

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 PHILLIP L. ARTHUR  
Deputy Attorney General  
4 State Bar No. 238339  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 322-0032  
Facsimile: (916) 327-8643  
7 E-mail: Phillip.Arthur@doj.ca.gov  
*Attorneys for Complainant*

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

11 In the Matter of the Statement of Issues  
12 Against:

Case No. 4892

13 **CAREPOINT PHARMACY**  
14 **and**  
**BHAVESH R. PATEL**

**STATEMENT OF ISSUES**

15 **Nonresident Pharmacy Permit Applicant**

16 Respondents.  
17

18  
19 Complainant alleges:

20 PARTIES

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

23 2. On or about April 22, 2013, the Board of Pharmacy, Department of Consumer Affairs  
24 received an application for a Nonresident Pharmacy Permit from Carepoint Pharmacy  
25 (Respondent Carepoint). On or about March 14, 2013, Bhavesh Patel (Respondent Patel), who is  
26 the president of Carepoint, certified under penalty of perjury to the truthfulness of all statements,  
27 answers, and representations in the application, and certified that he would serve as pharmacist-  
28 in-charge for Carepoint. The Board denied the application on June 19, 2013.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

JURISDICTION

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

STATUTORY PROVISIONS

4. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

" . . .

"(3)(A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made. . . ."

5. Section 4300 of the Code states, in pertinent part, that the board may refuse a license to any applicant guilty of unprofessional conduct.

6. 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:

" . . .

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter. . . ."

///

///

///

///

1 REGULATORY PROVISIONS

2 7. California Code of Regulations, title 16, section 1770, states:

3 "For the purpose of denial, suspension, or revocation of a personal or facility license  
4 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
5 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
6 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
7 licensee or registrant to perform the functions authorized by his license or registration in a manner  
8 consistent with the public health, safety, or welfare."

9 FIRST CAUSE FOR DENIAL OF APPLICATION

10 (Commission of Act Substantially Related to the Qualifications, Functions, or Duties of the  
11 Business)

12 8. Respondent Carepoint's application is subject to denial under section 480, subsection  
13 (a)(3) of the Code, in conjunction with California Code of Regulations, title 16, section 1770, in  
14 that on or about September 27, 2012, through a consent order in *Department of Financial and*  
15 *Professional Regulation, Division of Professional Regulation of the State of Illinois v. Bhavesh R.*  
16 *Patel*, State of Illinois, Illinois Department of Financial and Professional Regulation, Division of  
17 Professional Regulation, case no. 2010-07314, Respondent Patel's Illinois pharmacist license was  
18 reprimanded. The circumstances are as follows:

19 a. Respondent Patel was the pharmacist-in-charge of Orsini Pharmaceutical  
20 Services ("Orsini"). The Illinois Department of Financial and Professional Regulation, Division  
21 of Professional Regulation ("Department") received information indicating that Orsini dispensed  
22 expired IV products to a patient. In addition, a Department inspection of Orsini revealed several  
23 violations of the Illinois Pharmacy Practice Act including: (1) controlled substances invoices  
24 were not separated; (2) stock bottles were not properly labeled with the lot number and expiration  
25 date; (3) expired products were found in the automated dispensing machine; (4) pharmacy staff  
26 members were found not to be wearing name badges; (5) controlled substances were not separated  
27 or distinguished; and (6) allergy information was not recorded on the patient's profile in some  
28 instances. Through the consent order, Respondent admitted these allegations.

1 SECOND CAUSE FOR DENIAL OF APPLICATION

2 (Unprofessional Conduct—Out of State Discipline)

3 9. Respondent Carepoint's application is subject to denial under section 4301, subsection  
4 (n) of the Code in that on or about September 27, 2012, Respondent Patel's pharmacist license  
5 was reprimanded in Illinois, as more fully set forth in paragraph 8 and its subpart.

6 PRAYER

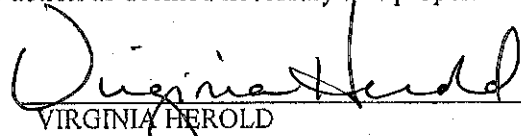
7 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
8 and that following the hearing, the Board of Pharmacy issue a decision:

9 1. Denying the application of Carepoint Pharmacy for a Nonresident Pharmacy Permit;

10 and

11 2. Taking such other and further action as deemed necessary and proper.

12 DATED: 9/19/13



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

13  
14  
15  
16  
17 SA2013112244  
18 11154677.doc