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

11  
12 In the Matter of the Accusation Against:

13 **ELIM PHARMACY**  
14 **3340 W. Ball Road**  
**Anaheim, CA 92804**

15 **Pharmacy Permit No. PHY 44534**

16 **and**

17 **FUNMI MOJISOLA ADERETI**  
18 **PO Box 1136**  
**Placentia, CA 92670**

19 **Pharmacist License No. RPH 47629**

20 Respondents.

Case No. 6173

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

21  
22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about January 3, 2000, the Board of Pharmacy issued Pharmacy Permit  
27 Number PHY 44534 to Elim Pharmacy (Respondent). The Pharmacy Permit was in full force

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1 and effect at all times relevant to the charges brought herein and will expire on January 1, 2018,  
2 unless renewed.

3 3. On or about August 29, 1994, the Board issued Pharmacist License Number RPH  
4 47629 to Funmi Mojisola Adereti (Respondent). The Pharmacist License was in full force and  
5 effect at all times relevant to the charges brought herein and will expire on May 31, 2018, unless  
6 renewed.

### 7 JURISDICTION

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

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

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

16 7. Section 4300.1 of the Code states:

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

### 21 STATUTORY AND REGULATORY PROVISIONS

22 8. Section 4022 of the Code states:

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

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

26 (b) Any device that bears the statement: "Caution: federal law restricts this  
27 device to sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import,  
28 the blank to be filled in with the designation of the practitioner licensed to use or  
order use of the device.

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

9. Section 4040 of the Code states:

(a) Prescription means an oral, written, or electronic transmission order that is both of the following:

(1) Given individually for the person or persons for whom ordered that includes all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

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

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

(2) Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued pursuant to Section 2746.51, 2836.1, 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor licensed in this state, or pursuant to Section 4052.1, 4052.2, or 4052.6 by a pharmacist licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, that contains at least the name and signature of the prescriber, the name and address of the patient in a manner consistent with paragraph (2) of subdivision (a) of Section 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for use, and the date of issue may be treated as a prescription by the dispensing pharmacist as long as any additional information required by subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict between this subdivision and Section 11164 of the Health and Safety Code, Section 11164 of the Health and Safety Code shall prevail.

1 (c) Electronic transmission prescription includes both image and data  
2 prescriptions. Electronic image transmission prescription means any prescription  
3 order for which a facsimile of the order is received by a pharmacy from a licensed  
4 prescriber. Electronic data transmission prescription means any prescription order,  
5 other than an electronic image transmission prescription, that is electronically  
6 transmitted from a licensed prescriber to a pharmacy.

7 (d) The use of commonly used abbreviations shall not invalidate an otherwise  
8 valid prescription.

9 (e) Nothing in the amendments made to this section (formerly Section 4036)  
10 at the 1969 Regular Session of the Legislature shall be construed as expanding or  
11 limiting the right that a chiropractor, while acting within the scope of his or her  
12 license, may have to prescribe a device.

13 10. Section 4113(c) of the Code states:

14 The pharmacist-in-charge shall be responsible for a pharmacy's compliance  
15 with all state and federal laws and regulations pertaining to the practice of pharmacy.

16 11. Section 4301 of the Code states in pertinent part:

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

20 ...

21 (j) The violation of any of the statutes of this state, or any other state, or of the  
22 United States regulating controlled substances and dangerous drugs....

23 ...

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

...

12. Section 4306.5 of the Code states:

Unprofessional conduct for a pharmacist may include any of the following:

...

(b) Acts or omissions that involve, in whole or in part, the failure to exercise  
or implement his or her best professional judgment or corresponding responsibility  
with regard to the dispensing or furnishing of controlled substances, dangerous  
drugs, or dangerous devices, or with regard to the provision of services.

1 13. Section 4307(a) of the Code states that:

2 Any person who has been denied a license or whose license has been revoked  
3 or is under suspension, or who has failed to renew his or her license while it was  
4 under suspension, or who has been a manager, administrator, owner member, officer,  
5 director, associate, partner, or any other person with management or control of any  
6 partnership, corporation, firm, or association whose application for a license has been  
7 denied or revoked, is under suspension or has been placed on probation, and while  
8 acting as the manger, administrator, owner, member, officer, director, associate,  
9 partner, or any other person with management or control had knowledge or  
10 knowingly participated in any conduct for which the license was denied, revoked,  
11 suspended, or placed on probation, shall be prohibited from serving as a manger,  
12 administrator, owner, member, officer, director, associate, partner, or any other  
13 person with management or control of a licensee as follows:

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

17 (2) Where the license is denied or revoked, the prohibition shall continue until  
18 the license is issued or reinstated.

19 14. Health and Safety Code section 11153(a) states:

20 A prescription for a controlled substance shall only be issued for a legitimate  
21 medical purpose by an individual practitioner acting in the usual course of his or her  
22 professional practice. The responsibility for the proper prescribing and dispensing of  
23 controlled substances is upon the prescribing practitioner, but a corresponding  
24 responsibility rests with the pharmacist who fills the prescription. Except as  
25 authorized by this division, the following are not legal prescriptions: (1) an order  
26 purporting to be a prescription which is issued not in the usual course of professional  
27 treatment or in legitimate and authorized research; or (2) an order for an addict or  
28 habitual user of controlled substances, which is issued not in the course of  
professional treatment or as part of an authorized narcotic treatment program, for the  
purpose of providing the user with controlled substances, sufficient to keep him or her  
comfortable by maintaining customary use.

### 20 REGULATORY PROVISIONS

21 15. Section 1306.04(a) of title 21, Code of Federal Regulations states:

22 A prescription for a controlled substance to be effective must be issued for a  
23 legitimate medical purpose by an individual practitioner acting in the usual course of  
24 his professional practice. The responsibility for the proper prescribing and dispensing  
25 of controlled substances is upon the prescribing practitioner, but a corresponding  
26 responsibility rests with the pharmacist who fills the prescription. An order  
27 purporting to be a prescription issued not in the usual course of professional treatment  
28 or in legitimate and authorized research is not a prescription within the meaning and  
intent of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such  
a purported prescription, as well as the person issuing it, shall be subject to the  
penalties provided for violations of the provisions of law relating to controlled  
substances.

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16. Section 1716 of title 16, California Code of Regulations states in part:

Pharmacists shall not deviate from the requirements of a prescription except upon the prior consent of the prescriber or to select the drug product in accordance with Section 4073 of the Business and Professions Code.

#### COSTS

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

#### DRUGS

18. Clonazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022. It is an anti-anxiety medication in the benzodiazepine family.

19. Diazepam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

20. Hydrocodone/acetaminophen is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e)(4), and a dangerous drug pursuant to Business and Professions Code section 4022.

21. Phenergan/Codeine Syrup, is the brand name for the generic promethazine with codeine, and is a Schedule V controlled substance pursuant to Health and Safety Code section 11058(c)(1), and a dangerous drug pursuant to Business and Professions Code section 4022.

#### FACTUAL ALLEGATIONS

22. Respondent Elim Pharmacy is a retail pharmacy located in Anaheim, California. At all times mentioned herein and since January 1, 2008, Respondent Funmi Adereti has been the Pharmacist-in-Charge (PIC) at Respondent Elim Pharmacy.

23. A Board of Pharmacy inspector was assigned to investigate Respondent Elim Pharmacy's controlled substance dispensing practices. Prior to conducting an inspection of

Respondent Elim Pharmacy, the inspector reviewed CURES data, which showed that Respondents had dispensed multiple controlled substance prescriptions from out-of-area prescribers. Specifically, the inspector determined that Respondent Elim Pharmacy dispensed a total of 6,874 controlled substance prescriptions, with the top controlled drugs being hydrocodone combination products, benzodiazepines, carisoprodol, and zolpidem. According to the CURES data, approximately 47% of those prescriptions were billed to insurance with the remaining 53% being "cash prescriptions." Of the 6,847 prescriptions reported in CURES, 44% were issued by Dr. N.,<sup>1</sup> a Los Angeles based doctor. Approximately 86% of Dr. N.'s prescriptions were cash prescriptions, and only 5 of the 666 patients listed on the prescriptions lived in or near Respondent Elim Pharmacy.

24. On April 21, 2016, the inspector conducted an inspection of Respondent Elim Pharmacy which is located in Anaheim. The inspector collected a sample of original prescription documents relating to walk-in prescriptions written by Dr. N. as well as phoned-in prescriptions prescribed by Dr. N.

Walk-in Prescriptions Written by Dr. N.

25. The walk-in prescriptions showed that the patients' addresses were in the Los Angeles area, all of the prescription forms had the same batch number, the prescription forms showed consecutive (or near consecutive) script numbers for a particular day, and the prescriptions were written for the same (or similar) combinations of drugs in the same quantity, strength, and dosing frequency as follows:

	Date Written	Patient Initials	Patient Location	RX Form Lot # (Per Dr)	Drug	RX No. (Assigned by Elim)
1	12/24/13	S.R.	Compton (90220)	000218	Hydrocodone/APAP 7.5/750 90 tablets	C811065
					Clonazepam 2 mg 90 tablets	C811066
					Promethazine with Codeine Syrup 240 ml	C811067

<sup>1</sup> On or about March 8, 2016, the Medical Board of California filed an Accusation against Dr. N. based on his overprescribing to patients without performing an appropriate exam, among other charges. Effective June 1, 2016, Dr. N.'s physician license was revoked by the Medical Board of California.

2	12/24/13	W.L.	Los Angeles (90003)	000219	Hydrocodone/APAP 7.5/750 90 tablets	C811071
					Diazepam 10 mg 90 tablets	C811072
					Promethazine with Codeine Syrup 240 ml	C811073
3	12/24/13	C.K.	Los Angeles (90013)	000223	Hydrocodone/APAP 7.5/750 90 tablets	C811076
					Promethazine with Codeine Syrup 240 ml	C811077
4	12/24/13	K.L.	Los Angeles (90037)	000220	Hydrocodone/APAP 7.5/750 90 tablets	C811080
					Promethazine with Codeine Syrup 240 ml	C811081
5	12/24/13	K.J.	Los Angeles (90013)	000224	Hydrocodone/APAP 7.5/750 90 tablets	C811084
					Diazepam 10 mg 90 tablets	C811085
					Promethazine with Codeine Syrup 240 ml	C811086
6	12/24/13	C.P	Los Angeles (90058)	000234	Hydrocodone/APAP 7.5/750 90 tablets	C811122
					Diazepam 10 mg 90 tablets	C811123
					Promethazine with Codeine Syrup 240 ml	C811124
7	12/24/13	T.W.	Los Angeles (90059)	000231	Hydrocodone/APAP 7.5/750 90 tablets	C811128
					Diazepam 10 mg 90 tablets	C811129
					Promethazine with Codeine Syrup 240 ml	C811130
8	12/24/13	B.S.	Los Angeles (90059)	000232	Hydrocodone/APAP 7.5/750 90 tablets	C811133
					Promethazine with Codeine Syrup 240 ml	C811134
9	12/24/13	B.P.	Los Angeles (90047)	000233	Hydrocodone/APAP 7.5/750 90 tablets	C811137
					Diazepam 10 mg 90 tablets	C811138



					Promethazine with Codeine Syrup 240 ml	C811139
10	12/24/13	E.T.	Los Angeles (90059)	000230	Hydrocodone/APAP 7.5/750 90 tablets	C811142
					Diazepam 10 mg 90 tablets	C811143
					Promethazine with Codeine Syrup 240 ml	C811144
11	12/24/13	J.M.	Compton (90220)	000226	Hydrocodone/APAP 7.5/750 90 tablets	C811149
					Diazepam 10 mg 90 tablets	C811150
					Promethazine with Codeine Syrup 240 ml	C811151
12	12/24/13	M.S.	Los Angeles (90058)	000228	Hydrocodone/APAP 7.5/750 90 tablets	C811154
					Clonazepam 2 mg 90 tablets	C811155
					Promethazine with Codeine Syrup 240 ml	C811156
13	12/24/13	R.W.	Los Angeles (90059)	000225	Hydrocodone/APAP 7.5/750 90 tablets	C811169
					Clonazepam 2 mg 90 tablets	C811170
					Promethazine with Codeine Syrup 240 ml	C811171
14	12/24/13	S.J.	Los Angeles (90047)	000227	Hydrocodone/APAP 7.5/750 90 tablets	C811174
					Diazepam 10 mg 90 tablets	C811175
					Promethazine with Codeine Syrup 240 ml	C811176
15	12/26/13	S.J.	Hollywood (90028)	000240	Hydrocodone/APAP 7.5/750 90 tablets	C811099
					Clonazepam 2 mg 90 tablets	C811100
					Promethazine with Codeine Syrup 240 ml	C811101

16	12/26/13	R.B	Los Angeles (90057)	000242	Hydrocodone/APAP 7.5/750 90 tablets	C811104
					Promethazine with Codeine Syrup 240 ml	C811105
17	12/26/13	R.V.	Los Angeles (90020)	000246	Hydrocodone/APAP 7.5/750 90 tablets	C811108
					Clonazepam 2 mg 90 tablets	C811109
					Promethazine with Codeine Syrup 240 ml	C811110
18	12/26/13	E.W.	Los Angeles (90017)	000245	Hydrocodone/APAP 7.5/750 90 tablets	C811114
					Promethazine with Codeine Syrup 240 ml	C811115
19	12/26/13	A.P.	Los Angeles (90011)	000241	Hydrocodone/APAP 7.5/750 90 tablets	C811118
					Promethazine with Codeine Syrup 240 ml	C811119
20	12/26/13	S.A.	Highland Park (90042)	000247	Hydrocodone/APAP 7.5/750 90 tablets	C811183
					Diazepam 10 mg 90 tablets	C811184
					Promethazine with Codeine Syrup 240 ml	C811185
21	4/10/14	B.B.	Los Angeles (90044)	001927	Hydrocodone/APAP 10/325 90 tablets	C814809
					Clonazepam 2 mg 90 tablets	C814810
					Promethazine with Codeine Syrup 240 ml	C814811
22	4/10/14	J.H.	Los Angeles (90056)	001923	Hydrocodone/APAP 10/325 90 tablets	C814817
					Diazepam 10 mg 90 tablets	C814818
					Promethazine with Codeine Syrup 240 ml	C814819
23	4/10/14	M.S.	Los Angeles (90014)	001935	Hydrocodone/APAP 10/325 90 tablets	C814825
					Clonazepam 2 mg 90 tablets	C814826

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					Promethazine with Codeine Syrup 240 ml	C814827
24	4/10/14	A.W.	Los Angeles (90044)	001938	Hydrocodone/APAP 10/325 90 tablets	C814830
					Diazepam 10 mg 90 tablets	C814831
					Promethazine with Codeine Syrup 240 ml	C814832
25	4/10/14	M.N.	Inglewood (90302)	001933	Hydrocodone/APAP 10/325 90 tablets	C814835
					Diazepam 10 mg 90 tablets	C814836
					Promethazine with Codeine Syrup 240 ml	C814837
26	4/10/14	C.V.	Los Angeles (90014)	001939	Hydrocodone/APAP 10/325 90 tablets	C814846
					Promethazine with Codeine Syrup 240 ml	C814848
27	4/10/14	U.G.	Los Angeles (90073)	001937	Hydrocodone/APAP 10/325 90 tablets	C814853
					Promethazine with Codeine Syrup 240 ml	C814854
28	4/10/14	C.B.	Los Angeles (90045)	001928	Hydrocodone/APAP 10/325 90 tablets	C814859
					Diazepam 10 mg 90 tablets	C814861
					Promethazine with Codeine Syrup 240 ml	C814862
29	4/10/14	G.B.	Los Angeles (90017)	001934	Hydrocodone/APAP 10/325 90 tablets	C814866
					Diazepam 10 mg 90 tablets	C814867
					Promethazine with Codeine Syrup 240 ml	C814868
30	4/10/14	A.J.	Los Angeles (90061)	001943	Hydrocodone/APAP 10/325 90 tablets	C814840
					Clonazepam 2 mg 90 tablets	C814841
					Promethazine with Codeine Syrup 240 ml	C814842
31	4/10/14	L.A.	Los Angeles (90019)	001929	Hydrocodone/APAP 10/325 90 tablets	C814878

					Promethazine with Codeine Syrup 240 ml	C814879
32	4/10/14	M.M.	Los Angeles (90032)	001930	Hydrocodone/APAP 10/325 90 tablets	C814882
					Clonazepam 2 mg 90 tablets	C814883
					Promethazine with Codeine Syrup 240 ml	C814884
33	4/10/14	M.C.	Los Angeles (90037)	001931	Hydrocodone/APAP 10/325 90 tablets	C814887
					Diazepam 10 mg 90 tablets	C814888
					Promethazine with Codeine Syrup 240 ml	C814889

26. Respondents dispensed the majority of these prescriptions without billing insurance, even though some of the patients had insurance, and most of the patients paid cash for their prescriptions.

Phoned-in Prescriptions Written by Dr. N.

27. The phoned in prescriptions showed identical or similar prescriptions phoned-in on the same day for multiple patients, that several of the prescriptions had "no" written at the top of it indicating that Respondents' did not have patient information, and the prescriptions were written for the same (or similar) combinations of drugs in the same quantity, strength, and dosing frequency:

	Date Typed by Elim	Date Phoned-In	Patient Name	Patient Location	Drug	RX No. (Assigned by Elim)
1	4/16/13	4/11/13	S.J.	N. Hollywood (91605)	Diazepam 10 mg 90 tablets	C801739
2	4/16/13	4/13/13	L.D.	Los Angeles (90018)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801778
					Diazepam 10 mg 90 tablets	C801779
					Promethazine with Codeine 240 ml	C804780
3	4/16/13	4/16/13	C.T.	Los Angeles (90002)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801792

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					Diazepam 10 mg 90 tablets	C801793
					Promethazine with Codeine 240 ml	C801794
4	4/16/13	4/16/13	S.W.	Los Angeles (90044)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801795
					Diazepam 10 mg 90 tablets	C801796
					Promethazine with Codeine 240 ml	C801797
5	4/16/13	4/16/13	J.M.	Los Angeles (90021)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801798
					Diazepam 10 mg 90 tablets	C801799
					Promethazine with Codeine 240 ml	C801800
6	4/16/13  *Hydrocodone dated 4/22/13	4/16/13	W.L.	Los Angeles (90003)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801802
					Diazepam 10 mg 90 tablets	C801803
					Promethazine with Codeine 240 ml	C801804
7	4/16/13	4/16/13	C.A.	Los Angeles (90033)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801805
					Diazepam 10 mg 90 tablets	C801806
					Promethazine with Codeine 240 ml	C801807
8	4/16/13  *Hydrocodone dated 4/22/13	4/16/13	L.F.	Los Angeles (90061)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801808
					Diazepam 10 mg 90 tablets	C801809
					Promethazine with Codeine 240 ml	C801810
9	4/16/13	4/16/13	F.W.	Los Angeles (90002)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801811
					Diazepam 10 mg 90 tablets	C801812
					Promethazine with Codeine 240 ml	C801813

10	4/16/13	4/16/13	J.C.	Los Angeles (90044)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801814
					Diazepam 10 mg 90 tablets	C801815
					Promethazine with Codeine 240 ml	C801816
11	4/16/13	4/16/13	A.L.	Los Angeles (90003)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801817
					Diazepam 10 mg 90 tablets	C801818
					Promethazine with Codeine 240 ml	C801819
12	4/16/13	4/16/13	S.J.	Los Angeles (90002)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801820
					Diazepam 10 mg 90 tablets	C801821
					Promethazine with Codeine 240 ml	C801822
13	4/16/13	4/16/13	Y.G.	Los Angeles (90002)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801823
	*Hydrocodone dated 4/17/13				Diazepam 10 mg 90 tablets	C801824
					Promethazine with Codeine 240 ml	C801826
14	4/16/13	4/16/13	G.P.	Inglewood (90303)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801827
	*Hydrocodone dated 4/17/13				Diazepam 10 mg 90 tablets	C801828
					Promethazine with Codeine 240 ml	C801829
15	4/17/13	4/17/13	S.J.	Los Angeles (90013)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801833
					Diazepam 10 mg 90 tablets	C801834
					Promethazine with Codeine 240 ml	C801835
16	4/17/13	4/16/13	G.P.	Inglewood (90303)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801827
17	4/17/13	4/16/13	Y.G.	Los Angeles (90002)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801823
18	4/17/13	4/17/13	S.B.	Los Angeles (90018)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801836

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					Diazepam 10 mg 90 tablets	C801837
					Promethazine with Codeine 240 ml	C801838
19	4/17/13	4/17/13	K.D.	Hawthorne (90250)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801845
					Diazepam 10 mg 90 tablets	C801846
					Promethazine with Codeine 240 ml	C801847
20	4/17/13	4/17/13	B.J.	Los Angeles (90008)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801860
					Diazepam 10 mg 90 tablets	C801861
					Promethazine with Codeine 240 ml	C801862
21	4/17/13	4/17/13	R.B.	Marina Del Ray (90292)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801863
					Diazepam 10 mg 90 tablets	C801864
					Promethazine with Codeine 240 ml	C801865
22	4/18/13	4/18/13	C.O.	Los Angeles (90019)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801884
					Diazepam 10 mg 90 tablets	C801885
					Promethazine with Codeine 240 ml	C801886
23	4/18/13	4/18/13	C.G.	Los Angeles (90044)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801888
					Diazepam 10 mg 90 tablets	C801889
					Promethazine with Codeine 240 ml	C801890
24	4/18/13	4/18/13	J.J.	Los Angeles (90028)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801875
					Diazepam 10 mg 90 tablets	C801876
					Promethazine with Codeine 240 ml	C801877

25	4/18/13	4/18/13	P.R.	Compton (90220)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801896
26	4/18/13	4/18/13	D.R.	Compton (90220)	Promethazine with Codeine 240 ml	C801897
27	5/13/13	5/13/13	M.O.	Los Angeles (90045)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C801898
28	5/13/13	5/13/13	L.W.	Los Angeles (90013)	Diazepam 10 mg 90 tablets	C801899
29	5/13/13	5/11/13	R.W.	Los Angeles (90059)	Promethazine with Codeine 240 ml	C801900
30	5/13/13	5/13/13	M.J.	Los Angeles (90001)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C802734 C802735 C802736
31	5/13/13	5/13/13	C.M.	Lakewood (90715)	Diazepam 10 mg 90 tablets	C802737
					Promethazine with Codeine 240 ml	C802738
					Hydrocodone/APAP 7.5/750 mg 90 tablets	C802739
					Diazepam 10 mg 90 tablets	C802741
					Promethazine with Codeine 240 ml	C802742
					Hydrocodone/APAP 7.5/750 mg 90 tablets	C802743
					Diazepam 10 mg 90 tablets	C802744
					Promethazine with Codeine 240 ml	C802745
					Hydrocodone/APAP 7.5/750 mg 90 tablets	C802746
					Diazepam 10 mg 90 tablets	C802750
					Promethazine with Codeine 240 ml	C802751
					Hydrocodone/APAP 7.5/750 mg 90 tablets	C802752



32	5/14/13	5/14/13	S.W.	Los Angeles (90044)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C802767
					Diazepam 10 mg 90 tablets	C802768
					Promethazine with Codeine 240 ml	C802769
33	5/14/13	5/14/13	J.M.	Los Angeles (90021)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C802771
					Diazepam 10 mg 90 tablets	C802772
					Promethazine with Codeine 240 ml	C802773
34	5/14/13	5/14/13	W.H.	Compton (90221)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C802774
					Diazepam 10 mg 90 tablets	C802775
					Promethazine with Codeine 240 ml	C802776
35	5/14/13	5/13/13	S.C.	Los Angeles (90037)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C802778
					Diazepam 10 mg 90 tablets	C802779
					Promethazine with Codeine 240 ml	C802780
36	5/14/13	5/14/13	B.P.	Los Angeles (90057)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C802787
					Diazepam 10 mg 90 tablets	C802788
					Promethazine with Codeine 240 ml	C802789
37	5/14/13	5/14/13	L.L.	Los Angeles (90013)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C802790
					Diazepam 10 mg 90 tablets	C802791
					Promethazine with Codeine 240 ml	C802792
38	5/14/13	5/14/13	L.D.	Hawthorne (90250)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C802797
					Diazepam 10 mg 90 tablets	C802798

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					Promethazine with Codeine 240 ml	C802799
39	7/25/13	7/25/13	D.T.	Valley Village (91607)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805404
					Diazepam 10 mg 90 tablets	C805405
					Promethazine with Codeine 240 ml	C805406
40	7/25/13	7/25/13	C.H.	Los Angeles (90017)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805408
					Diazepam 10 mg 90 tablets	C805410
					Promethazine with Codeine 240 ml	C805409
41	7/25/13	7/25/13	N.P.	Maywood (90270)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805414
					Promethazine with Codeine 240 ml	C805415
42	7/26/13	7/23/13	S.P.	Los Angeles (90014)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805446
					Clonazepam 2 mg 90 tablets	C805448
					Promethazine with Codeine 240 ml	C805449
43	7/26/13	7/25/13	J.J.	Los Angeles (90037)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805454
					Diazepam 10 mg 90 tablets	C805455
					Promethazine with Codeine 240 ml	C805456
44	7/26/13	7/25/13	P.T.	Compton (90221)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805458
					Diazepam 10 mg 90 tablets	C805459
					Promethazine with Codeine 240 ml	C805460
45	7/26/13	7/25/13	D.B.	Los Angeles (90021)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805470
					Clonazepam 2 mg 90 tablets	C805471
					Promethazine with Codeine 240 ml	C805472

46	7/26/13	7/25/13	J.M.	Los Angeles (90021)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805480
					Diazepam 10 mg 90 tablets	C805481
					Promethazine with Codeine 240 ml	C805482
47	7/26/13	7/25/13	S.H.	Los Angeles (90056)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805485
					Diazepam 10 mg 90 tablets	C805486
					Promethazine with Codeine 240 ml	C805487
48	7/26/13	7/17/13	C.H.	Los Angeles (90003)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805493
					Diazepam 10 mg 90 tablets	C805494
					Promethazine with Codeine 240 ml	C805495
49	7/27/13	7/25/13	L.T.	Los Angeles (90043)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805502
					Diazepam 10 mg 90 tablets	C805503
					Promethazine with Codeine 240 ml	C805504
50	7/27/13	7/25/13	D.L.	Los Angeles (90014)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805506
					Diazepam 10 mg 90 tablets	C805507
					Promethazine with Codeine 240 ml	C805508
51	7/27/13	7/25/13	S.A.	Highland Park (90042)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805510
					Diazepam 10 mg 90 tablets	C805511
					Promethazine with Codeine 240 ml	C805512
52	7/27/13	7/26/13	C.W.	Signal Hill (90755)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805514
					Promethazine with Codeine 240 ml	C805515

53	7/27/13	7/26/13	L.W.	Long Beach (90059)	Promethazine with Codeine 240 ml	C805519
54	7/27/13	7/25/13	J.P.	Los Angeles (90037)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805520
					Diazepam 10 mg 90 tablets	C805521
					Promethazine with Codeine 240 ml	C805522
55	7/30/13	7/30/13	B.L.	Long Beach (90805)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805579
					Diazepam 10 mg 90 tablets	C805580
					Promethazine with Codeine 240 ml	C805581
56	7/30/13	7/30/13	C.K.	Los Angeles (90013)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805586
					Promethazine with Codeine 240 ml	C805587
57	7/30/13	7/30/13	K.W.	Los Angeles (90059)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805589
					Diazepam 10 mg 90 tablets	C805590
					Promethazine with Codeine 240 ml	C805591
58	7/30/13	7/30/13	W.K.	Los Angeles (90059)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805593
					Diazepam 10 mg 90 tablets	C805594
					Promethazine with Codeine 240 ml	C805595
59	8/7/13	8/3/13	R.S.	Long Beach (90280)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805917
					Promethazine with Codeine 240 ml	C805918
60	8/7/13	8/3/13	A.C.	Long Beach (90805)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805920 C805921
					Promethazine with Codeine 240 ml	
61	8/7/13	8/5/13	S.L.	Compton (90221)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805925
					Diazepam 10 mg 90 tablets	C805926

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					Promethazine with Codeine 240 ml	C805927
62	8/7/13	8/5/13	W.P.	Los Angeles (90059)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805929
					Diazepam 10 mg 90 tablets	C805930
					Promethazine with Codeine 240 ml	C805931
63	8/7/13	8/5/13	V.B.	Los Angeles (90059)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805933
					Diazepam 10 mg 90 tablets	C805934
					Promethazine with Codeine 240 ml	C805935
64	8/7/13	8/5/13	T.W.	Los Angeles (90059)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805937
					Diazepam 10 mg 90 tablets	C805938
					Promethazine with Codeine 240 ml	C805939
65	8/7/13	8/6/13	P.D.	Compton (90220)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805942
					Promethazine with Codeine 240 ml	C805943
66	8/7/13	8/6/13	L.H.	Los Angeles (90061)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805946
					Clonazepam 2 mg 90 tablets	C805947
					Promethazine with Codeine 240 ml	C805948
67	8/8/13	8/8/13	D.R.	Compton (90220)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805979
					Promethazine with Codeine 240 ml	C805980
68	8/8/13	8/8/13	M.J.	Los Angeles (90811)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805991
					Diazepam 10 mg 90 tablets	C805992
					Promethazine with Codeine 240 ml	C805993
69	8/8/13	8/8/13	T.G.	Long Beach (90806)	Hydrocodone/APAP 7.5/750 mg 90 tablets	C805997

					Diazepam 10 mg 90 tablets	C805998
					Promethazine with Codeine 240 ml	C805999

28. There was no documentation on any of the prescription documents to show that Respondents had contacted the prescriber to verify the validity of the prescriptions. In addition, signed documents attached to the original prescriptions showed that many of the medications were picked up by another individual, which was not the patient. Certifications for "permission" were completed by the individual picking up the prescription, rather than the patient. In addition, there were individuals who picked up prescriptions on behalf of several patients. For example, J.H. of Los Angeles picked up prescriptions for patient S.J. (of N. Hollywood) on April 16, 2013, patients Y.G. (of Los Angeles) and G.P. (of Inglewood) on April 19, 2013, and patient A.L. (of Los Angeles) on April 20, 2013.

29. Additionally, there were numerous out-of-area patients with the same address who received the same or similar drug regime. For example, there were five patients with the same address in Los Angeles who all received the same controlled drug combination of hydrocodone/APAP 7.5/750 mg, diazepam 10 mg, and promethazine with codeine syrup from Dr. N., in the same exact quantities, with the same dosage instructions. In another example, fifteen patients with the same exact address in Los Angeles (which belongs to a shelter) obtained the same or similar drug combinations from Respondent Elim Pharmacy.

30. Further review of Respondent Elim Pharmacy's dispensing data showed unusual activities occurring frequently (sometimes daily) for almost two years between January 1, 2013 and March 27, 2015. In fact, there were approximately 190 instances when Elim Pharmacy processed consecutively (or near consecutively) between 15-34 prescriptions to 6-12 patients within minutes apart on the same day.

31. Respondent Elim Pharmacy's dispensing data also showed that of all of the prescriptions that Respondents dispensed between January 2, 2013 and April 21, 2016, approximately 62.2% of controlled drug prescriptions were dispensed without billing to

1 prescription insurance. In addition, the most dispensed prescription drug at Respondent Elim  
2 Pharmacy was promethazine with codeine, followed by hydrocodone/acetaminophen.  
3 Additionally, dispensing data showed that Dr. N. was Respondent Elim Pharmacy's overall top  
4 prescriber. In fact, Dr. N. issued approximately 55% of all controlled drug prescriptions issued at  
5 Respondent Elim Pharmacy. Of those prescriptions written by Dr. N., 91.6% were paid in cash.  
6 Additionally, the data showed two additional out-of-area prescribers with high percentages of  
7 cash prescriptions. Dr. O.<sup>2</sup> of Lynwood and Dr. R.<sup>3</sup> of Lynwood were among the top prescribers  
8 of controlled substance prescriptions dispensed by Respondent Elim Pharmacy for out-of-area  
9 patients. Drs. O. and R. issued their patients drug combinations of potent, highly abused  
10 controlled substances. 99% of the total prescriptions issued by Dr. R. were not billed to insurance  
11 and 75% of the total prescriptions issued by Dr. O. were not billed to insurance.

12 32. The inspector questioned Respondent Funmi Adereti about the steps she took to  
13 ensure that Respondent Elim Pharmacy was dispensing only medically legitimate controlled  
14 substance prescriptions. Respondent Funmi Adereti stated that she checked the patient's profile  
15 at Respondent Elim Pharmacy and considered the distance between the patient's home, the  
16 prescriber, and the pharmacy. With respect to her access to CURES, Respondent Funmi Adereti  
17 stated that she sometimes accessed the CURES database and that she believed she had registered  
18 with CURES in 2014. Respondent Funmi Adereti also stated that she did not believe cash  
19 payments for prescriptions was a red flag for potentially illegitimate prescriptions.

20 33. After reviewing and analyzing all of the data collected during the investigation, the  
21 Board inspector found several factors of irregularity, including the prescriptions were paid in  
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23 <sup>2</sup> The United States District Court, Central District of California issued an order in Case  
24 Number 2:15-MJ-01678, effective August 26, 2016, ordering Dr. O. to not prescribe or otherwise  
25 handle prescription drugs, except for his own medical care or medical care of an immediate  
26 family member.

27 <sup>3</sup> The United States District Court, Central District of California issued an order in Case  
28 Number 2:15-MJ-01676, effective August 26, 2016, ordering Dr. R. to not prescribe or otherwise  
handle prescription drugs, except for his own medical care or medical care of an immediate  
family member. On or about June 9, 2017, the Medical Board of California filed an Accusation  
against Dr. R. based on allegations that he prescribed controlled substances without an  
appropriate examination and/or medical indication, excessively prescribed narcotics, violated  
drug laws by prescribing controlled substances in the absence of a legitimate medical purpose,  
was grossly negligent, and committed repeated negligent acts.

1 cash, there were long drive-time and distances between the patient's home to the prescriber's  
2 office or pharmacy and back, there were multiple patients with the same address, prescriptions  
3 were dispensed nearly consecutively/sequentially according to prescription numbers, the same or  
4 similar combinations of drugs were prescribed for multiple patients, and initial prescriptions were  
5 written for high doses of opiates and benzodiazepines. In fact, controlled drug prescriptions were  
6 issued at or near the highest drug strengths available on the market. Indeed, there were numerous  
7 instances where Respondents dispensed to patients initial prescriptions for benzodiazepines and  
8 HCP at maximum or near maximum strengths, despite any record of the patient having previous  
9 exposure to the drugs within the past 6-14 months and in cases where the patient's age would  
10 have made them more susceptible to the drug's adverse effects. Moreover, the controlled  
11 prescriptions were issued in combinations that have overlapping side effects which, when taken  
12 together, have the potential to cause serious adverse effects such as Central Nervous System and  
13 respiratory depression. In addition, several of the patients received the drug combinations for a  
14 prolonged period of time without any long-acting pain medication or adjunct treatment with non-  
15 controlled drugs for pain. Additionally, several patients received promethazine with codeine  
16 cough syrup for extended periods of time in the absence of other pharmacologic treatment  
17 indicative of a diagnosis for chronic allergy or upper respiratory infection. Data also showed that  
18 some patients had obtained controlled substances from multiple other pharmacies (poly-  
19 pharmacy), which is also a red flag.

#### 20 **FIRST CAUSE FOR DISCIPLINE**

##### 21 **(Failing to Comply with Corresponding Responsibility** 22 **for Legitimate Controlled Substance Prescriptions)**

23 34. Respondents are subject to disciplinary action under Code sections 4301(j) and (o),  
24 for violating Health and Safety Code section 11153(a) and section 1306.04(a) of title 21 of the  
25 Code of Federal Regulations, in that they failed to comply with their corresponding responsibility  
26 to ensure that controlled substances were dispensed for a legitimate medical purpose when  
27 Respondents furnished prescriptions for controlled substances even though "red flags" were

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1 present to indicate those prescriptions were not issued for a legitimate medical purpose, as set  
2 forth in paragraphs 22 through 33 above, which are incorporated herein by reference.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Dispensing Prescriptions Which Contain a Significant Irregularity,  
5 Uncertainty, or Ambiguity)**

6 35. Respondents are subject to disciplinary action under Code section 4301(o), for  
7 violating California Code of Regulations, title 16, section 1761, in that Respondents dispensed  
8 prescriptions which contained significant irregularities, uncertainties, or ambiguities, as set forth  
9 in paragraphs 22 through 33 above, which are incorporated herein by reference.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Failing to Comply with Corresponding Responsibility  
12 for Legitimate Controlled Substance Prescriptions)**

13 36. Respondent Funmi Adereti is subject to disciplinary action under Code section 4301,  
14 for unprofessional conduct as defined by Code section 4306.5, in that Respondent failed to  
15 exercise or implement her best professional judgment or corresponding responsibility with regard  
16 to the dispensing or furnishing of controlled substances, as set forth in paragraphs 22 through 33  
17 above, which are incorporated herein by reference.

18 **OTHER MATTERS**

19 37. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number  
20 PHY 44534 issued to Elim Pharmacy, shall be prohibited from serving as a manager,  
21 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if  
22 Pharmacy Permit Number PHY 44534 is placed on probation or until Pharmacy Permit Number  
23 PHY 44534 is reinstated if it is revoked.

24 38. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number  
25 PHY 44534 issued to Elim Pharmacy, while Funmi Mojisola Adereti has been an officer and  
26 owner and had knowledge of or knowingly participated in any conduct for which the licensee was  
27 disciplined, Funmi Mojisola Adereti shall be prohibited from serving as a manager, administrator,  
28 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy

1 Permit Number PHY 44534 is placed on probation or until Pharmacy Permit Number PHY 44534  
2 is reinstated if it is revoked.

3 39. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License  
4 Number RPH 47629, issued to Funmi Mojisola Adereti, Funmi Mojisola Adereti shall be  
5 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,  
6 or partner of a licensee for five years if Pharmacist License Number RPH 47629 is placed on  
7 probation or until Pharmacist License Number RPH 47629 is reinstated if it is revoked.

8 **PRAYER**

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

11 1. Revoking or suspending Pharmacist License Number RPH 47629, issued to Funmi  
12 Mojisola Adereti;

13 2. Revoking or suspending Pharmacy Permit Number PHY 44534, issued to Elim  
14 Pharmacy;

15 3. Prohibiting Elim Pharmacy from servicing as a manager, administrator, owner,  
16 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
17 Number PHY 44534 is placed on probation or until Pharmacy Permit Number PHY 44534 is  
18 reinstated if Pharmacy Permit Number PHY 44534 issued to Elim Pharmacy, is revoked;

19 4. Prohibiting Funmi Mojisola Adereti from serving as a manager, administrator, owner,  
20 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
21 Number PHY 44534 is placed on probation or until Pharmacy Permit Number PHY 44534 is  
22 reinstated if Pharmacy Permit Number PHY 44534 issued to Elim Pharmacy, is revoked;

23 5. Prohibiting Funmi Mojisola Adereti from serving as a manager, administrator, owner,  
24 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License  
25 Number RPH 47629 is placed on probation or until Pharmacist License Number RPH 47629 is  
26 reinstated if Pharmacist License Number RPH 47629 issued to Funmi Mojisola Adereti is  
27 revoked;

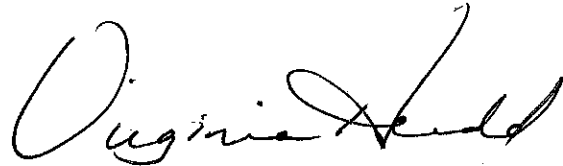
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1           6.     Ordering Funmi Mojisola Adereti and Elim Pharmacy to pay the Board of Pharmacy  
2 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
3 Professions Code section 125.3; and,

4           7.     Taking such other and further action as deemed necessary and proper.  
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8 DATED: \_\_\_\_\_

9/5/17



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

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