

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 CRISTINA FELIX  
Deputy Attorney General  
4 State Bar No. 195663  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2455  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Statement of Issues	Case No. 5212
11 Against:	
12 <b>ARTESIA PHARMACY, INC. DBA</b>	<b>STATEMENT OF ISSUES</b>
13 <b>TRIAD COMPOUNDING PHARMACY</b>	
14 <b>RONALD STEPHEN MILLER, CEO and</b>	
15 <b>Owner</b>	
16 <b>Licensed Sterile Compounding License</b>	
17 <b>Applicant</b>	
18 Respondents.	

18  
19  
20 Complainant alleges:

21 **PARTIES**

- 22 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
23 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 24 2. On or about April 5, 1996, the Board issued Pharmacy Permit Number PHY 41551 to  
25 Artesia Pharmacy, Inc., doing business as Triad Compounding Pharmacy (Respondent) with  
26 Ronald Stephen Miller designated as the Pharmacist-in-Charge, Owner and CEO. The Pharmacy  
27 Permit was in full force and effect at all times relevant to the charges brought herein and will  
28 expire on April 1, 2015, unless renewed.



transmitted from a licensed prescriber to a pharmacy.

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

8. Section 4052(a)(1) of the Code states:

(a) Notwithstanding any other law, a pharmacist:

(1) Furnish a reasonable quantity of compounded drug product to a prescriber for office use by the prescriber.

9. Section 4126.5 (a) of the Code states:

(a) A pharmacy may furnish dangerous drugs only to the following:

(1) A wholesaler owned or under common control by the wholesaler from whom the dangerous drug was acquired.

(2) The pharmaceutical manufacturer from whom the dangerous drug was acquired.

(3) A licensed wholesaler acting as a reverse distributor.

(4) Another pharmacy or wholesaler to alleviate a temporary shortage of a dangerous drug that could result in the denial of health care. A pharmacy furnishing dangerous drugs pursuant to this paragraph may only furnish a quantity sufficient to alleviate the temporary shortage.

(5) A patient or to another pharmacy pursuant to a prescription or as otherwise authorized by law.

(6) A health care provider that is not a pharmacy but that is authorized to purchase dangerous drugs.

(7) To another pharmacy under common control.

10. Section 4163 (a) of the Code states:

A manufacturer, wholesaler, repackager, or pharmacy may not furnish a dangerous drug or dangerous device to an unauthorized person.

11. Section 4169 (a)(1) of the Code states:

A person may not do any of the following: Purchase, trade, sell, or transfer dangerous drugs or dangerous devices at wholesale with a person or entity that is not licensed with the board as a wholesaler.

12. 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:

...

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

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

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

7 14. California Code of Regulations, title 16, section 1717 (c) states:

8 Promptly upon receipt of an orally transmitted prescription, the pharmacist  
9 shall reduce it to writing, and initial it, and identify it as an orally transmitted  
10 prescription. If the prescription is then dispensed by another pharmacist, the  
dispensing pharmacist shall also initial the prescription to identify him or herself. All  
11 orally transmitted prescriptions shall be received and transcribed by a pharmacist  
prior to compounding, filling, dispensing or furnishing. Chart orders as defined in  
12 section 4019 of the Business and Professions Code are not subject to the provisions of  
this subsection.

13 15. California Code of Regulations, title 16, section 1761 (a) states:

14 No pharmacist shall compound or dispense any prescription which contains any  
15 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon  
receipt of any such prescription, the pharmacist shall contact the prescriber to obtain  
16 the information needed to validate the prescription.

#### 17 **FACTUAL ALLEGATIONS**

18 16. At all times referenced herein, Respondent Ronald Miller was the Pharmacist-in-  
19 Charge of Respondent Triad Compounding Pharmacy.

20 17. From at least October 28, 2011 through August 8, 2013, Respondents received  
21 electronic image and data transmission prescription orders via facsimile or email from an  
22 unlicensed entity, SportPharm Pharmaceuticals, Inc. or a wholesaler, Champion Health Services,  
23 Inc. instead of a prescriber. Respondents then dispensed, furnished and sold drugs to SportPharm  
24 Pharmaceuticals, Inc. which the Board had issued citations and fines for engaging in unlicensed  
25 activities and/or to Champion Health Services, Inc..

26 18. Respondents furnished non-patient specific compounded drug products, allegedly for  
27 "prescriber office use" to Champion Healthcare Services, Inc. and SportPharm Pharmaceuticals,  
28 Inc. who were not prescribers.

1 19. Respondents accepted and filled prescriptions which did not contain the dates of  
2 issuance on them. Respondents also accepted and filled prescriptions from sources other than the  
3 prescriber, SportsPharm Pharmaceuticals, Inc. and Champion Healthcare Services, Inc. without  
4 documenting that they contacted the prescribers to validate the prescriptions. Respondents also  
5 did not reduce oral prescriptions to writing nor did pharmacists initial oral prescriptions which  
6 were reduced to writing.

7 20. From June 25, 2013 through August 8, 2013, Respondents sold and shipped drugs to  
8 states where Respondent Triad Compounding Pharmacy was not licensed to ship drugs but was  
9 required to be licensed to ship drugs into those states.

10 **FIRST CAUSE FOR DENIAL**

11 **(Sold Drugs to Unlicensed Entity)**

12 21. Respondent's application is subject to denial under Code sections 480(a)(3) and  
13 4301(o), for violating Business and Professions Code section 4169(a)(1), in that it sold or  
14 transferred dangerous drugs to an unlicensed entity, as set forth in paragraphs 16 through 20  
15 above, which are incorporated herein by reference.

16 **SECOND CAUSE FOR DENIAL**

17 **(Furnished Drugs to Unauthorized Entities)**

18 22. Respondent's application is subject to denial under Code sections 480(a)(3) and  
19 4301(o), for violating Business and Professions Code section 4126.5(a)(1), in that it furnished  
20 dangerous drugs to an unlicensed entity and a wholesaler, as set forth in paragraphs 16 through 20  
21 above, which are incorporated herein by reference.

22 **THIRD CAUSE FOR DENIAL**

23 **(Furnished Drugs to Unauthorized Person)**

24 23. Respondent's application is subject to denial under Code sections 480(a)(3) and  
25 4301(o), for violating Business and Professions Code section 4163(a)(1), in that it furnished  
26 dangerous drugs to an unauthorized person, an unlicensed entity, as set forth in paragraphs 16  
27 through 20 above, which are incorporated herein by reference.

28

1 **FOURTH CAUSE FOR DENIAL**

2 **(Sold or Delivered Drugs Out of State Without Licensure)**

3 24. Respondent's application is subject to denial under Code sections 480(a)(3) and  
4 4301(o), for violating Business and Professions Code section 4059.5(e), in that it sold and  
5 shipped dangerous drugs into states where Respondent Triad Compounding Pharmacy was  
6 unlicensed to ship drugs but was required to be licensed to do so, as set forth in paragraphs 16  
7 through 20 above, which are incorporated herein by reference.

8 **FIFTH CAUSE FOR DENIAL**

9 **(Failure to Reduce Oral Prescriptions to Writing or Initial Them)**

10 25. Respondent's application is subject to denial under Code sections 480(a)(3) and  
11 4301(o), for violating California Code of Regulations, title 16, section 1717(c), in that it failed to  
12 reduce oral prescriptions to writing and failed to have the pharmacist initial oral prescriptions  
13 reduced to writing, as set forth in paragraphs 16 through 20 above, which are incorporated herein  
14 by reference.

15 **SIXTH CAUSE FOR DENIAL**

16 **(Failure to Contact Prescriber to Validate Prescriptions)**

17 26. Respondent's application is subject to denial under Code sections 480(a)(3) and  
18 4301(o), for violating California Code of Regulations, title 16, section 1761(a), in that it did not  
19 contact the prescriber to validate prescriptions received from sources other than the prescribers,  
20 as set forth in paragraphs 16 through 20 above, which are incorporated herein by reference.

21 **SEVENTH CAUSE FOR DENIAL**

22 **(Accepted and Filled Prescriptions Without Date of Issue)**

23 27. Respondent's application is subject to denial under Code sections 480(a)(3) and  
24 4301(o), for violating Business and Professions Code sections 4040(a)(1)(C) and 1761(a), in that  
25 it accepted and filled prescriptions which did not contain the date issue written on them, as set  
26 forth in paragraphs 16 through 20 above, which are incorporated herein by reference.

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

**EIGHTH CAUSE FOR DENIAL**

**(Accepted and Received Prescriptions From Unlicensed Entity and Wholesaler)**

28. Respondent's application is subject to denial under Code sections 480(a)(3) and 4301(o), for violating Business and Professions Code section 1761(a) in that it accepted and filled electronic transmission prescriptions from an unlicensed entity and a wholesaler, as set forth in paragraphs 16 through 20 above, which are incorporated herein by reference.

**NINTH CAUSE FOR DENIAL**

**(Furnished Non-Patient Specific Compounded Drugs to Unlicensed Entity and Wholesaler)**

29. Respondent's application is subject to denial under Code sections 480(a)(3) and 4301(o), for violating Business and Professions Code section 4052(a)(1), in that it furnished non-patient specific compounded drugs for "prescriber office use" to entities who were not prescribers, as set forth in paragraphs 16 through 20 above, which are incorporated herein by reference.

**TENTH CAUSE FOR DENIAL**

**(Unprofessional Conduct)**

30. Respondent's application is subject to denial under Code sections 480(a)(3) and 4301(o), for unprofessional conduct in that it engaged in the activities described in paragraphs 16 through 20 above, which are incorporated herein by reference.

**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. Denying the application of Artesia Pharmacy, Inc., doing business as Triad Compounding Pharmacy for a Licensed Sterile Compounding License;

///

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

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

DATED: 3/16/16

*Virginia Herold*

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

LA2014511885  
70975860\_2.doc