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

11 In the Matter of the First Amended Accusation  
12 Against:

Case No. 5551

13 **KERN MEDICAL CENTER DBA KERN**  
14 **MEDICAL CENTER CAMPUS**  
15 **PHARMACY**  
2014 College Street  
Bakersfield, CA 93305

**FIRST AMENDED ACCUSATION**

16 **Hospital Pharmacy License No. PHE 44938,**

17 **KERN COUNTY HOSPITAL**  
18 **AUTHORITY DBA KERN MEDICAL**  
19 **CENTER CAMPUS PHARMACY**  
2014 College Street  
Bakersfield, CA 93305

20 **Original Permit No. PHE 54462**

21 **TARYN ADALE JOLLIFF**  
22 **PO Box 21681**  
23 **Bakersfield, CA 93390**

24 **Pharmacist License No. RPH 60682,**

25 **and**

26 **ANIECE LOUISE AMOS**  
27 **555 Fairbanks St.**  
28 **Corona, CA 92879**

**Pharmacist License No. RPH 36840**

Respondents:

1 Complainant alleges:

2 PARTIES

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

6 2. On or about August 15, 2000, the Board of Pharmacy ("Board") issued Original  
7 Permit Number PHE 44938 to Kern Medical Center dba Kern Medical Center Campus Pharmacy  
8 ("Respondent KMC dba Kern Medical Center Campus Pharmacy"). The Original Permit Number  
9 was in full force and effect at all times relevant to the charges brought herein and was cancelled  
10 on July 1, 2016 pursuant to a change of ownership.<sup>1</sup>

11 3. On or about July 1, 2016, the Board of Pharmacy ("Board") issued Original Permit  
12 Number PHE 54462 to Kern County Hospital Authority dba Kern Medical Center Campus  
13 Pharmacy ("Respondent KCHA dba Kern Medical Center Campus Pharmacy"). The Original  
14 Permit Number was in full force and effect at all times relevant to the charges brought herein and  
15 will expire on November 1, 2018, unless renewed.

16 4. On or about January 30, 2008, the Board issued Pharmacist License Number RPH  
17 60682 to Taryn Adale Jolliff ("Respondent Jolliff"). Between January 28, 2012 and August 14,  
18 2014, Respondent Jolliff was the Pharmacist-in-Charge of Respondent KMC dba Kern Medical  
19 Center Campus Pharmacy. The Pharmacist License was in full force and effect at all times  
20 relevant to the charges brought herein and will expire on June 30, 2019, unless renewed.

21 <sup>1</sup> Pursuant to Kern County Hospital Authority Act (Health & Safety Code, § 101852 et  
22 seq.) the California Legislature authorized the County of Kern ("County") to establish the Kern  
23 County Hospital Authority ("Authority") and to transfer the ownership, control, management, and  
24 operation of Kern Medical Center ("KMC") and certain pharmacies operated by KMC to the  
25 Authority. On October 6, 2015 the Kern County Board of Supervisors enacted Ordinance No. A-  
26 356 as amended, that adds Chapter 2.170 to Title 2 of the Ordinance Code of the County of Kern  
27 ("Ordinance") concerning, and which created, the Authority. The Ordinance was effective on  
28 November 6, 2015. On July 1, 2016, the ownership, control, management, and operation of KMC  
and certain pharmacies (including KMC Campus Pharmacy and Sagebrush Medical Plaza  
Pharmacy) were transferred from the County to the Authority. The Authority is a public entity  
that is a local unit of government separate and apart from the County of Kern and any other public  
entity. As specified in various agreements and related documents approved by legal counsel for  
the County, the County shall guarantee the payment by the Authority of liabilities the Authority  
assumes for obligations incurred by the County during its ownership and operation of the KMC.



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

4 . . . .

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

9 . . . .

10 10. Section 4105 of the Code states:

11 "(a) All records or other documentation of the acquisition and disposition of  
12 dangerous drugs and dangerous devices by any entity licensed by the board shall be  
retained on the licensed premises in a readily retrievable form.

13 "(b) The licensee may remove the original records or documentation from the licensed  
14 premises on a temporary basis for license-related purposes. However, a duplicate set  
of those records or other documentation shall be retained on the licensed premises.

15 "(c) The records required by this section shall be retained on the licensed premises for  
16 a period of three years from the date of making.

17 "(d) Any records that are maintained electronically shall be maintained so that the  
18 pharmacist-in-charge, the pharmacist on duty if the pharmacist-in-charge is not on  
19 duty, or, in the case of a veterinary food-animal drug retailer or wholesaler, the  
designated representative on duty, shall, at all times during which the licensed  
premises are open for business, be able to produce a hard copy and electronic copy of  
all records of acquisition or disposition or other drug or dispensing-related records  
maintained electronically.

20 "(e)(1) Notwithstanding subdivisions (a), (b), and (c), the board, may upon written  
21 request, grant to a licensee a waiver of the requirements that the records described in  
22 subdivisions (a), (b), and (c) be kept on the licensed premises.

23 "(e)(2) A waiver granted pursuant to this subdivision shall not affect the board's  
24 authority under this section or any other provision of this chapter."

25 11. California Code of Regulations, title 16, section 1713 states:

26 "(a) Except as otherwise provided in this Division, no licensee shall participate in any  
27 arrangement or agreement, whereby prescriptions, or prescription medications, may  
28 be left at, picked up from, accepted by, or delivered to any place not licensed as a  
retail pharmacy.

"(b) A licensee may pick up prescriptions at the office or home of the prescriber or  
pick up or deliver prescriptions or prescription medications at the office of or a

1 residence designated by the patient or at the hospital, institution, medical office or  
2 clinic at which the patient receives health care services. In addition, the Board may, in  
its sole discretion, waive application of subdivision (a) for good cause shown.

3 "(c) A patient or the patient's agent may deposit a prescription in a secure container  
4 that is at the same address as the licensed pharmacy premises. The pharmacy shall be  
responsible for the security and confidentiality of the prescriptions deposited in the  
container.

5 "(d) A pharmacy may use an automated delivery device to deliver previously  
6 dispensed prescription medications provided:

7 "(1) Each patient using the device has chosen to use the device and signed a  
written consent form demonstrating his or her informed consent to do so.

8 "(2) A pharmacist has determined that each patient using the device meets  
9 inclusion criteria for use of the device established by the pharmacy prior to  
delivery of prescription medication to the patient.

10 "(3) The device has a means to identify each patient and only release that  
11 patient's prescription medications.

12 "(4) The pharmacy does not use the device to deliver previously dispensed  
13 prescription medications to any patient if a pharmacist determines that such  
patient requires counseling as set forth in section 1707.2(a)(2).

14 "(5) The pharmacy provides an immediate consultation with a pharmacist,  
either in-person or via telephone, upon the request of a patient.

15 "(6) The device is located adjacent to the secure pharmacy area.

16 "(7) The device is secure from access and removal by unauthorized  
17 individuals.

18 "(8) The pharmacy is responsible for the prescription medications stored in  
the device.

19 "(9) Any incident involving the device where a complaint, delivery error, or  
20 omission has occurred shall be reviewed as part of the pharmacy's quality  
assurance program mandated by Business and Professions Code section  
21 4125.

22 "(10) The pharmacy maintains written policies and procedures pertaining to  
the device as described in subdivision (e).

23 "(e) Any pharmacy making use of an automated delivery device as permitted by  
24 subdivision (d) shall maintain, and on an annual basis review, written policies and  
procedures providing for:

25 "(1) Maintaining the security of the automated delivery device and the  
26 dangerous drugs within the device.

27 "(2) Determining and applying inclusion criteria regarding which  
28 medications are appropriate for placement in the device and for which  
patients, including when consultation is needed.

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"(3) Ensuring that patients are aware that consultation with a pharmacist is available for any prescription medication, including for those delivered via the automated delivery device.

"(4) Describing the assignment of responsibilities to, and training of, pharmacy personnel regarding the maintenance and filing procedures for the automated delivery device.

"(5) Orienting participating patients on use of the automated delivery device, notifying patients when expected prescription medications are not available in the device, and ensuring that patient use of the device does not interfere with delivery of prescription medications.

"(6) Ensuring the delivery of medications to patients in the event the device is disabled or malfunctions.

"(f) Written policies and procedures shall be maintained at least three years beyond the last use for an automated delivery device.

"(g) For the purposes of this section only, 'previously-dispensed prescription medications' are those prescription medications that do not trigger a non-discretionary duty to consult under section 1707.2(b)(1), because they have been previously dispensed to the patient by the pharmacy in the same dosage form, strength, and with the same written directions."

12. California Code of Regulations, title 16, section 1717.4 states:

"(a) Except as otherwise prohibited by law, prescriptions may be transmitted by electronic means from the prescriber to the pharmacy.

"(b) An electronically transmitted prescription which meets the requirements of this regulation shall be deemed to be a prescription within the meaning of Business and Professions Code section 4040.

"(c) An electronically transmitted prescription order shall include the name and address of the prescriber, a telephone number for oral confirmation, date of transmission and the identity of the recipient, as well as any other information required by federal or state law or regulations. The prescriber's address, license classification and federal registry number may be omitted if they are on file and readily retrievable in the receiving pharmacy.

"(d) An 'interim storage device' means as electronic file into which a prescription is entered for later retrieval by an authorized individual. Any interim storage device shall, in addition to the above information, record and maintain the date of entry and/or receipt of the prescription order, date of transmission from the interim storage device and identity of the recipient of such transmission. The interim storage device shall be maintained so as to ensure against unauthorized access and use of prescription information, including dispensing information.

"(e) A pharmacy receiving an electronic image transmission prescription shall either receive the prescription in hard copy form or have the capacity to retrieve a hard copy facsimile of the prescription from the pharmacy's computer memory. Any hard copy of a prescription shall be maintained on paper of permanent quality.

"(f) An electronically transmitted prescription shall be transmitted only to the pharmacy of the patient's choice. This requirement shall not apply to orders for

1 medications to be administered in an acute care hospital.

2 "(g) Electronic equipment for transmitting prescriptions (or electronic transmittal  
3 technology) shall not be supplied or used so as to violate or circumvent Business and  
4 Professions Code section 4000 et seq., Health and Safety Code section 11150 et seq.,  
5 or any regulations of the board.

6 "(h) Any person who transmits, maintains or receives any prescription or prescription  
7 refill, orally, in writing or electronically, shall ensure the security, integrity,  
8 authenticity, and confidentiality of the prescription and any information contained  
9 therein."

#### 10 COST RECOVERY

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

#### 15 RELEVANT BACKGROUND FACTS

16 14. In April 2013, Respondent Amos, who was then the Director of Pharmacy for Kern  
17 Medical Center, had multiple communications with a Board Inspector regarding the propriety of a  
18 delivery service delivering medications from a pharmacy to a central location that was not a  
19 licensed pharmacy. Kern County was looking for a way to deliver medications from Kern  
20 Medical Center's two outpatient pharmacies, i.e., Respondent KMC dba Kern Medical Center  
21 Campus Pharmacy and KMC dba Sagebrush Medical Plaza Pharmacy, to Kern County employees  
22 who received insurance through the Kern Legacy Health Plan. On April 19, 2013, the Board  
23 Inspector advised Respondent Amos that there was no pharmacy law that allowed for this conduct  
24 without a waiver from the Board of Pharmacy.

25 15. Despite the admonishment from the Board Inspector, in July 2013, Respondent Amos  
26 sent an internal email in which she stated that the "current practice of having a courier deliver to  
27 the downtown site is allowed – no exception required. Having our clients pick up their  
28 prescriptions from the courier is allowed – no exception required."

16 16. In August 2014, the Board Inspector learned for the first time that in July 2013, the  
17 Kern Legacy Health Plan had established a prescription medication pick-up and drop-off location

1 for its members operated by Kern Medical Center at the County Administration Building located  
2 at 1115 Truxtun Avenue in Bakersfield, California.

3 17. On August 11, 2014, the Board Inspector sent an email to the Kern Legacy Health  
4 Plan stating that Respondent Amos had been advised that the pharmacy law did not permit the  
5 delivery of medication to the location in question.

6 18. On August 12, 2014, Kern County Interim Senior Outpatient Pharmacist Jeremiah  
7 Joson responded to the Board Inspector. Mr. Joson indicated that he believed that the Board had  
8 given Kern Medical Center permission to run the delivery service, but he was unable to produce  
9 any evidence of such permission. Mr. Joson stated that the delivery service operated by having  
10 either Respondent KMC dba Kern Medical Center Campus Pharmacy or KMC dba Sagebrush  
11 Medical Plaza Pharmacy send a pharmacy technician to the County Administration Building to  
12 meet a patient and the deliver the medication.

13 19. On August 15, 2014, the Board Inspector spoke on the phone with Kern Medical  
14 Center Chief Operating Officer Jared Leavitt. Mr. Leavitt described the delivery service as only  
15 for employees of the County Administration Building. He further explained that there was an  
16 office location staffed with a pharmacy technician and that patients would pick up medications at  
17 scheduled times, which had been coordinated by the pharmacy technician. He also stated that the  
18 pharmacy technician faxed prescriptions from that office to either Respondent KMC dba Kern  
19 Medical Center Campus Pharmacy or KMC dba Sagebrush Medical Plaza Pharmacy.

20 20. Also on August 15, 2014, after verifying there was no Board licensed facility at the  
21 Kern County Administration Building where the Kern Legacy Office was located, the Board  
22 Inspector visited that location where the "pick-ups" and "drop-offs" occurred. The Inspector  
23 observed an office with a glass front with the signage "Kern Legacy Health Plan." There was a  
24 pharmacy technician in the check-in area of the office. The technician indicated that patients  
25 would complete a "Patient Intake Form" which authorized either Respondent KMC dba Kern  
26 Medical Center Campus Pharmacy or KMC dba Sagebrush Medical Plaza Pharmacy to deliver  
27 filled prescriptions to the site. The technician would also schedule delivery times and the delivery  
28 person would give the filled prescriptions one at a time to the patients in the office area. The



1 technician would also accept hard copies of prescriptions and fax the prescriptions to either of the  
2 two pharmacies. She would store the prescriptions in a locked "bank bag" until they were picked  
3 up by the pharmacies. The technician indicated that any Kern Legacy Health Plan member could  
4 use the delivery service, not just people who worked at the County Administration Building, as  
5 Mr. Leavitt had indicated.

6 21. While the Board Inspector was visiting the Kern Legacy Health Plan Office, she  
7 observed numerous pharmacy records that were stored in the office. The Board Inspector  
8 searched a three drawer unlocked file cabinet and counted 1660 records of transactions, including  
9 995 copies of prescriptions. Records for Respondent KMC dba Kern Medical Center Campus  
10 Pharmacy included copies of new prescriptions for controlled substances, requests for transfers of  
11 prescriptions, prescriptions for patients who belonged to a health plan other than Kern Legacy  
12 Health Plan, and a copy of a facsimile cover sheet from a physician's office indicating that  
13 prescriptions were being faxed to the Kern Legacy Health Plan Office.

14 22. On September 15, 2014, the Board Inspector received a statement from Respondent  
15 Amos in which she acknowledged that she established the pharmacy pick-up and drop off service  
16 at the Kern Legacy Health Plan Office at the County Administration Building

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Unauthorized Receipt and Delivery of Prescriptions and Prescription Medication)**

19 23. Respondent KMC dba Kern Medical Center Campus Pharmacy, Respondent KCHA  
20 dba Kern Medical Center Campus Pharmacy, Respondent Jolliff, and Respondent Amos are  
21 subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with  
22 California Code of Regulations, title 16, section 1713, subdivision (a), on the grounds of  
23 unprofessional conduct in that Respondent KMC dba Kern Medical Center Campus Pharmacy,  
24 located at 2014 College Street in Bakersfield, California, established an unlicensed central  
25 delivery location, i.e., the Kern Legacy Health Plan Office, located at 1115 Truxtun Avenue in  
26 Bakersfield, California. Between July 2013 and August 2014, Respondent KMC dba Kern  
27 Medical Center Campus Pharmacy and KMC dba Sagebrush Medical Plaza Pharmacy delivered  
28 prescriptions to Kern Legacy Health Plan members, who picked up their prescriptions at an

1 assigned time at the Kern Legacy Health Plan Office, which was not licensed as a retail pharmacy.  
2 The Kern Legacy Health Plan Office also accepted and received original prescriptions brought in  
3 by patients and faxed the prescriptions to Respondent KMC dba Kern Medical Center Campus  
4 Pharmacy and KMC dba Sagebrush Medical Plaza Pharmacy. The original prescriptions were  
5 kept at the Kern Legacy Health Plan Office until they were delivered to Respondent KMC dba  
6 Kern Medical Center Campus Pharmacy and KMC dba Sagebrush Medical Plaza Pharmacy. The  
7 Kern Legacy Health Plan Office also faxed copies of patient prescription and patient profiles from  
8 other pharmacies to Respondent KMC dba Kern Medical Center Campus Pharmacy and KMC  
9 dba Sagebrush Medical Plaza Pharmacy with a request for a prescription transfer. Respondent  
10 Jolliff was the PIC of Respondent KMC dba Kern Medical Center Campus Pharmacy while this  
11 conduct occurred. Respondent Amos established the pharmacy pick-up and drop off service at the  
12 Kern Legacy Health Plan. Complainant incorporates by reference Paragraphs 13 through 22 as  
13 though fully set forth herein.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Unauthorized Deposit of a Prescription)**

16 24. Respondent KMC dba Kern Medical Center Campus Pharmacy, Respondent KCHA  
17 dba Kern Medical Center Campus Pharmacy, Respondent Jolliff, and Respondent Amos are  
18 subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with  
19 California Code of Regulations, title 16, section 1713, subdivision (c), on the grounds of  
20 unprofessional conduct in that Respondent KMC dba Kern Medical Center Campus Pharmacy  
21 established a process whereby prescription documents were deposited at the Kern Legacy Plan  
22 Health Office, which is an unsecured, unlicensed location, and then the prescriptions were  
23 accepted by Respondent KMC dba Kern Medical Center Campus Pharmacy and KMC dba  
24 Sagebrush Medical Plaza Pharmacy, as valid prescriptions. Respondent Jolliff was the PIC of  
25 Respondent KMC dba Kern Medical Center Campus Pharmacy, while this conduct occurred.  
26 Respondent Amos created and established this process. Complainant incorporates by reference  
27 Paragraphs 13 through 22 as though fully set forth herein.

28 ///

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unauthorized Electronic Transmission of Prescriptions)**

3 25. Respondent KMC dba Kern Medical Center Campus Pharmacy, Respondent KCHA  
4 dba Kern Medical Center Campus Pharmacy, Respondent Jolliff, and Respondent Amos are  
5 subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with  
6 California Code of Regulations, title 16, section 1717.4, subdivision (a), on the grounds of  
7 unprofessional conduct in that Respondent KMC dba Kern Medical Center Campus Pharmacy  
8 established an unlicensed, off-site location at the Kern Legacy Health Plan Office, which not only  
9 faxed hard copies of physician prescriptions to Respondent KMC dba Kern Medical Center  
10 Campus Pharmacy, but also received faxed copies of prescriptions from physicians and faxed  
11 those copies to Respondent KMC dba Kern Medical Center Campus Pharmacy. Respondent  
12 Jolliff was the PIC of Respondent KMC dba Kern Medical Center Campus Pharmacy, while this  
13 conduct occurred. Respondent Amos established the pharmacy pick-up and drop off service at the  
14 Kern Legacy Health Plan Office, which received faxed prescriptions and faxed prescriptions to  
15 Respondent KMC dba Kern Medical Center Campus Pharmacy. Complainant incorporates by  
16 reference Paragraphs 13 through 22 as though fully set forth herein.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Storage of Pharmacy Records at an Unlicensed Location)**

19 26. Respondent KMC dba Kern Medical Center Campus Pharmacy, Respondent KCHA  
20 dba Kern Medical Center Campus Pharmacy, Respondent Jolliff, and Respondent Amos are  
21 subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with Code  
22 section 4105, subdivision (a), on the grounds of unprofessional conduct in that Respondent KMC  
23 dba Kern Medical Center Campus Pharmacy retained records of acquisition and disposition of  
24 dangerous drugs at an unlicensed location, the Kern Legacy Health Plan Office. Respondent  
25 Jolliff was the PIC of Respondent KMC dba Kern Medical Center Campus Pharmacy while this  
26 conduct occurred. Respondent Amos created and established this process. Complainant  
27 incorporates by reference Paragraphs 13 through 22 as though fully set forth herein.

28 ///

1 DISCIPLINE CONSIDERATIONS

2 27. To determine the degree of discipline, if any, to be imposed on Respondent Jolliff,  
3 Complainant alleges that on or about February 1, 2010, in a prior action, the Board of Pharmacy  
4 issued Citation Number CI 2009 43272 to Respondent Jolliff for violating Code section 4104,  
5 subdivision (c)(2) [failure to report employee impairment and dangerous drug theft] and ordered  
6 Respondent Jolliff to pay a \$1,000 fine. That Citation is now final and is incorporated by  
7 reference as though fully set forth herein.

8 PRAYER

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

- 11 1. Revoking or suspending Hospital Pharmacy License Number PHE 44938, issued to
- 12 KMC dba Kern Medical Center Campus Pharmacy;
- 13 2. Revoking or suspending Original Permit Number PHE 54462, issued to KCHA dba
- 14 Kern Medical Center Campus Pharmacy;
- 15 3. Revoking or suspending Pharmacist License Number RPH 60682, issued to Taryn
- 16 Adale Jolliff;
- 17 4. Revoking or suspending Pharmacist License Number RPH 36840, issued to Aniece
- 18 Louise Amos;
- 19 5. Ordering KMC dba Kern Medical Center Campus Pharmacy, KCHA dba Kern
- 20 Medical Center Campus Pharmacy Taryn Adale Jolliff, and Aniece Louise Amos to pay the Board
- 21 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and
- 22 Professions Code section 125.3; and,
- 23 6. Taking such other and further action as deemed necessary and proper.

24 DATED: 10/30/17 Virginia Herold

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

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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5551

12 **KERN MEDICAL CENTER DBA KERN**  
13 **MEDICAL CENTER CAMPUS**  
14 **PHARMACY**  
2014 College Street  
Bakersfield, CA 93305

**ACCUSATION**

15 **Hospital Pharmacy License No. PHE 44938,**

16 **TARYN ADALE JOLLIFF**  
17 **PO Box 21681**  
18 **Bakersfield, CA 93390**

18 **Pharmacist License No. RPH 60682,**

19 **and**

20 **ANIECE LOUISE AMOS**  
21 **555 Fairbanks St.**  
22 **Corona, CA 92879**

22 **Pharmacist License No. RPH 36840**

23 Respondents.

25 Complainant alleges:

26 **PARTIES**

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

1           2.     On or about August 15, 2000, the Board of Pharmacy ("Board") issued Hospital  
2 Pharmacy License Number PHE 44938 to Kern Medical Center dba Kern Medical Center Campus  
3 Pharmacy ("Respondent Pharmacy"). The Hospital Pharmacy License was in full force and effect  
4 at all times relevant to the charges brought herein and will expire on November 1, 2015, unless  
5 renewed.

6           3.     On or about January 30, 2008, the Board issued Pharmacist License Number RPH  
7 60682 to Taryn Adale Jolliff ("Respondent Jolliff"). Between January 28, 2012 and August 14,  
8 2014, Respondent Jolliff was the Pharmacist-in-Charge of Respondent Pharmacy. The Pharmacist  
9 License was in full force and effect at all times relevant to the charges brought herein and will  
10 expire on June 30, 2017, unless renewed.

11          4.     On or about January 25, 1982, the Board issued Pharmacist License Number RPH  
12 36840 to Aniece Louise Amos ("Respondent Amos"). The Pharmacist License was in full force  
13 and effect at all times relevant to the charges brought herein and will expire on December 31,  
14 2015, unless renewed.

#### JURISDICTION

15  
16          5.     This Accusation is brought before the Board under the authority of the following laws.  
17 All section references are to the Business and Professions Code unless otherwise indicated.

18          6.     Section 4300.1 of the Code states:

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

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

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

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

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"(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.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper."

....

**STATUTES AND REGULATIONS**

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

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

....

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

....

9. Section 4105 of the Code states:

"(a) All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form.

"(b) The licensee may remove the original records or documentation from the licensed premises on a temporary basis for license-related purposes. However, a duplicate set of those records or other documentation shall be retained on the licensed premises.

"(c) The records required by this section shall be retained on the licensed premises for a period of three years from the date of making.

"(d) Any records that are maintained electronically shall be maintained so that the pharmacist-in-charge, the pharmacist on duty if the pharmacist-in-charge is not on duty, or, in the case of a veterinary food-animal drug retailer or wholesaler, the designated representative on duty, shall, at all times during which the licensed premises are open for business, be able to produce a hard copy and electronic copy of all records of acquisition or disposition or other drug or dispensing-related records

maintained electronically.

"(e)(1) Notwithstanding subdivisions (a), (b), and (c), the board, may upon written request, grant to a licensee a waiver of the requirements that the records described in subdivisions (a), (b), and (c) be kept on the licensed premises.

"(e)(2) A waiver granted pursuant to this subdivision shall not affect the board's authority under this section or any other provision of this chapter."

10. California Code of Regulations, title 16, section 1713 states:

"(a) Except as otherwise provided in this Division, no licensee shall participate in any arrangement or agreement, whereby prescriptions, or prescription medications, may be left at, picked up from, accepted by, or delivered to any place not licensed as a retail pharmacy.

"(b) A licensee may pick up prescriptions at the office or home of the prescriber or pick up or deliver prescriptions or prescription medications at the office of or a residence designated by the patient or at the hospital, institution, medical office or clinic at which the patient receives health care services. In addition, the Board may, in its sole discretion, waive application of subdivision (a) for good cause shown.

"(c) A patient or the patient's agent may deposit a prescription in a secure container that is at the same address as the licensed pharmacy premises. The pharmacy shall be responsible for the security and confidentiality of the prescriptions deposited in the container.

"(d) A pharmacy may use an automated delivery device to deliver previously dispensed prescription medications provided:

"(1) Each patient using the device has chosen to use the device and signed a written consent form demonstrating his or her informed consent to do so.

"(2) A pharmacist has determined that each patient using the device meets inclusion criteria for use of the device established by the pharmacy prior to delivery of prescription medication to the patient.

"(3) The device has a means to identify each patient and only release that patient's prescription medications.

"(4) The pharmacy does not use the device to deliver previously dispensed prescription medications to any patient if a pharmacist determines that such patient requires counseling as set forth in section 1707.2(a)(2).

"(5) The pharmacy provides an immediate consultation with a pharmacist, either in-person or via telephone, upon the request of a patient.

"(6) The device is located adjacent to the secure pharmacy area.

"(7) The device is secure from access and removal by unauthorized individuals.

"(8) The pharmacy is responsible for the prescription medications stored in the device.

"(9) Any incident involving the device where a complaint, delivery error, or



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omission has occurred shall be reviewed as part of the pharmacy's quality assurance program mandated by Business and Professions Code section 4125.

"(10) The pharmacy maintains written policies and procedures pertaining to the device as described in subdivision (e).

"(e) Any pharmacy making use of an automated delivery device as permitted by subdivision (d) shall maintain, and on an annual basis review, written policies and procedures providing for:

"(1) Maintaining the security of the automated delivery device and the dangerous drugs within the device.

"(2) Determining and applying inclusion criteria regarding which medications are appropriate for placement in the device and for which patients, including when consultation is needed.

"(3) Ensuring that patients are aware that consultation with a pharmacist is available for any prescription medication, including for those delivered via the automated delivery device.

"(4) Describing the assignment of responsibilities to, and training of, pharmacy personnel regarding the maintenance and filing procedures for the automated delivery device.

"(5) Orienting participating patients on use of the automated delivery device, notifying patients when expected prescription medications are not available in the device, and ensuring that patient use of the device does not interfere with delivery of prescription medications.

"(6) Ensuring the delivery of medications to patients in the event the device is disabled or malfunctions.

"(f) Written policies and procedures shall be maintained at least three years beyond the last use for an automated delivery device.

"(g) For the purposes of this section only, 'previously-dispensed prescription medications' are those prescription medications that do not trigger a non-discretionary duty to consult under section 1707.2(b)(1), because they have been previously dispensed to the patient by the pharmacy in the same dosage form, strength, and with the same written directions."

11. California Code of Regulations, title 16, section 1717.4 states:

"(a) Except as otherwise prohibited by law, prescriptions may be transmitted by electronic means from the prescriber to the pharmacy.

"(b) An electronically transmitted prescription which meets the requirements of this regulation shall be deemed to be a prescription within the meaning of Business and Professions Code section 4040.

"(c) An electronically transmitted prescription order shall include the name and address of the prescriber, a telephone number for oral confirmation, date of transmission and the identity of the recipient, as well as any other information required by federal or state law or regulations. The prescriber's address, license classification and federal

1 registry number may be omitted if they are on file and readily retrievable in the  
2 receiving pharmacy.

3 "(d) An 'interim storage device' means as electronic file into which a prescription is  
4 entered for later retrieval by an authorized individual. Any interim storage device shall,  
5 in addition to the above information, record and maintain the date of entry and/or  
6 receipt of the prescription order, date of transmission from the interim storage device  
7 and identity of the recipient of such transmission. The interim storage device shall be  
8 maintained so as to ensure against unauthorized access and use of prescription  
9 information, including dispensing information.

10 "(e) A pharmacy receiving an electronic image transmission prescription shall either  
11 receive the prescription in hard copy form or have the capacity to retrieve a hard copy  
12 facsimile of the prescription from the pharmacy's computer memory. Any hard copy of  
13 a prescription shall be maintained on paper of permanent quality.

14 "(f) An electronically transmitted prescription shall be transmitted only to the  
15 pharmacy of the patient's choice. This requirement shall not apply to orders for  
16 medications to be administered in an acute care hospital.

17 "(g) Electronic equipment for transmitting prescriptions (or electronic transmittal  
18 technology) shall not be supplied or used so as to violate or circumvent Business and  
19 Professions Code section 4000 et seq., Health and Safety Code section 11150 et seq.,  
20 or any regulations of the board.

21 "(h) Any person who transmits, maintains or receives any prescription or prescription  
22 refill, orally, in writing or electronically, shall ensure the security, integrity,  
23 authenticity, and confidentiality of the prescription and any information contained  
24 therein."

### 25 COST RECOVERY

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

### 29 RELEVANT BACKGROUND FACTS

30 13. In April 2013, Respondent Amos, who was then the Director of Pharmacy for Kern  
31 Medical Center, had multiple communications with a Board Inspector regarding the propriety of a  
32 delivery service delivering medications from a pharmacy to a central location that was not a  
33 licensed pharmacy. Kern County was looking for a way to deliver medications from Kern Medical  
34 Center's two outpatient pharmacies, i.e., Respondent Pharmacy and Sagebrush Medical Plaza  
35 Pharmacy, to Kern County employees who received insurance through the Kern Legacy Health  
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1 Plan. On April 19, 2013, the Board Inspector advised Respondent Amos that there was no  
2 pharmacy law that allowed for this conduct without a waiver from the Board of Pharmacy.

3 14. Despite the admonishment from the Board Inspector, in July 2013, Respondent Amos  
4 sent an internal email in which she stated that the "current practice of having a courier deliver to  
5 the downtown site is allowed – no exception required. Having our clients pick up their  
6 prescriptions from the courier is allowed – no exception required."

7 15. In August 2014, the Board Inspector learned for the first time that in July 2013, the  
8 Kern Legacy Health Plan had established a prescription medication pick-up and drop-off location  
9 for its members operated by Kern Medical Center at the County Administration Building located at  
10 1115 Truxtun Avenue in Bakersfield, California.

11 16. On August 11, 2014, the Board Inspector sent an email to the Kern Legacy Health  
12 Plan stating that Respondent Amos had been advised that the pharmacy law did not permit the  
13 delivery of medication to the location in question.

14 17. On August 12, 2014, Kern County Interim Senior Outpatient Pharmacist Jeremiah  
15 Josen responded to the Board Inspector. Mr. Josen indicated that he believed that the Board had  
16 given Kern Medical Center permission to run the delivery service, but he was unable to produce  
17 any evidence of such permission. Mr. Josen stated that the delivery service operated by having  
18 either Respondent Pharmacy or Sagebrush Medical Plaza Pharmacy send a pharmacy technician to  
19 the County Administration Building to meet a patient and the deliver the medication.

20 18. On August 15, 2014, the Board Inspector spoke on the phone with Kern Medical  
21 Center Chief Operating Officer Jared Leavitt. Mr. Leavitt described the delivery service as only  
22 for employees of the County Administration Building. He further explained that there was an  
23 office location staffed with a pharmacy technician and that patients would pick up medications at  
24 scheduled times, which had been coordinated by the pharmacy technician. He also stated that the  
25 pharmacy technician faxed prescriptions from that office to either Respondent Pharmacy or  
26 Sagebrush Medical Plaza Pharmacy.

27 19. Also on August 15, 2014, after verifying there was no Board licensed facility at the  
28 Kern County Administration Building where the Kern Legacy Office was located, the Board

1 Inspector visited that location where the "pick-ups" and "drop-offs" occurred. The Inspector  
2 observed an office with a glass front with the signage "Kern Legacy Health Plan." There was a  
3 pharmacy technician in the check-in area of the office. The technician indicated that patients  
4 would complete a "Patient Intake Form" which authorized either Respondent Pharmacy or  
5 Sagebrush Medical Plaza Pharmacy to deliver filled prescriptions to the site. The technician would  
6 also schedule delivery times and the delivery person would give the filled prescriptions one at a  
7 time to the patients in the office area. The technician would also accept hard copies of  
8 prescriptions and fax the prescriptions to either of the two pharmacies. She would store the  
9 prescriptions in a locked "bank bag" until they were picked up by the pharmacies. The technician  
10 indicated that any Kern Legacy Health Plan member could use the delivery service, not just people  
11 who worked at the County Administration Building, as Mr. Leavitt had indicated.

12 20. While the Board Inspector was visiting the Kern Legacy Health Plan Office, she  
13 observed numerous pharmacy records that were stored in the office. The Board Inspector  
14 searched a three drawer unlocked file cabinet and counted 1660 records of transactions, including  
15 995 copies of prescriptions. Records for Respondent Pharmacy included copies of new  
16 prescriptions for controlled substances, requests for transfers of prescriptions, prescriptions for  
17 patients who belonged to a health plan other than Kern Legacy Health Plan, and a copy of a  
18 facsimile cover sheet from a physician's office indicating that prescriptions were being faxed to the  
19 Kern Legacy Health Plan Office.

20 21. On September 15, 2014, the Board Inspector received a statement from Respondent  
21 Amos in which she acknowledged that she established the pharmacy pick-up and drop off service  
22 at the Kern Legacy Health Plan Office at the County Administration Building

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Unauthorized Receipt and Delivery of Prescriptions and Prescription Medication)**

25 22. Respondent Pharmacy, Respondent Jolliff, and Respondent Amos are subject to  
26 disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code  
27 of Regulations, title 16, section 1713, subdivision (a), on the grounds of unprofessional conduct in  
28 that Respondent Pharmacy, located at 1111 Columbus Avenue in Bakersfield, California,

1 established an unlicensed central delivery location, i.e., the Kern Legacy Health Plan Office,  
2 located at 1115 Truxtun Avenue in Bakersfield, California. Between July 2013 and August 2014,  
3 Respondent Pharmacy delivered prescriptions to Kern Legacy Health Plan members, who picked  
4 up their prescriptions at an assigned time at the Kern Legacy Health Plan Office, which was not  
5 licensed as a retail pharmacy. The Kern Legacy Health Plan Office also accepted and received  
6 original prescriptions brought in by patients and faxed the prescriptions to Respondent Pharmacy.  
7 The original prescriptions were kept at the Kern Legacy Health Plan Office until they were  
8 delivered to Respondent Pharmacy. The Kern Legacy Health Plan Office also faxed copies of  
9 patient prescription and patient profiles from other pharmacies to Respondent Pharmacy with a  
10 request for a prescription transfer. Respondent Jolliff was the PIC of Respondent Pharmacy while  
11 this conduct occurred. Respondent Amos she established the pharmacy pick-up and drop off  
12 service at the Kern Legacy Health Plan. Complainant incorporates by reference Paragraphs 13  
13 through 21 as though fully set forth herein.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Unauthorized Deposit of a Prescription)**

16 23. Respondent Pharmacy, Respondent Jolliff, and Respondent Amos are subject to  
17 disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code  
18 of Regulations, title 16, section 1713, subdivision (c), on the grounds of unprofessional conduct in  
19 that Respondent Pharmacy established a process whereby prescription documents were deposited  
20 at the Kern Legacy Plan Health Office, which is an unsecured, unlicensed location, and then the  
21 prescriptions were accepted by Respondent Pharmacy as valid prescriptions. Respondent Jolliff  
22 was the PIC of Respondent Pharmacy while this conduct occurred. Respondent Amos created and  
23 established this process. Complainant incorporates by reference Paragraphs 13 through 21 as  
24 though fully set forth herein.

25 **THIRD CAUSE FOR DISCIPLINE**

26 **(Unauthorized Electronic Transmission of Prescriptions)**

27 24. Respondent Pharmacy, Respondent Jolliff, and Respondent Amos are subject to  
28 disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code

1 of Regulations, title 16, section 1717.4, subdivision (a), on the grounds of unprofessional conduct  
2 in that Respondent Pharmacy established an unlicensed, off-site location at the Kern Legacy Health  
3 Plan Office, which not only faxed hard copies of physician prescriptions to Respondent Pharmacy  
4 but also received faxed copies of prescriptions from physicians and faxed those copies to  
5 Respondent Pharmacy. Respondent Jolliff was the PIC of Respondent Pharmacy while this  
6 conduct occurred. Respondent Amos she established the pharmacy pick-up and drop off service at  
7 the Kern Legacy Health Plan Office, which received faxed prescriptions and faxed prescriptions to  
8 Respondent Pharmacy. Complainant incorporates by reference Paragraphs 13 through 21 as  
9 though fully set forth herein.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Storage of Pharmacy Records at an Unlicensed Location)**

12 25. Respondent Pharmacy, Respondent Jolliff, and Respondent Amos are subject to  
13 disciplinary action under Code section 4301, subdivision (o), in conjunction with Code section  
14 4105, subdivision (a), on the grounds of unprofessional conduct in that Respondent Pharmacy  
15 retained records of acquisition and disposition of dangerous drugs at an unlicensed location, the  
16 Kern Legacy Health Plan Office. Respondent Jolliff was the PIC of Respondent Pharmacy while  
17 this conduct occurred. Respondent Amos created and established this process. Complainant  
18 incorporates by reference Paragraphs 13 through 21 as though fully set forth herein.

19 **DISCIPLINE CONSIDERATIONS**

20 26. To determine the degree of discipline, if any, to be imposed on Respondent Jolliff,  
21 Complainant alleges that on or about February 1, 2010, in a prior action, the Board of Pharmacy  
22 issued Citation Number CI 2009 43272 to Respondent Jolliff for violating Code section 4104,  
23 subdivision (c)(2) [failure to report employee impairment and dangerous drug theft] and ordered  
24 Respondent Jolliff to pay a \$1,000 fine. That Citation is now final and is incorporated by reference  
25 as though fully set forth herein.

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PRAYER

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

- 1. Revoking or suspending Hospital Pharmacy License Number PHE 44938, issued to Kern Medical Center dba Kern Medical Center Campus Pharmacy;
- 2. Revoking or suspending Pharmacist License Number RPH 60682, issued to Taryn Adale Jolliff;
- 3. Revoking or suspending Pharmacist License Number RPH 36840, issued to Aniece Louise Amos;
- 4. Ordering Kern Medical Center dba Kern Medical Center Campus Pharmacy, Taryn Adale Jolliff, and Aniece Louise Amos to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
- 5. Taking such other and further action as deemed necessary and proper.

DATED: 5/4/16 Virginia Herold

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

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