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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. 5977

11 **NUVO PHARMACEUTICALS INC.**

A C C U S A T I O N

12 3029 North San Fernando Blvd., #110
13 Burbank, CA 91504
14 ARA R. YERAMYAN, Chief Executive
Officer and President

15 **Original Wholesale Permit No. WLS 6174**

16 Respondent.

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21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about March 19, 2013, the Board of Pharmacy issued Original Wholesale
26 Permit Number WLS 6174 to Nuvo Pharmaceuticals Inc., with Ara R. Yeramyman as the Chief
27 Executive Officer and President ("Respondent"). The Wholesale Permit expired on March 1,
28 2014, and has been cancelled.

1 **JURISDICTION**

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

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

7 5. Section 4300.1 states:

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

13 **STATUTORY PROVISIONS**

14 6. Section 4022.5 states:

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

18 (b) "Designated representative-in-charge" means a designated representative or a
19 pharmacist proposed by a wholesaler or veterinary food-animal drug retailer and approved by the
20 board as the supervisor or manager responsible for ensuring the wholesaler's or veterinary food-
21 animal drug retailer's compliance with all state and federal laws and regulations pertaining to
22 practice in the applicable license category."

23 7. Section 4160, subdivision (d), states:

24 "Every wholesaler shall be supervised or managed by a designated representative-in-
25 charge. The designated representative-in-charge shall be responsible for the wholesaler's
26 compliance with state and federal laws governing wholesalers. As part of its initial application for
27 a license, and for each renewal, each wholesaler shall, on a form designed by the board, provide
28 identifying information and the California license number for a designated representative or

1 pharmacist proposed to serve as the designated representative-in-charge. The proposed designated
2 representative-in-charge shall be subject to approval by the board. The board shall not issue or
3 renew a wholesaler license without identification of an approved designated representative-in-
4 charge for the wholesaler. The designated representative-in-charge shall maintain an active
5 license as a designated representative with the board at all times during which he or she is
6 designated as the designated representative-in-charge.”

7 8. Section 4301, states, in pertinent part:

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

11

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

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

17 9. Section 4307 states, in pertinent part:

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

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

1 “(2) Where the license is denied or revoked, the prohibition shall continue until the license
2 is issued or reinstated.”

3 **COST RECOVERY**

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

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Procuring a License through Dishonesty, Fraud, Deceit or Corruption)**

10 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
11 that Respondent obtained Original Wholesale Permit Number WLS 6174 through dishonesty,
12 fraud, deceit, or corruption. The circumstances are as follows:

13 a. On or about February 20, 2012, Respondent signed an “Application for Wholesale
14 License” under penalty of perjury, certifying that all information contained in the application was
15 true and correct. Respondent also certified under the penalty of perjury that all supplemental
16 statements filed with the application were true, complete and accurate.

17 b. Respondent’s “Application for Wholesaler License” listed N.E. with a “pending”
18 California license number as the designated representative-in-charge of operations for
19 Respondent.

20 c. On or about February 20, 2012, Respondent signed a “Report of Designated
21 Representative-in-Charge” under penalty of perjury certifying that all statements, answers, and
22 representations made in the “Report of Designated Representative-in-Charge” were true and
23 correct.

24 d. Respondent’s “Report of Designated Representative-in-Charge” listed N.E. with a
25 “pending” EXC license number as the designated representative-in-charge and included a
26 signature for N.E. dated February 20, 2012.

27 e. N.E. never agreed to become Respondent’s designated representative in charge and
28 did not sign Respondent’s “Report of Designated Representative-in-Charge” form dated February

1 20, 2012. Instead, N.E. replied to a craigslist advertisement for a possible job offer. Respondent
2 then used N.E.'s personal information, without N.E.'s consent, to procure Original Wholesale
3 Permit Number WLS 6174 through dishonesty, fraud, deceit, or corruption.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Knowingly Making or Signing Document with False Representations)**

6 12. Respondent is subject to disciplinary action under section 4301, subdivision (g), in
7 that Respondent, under penalty of perjury, knowingly signed its February 20, 2012, "Application
8 for Wholesale License" and "Report of Designated Representative-in-Charge" wherein
9 Respondent falsely stated that N.E. would be Respondent's designated representative-in-charge,
10 and wherein Respondent used N.E.'s name and personal identifying information without N.E.'s
11 knowledge or consent. Complainant refers to, and by this reference incorporates, the allegations
12 set forth in paragraphs 11, subparagraphs (a) through (e), inclusive, as though set forth fully.

13 **OTHER MATTERS**

14 13. Pursuant to section 4307, if discipline is imposed on Original Wholesale Permit
15 Number WLS 6174 issued to Nuvo Pharmaceuticals Inc., with Ara R. Yeramyan as the Chief
16 Executive Officer and President, Nuvo Pharmaceuticals Inc. shall be prohibited from serving as a
17 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
18 five years if Original Wholesale Permit Number WLS 6174 is placed on probation or until
19 Original Wholesale Permit Number WLS 6174 is reinstated if the license is revoked.

20 14. Pursuant to section 4307, if discipline is imposed on Original Wholesale Permit
21 Number WLS 6174 issued to Nuvo Pharmaceuticals Inc., while Ara R. Yeramyan was an officer
22 and owner and had knowledge of, or knowingly participated in, any conduct for which Nuvo
23 Pharmaceuticals Inc. was disciplined, Ara R. Yeramyan shall be prohibited from serving as a
24 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
25 five years if Original Wholesale Permit Number WLS 6174 is placed on probation or until
26 Original Wholesale Permit Number WLS 6174 is reinstated if the license is revoked.

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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 Original Wholesale Permit Number WLS 6174, issued to Nuvo Pharmaceuticals Inc., with Ara R. Yeramyian as the Chief Executive Officer and President;

2. Prohibiting Nuvo Pharmaceuticals Inc. from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Original Wholesale Permit Number WLS 6174 is placed on probation or until Original Wholesale Permit Number WLS 6174 is reinstated if Original Wholesale Permit Number WLS 6174 issued to Nuvo Pharmaceuticals Inc. is revoked;

3. Prohibiting Ara R. Yeramyian from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Original Wholesale Permit Number WLS 6174 is placed on probation or until Original Wholesale Permit Number WLS 6174 is reinstated if Original Wholesale Permit Number WLS 6174 issued to Nuvo Pharmaceuticals Inc. is revoked;

4. Ordering Nuvo Pharmaceuticals Inc., with Ara R. Yeramyian as the Chief Executive Officer and President, 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: _____

7/7/17



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

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