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

10 In the Matter of the Accusation Against:

Case No. 5223

11 **CARE PLUS PHARMACY, INC.,**
12 **ALI MASHAYEKHI, President**
13 **19015 Ventura Blvd**
14 **Tarzana, CA 91356**
Pharmacy Permit No. PHY 48385

A C C U S A T I O N

15 **ALI MASHAYEKHI, Pharmacist-in-Charge**
16 **19449 Wells Drive**
Tarzana, CA 91356
Pharmacist License No. RPH 46926

17 **SONGUL AFACAN YAPRAK**
18 **18319 Collins Street, #1**
Tarzana, CA 91356
19 **Pharmacy Technician Registration**
No. TCH 76657

20 Respondents.

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22 Complainant alleges:

23 **PARTIES**

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

26 Care Plus Pharmacy, Inc.

27 2. On or about December 21, 2006, the Board issued Pharmacy Permit Number PHY
28 48385 to Care Plus Pharmacy, Inc., (Respondent Pharmacy), with Ali Mashayekhi as its President

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

3 Ali Mashayekhi

4 3. On or about March 9, 1994, the Board issued Pharmacist License No. RPH 46926 to
5 Ali Mashayekhi (Respondent Mashayekhi). The Pharmacist License was in full force and effect at
6 all times relevant to the charges brought herein and will expire on July 31, 2015, unless renewed.

7 Songul Afacan Yaprak

8 4. On or about July 18, 2007, the Board issued Pharmacy Technician License No. TCH
9 76657 to Songul Afacan Yaprak (Respondent Yaprak). The Pharmacy Technician License was in
10 full force and effect at all times relevant to the charges brought herein and will expire on January
11 31, 2015, unless renewed.

12 **JURISDICTION**

13 5. This Accusation is brought before the Board the authority of the following laws. All
14 section references are to the Business and Professions Code unless otherwise indicated.

15 6. Section 4300 of the Code states:

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

17 7. Section 4300.1 of the Code states:

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

23 8. Section 4030 of the Code states:

24 "'Intern pharmacist' means a person issued a license pursuant to Section 4208."

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28 9. Section 4114 of the Code states:

1 “(a) An intern pharmacist may perform all functions of a pharmacist at the discretion of and
2 under the direct supervision and control of a pharmacist whose license is in good standing
3 with the board.”

4 10. Section 4115 of the Code states:

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6 “(c) This section does not authorize a pharmacy technician to perform any act
7 requiring the exercise of professional judgment by a pharmacist.”

8 11. Section 4208 of the Code states:

9 “(a) At the discretion of the board, an intern pharmacist license may be issued for a period
10 of:

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12 “(3) Two years to a foreign graduate who has met educational requirements described in
13 paragraphs (1) and (2) of subdivision (a) of Section 4200.”

14 12. Section 4301 of the Code states:

15 “The board shall take action against any holder of a license who is guilty of unprofessional
16 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

17 Unprofessional conduct shall include, but is not limited to, any of the following:

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

22 “(g) Knowingly making or signing any certificate or other document that falsely represents
23 the existence or nonexistence of a state of facts.

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

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REGULATORY PROVISIONS

1 13. California Code of Regulations, title 16, section 1715 provides:

2 “(a) The pharmacist-in-charge of each pharmacy as defined under section 4029 or section
3 4037 of the Business and Professions Code shall complete a self-assessment of the pharmacy’s
4 compliance with federal and state pharmacy law. The assessment shall be performed before July 1
5 of every odd-numbered year. The primary purpose of the self-assessment is to promote compliance
6 through self-examination and education.”

7 **HEALTH AND SAFETY CODE**

8 14. Health and Safety Code section 11165, provides in pertinent part:

9 “(a) To assist health care practitioners in their efforts to ensure appropriate prescribing,
10 ordering, administering, furnishing, and dispensing of controlled substances, law enforcement and
11 regulatory agencies in their efforts to control the diversion and resultant abuse of Schedule II,
12 Schedule III, and Schedule IV controlled substances, and for statistical analysis, education, and
13 research, the Department of Justice shall, contingent upon the availability of adequate funds in the
14 CURES Fund, maintain the Controlled Substance Utilization Review and Evaluation System
15 (CURES) for the electronic monitoring of, and Internet access to information regarding, the
16 prescribing and dispensing of Schedule II, Schedule III, and Schedule IV controlled substances by
17 all practitioners authorized to prescribe, order, administer, furnish, or dispense these controlled
18 substances.

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20 “(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled
21 substance, as defined in the controlled substances schedules in federal law and regulations,
22 specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of
23 Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following
24 information to the Department of Justice as soon as reasonably possible, but not more than seven
25 days after the date a controlled substance is dispensed, in a format specified by the Department of
26 Justice:

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1 “(1) Full name, address, and, if available, telephone number of the ultimate user or research
2 subject, or contact information as determined by the Secretary of the United States Department of
3 Health and Human Services, and the gender, and date of birth of the ultimate user.

4 “(2) The prescriber’s category of licensure, license number, national provider identifier
5 (NPI) number, if applicable, the federal controlled substance registration number, and the state
6 medical license number of any prescriber using the federal controlled substance registration
7 number of a government-exempt facility.

8 “(3) Pharmacy prescription number, license number, NPI number, and federal controlled
9 substance registration number.

10 “(4) National Drug Code (NDC) number of the controlled substance dispensed.

11 “(5) Quantity of the controlled substance dispensed.

12 “(6) International Statistical Classification of Diseases, 9th revision (ICD-9) or 10th
13 revision (ICD-10) Code, if available.

14 “(7) Number of refills ordered.

15 “(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

16 “(9) Date of origin of the prescription.

17 “(10) Date of dispensing of the prescription.”

18 **COST RECOVERY PROVISION**

19 15. Section 125.3 of the Code states, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case.

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RESPONDENT PHARMACY

FIRST CAUSE FOR DISCIPLINE

(Unlicensed Activity)

16. Respondent Pharmacy is subject to disciplinary action under Code section 4301, subdivisions (f) and (0) for violating Code section 4115, subdivision (c), in that it allowed Respondent Yaprak to perform the duties of an intern pharmacist without a license and which duties were beyond the scope and judgment of a pharmacy technician. The circumstances are as follows:

a. Respondent Yaprak was licensed as a pharmacy technician by the Board since July 18, 2007. Respondent Yaprak obtained a foreign Bachelor of Science degree in Pharmacy but does not have an intern pharmacist license issued by the Board in accordance with Code sections 4030, 4114, and 4208.

b. On or about October 17, 2013, the Board received Respondent Yaprak's Pharmacy Intern Hours Affidavit, which was certified by Respondent Mashayekhi under penalty of perjury that Respondent Yaprak had worked at Respondent Pharmacy as an intern pharmacist from March 10, 2008 to about October 8, 2013.

SECOND CAUSE FOR DISCIPLINE

(Failure to Complete Self-Assessment Forms)

17. Respondent Pharmacy is subject to disciplinary action under Code section 4301, subdivision (o) for violating Code of Regulations, title 16, section 1715, subdivision (d), in that it failed to complete self-assessment forms for the years 2011 and 2013.

THIRD CAUSE FOR DISCIPLINE

(Failure to Report CURES)

18. Respondent Pharmacy is subject to disciplinary action under Code section 4301, subdivision (o) for violating Health and Safety Code section 11165, subdivision (a), in that it failed to ever send its controlled substance dispensing record to the Department of Justice. The circumstances are as follows:

1 a. Respondent Pharmacy obtained its permit from the Board on December 21, 2006 but
2 did not register with Atlantic Associates for CURES reporting until March 2014.

3 **RESPONDENT MASHAYEKHI**

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(False Document)**

6 19. Respondent Mashayekhi is subject to disciplinary action under Code section 4301,
7 subdivisions (g) and (f) in that he knowingly signed Respondent Yaprak's Pharmacy Intern Hours
8 Affidavit even though Respondent Yaprak does not have an intern pharmacist license issued by the
9 Board. The circumstances are as follows:

10 a. Respondent Yaprak was licensed as a pharmacy technician by the Board since July 18,
11 2007. Respondent Yaprak obtained a foreign Bachelor of Science degree in Pharmacy but does
12 not have an intern pharmacist license issued by the Board in accordance with Code sections 4030,
13 4114, and 4208.

14 b. On or about October 17, 2013, the Board received Respondent Yaprak's Pharmacy
15 Intern Hours Affidavit, which was certified by Respondent Mashayekhi under penalty of perjury
16 that Respondent Yaprak had worked at Respondent Pharmacy as an intern pharmacist from March
17 10, 2008 to about October 8, 2013.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 **(Unlicensed Activity)**

20 20. Respondent Mashayekhi is subject to disciplinary action under Code section 4301,
21 subdivisions (f) and (0) for violating Code section 4115, subdivision (c), in that he allowed
22 Respondent Yaprak to perform the duties of an intern pharmacist without a license and which
23 duties were beyond the scope and judgment of a pharmacy technician. The circumstances are as
24 follows:

25 a. Respondent Yaprak was licensed as a pharmacy technician by the Board since July 18,
26 2007. Respondent Yaprak obtained a foreign Bachelor of Science degree in Pharmacy but does
27 not have an intern pharmacist license issued by the Board in accordance with Code sections 4030,
28 4114, and 4208.

1 b. On or about October 17, 2013, the Board received Respondent Yaprak's Pharmacy
2 Intern Hours Affidavit, which was certified by Respondent Mashayekhi under penalty of perjury
3 that Respondent Yaprak had worked at Respondent Pharmacy as an intern pharmacist from March
4 10, 2008 to about October 8, 2013.

5 **SIXTH CAUSE FOR DISCIPLINE**

6 **(Failure to Complete Self-Assessment Forms)**

7 21. Respondent Mashayekhi is subject to disciplinary action under Code section 4301,
8 subdivision (o) for violating Code of Regulations, title 16, section 1715, subdivision (d), in that he
9 failed to complete self-assessment forms for the years 2011 and 2013.

10 **SEVENTH CAUSE FOR DISCIPLINE**

11 **(Failure to Report CURES)**

12 22. Respondent Mashayekhi is subject to disciplinary action under Code section 4301,
13 subdivision (o) for violating Health and Safety Code section 11165, subdivision (a), in that he
14 failed to ever send Respondent Pharmacy's controlled substance dispensing record to the
15 Department of Justice. The circumstances are as follows:

16 a. Respondent Pharmacy obtained its permit from the Board on December 21, 2006 but
17 did not register with Atlantic Associates for CURES reporting until March 2014.

18 **RESPONDENT YAPRAK**

19 **EIGHTH CAUSE FOR DISCIPLINE**

20 **(Unlicensed Activity)**

21 23. Respondent Yaprak is subject to disciplinary action under Code section 4301,
22 subdivisions (f) and (0) for violating Code section 4115, subdivision (c), in that she performed the
23 duties of an intern pharmacist without a license and which duties were beyond the scope and
24 judgment of a pharmacy technician. The circumstances are as follows:

25 a. Respondent Yaprak was licensed as a pharmacy technician by the Board since July 18,
26 2007. Respondent Yaprak obtained a foreign Bachelor of Science degree in Pharmacy but does
27 not have an intern pharmacist license issued by the Board in accordance with Code sections 4030,
28 4114, and 4208.

1 b. On or about October 17, 2013, the Board received Respondent Yaprak's Pharmacy
2 Intern Hours Affidavit, which was certified by Respondent Mashayekhi under penalty of perjury
3 that Respondent Yaprak had worked at Respondent Pharmacy as an intern pharmacist from March
4 10, 2008 to about October 8, 2013.

5 **PRAYER**

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

8 1. Revoking or suspending Pharmacy Permit Number PHY 48385, issued to Care Plus
9 Pharmacy, Inc., with Ali Mashayekhi as President and Pharmacist-in-Charge;

10 2. Revoking or suspending Pharmacist License No. RPH 46926, issued to Ali
11 Mashayekhi;

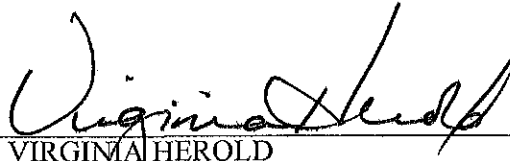
12 3. Revoking or suspending Pharmacy Technician License No. TCH 76657, issued to
13 Songul Afacan Yaprak;

14 4. Ordering Care Plus Pharmacy, Inc., Ali Mashayekhi and Songul Afacan Yaprak to pay
15 the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,
16 pursuant to Business and Professions Code section 125.3;

17 5. Taking such other and further action as deemed necessary and proper.

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21 DATED: _____

2/10/15



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

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