  
24 the Controlled Substance Utilization Review and Evaluation System (CURES).

25 44. On or about December 17, 2013, Respondents dispensed a prescription for T3/T4  
26 Mixture C 20/80 mg capsules. A qualitative analysis report taken on or about February 21, 2014,  
27 revealed that the T4 (Levothyroxine Sodium) component of the compounded drug was sub-potent  
28 because the T4 was 73.5% of the expected potency.

1 **2016 Criminal Conviction**

2 45. On or about March 26, 2016, in a criminal proceeding entitled *People v. Kalpana*  
3 *Kalpeshkumar Patel*, in the Superior Court of the County of Sacramento, Case No. 14F03262,  
4 Respondent pled nolo contendere to and the court convicted her of submitting false and  
5 fraudulent Medi-Cal claims (Welf. & Inst. Code, § 14107, subd. (b)(1)), a misdemeanor. The  
6 court ordered her to pay \$5,667.89, in restitution and \$360.00, in fines. The court also sentenced  
7 her to two years of probation and 100 hours of community service. The underlying circumstances  
8 are described under the section labeled "2012 Complaint and Investigation", above.

9 **FIRST CAUSE OF ACTION**

10 (Failure to Follow Filling Requirements for Prescriptions for Controlled Substances)  
11 (Health & Saf. Code, § 11164, subd. (a)(1))

12 46. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action for  
13 filling prescriptions for Schedule II controlled substances that were not signed and dated in ink by  
14 the prescribers. (Health & Saf. Code, § 11164, subd. (a)(1).) The circumstances are further  
15 explained in paragraphs 30 to 32, above.

16 **SECOND CAUSE OF ACTION**

17 (Failure to Follow Requirements for Dispensing Controlled Substances in Emergency Situations)  
18 (Health & Saf. Code, § 11167)

19 47. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action  
20 because it filled prescriptions not signed and dated in ink by the prescribers in non-emergency  
21 situations. (Health & Saf. Code, § 11167.) Respondent San Dimas also failed to obtain the  
22 original prescriptions, signed and dated in ink by the prescribers, within seven days of filling the  
23 improperly formatted prescriptions. The circumstances are further explained in paragraphs 30 to  
24 33, above.

25 **THIRD CAUSE OF ACTION**

26 (Unprofessional Conduct: Fraud)  
27 (Bus. & Prof. Code, § 4301, subd. (f))

28 48. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by  
engaging in unprofessional conduct because it committed acts involving fraud. (Bus. & Prof.

1 Code, § 4301, subd. (f).) Respondent San Dimas left a balance of medications owing on 178 of  
2 the prescriptions it sold. The circumstances are further explained in paragraphs 34 to 35, above.

3 **FOURTH CAUSE OF ACTION**

4 (Unprofessional Conduct: False Representation)

5 (Bus. & Prof. Code, § 4301, subd. (g))

6 49. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by  
7 engaging in unprofessional conduct by knowingly making or signing certificates or documents  
8 that falsely represented the existence or nonexistence of a state of facts. (Bus. & Prof. Code, §  
9 4301, subd. (g).) Respondent San Dimas left a balance of medications owing on 178 of the  
10 prescriptions it sold. The patients for these 178 prescriptions did not receive their owed  
11 quantities of medications and the pharmacy failed to reverse these claims to the patients'  
12 insurance companies to reflect the actual quantity dispensed to the patients. The circumstances  
13 are further explained in paragraphs 34 to 35, above.

14 **FIFTH CAUSE OF ACTION**

15 (Failure to Follow Compounding Limitations and Requirements)

16 (Cal. Code Regs., tit. 16, § 1735.3, subd. (a))

17 50. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by  
18 maintaining incomplete pharmacy compounding records. (Cal. Code Regs., tit. 16, § 1735.3,  
19 subd. (a).) A number of records were missing required information, including the identity of the  
20 manufacturer, the lot number for each ingredient used in the compound, and the expiration date  
21 for each ingredient used in the compound. The circumstances are further explained in paragraph  
22 38, above.

23 **SIXTH CAUSE OF ACTION**

24 (Failure to Follow Compounding Limitations and Requirements)

25 (Cal. Code Regs., tit. 16, § 1735.2, subd. (h))

26 51. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by  
27 allowing pharmacy staff to assign beyond use dates to compounded products which exceeded the  
28 expiration date of at least one ingredient of the compounded drug. (Cal. Code Regs., tit. 16, §  
1735.2, subd. (h).) The circumstances are further explained in paragraphs 37, above.

**SEVENTH CAUSE OF ACTION**

(Failure to Follow Content Requirements for Prescriptions)

(Bus. & Prof. Code, § 4040, subd. (a)(1))

1  
2  
3 52. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by  
4 accepting prescriptions for compounded medications that did not contain all of the statutorily  
5 required information. (Bus. & Prof. Code, § 4040, subd. (a)(1).) Respondent San Dimas filled  
6 prescriptions that did not contain the following required elements: the name, strength, and  
7 quantity of the drug prescribed and directions on how to use the medication. The circumstances  
8 are further explained in paragraphs 39 to 40, above.

**EIGHTH CAUSE OF ACTION**

(Prescriptions Furnished or Dispensed by Non-Pharmacist)

(Bus. & Prof. Code, §§ 4040, 4051, subd. (a); Cal. Code Regs., tit. 16, § 1717, subd. (c))

9  
10 53. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by  
11 allowing non-pharmacists to orally receive prescriptions and not requiring the pharmacist to  
12 receive, transcribe, and complete the prescription. (Bus. & Prof. Code, §§ 4040, 4051, subd. (a);  
13 Cal. Code Regs., tit. 16, § 1717, subd. (c).) The circumstances are further explained in  
14 paragraphs 39 to 41, above.  
15

**NINTH CAUSE OF ACTION**

(Failure to Properly Maintain Records)

(Health & Saf. Code, §§ 11200, subd. (b), 11164; 21 C.F.R. § 1304.04, subd. (f)(2))

16  
17 54. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by  
18 failing to properly maintain records for ketamine powder, a Schedule III controlled substance.  
19 (Health & Saf. Code, §§ 11200, subd. (b), 11164; 21 C.F.R. § 1304.04, subd. (f)(2).) Respondent  
20 San Dimas did not identify ketamine powder as a Schedule III controlled substance, separate  
21 invoices involving ketamine powder from invoices not involving controlled substances, and  
22 identify prescriptions for medications containing ketamine as controlled substance prescriptions.  
23 In addition, Respondent San Dimas did not require prescriptions involving ketamine powder to be  
24 written on secure blank prescription forms or orally received by Respondent San Dimas's  
25 pharmacist. Respondent San Dimas did not report prescriptions involving ketamine to CURES  
26  
27  
28



1 and filled one that was authorized for more than five refills. The circumstances are further  
2 explained in paragraphs 41 to 43, above.

3 **TENTH CAUSE OF ACTION**

4 (Failure to Follow Compounding Requirements for Potency)

5 (Cal. Code Regs., tit. 16, § 1735.2, subd. (f))

6 55. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by  
7 failing to meet compounding requirements for potency. (Cal. Code Regs., tit. 16, § 1735.2, subd.  
8 (f).) A qualitative analysis report revealed that a prescription compounded by Respondent San  
9 Dimas and dispensed to a patient was sub-potent. The circumstances are further explained in  
10 paragraph 44, above.

11 **ELEVENTH CAUSE OF ACTION**

12 (Failure to Follow Filling Requirements for Prescriptions for Controlled Substances)

13 (Health & Saf. Code, § 11164, subd. (a)(1))

14 56. Respondent Patel has subjected her Pharmacist License to disciplinary action for  
15 filling prescriptions for Schedule II controlled substances that were not signed and dated in by the  
16 prescribers. (Health & Saf. Code, § 11164, subd. (a)(1).) The circumstances are further  
17 explained in paragraphs 30 to 32, above.

18 **TWELFTH CAUSE OF ACTION**

19 (Failure to Follow Requirements for Dispensing Controlled Substances in Emergency Situations)

20 (Health & Saf. Code, § 11167)

21 57. Respondent Patel has subjected her Pharmacy Permit to disciplinary action because  
22 she filled prescriptions not signed and dated in ink by the prescribers in non-emergency  
23 situations. (Health & Saf. Code, § 11167.) Respondent Patel also failed to obtain the original  
24 prescriptions, signed and dated in ink by the prescribers, within seven days of filling the  
25 improperly formatted prescriptions. The circumstances are further explained in paragraphs 30 to  
26 33, above.

27 **THIRTEENTH CAUSE OF ACTION**

28 (Unprofessional Conduct: Fraud)

(Bus. & Prof. Code, § 4301, subd. (f))

1 58. Respondent Patel has subjected her Pharmacist License to disciplinary action by  
2 engaging in unprofessional conduct because she committed acts involving fraud. (Bus. & Prof.  
3 Code, § 4301, subd. (g).) Respondent Patel left a balance of medications owing on 178 of the  
4 prescriptions she sold. The circumstances are further explained in paragraphs 34 to 35, above.

5 **FOURTEENTH CAUSE OF ACTION**

6 (Unprofessional Conduct: False Representation)

7 (Bus. & Prof. Code, § 4301, subd. (g))

8 59. Respondent Patel has subjected her Pharmacist License to disciplinary action by  
9 engaging in unprofessional conduct by knowingly making or signing certificates or documents  
10 that falsely represented the existence or nonexistence of a state of facts. (Bus. & Prof. Code, §  
11 4301, subd. (h).) Respondent Patel left a balance of medications owing on 178 of the  
12 prescriptions she sold. The patients for these 178 prescriptions did not receive their owed  
13 quantities of medications and she failed to reverse these claims to the patients' insurance  
14 companies to reflect the actual quantity dispensed to the patients. The circumstances are further  
15 explained in paragraphs 34 to 35, above.

16 **FIFTEENTH CAUSE OF ACTION**

17 (Unprofessional Conduct: Substantially Related Conviction)

18 (Bus. & Prof. Code, § 4301, subd. (I))

19 60. Respondent Patel has subjected her Pharmacist License to disciplinary action by  
20 engaging in unprofessional conduct by being convicted of a crime substantially related to the  
21 qualifications, functions, and duties of a licensee. (Bus. & Prof. Code, § 4301, subd. (I).)  
22 Respondent Patel has been convicted of submitting false and fraudulent Medi-Cal claims. The  
23 circumstances are further explained in paragraph 45, above.

24 **SIXTEENTH CAUSE OF ACTION**

25 (Failure to Follow Compounding Limitations and Requirements)

26 (Cal. Code Regs., tit. 16, § 1735.3, subd. (a))

27 61. Respondent Patel has subjected her Pharmacist License to disciplinary action by  
28 maintaining incomplete pharmacy compounding records. (Cal. Code Regs., tit. 16, § 1735.3,  
subd. (a).) A number of records at the pharmacy were missing required information, including  
the identity of the manufacturer, the lot number for each ingredient used in the compound, and the

1 expiration date for each ingredient used in the compound. The circumstances are further  
2 explained in paragraph 38, above.

3 **SEVENTEENTH CAUSE OF ACTION**

4 (Failure to Follow Compounding Limitations and Requirements)  
5 (Cal. Code Regs., tit. 16, § 1735.2, subd. (h))

6 62. Respondent Patel has subjected her Pharmacist License to disciplinary action by  
7 allowing pharmacy staff to assign beyond use dates to compounded products which exceeded the  
8 expiration date of at least one ingredient of the compounded product. (Cal. Code Regs., tit. 16, §  
9 1735.2, subd. (h).) The circumstances are further explained in paragraph 37, above.

10 **EIGHTEENTH CAUSE OF ACTION**

11 (Failure to Follow Content Requirements for Prescriptions)  
12 (Bus. & Prof. Code, § 4040, subd. (a)(1))

13 63. Respondent Patel has subjected her Pharmacist License to disciplinary action by  
14 accepting prescriptions for compounded medications that did not contain all of the statutorily  
15 required information. (Bus. & Prof. Code, § 4040, subd. (a)(1).) Respondent Patel filled  
16 prescriptions that did not contain the following required elements: the name, strength, and  
17 quantity of the drug prescribed and directions on how to use the medication. The circumstances  
18 are further explained in paragraphs 39 to 40, above.

19 **NINETEENTH CAUSE OF ACTION**

20 (Prescriptions Furnished or Dispensed by Non-Pharmacist)  
21 (Bus. & Prof. Code, §§ 4040, 4051, subd. (a); Cal. Code Regs., tit. 16, § 1717, subd. (c))

22 64. Respondent Patel has subjected her Pharmacist License to disciplinary action by  
23 allowing non-pharmacists to orally receive prescriptions and not receiving, transcribing, and  
24 completing the prescription herself as the pharmacist-in-charge. (Bus. & Prof. Code, §§ 4040,  
25 4051, subd. (a); Cal. Code Regs., tit. 16, § 1717, subd. (c).) The circumstances are further  
26 explained in paragraphs 39 to 41, above.

27 **TWENTIETH CAUSE OF ACTION**

28 (Failure to Properly Maintain Records)  
(Health & Saf. Code, §§ 11200, subd. (b), 11164; 21 C.F.R. § 1304.04, subd. (f)(2))



1 compounding could demonstrate knowledge about processes and procedures used in  
2 compounding (Cal. Code Regs., tit. 16, § 1735.7, subs. (a), (b), (c)); a \$250.00 fine for failing to  
3 prevent the sale of preparations or drugs that lacked quality or strength (Bus. & Prof. Code, §  
4 4342); a \$1,000.00 fine for failing to follow the requirement that a pharmacy with only one  
5 pharmacist should have no more than one pharmacy technician performing tasks (Bus. & Prof.  
6 Code, § 4115, subd. (f)(1)); a \$500.00 fine for engaging in unprofessional conduct (Bus. & Prof.  
7 Code, § 4301, subd. (j); 21 U.S.C §§ 802, 822; 21 C.F.R. § 1307.21 (2013)), and a \$500.00 fine  
8 for failing to maintaining proper records for compounded drug products (Cal. Code Regs., tit. 16,  
9 § 1735.3, subd. (a)).

10 68. To determine the degree of discipline, if any, to be imposed on Respondent San  
11 Dimas, Complainant alleges that on or about December 15, 2010, in a prior action, the Board of  
12 Pharmacy issued Citation Number CI-2009-44507 and ordered Respondent San Dimas to pay a  
13 \$500.00 fine for failing to ensure that there was proper pharmacy security (Cal. Code Regs., tit.  
14 16, § 1714, subd. (b)) and a \$500.00 fine for allowing an unlicensed individual to act as a  
15 pharmacy technician (Bus. & Prof. Code, § 4115, subd. (e)).

16 69. To determine the degree of discipline, if any, to be imposed on Respondent Patel,  
17 Complainant alleges that on or about July 3, 2013, in a prior action, the Board of Pharmacy  
18 issued Citation Number CI-2012-57375 and ordered Respondent Patel to pay a \$500.00 fine for  
19 deviating from prescriptions (Cal. Code Reg., tit. 16, § 1716); a \$250.00 fine for not following  
20 proper requirements for off-site storage of records (Cal. Code Reg., tit. 16, § 1707, subs. (e),  
21 (f)); a \$500.00 fine for engaging in compounding and failing to maintain proper written  
22 documentation of its personnel having the necessary skills and training, to maintain an evaluation  
23 process for personnel involved in compounding, to ensure that personnel involved in  
24 compounding could demonstrate knowledge about processes and procedures used in  
25 compounding (Cal. Code Regs., tit. 16, § 1735.7, subs. (a), (b), (c)); a \$250.00 fine for failing to  
26 prevent the sale of pharmaceutical preparations or drugs that lacked quality or strength (Bus. &  
27 Prof. Code, § 4342); a \$1,000.00 fine for failing to follow the requirement that a pharmacy with  
28 only one pharmacist should have no more than one pharmacy technician performing tasks (Bus.

1 & Prof. Code, § 4115, subd. (f)(1)); a \$500.00 fine for engaging in unprofessional conduct (Bus.  
2 & Prof. Code, § 4301, subd. (j); 21 U.S.C §§ 802, 822; 21 C.F.R. § 1307.21 (2013)), and a  
3 \$500.00 fine for failing to maintaining proper records for compounded drug products (Cal. Code  
4 Reg., tit. 16, § 1735.3, subd. (a)).

5 70. To determine the degree of discipline, if any, to be imposed on Respondent Patel,  
6 Complainant alleges that on or about December 15, 2010, in a prior action, the Board of  
7 Pharmacy issued Citation Number CI-2010-46672 and ordered Respondent Patel to pay a  
8 \$500.00 fine for failing to ensure that there was proper pharmacy security (Cal. Code Regs., tit.  
9 16, § 1714, subd. (b)) and a \$500.00 fine for allowing an unlicensed individual to act as a  
10 pharmacy technician (Bus. & Prof. Code, § 4115, subd. (e)).

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
13 First Amended Accusation, and that following the hearing, the Board of Pharmacy issue a  
14 decision:

15 1.1. Revoking or suspending Pharmacy Permit Number PHY 48922, issued to San Dimas  
16 Pharmacy & Compounding Center;

17 1.2. Revoking or suspending Pharmacist License Number RPH 49676, issued to Kalpana  
18 Patel, also known as Kalpana Kalpeshkumar Patel;

19 1.3. Ordering San Dimas Pharmacy & Compounding Center and Kalpana Patel, also  
20 known as Kalpana Kalpeshkumar Patel, to pay the Board of Pharmacy the reasonable costs of the  
21 investigation and enforcement of this case, pursuant to Business and Professions Code section  
22 125.3;

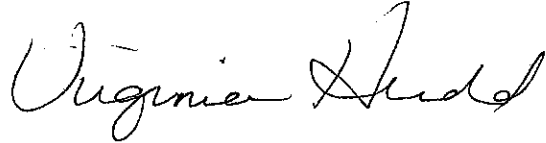
23 1.4. Pursuant to Business and Professions Code section 4307, if discipline is imposed on  
24 Pharmacy Permit Number PHY 48922, issued to San Dimas Pharmacy & Compounding Center,  
25 and Kalpana Patel, also known as Kalpana Kalpeshkumar Patel, (Patel) while acting as the  
26 manager, administrator, owner, member, officer, director, associate, or partner of San Dimas  
27 Pharmacy & Compounding Center, had knowledge of or knowingly participated in any conduct  
28 for which Pharmacy Permit Number PHY 48922, issued to San Dimas Pharmacy &

1 Compounding Center, was revoked, suspended, or placed on probation, Patel shall be prohibited  
2 from serving as a manager, administrator, owner, member, officer, director, associate, or partner  
3 of a licensee for five years if Pharmacy Permit Number PHY 48922, issued to San Dimas  
4 Pharmacy & Compounding Center, is placed on probation or until PHY 48922, issued to San  
5 Dimas Pharmacy & Compounding Center, is reinstated, if it is revoked; and

6 1.5. Taking such other and further action as deemed necessary and proper.

7  
8 DATED: \_\_\_\_\_

10/7/16



9 VIRGINIA HEROLD  
10 Executive Officer  
11 Board of Pharmacy  
12 Department of Consumer Affairs  
13 State of California  
14 *Complainant*

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*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:  
12 **SAN DIMAS PHARMACY &**  
13 **COMPOUNDING CENTER;**  
14 **KALPANA PATEL AKA KALPANA**  
**KALPESHKUMAR PATEL,**  
15 **President**  
16 **3805 San Dimas Street, Suite A**  
**Bakersfield, CA 93301**

Case No. 5192

**ACCUSATION**

17 **Pharmacy Permit No. PHY 48922**

18 **and**

19 **KALPANA PATEL**  
20 **AKA KALPANA KALPESHKUMAR**  
**PATEL**  
21 **5111 Vista Rica Court**  
**Bakersfield, CA 93311**

22 **Pharmacist License No. RPH 49676**

23 Respondents.

24  
25 Complainant alleges:  
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**PARTIES**

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

32. On or about January 7, 2008, the Board of Pharmacy issued Pharmacy Permit Number PHY 48922 to San Dimas Pharmacy & Compounding Center (Respondent San Dimas). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought in this Accusation and will expire on January 1, 2016, unless renewed.

3. On or about August 22, 1997, the Board of Pharmacy issued Pharmacist License Number RPH 49676 to Kalpana Patel, also known as Kalpana Kalpeshkumar Patel (Respondent Patel). The Pharmacist License was in full force and effect at all times relevant to the charges brought in this Accusation and will expire on November 30, 2016, unless renewed.

**JURISDICTION**

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

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

6. Section 4300 of the Code states, in pertinent part:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.



1           "(E) A legible, clear notice of the condition or purpose for which the drug is being  
2 prescribed, if requested by the patient or patients.

3           "(F) If in writing, signed by the prescriber issuing the order, or the certified nurse-midwife,  
4 nurse practitioner, physician assistant, or naturopathic doctor who issues a drug order pursuant to  
5 Section 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist who issues a drug  
6 order pursuant to Section 4052.1, 4052.2, or 4052.6."

7           9. Section 4051 of the Code states, in pertinent part:

8           "(a) Except as otherwise provided in this chapter, it is unlawful for any person to  
9 manufacture, compound, furnish, sell, or dispense a dangerous drug or dangerous device, or to  
10 dispense or compound a prescription pursuant to Section 4040 of a prescriber unless he or she is a  
11 pharmacist under this chapter."

12           10. Section 4301 of the Code states, in pertinent part:

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

16           ...

17           "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
18 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
19 whether the act is a felony or misdemeanor or not.

20           "(g) Knowingly making or signing any certificate or other document that falsely represents  
21 the existence or nonexistence of a state of facts."

22           11. Section 4307 of the Code states:

23           "(a) Any person who has been denied a license or whose license has been revoked or is  
24 under suspension, or who has failed to renew his or her license while it was under suspension, or  
25 who has been a manager, administrator, owner, member, officer, director, associate, or partner of  
26 any partnership, corporation, firm, or association whose application for a license has been denied  
27 or revoked, is under suspension or has been placed on probation, and while acting as the manager,  
28 administrator, owner, member, officer, director, associate, or partner had knowledge of or

1 knowingly participated in any conduct for which the license was denied, revoked, suspended, or  
2 placed on probation, shall be prohibited from serving as a manager, administrator, owner,  
3 member, officer, director, associate, or partner of a licensee as follows:

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

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

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

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

19 12. Section 11164 of the Health and Safety Code states, in pertinent part:

20 "Except as provided in Section 11167, no person shall prescribe a controlled substance, nor  
21 shall any person fill, compound, or dispense a prescription for a controlled substance, unless it  
22 complies with the requirements of this section.

23 "(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V,  
24 except as authorized by subdivision (b), shall be made on a controlled substance prescription  
25 form as specified in Section 11162.1 and shall meet the following requirements:

26 "(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the  
27 prescriber's address and telephone number; the name of the ultimate user or research subject, or  
28 contact information as determined by the Secretary of the United States Department of Health and

1 Human Services; refill information, such as the number of refills ordered and whether the  
2 prescription is a first-time request or a refill; and the name, quantity, strength, and directions for  
3 use of the controlled substance prescribed."

4 13. Section 11167 of the Health and Safety Code states:

5 "Notwithstanding subdivision (a) of Section 11164, in an emergency where failure to issue  
6 a prescription may result in loss of life or intense suffering, an order for a controlled substance  
7 may be dispensed on an oral order, an electronic data transmission order, or a written order not  
8 made on a controlled substance form as specified in Section 11162.1, subject to all of the  
9 following requirements:

10 "(a) The order contains all information required by subdivision (a) of Section 11164.

11 "(b) Any written order is signed and dated by the prescriber in ink, and the pharmacy  
12 reduces any oral or electronic data transmission order to hard copy form prior to dispensing the  
13 controlled substance.

14 "(c) The prescriber provides a written prescription on a controlled substance prescription  
15 form that meets the requirements of Section 11162.1, by the seventh day following the  
16 transmission of the initial order; a postmark by the seventh day following transmission of the  
17 initial order shall constitute compliance.

18 "(d) If the prescriber fails to comply with subdivision (c), the pharmacy shall so notify the  
19 Department of Justice in writing within 144 hours of the prescriber's failure to do so and shall  
20 make and retain a hard copy, readily retrievable record of the prescription, including the date and  
21 method of notification of the Department of Justice.

22 "(e) This section shall become operative on January 1, 2005."

23 14. Section 11200 of the Health and Safety Code states, in pertinent part:

24 "(b) No prescription for a Schedule III or IV substance may be refilled more than five times  
25 and in an amount, for all refills of that prescription taken together, exceeding a 120-day supply."

26 15. California Code of Regulations, title 16, section 1717 states, in pertinent part:

27 "Promptly upon receipt of an orally transmitted prescription, the pharmacist shall reduce it  
28 to writing, and initial it, and identify it as an orally transmitted prescription. If the prescription is

1 then dispensed by another pharmacist, the dispensing pharmacist shall also initial the prescription  
2 to identify him or herself. All orally transmitted prescriptions shall be received and transcribed by  
3 a pharmacist prior to compounding, filling, dispensing, or furnishing. Chart orders as defined in  
4 section 4019 of the Business and Professions Code are not subject to the provisions of this  
5 subsection."

6 16. California Code of Regulations, title 16, section 1735.2 states, in pertinent part:

7 "(f) The pharmacist performing or supervising compounding is responsible for the integrity,  
8 potency, quality, and labeled strength of a compounded drug product until it is dispensed.

9 . . .

10 "(h) Every compounded drug product shall be given an expiration date representing the date  
11 beyond which, in the professional judgment of the pharmacist performing or supervising the  
12 compounding, it should not be used. This "beyond use date" of the compounded drug product  
13 shall not exceed 180 days from preparation or the shortest expiration date of any component in  
14 the compounded drug product, unless a longer date is supported by stability studies of finished  
15 drugs or compounded drug products using the same components and packaging. Shorter dating  
16 than set forth in this subsection may be used if it is deemed appropriate in the professional  
17 judgment of the responsible pharmacist."

18 17. California Code of Regulations, title 16, section 1735.3 states, in pertinent part:

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

20 "(1) The master formula record.

21 "(2) The date the drug product was compounded.

22 "(3) The identity of the pharmacy personnel who compounded the drug product.

23 "(4) The identity of the pharmacist reviewing the final drug product.

24 "(5) The quantity of each component used in compounding the drug product.

25 "(6) The manufacturer, expiration date and lot number of each component. If the  
26 manufacturer name is demonstrably unavailable, the name of the supplier may be substituted.  
27 Exempt from the requirements in this paragraph are sterile products compounded on a one-time  
28 basis for administration within seventy-two (72) hours and stored in accordance with standards

1 for "Redispensed CSPS" found in Chapter 797 of the United States Pharmacopeia - National  
2 Formulary (USP-NF) (35th Revision, Effective May 1, 2012), hereby incorporated by reference,  
3 to an inpatient in a health care facility licensed under section 1250 of the Health and Safety Code.

4 "(7) A pharmacy assigned reference or lot number for the compounded drug product.

5 "(8) The expiration date of the final compounded drug product.

6 "(9) The quantity or amount of drug product compounded."

7 18. Code of Federal Regulations, title 21, section 1304.04 states, in pertinent part:

8 "(f) Each registered manufacturer, distributor, importer, exporter, narcotic treatment  
9 program and compounder for narcotic treatment program shall maintain inventories and records  
10 of controlled substances as follows:

11 "(2) Inventories and records of controlled substances listed in Schedules III, IV, and V shall  
12 be maintained either separately from all other records of the registrant or in such form that the  
13 information required is readily retrievable from the ordinary business records of the registrant."

#### 14 CONTROLLED SUBSTANCES

15 19. Section 4021 of the Code states:

16 "'Controlled substance' means any substance listed in Chapter 2 (commencing with Section  
17 11053) of Division 10 of the Health and Safety Code."

18 20. Oxycodone is a Schedule II controlled substance as designated by Health and Safety  
19 Code section 11055, subdivision (b)(1)(M).

20 21. Morphine is a Schedule II controlled substance as designated by Health and Safety  
21 Code section 11055, subdivision (b)(1)(L).

22 22. Vyvanase is a Schedule II controlled substance as designated by Health and Safety  
23 Code section 11055, subdivision (d)(2).

24 23. Methadone is a Schedule II controlled substance as designated by Health and Safety  
25 Code section 11055, subdivision (c)(14).

26 24. Methadone is a Schedule II controlled substance as designated by Health and Safety  
27 Code section 11055, subdivision (c)(14).  
28





1 a. A prescription dated August 24, 2012, for oxycodone. The prescription was a  
2 photocopy of the original prescription. The prescription was not signed and dated in ink by the  
3 prescriber.

4 b. A prescription dated March 15, 2012, for methadone. The prescription was on a  
5 faxed refill authorization request form. The prescription was not signed and dated in ink by the  
6 prescriber.

7 c. A prescription dated March 17, 2012, for morphine. The prescription was on a faxed  
8 refill authorization request form. The prescription was not signed and dated in ink by the  
9 prescriber.

10 d. A prescription dated April 6, 2012, for oxycodone. The prescription was on a faxed  
11 refill authorization request form. The prescription was not signed and dated in ink by the  
12 prescriber.

13 e. A prescription dated May 16, 2012, for Vyvanse. The prescription was on a faxed  
14 refill authorization request form. The prescription was not signed and dated in ink by the  
15 prescriber.

16 31. Respondent Patel told the inspector that she filled these five prescriptions for  
17 Schedule II controlled substances without the required signatures because there was a possibility  
18 the patients would run out of their medications while their doctors' offices were closed. The  
19 inspector informed Respondent Patel that she could not provide Schedule II controlled substances  
20 without a properly signed prescription unless there was a true emergency situation, meaning that  
21 not providing the medication would result in harm to the patient. The inspector did not believe  
22 that the patients with the five prescriptions in question had been in true emergency situations.

23 32. Respondents San Dimas and Patel did not obtain the original prescriptions, signed  
24 and dated in ink by the prescriber, within seven days of filling the prescriptions. The investigator  
25 asked Respondents San Dimas and Patel to show her the original prescriptions, but they could not  
26 produce these documents.

27 33. The inspector found a folder in the pharmacy containing many labels bearing the  
28 words "balance owed". The inspector determined that these labels showed the quantity of

1 medications still owed to patients on prescriptions that they had purchased from Respondent San  
2 Dimas.

3 34. Respondent Patel did not reverse the insurance claims she submitted for the  
4 prescriptions where there was a balance owed. She also did not resubmit the claims for the  
5 actual quantity of medication the pharmacy had provided to the patient. Respondent Patel instead  
6 waited for the patients who were owed additional medication to return to the pharmacy to request  
7 the balance owed.

8 35. From approximately September 24, 2010, to August 15, 2012, Respondents San  
9 Dimas and Patel failed to completely fill 178 prescriptions and submit invoices to the insurance  
10 companies for the amount of medication the pharmacy actually dispensed. None of the patients  
11 for these 178 prescriptions returned to the pharmacy and claimed their owed balances of  
12 medication.

### 13 **2013 Investigation**

14 36. On or about August 28, 2013, Board inspectors (inspectors) conducted another  
15 inspection at Respondent San Dimas.

16 37. One of the inspectors found that Respondents had expired and non-expired bulk stock  
17 medications intermixed on their active use medication shelving. The inspector reviewed  
18 Respondents' completed compounding log sheets and found that several of the expired products  
19 had been used to prepare compounded products with an assigned beyond use date greater than the  
20 expiration date of at least one of the ingredients.

21 38. The inspectors noticed that a number of entries on Respondents' compounding log  
22 sheets were incomplete because Respondents failed to include necessary documentation,  
23 including the ingredient lot numbers, manufacturer's name, and/or ingredient expiration dates.  
24 Respondents failed to include the generic active ingredients on many of the labels on the  
25 compounded drugs.

26 39. The inspectors noticed that Respondents had a number of containers labeled "sample  
27 cream" on the premises. Respondents said that occasionally, when their customers had to wait  
28 for approval from their insurance companies for payment for a compound drug, Respondents'

1 staff members would ask the patients' physicians for permission to provide "sample creams"  
2 during the interim period.

3 40. One of Respondents' pharmacy technicians would speak with patients' physicians'  
4 offices to ask for approval to give patients "sample cream". The technicians would write down  
5 the order for the "sample cream" on the original prescription copy. The sample creams contained  
6 dangerous drugs. The orders were not valid prescriptions because a pharmacist did not orally  
7 receive them and a physician did not handwrite or transmit them. The approved prescriptions  
8 were incomplete because they did not include the name of the physician's office's staff member  
9 who authorized the prescription, the list of ingredients, the quantity or length of time, directions,  
10 or the initials of Respondents' staff member who received the oral prescription.

11 41. Many of the compound prescriptions were on pre-printed prescription forms provided  
12 by Respondents to the patients' physicians' offices. Respondents' preprinted prescription forms,  
13 which included controlled substance prescriptions, were multiple, check-off prescription blank  
14 forms. Three of the prescription "formulas" on the preprinted prescription forms contained  
15 ketamine, a controlled substance. Prescriptions for controlled substance are required to be  
16 written on a secure blank prescription form, faxed with a physician's signature and date, or orally  
17 prescribed by the patient's physician to the pharmacist. Respondents' controlled substance pre-  
18 printed prescriptions were not on secure blank prescription forms or orally received by  
19 Respondents' pharmacists.

20 42. On one of the physician-approved prescriptions for the Schedule III controlled  
21 substance ketamine, the physician authorized 11 refills and did not record the date on which s/he  
22 approved the prescription.

23 43. Respondents failed to identify ketamine as a Schedule III controlled substance in their  
24 compounding software program. Due to this oversight, Respondents did not record prescriptions  
25 using or incorporating ketamine as controlled substance prescriptions. Respondents did not  
26 ensure that prescriptions using or incorporating ketamine were written on secure blank  
27 prescription forms or that oral prescriptions using or incorporating ketamine were only received  
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1 by the pharmacist. Respondents did not report prescriptions using or incorporating ketamine to  
2 the Controlled Substance Utilization Review and Evaluation System (CURES).

3 44. On or about December 17, 2013, Respondents dispensed a prescription for T3/T4  
4 Mixture C 20/80 mg capsules. A qualitative analysis report taken on or about February 21, 2014,  
5 revealed that the T4 (Levothyroxine Sodium) component of the compounded drug was sub-potent  
6 because the T4 was 73.5% of the expected potency.

7 **FIRST CAUSE OF ACTION**

8 (Failure to Follow Filling Requirements for Prescriptions for Controlled Substances)  
9 (Health & Saf. Code, § 11164, subd. (a)(1))

10 45. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action for  
11 filling prescriptions for Schedule II controlled substances that were not signed and dated in ink by  
12 the prescribers. (Health & Saf. Code, § 11164, subd. (a)(1).) The circumstances are further  
13 explained in paragraphs 30 to 32, above.

14 **SECOND CAUSE OF ACTION**

15 (Failure to Follow Requirements for Dispensing Controlled Substances in Emergency Situations)  
16 (Health & Saf. Code, § 11167)

17 46. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action  
18 because it filled prescriptions not signed and dated in ink by the prescribers in non-emergency  
19 situations. (Health & Saf. Code, § 11167.) Respondent San Dimas also failed to obtain the  
20 original prescriptions, signed and dated in ink by the prescribers, within seven days of filling the  
21 improperly formatted prescriptions. The circumstances are further explained in paragraphs 30 to  
22 33, above.

23 **THIRD CAUSE OF ACTION**

24 (Unprofessional Conduct: Fraud)  
25 (Bus. & Prof. Code, § 4301, subd. (f))

26 47. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by  
27 engaging in unprofessional conduct because it committed acts involving fraud. (Bus. & Prof.  
28 Code, § 4301, subd. (f).) Respondent San Dimas left a balance of medications owing on 178 of  
the prescriptions it sold. The circumstances are further explained in paragraphs 34 to 35, above.

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**FOURTH CAUSE OF ACTION**

(Unprofessional Conduct: False Representation)  
(Bus. & Prof. Code, § 4301, subd. (g))

48. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by engaging in unprofessional conduct by knowingly making or signing certificates or documents that falsely represented the existence or nonexistence of a state of facts. (Bus. & Prof. Code, § 4301, subd. (g).) Respondent San Dimas left a balance of medications owing on 178 of the prescriptions it sold. The patients for these 178 prescriptions did not receive their owed quantities of medications and the pharmacy failed to reverse these claims to the patients' insurance companies to reflect the actual quantity dispensed to the patients. The circumstances are further explained in paragraphs 34 to 35, above.

**FIFTH CAUSE OF ACTION**

(Failure to Follow Compounding Limitations and Requirements)  
(Cal. Code Regs., tit. 16, § 1735.3, subd. (a))

49. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by maintaining incomplete pharmacy compounding records. (Cal. Code Regs., tit. 16, § 1735.3, subd. (a).) A number of records were missing required information, including the identity of the manufacturer, the lot number for each ingredient used in the compound, and the expiration date for each ingredient used in the compound. The circumstances are further explained in paragraph 38, above.

**SIXTH CAUSE OF ACTION**

(Failure to Follow Compounding Limitations and Requirements)  
(Cal. Code Regs., tit. 16, § 1735.2, subd. (h))

50. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by allowing pharmacy staff to assign beyond use dates to compounded products which exceeded the expiration date of at least one ingredient of the compounded drug. (Cal. Code Regs., tit. 16, § 1735.2, subd. (h).) The circumstances are further explained in paragraphs 37, above.

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**SEVENTH CAUSE OF ACTION**

(Failure to Follow Content Requirements for Prescriptions)  
(Bus. & Prof. Code, § 4040, subd. (a)(1))

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51. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by accepting prescriptions for compounded medications that did not contain all of the statutorily required information. (Bus. & Prof. Code, § 4040, subd. (a)(1).) Respondent San Dimas filled prescriptions that did not contain the following required elements: the name, strength, and quantity of the drug prescribed and directions on how to use the medication. The circumstances are further explained in paragraphs 39 to 40, above.

**EIGHTH CAUSE OF ACTION**

(Prescriptions Furnished or Dispensed by Non-Pharmacist)  
(Bus. & Prof. Code, §§ 4040, 4051, subd. (a); Cal. Code Regs., tit. 16, § 1717, subd. (c))

52. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by allowing non-pharmacists to orally receive prescriptions and not requiring the pharmacist to receive, transcribe, and complete the prescription. (Bus. & Prof. Code, §§ 4040, 4051, subd. (a); Cal. Code Regs., tit. 16, § 1717, subd. (c).) The circumstances are further explained in paragraphs 39 to 41, above.

**NINTH CAUSE OF ACTION**

(Failure to Properly Maintain Records)  
(Health & Saf. Code, §§ 11200, subd. (b), 11164; 21 C.F.R. § 1304.04, subd. (f)(2))

53. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by failing to properly maintain records for ketamine powder, a Schedule III controlled substance. (Health & Saf. Code, §§ 11200, subd. (b), 11164; 21 C.F.R. § 1304.04, subd. (f)(2).) Respondent San Dimas did not identify ketamine powder as a Schedule III controlled substance, separate invoices involving ketamine powder from invoices not involving controlled substances, and identify prescriptions for medications containing ketamine as controlled substance prescriptions. In addition, Respondent San Dimas did not require prescriptions involving ketamine powder to be written on secure blank prescription forms or orally received by Respondent San Dimas's pharmacist. Respondent San Dimas did not report prescriptions involving ketamine to CURES

1 and filled one that was authorized for more than five refills. The circumstances are further  
2 explained in paragraphs 41 to 43, above.

3 **TENTH CAUSE OF ACTION**

4 (Failure to Follow Compounding Requirements for Potency)  
5 (Cal. Code Regs., tit. 16, § 1735.2, subd. (f))

6 54. Respondent San Dimas has subjected its Pharmacy Permit to disciplinary action by  
7 failing to meet compounding requirements for potency. (Cal. Code Regs., tit. 16, § 1735.2, subd.  
8 (f).) A qualitative analysis report revealed that a prescription compounded by Respondent San  
9 Dimas and dispensed to a patient was sub-potent. The circumstances are further explained in  
10 paragraph 44, above.

11 **ELEVENTH CAUSE OF ACTION**

12 (Failure to Follow Filling Requirements for Prescriptions for Controlled Substances)  
13 (Health & Saf. Code, § 11164, subd. (a)(1))

14 55. Respondent Patel has subjected her Pharmacist License to disciplinary action for  
15 filling prescriptions for Schedule II controlled substances that were not signed and dated in by the  
16 prescribers. (Health & Saf. Code, § 11164, subd. (a)(1).) The circumstances are further  
17 explained in paragraphs 30 to 32, above.

18 **TWELFTH CAUSE OF ACTION**

19 (Failure to Follow Requirements for Dispensing Controlled Substances in Emergency Situations)  
20 (Health & Saf. Code, § 11167)

21 56. Respondent Patel has subjected her Pharmacy Permit to disciplinary action because  
22 she filled prescriptions not signed and dated in ink by the prescribers in non-emergency  
23 situations. (Health & Saf. Code, § 11167.) Respondent Patel also failed to obtain the original  
24 prescriptions, signed and dated in ink by the prescribers, within seven days of filling the  
25 improperly formatted prescriptions. The circumstances are further explained in paragraphs 30 to  
26 33, above.

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**THIRTEENTH CAUSE OF ACTION**

(Unprofessional Conduct: Fraud)  
(Bus. & Prof. Code, § 4301, subd. (f))

57. Respondent Patel has subjected her Pharmacist License to disciplinary action by engaging in unprofessional conduct because she committed acts involving fraud. (Bus. & Prof. Code, § 4301, subd. (g).) Respondent Patel left a balance of medications owing on 178 of the prescriptions she sold. The circumstances are further explained in paragraphs 34 to 35, above.

**FOURTEENTH CAUSE OF ACTION**

(Unprofessional Conduct: False Representation)  
(Bus. & Prof. Code, § 4301, subd. (g))

58. Respondent Patel has subjected her Pharmacist License to disciplinary action by engaging in unprofessional conduct by knowingly making or signing certificates or documents that falsely represented the existence or nonexistence of a state of facts. (Bus. & Prof. Code, § 4301, subd. (h).) Respondent Patel left a balance of medications owing on 178 of the prescriptions she sold. The patients for these 178 prescriptions did not receive their owed quantities of medications and she failed to reverse these claims to the patients' insurance companies to reflect the actual quantity dispensed to the patients. The circumstances are further explained in paragraphs 34 to 35, above.

**FIFTEENTH CAUSE OF ACTION**

(Failure to Follow Compounding Limitations and Requirements)  
(Cal. Code Regs., tit. 16, § 1735.3, subd. (a))

59. Respondent Patel has subjected her Pharmacist License to disciplinary action by maintaining incomplete pharmacy compounding records. (Cal. Code Regs., tit. 16, § 1735.3, subd. (a).) A number of records at the pharmacy were missing required information, including the identity of the manufacturer, the lot number for each ingredient used in the compound, and the expiration date for each ingredient used in the compound. The circumstances are further explained in paragraph 38, above.

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**SIXTEENTH CAUSE OF ACTION**

(Failure to Follow Compounding Limitations and Requirements)

(Cal. Code Regs., tit. 16, § 1735.2, subd. (h))

60. Respondent Patel has subjected her Pharmacist License to disciplinary action by allowing pharmacy staff to assign beyond use dates to compounded products which exceeded the expiration date of at least one ingredient of the compounded product. (Cal. Code Regs., tit. 16, § 1735.2, subd. (h).) The circumstances are further explained in paragraph 37, above.

**SEVENTEENTH CAUSE OF ACTION**

(Failure to Follow Content Requirements for Prescriptions)

(Bus. & Prof. Code, § 4040, subd. (a)(1))

61. Respondent Patel has subjected her Pharmacist License to disciplinary action by accepting prescriptions for compounded medications that did not contain all of the statutorily required information. (Bus. & Prof. Code, § 4040, subd. (a)(1).) Respondent Patel filled prescriptions that did not contain the following required elements: the name, strength, and quantity of the drug prescribed and directions on how to use the medication. The circumstances are further explained in paragraphs 39 to 40, above.

**EIGHTEENTH CAUSE OF ACTION**

(Prescriptions Furnished or Dispensed by Non-Pharmacist)

(Bus. & Prof. Code, §§ 4040, 4051, subd. (a); Cal. Code Regs., tit. 16, § 1717, subd. (c))

62. Respondent Patel has subjected her Pharmacist License to disciplinary action by allowing non-pharmacists to orally receive prescriptions and not receiving, transcribing, and completing the prescription herself as the pharmacist-in-charge. (Bus. & Prof. Code, §§ 4040, 4051, subd. (a); Cal. Code Regs., tit. 16, § 1717, subd. (c).) The circumstances are further explained in paragraphs 39 to 41, above.

**NINETEENTH CAUSE OF ACTION**

(Failure to Properly Maintain Records)

(Health & Saf. Code, §§ 11200, subd. (b), 11164; 21 C.F.R. § 1304.04, subd. (f)(2))

63. Respondent Patel has subjected her Pharmacist License to disciplinary action by failing to properly maintain records for ketamine powder, a Schedule III controlled substance. (Health & Saf. Code, §§ 11200, subd. (b), 11164; 21 C.F.R. § 1304.04, subd. (f)(2).) Respondent

1 Patel did not identify ketamine powder as a Schedule III controlled substance, separate invoices  
2 involving ketamine powder from invoices not involving controlled substances, and identify  
3 prescriptions for medications containing ketamine as controlled substance prescriptions. In  
4 addition, Respondent Patel as did not require prescriptions involving ketamine powder to be  
5 written on secure blank prescription forms or orally received by herself as Respondent San  
6 Dimas's sole pharmacist. Respondent San Patel did not report prescriptions involving ketamine  
7 to CURES and filled one that authorized for more than five refills. The circumstances are further  
8 explained in paragraphs 41 to 43, above.

9 **TWENTIETH CAUSE OF ACTION**

10 (Failure to Follow Compounding Requirements for Potency)  
11 (Cal. Code Regs., tit. 16, § 1735.2, subd. (f))

12 64. Respondent Patel has subjected her Pharmacist License to disciplinary action by  
13 failing to meet compounding requirements for potency. (Cal. Code Regs., tit. 16, § 1735.2, subd.  
14 (f).) A qualitative analysis report revealed that a prescription compounded by Respondent Patel  
15 had a component that was sub-potent. The circumstances are further explained in paragraph 44,  
16 above.

17 **DISCIPLINARY CONSIDERATIONS**

18 65. On or about May 23, 2014, in the matter entitled *People v. Kalpana Kalpeshkumar Patel*,  
19 in Sacramento County Court, Case No. 14F03262, the Department of Justice on behalf of the People  
20 of the State of California charged Respondent Patel with submitting a false and fraudulent Medi-Cal  
21 claim (Welfare & Institutions Code, § 14107, subd. (b)(1)), grand theft of personal property (Pen.  
22 Code, § 487, subd. (a)), presentation of a fraudulent claim (Pen. Code, § 72), and insurance fraud  
(Pen. Code, §550, subd. (a)(6)). This matter is still pending.

23 66. To determine the degree of discipline, if any, to be imposed on Respondent San  
24 Dimas, Complainant alleges that on or about July 3, 2013, in a prior action, the Board of  
25 Pharmacy issued Citation Number CI-2011-52726 and ordered Respondent San Dimas to pay a  
26 \$250.00 fine for deviating from prescriptions (Cal. Code Regs., tit. 16, § 1716); a \$250.00 fine for  
27 not following proper requirements for off-site storage of records (Cal. Code Reg., tit. 16, § 1707,  
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1 subds. (e), (f)); a \$500.00 fine for engaging in compounding and failing to maintain proper  
2 written documentation of its personnel having the necessary skills and training, to maintain an  
3 evaluation process for personnel involved in compounding, to ensure that personnel involved in  
4 compounding could demonstrate knowledge about processes and procedures used in  
5 compounding (Cal. Code Regs., tit. 16, § 1735.7, subds. (a), (b), (c)); a \$250.00 fine for failing to  
6 prevent the sale of preparations or drugs that lacked quality or strength (Bus. & Prof. Code, §  
7 4342); a \$1,000.00 fine for failing to follow the requirement that a pharmacy with only one  
8 pharmacist should have no more than one pharmacy technician performing tasks (Bus. & Prof.  
9 Code, § 4115, subd. (f)(1)); a \$500.00 fine for engaging in unprofessional conduct (Bus. & Prof.  
10 Code, § 4301, subd. (j); 21 U.S.C §§ 802, 822; 21 C.F.R. § 1307.21 (2013)), and a \$500.00 fine  
11 for failing to maintaining proper records for compounded drug products (Cal. Code Regs., tit. 16,  
12 § 1735.3, subd. (a)).

13 67. To determine the degree of discipline, if any, to be imposed on Respondent San  
14 Dimas, Complainant alleges that on or about December 15, 2010, in a prior action, the Board of  
15 Pharmacy issued Citation Number CI-2009-44507 and ordered Respondent San Dimas to pay a  
16 \$500.00 fine for failing to ensure that there was proper pharmacy security (Cal. Code Regs., tit.  
17 16, § 1714, subd. (b)) and a \$500.00 fine for allowing an unlicensed individual to act as a  
18 pharmacy technician (Bus. & Prof. Code, § 4115, subd. (e)).

19 68. To determine the degree of discipline, if any, to be imposed on Respondent Patel,  
20 Complainant alleges that on or about July 3, 2013, in a prior action, the Board of Pharmacy  
21 issued Citation Number CI-2012-57375 and ordered Respondent Patel to pay a \$500.00 fine for  
22 deviating from prescriptions (Cal. Code Reg., tit. 16, § 1716); a \$250.00 fine for not following  
23 proper requirements for off-site storage of records (Cal. Code Reg., tit. 16, § 1707, subds. (e),  
24 (f)); a \$500.00 fine for engaging in compounding and failing to maintain proper written  
25 documentation of its personnel having the necessary skills and training, to maintain an evaluation  
26 process for personnel involved in compounding, to ensure that personnel involved in  
27 compounding could demonstrate knowledge about processes and procedures used in  
28 compounding (Cal. Code Regs., tit. 16, § 1735.7, subds. (a), (b), (c)); a \$250.00 fine for failing to

1 prevent the sale of pharmaceutical preparations or drugs that lacked quality or strength (Bus. &  
2 Prof. Code, § 4342); a \$1,000.00 fine for failing to follow the requirement that a pharmacy with  
3 only one pharmacist should have no more than one pharmacy technician performing tasks (Bus.  
4 & Prof. Code, § 4115, subd. (f)(1)); a \$500.00 fine for engaging in unprofessional conduct (Bus.  
5 & Prof. Code, § 4301, subd. (j); 21 U.S.C §§ 802, 822; 21 C.F.R. § 1307.21 (2013)), and a  
6 \$500.00 fine for failing to maintaining proper records for compounded drug products (Cal. Code  
7 Reg., tit. 16, § 1735.3, subd. (a)).

8 69. To determine the degree of discipline, if any, to be imposed on Respondent Patel,  
9 Complainant alleges that on or about December 15, 2010, in a prior action, the Board of  
10 Pharmacy issued Citation Number CI-2010-46672 and ordered Respondent Patel to pay a  
11 \$500.00 fine for failing to ensure that there was proper pharmacy security (Cal. Code Regs., tit.  
12 16, § 1714, subd. (b)) and a \$500.00 fine for allowing an unlicensed individual to act as a  
13 pharmacy technician (Bus. & Prof. Code, § 4115, subd. (e)).

#### 14 PRAYER

15 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
16 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

17 1.1. Revoking or suspending Pharmacy Permit Number PHY 48922, issued to San Dimas  
18 Pharmacy & Compounding Center;

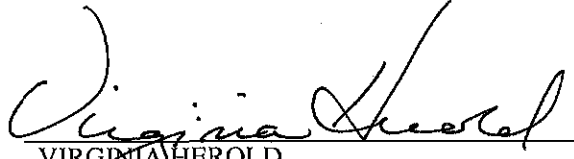
19 1.2. Revoking or suspending Pharmacist License Number RPH 49676, issued to Kalpana  
20 Patel, also known as Kalpana Kalpeshkumar Patel;

21 1.3. Ordering San Dimas Pharmacy & Compounding Center and Kalpana Patel, also  
22 known as Kalpana Kalpeshkumar Patel, to pay the Board of Pharmacy the reasonable costs of the  
23 investigation and enforcement of this case, pursuant to Business and Professions Code section  
24 125.3;

25 1.4. Pursuant to Business and Professions Code section 4307, if discipline is imposed on  
26 Pharmacy Permit Number PHY 48922, issued to San Dimas Pharmacy & Compounding Center,  
27 and Kalpana Patel, also known as Kalpana Kalpeshkumar Patel, (Patel) while acting as the  
28 manager, administrator, owner, member, officer, director, associate, or partner of San Dimas

1 Pharmacy & Compounding Center, had knowledge of or knowingly participated in any conduct  
2 for which Pharmacy Permit Number PHY 48922, issued to San Dimas Pharmacy &  
3 Compounding Center, was revoked, suspended, or placed on probation, Patel shall be prohibited  
4 from serving as a manager, administrator, owner, member, officer, director, associate, or partner  
5 of a licensee for five years if Pharmacy Permit Number PHY 48922, issued to San Dimas  
6 Pharmacy & Compounding Center, is placed on probation or until PHY 48922, issued to San  
7 Dimas Pharmacy & Compounding Center, is reinstated, if it is revoked; and

8 1.5. Taking such other and further action as deemed necessary and proper.

9  
10 DATED: 12/29/15   
11 VIRGINIA HEROLD  
12 Executive Officer  
13 Board of Pharmacy  
14 Department of Consumer Affairs  
15 State of California  
16 Complainant

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