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9 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

13 **RESIDENTIAL CARE HOME FOR YOU,**
14 **INC. d.b.a. HOME CARE PHARMACY,** Luis
Gaurano, president and Valerie Gaurano, vice
15 president and owners

16 Original Pharmacy Permit No. PHY 45192

17 **VALERIE GUARANO,**
2051 Kristi Court
18 Fallbrook, CA 92028

19 Original Pharmacist License No. RPH 38852

20 Respondent.

Accusation Case No. 2959

Citation No. CI-2005-30007

OAH No. L-2006070547

**STIPULATED SURRENDER AND
DISCIPLINE OF LICENSE AND
ORDER FOR HOME CARE
PHARMACY**

21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
23 proceeding that the following matters are true. This stipulation is for Valerie Guarano and Home
24 Care Pharmacy, it does not apply to Anne Cabrera or Cesar Cabrera.

25 **PARTIES**

26 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
27 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
28

1 by Bill Lockyer, Attorney General of the State of California, by James M. Ledakis, Deputy
2 Attorney General.

3 2. Residential Care Home For You, Inc. d.b.a Home Care Pharmacy, Valerie
4 Gaurano and Luis Gaurano, are represented in this proceeding by attorney Greg Jon Anthony,
5 whose address is 1010 Second Avenue, Suite 1011, San Diego, CA 92101 and Valerie Gaurano
6 who is represented Timothy Rutherford, whose address is 2368 Second Avenue, San Diego, CA
7 92101.

8 3. On or about April 25, 2001, the Board of Pharmacy issued Pharmacy
9 Permit No. PHY 45192 to Residential Care Home For You, Inc. dba Home Care Pharmacy;
10 Valerie Gaurano, and Luis Gaurano. The Permit expired on April 1, 2006. The Corporate
11 premises permit is being discontinued.

12 4. On or about August 23, 1984, the Board of Pharmacy issued Pharmacist
13 License No. RPH 38852 to Valerie Gaurano. The License was in full force and effect at all
14 times relevant to the charges brought in Accusation No. 2959 and will expire on April 1, 2007,
15 unless renewed.

16 JURISDICTION

17 5. Accusation No. 2959 was filed before the Board, and is currently pending
18 against Respondent. The Accusation and all other statutorily required documents were properly
19 served on Respondent on April 6, 2006. Respondent timely filed its Notice of Defense
20 contesting the Accusation. A copy of Accusation No. 2959 is attached as exhibit A and
21 incorporated herein by reference. Citation No. CI 2005-30007 was filed before the Board and is
22 currently pending against Home Care Pharmacy.

23 ADVISEMENT AND WAIVERS

24 6. Respondent has carefully read, fully discussed with counsel, and
25 understands the charges and allegations in Accusation No. 2959 and Citation No. CI 2005-30007.
26 Respondent also has carefully read, fully discussed with counsel, and understands the effects of
27 this Stipulated Surrender of License and Order. This stipulation constitutes a full and final
28 resolution of all matters against Respondents herein.

1 7. Respondent is fully aware of its legal rights in this matter, including the
2 right to a hearing on the charges and allegations in the Accusation and the Citation; the right to
3 be represented by counsel, at its own expense; the right to confront and cross-examine the
4 witnesses against them; the right to present evidence and to testify on its own behalf; the right to
5 the issuance of subpoenas to compel the attendance of witnesses and the production of
6 documents; the right to reconsideration and court review of an adverse decision; and all other
7 rights accorded by the California Administrative Procedure Act and other applicable laws.

8 8. Respondent voluntarily, knowingly, and intelligently waives and gives up
9 each and every right set forth above.

10 **CULPABILITY**

11 9. Respondent understands that the charges and allegations in Accusation No.
12 2959 and Citation No. CI 2005-30007, if proven at a hearing, constitute cause for imposing
13 discipline upon its Pharmacy Permit.

14 10. For the purpose of resolving the Accusation and Citation without the
15 expense and uncertainty of further proceedings, Respondent agrees that, at a hearing,
16 Complainant could establish a factual basis for the charges in the Accusation and Citation and
17 that those charges constitute cause for discipline. Respondent hereby gives up their right to
18 contest that cause for discipline exists based on those charges.

19 11. Respondent understands that by signing this stipulation Entity enables the
20 Board order accepting the surrender of their Pharmacy Permit without further process.

21 **RESERVATION**

22 12. The admissions made by Respondent herein are only for the purposes of
23 this proceeding, or any other proceedings in which the Board or other professional licensing
24 agency is involved, and shall not be admissible in any other criminal or civil proceeding.

25 **CONTINGENCY**

26 13. The parties understand and agree that facsimile copies of this Stipulated
27 Surrender of License and Order, including facsimile signatures thereto, shall have the same force
28 and effect as the originals.

1 14. In consideration of the foregoing admissions and stipulations, the parties
2 agree that the Board may, without further notice or formal proceeding, issue and enter the
3 following Order:

4 **ORDER**

5 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 45192, issued to
6 Respondent RESIDENTIAL CARE HOME FOR YOU, INC. dba HOME CARE PHARMACY
7 is surrendered and accepted by the Board.

8 15. HOME CARE PHARMACY shall lose all rights and privileges as a
9 pharmacy in California as of the effective date of the Board's Decision and Order. The
10 corporation may not submit a new license application for three years from the date of the Order.

11 16. HOME CARE PHARMACY shall cause to be delivered to the Board its
12 Permit license certificates on or before the effective date of the Decision and Order.

13 **ACCEPTANCE**

14 I have carefully read the above Stipulated Surrender of License and Order and
15 have fully discussed it with my attorney, Greg Jon Anthony. I understand the stipulation and the
16 effect it will have on my Pharmacy Permit License. I enter into this Stipulated Surrender of
17 License and Order voluntarily, knowingly, and intelligently; and agree to be bound by the
18 Decision and Order of the Board.

19 DATED: _____.

20
21 _____
22 RESIDENTIAL CARE HOME FOR YOU,
23 INC. dba HOME CARE PHARMACY
24 Luis Gaurano, authorized agent and owner

25 I have read and fully discussed with Residential Care Home For You, Inc. d.b.a.
26 Home Care Pharmacy this Stipulated Settlement and Order. I approve its form and content.

27 DATED: _____.

28 _____
29 GREGORY JON ANTHONY
30 Attorney for Home Care

1 14. In consideration of the foregoing admissions and stipulations, the parties
2 agree that the Board may, without further notice or formal proceeding, issue and enter the
3 following Order:

4 **ORDER**

5 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 45192, issued to
6 Respondent RESIDENTIAL CARE HOME FOR YOU, INC. dba HOME CARE PHARMACY
7 is surrendered and accepted by the Board.

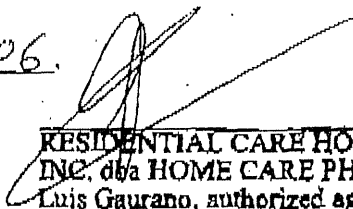
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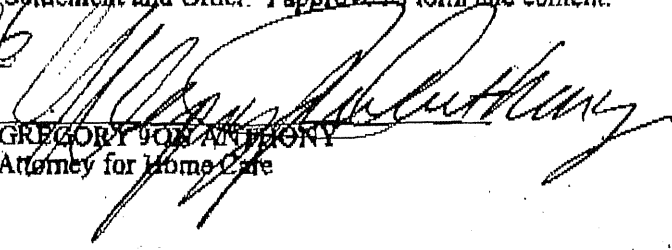
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16 effect it will have on my Pharmacy Permit License. I enter into this Stipulated Surrender of
17 License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the
18 Decision and Order of the Board.

19 DATED: 12-12-06

20 
21 RESIDENTIAL CARE HOME FOR YOU,
22 INC. dba HOME CARE PHARMACY
Luis Gaurano, authorized agent and owner

23 I have read and fully discussed with Residential Care Home For You, Inc. d.b.a.
24 Home Care Pharmacy this Stipulated Settlement and Order. I approve its form and content.

25 DATED: 12/12/06

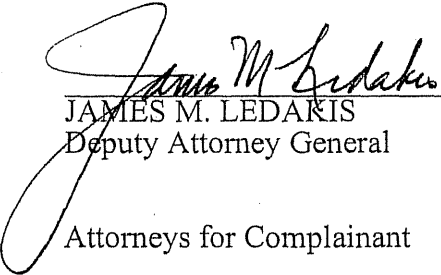
26 
27 GREGORY JON ANTHONY
28 Attorney for Home Care

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board.

DATED: December 12, 2006

BILL LOCKYER, Attorney General
of the State of California



JAMES M. LEDAKIS
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SD2005800399

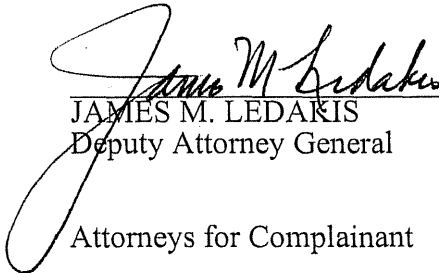
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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board.

DATED: December 12, 2006

BILL LOCKYER, Attorney General
of the State of California



JAMES M. LEDAKIS
Deputy Attorney General
Attorneys for Complainant

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**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

**RESIDENTIAL CARE HOME FOR YOU,
INC. d.b.a. HOME CARE PHARMACY**, Luis
Gaurano, president and Valerie Gaurano, vice
president and owners

Original Pharmacy Permit No. PHY 45192

VALERIE GUARANO,
2051 Kristi Court
Fallbrook, CA 92028

Original Pharmacist License No. RPH 38852

Respondent.

Accusation No. 2959

Citation No. CI 2005-30007

OAH No. L-2006070547

DECISION AND ORDER

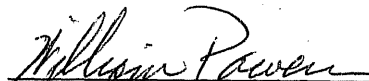
The attached Stipulated Surrender of Original Pharmacy Permit No. PHY 45192
is hereby adopted by the Board, as its Decision in this matter.

This Decision shall become effective on February 21, 2007.

It is so ORDERED January 22, 2007.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



WILLIAM POWERS

Board President

Exhibit A
Accusation No. 2959
Citation No. CT 2005-30007

1 BILL LOCKYER, Attorney General
of the State of California
2 JAMES M. LEDAKIS, State Bar No. 132645
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4 San Diego, CA 92101

5 P.O. Box 85266
San Diego, CA 92186-5266
6 Telephone: 619-645-2105
Facsimile: 619-645-2061

7 Attorneys for Complainant
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 **RESIDENTIAL CARE HOME FOR YOU,**
INC. d.b.a. HOME CARE PHARMACY, Luis
14 Gaurano, President and Valerie Gaurano, Vice
President and Owners

15 11711 Sterling Avenue, Suite E
16 Riverside, CA 92503

17 Original Pharmacy Permit No. PHY 45192

18 **VALERIE GAURANO, Pharmacist-in**
Charge at HOME CARE PHARMACY
19

20 2051 Kristi Ct.
FallBrook, CA 92028

21 Original Pharmacist License No. RPH 38852

22 **ANNE R. CABRERA, Pharmacist-in-Charge**
at HOME CARE PHARMACY
23

24 31921 Old Hickory Road
Trabuco Canyon, CA 92679

25 Original Pharmacist License No. RPH 40776

26 Respondents.
27
28

Case No. 2959

OAH No.

A C C U S A T I O N

1 Complainant alleges:

2 **PARTIES**

3 1. (Complainant) Patricia F. Harris brings this Accusation solely in her
4 official capacity as the Executive Officer for the California State Board of Pharmacy, Department
5 of Consumer Affairs.

6 2. On or about April 25, 2001, the Board of Pharmacy issued Original
7 Pharmacy Permit Number PHY 45192 to Residential Care Home For You, Inc., d.b.a. Home
8 Care Pharmacy. The license will expire on April 1, 2006, unless renewed.

9 3. On or about August 23, 1984, the Board of Pharmacy issued Original
10 Pharmacist license no. 38852 to Valerie Reyes Gaurano aka Valerie Anne Abanil Reyes. She
11 was the pharmacist in charge at HOME CARE PHARMACY from March 26, 2004 through
12 August 23, 2004. Her license will expire on April 1, 2006, unless renewed.

13 4. On or about March 17, 1986, the Board of Pharmacy issued Original
14 Pharmacist license no. 40776 to Anne Roberto Cabrera. She was the pharmacist in charge at
15 HOME CARE PHARMACY from August 23, 2004 to the present. Her license will expire on
16 July 31, 2006, unless renewed.

17 **JURISDICTION**

18 5. This Accusation is brought before the California State Board of Pharmacy
19 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
20 references are to the Business and Professions Code unless otherwise indicated.

21 6. Section 4059 (a) of the Code states, in pertinent part, that a person may not
22 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,
23 optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the
24 prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

25 7. Section 4070 (a) of the Code entitled, Oral or electronic data transmission
26 prescription; reduction to writing states: Except as provided in Section 4019 and subdivision (b),
27 an oral or an electronic data transmission prescription as defined in subdivision (c) of Section
28 4040 shall as soon as practicable be reduced to writing by the pharmacist and shall be filled by,

1 or under the direction of, the pharmacist. The pharmacist need not reduce to writing the address,
2 telephone number, license classification, federal registry number of the prescriber or the address
3 of the patient or patients if the information is readily retrievable in the pharmacy.

4 8. Section 4081 of the Code states:

5 (a) All records of manufacture and of sale, acquisition, or disposition of
6 dangerous drugs or dangerous devices shall be at all times during business hours open to
7 inspection by authorized officers of the law, and shall be preserved for at least three years
8 from the date of making. A current inventory shall be kept by every manufacturer,
9 wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist,
10 veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently
11 valid and unrevoked certificate, license, permit, registration, or exemption under Division
12 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4
13 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code
14 who maintains a stock of dangerous drugs or dangerous devices.

15 (b) The owner, officer, and partner of any pharmacy, wholesaler, or
16 veterinary food-animal drug retailer shall be jointly responsible, with the
17 pharmacist-in-charge or exemptee, for maintaining the records and inventory described in
18 this section.

19 (c) The pharmacist-in-charge or exemptee shall not be criminally
20 responsible for acts of the owner, officer, partner, or employee that violate this section
21 and of which the pharmacist-in-charge or exemptee had no knowledge, or in which he or
22 she did not knowingly participate.

23 9. Section 4105 of the Code states:

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

27 (b) The licensee may remove the original records or documentation from
28 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
exemptee, 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.

(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.

29 10. Section 4301 of the Code states:

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

1 the following:

2 (c) Gross negligence.

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

5 (j) The violation of any of the statutes of this state or of the United States
6 regulating controlled substances and dangerous drugs.

7 (o) Violating or attempting to violate, directly or indirectly, or assisting in
8 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.

9 (q) Engaging in any conduct that subverts or attempts to subvert an
10 investigation of the board.

11 11. Section 4333 of the Code states, in pertinent part, that all prescriptions
12 filled by a pharmacy and all other records required by Section 4081 shall be maintained on the
13 premises and available for inspection by authorized officers of the law for a period of at least
14 three years. In cases where the pharmacy discontinues business, these records shall be
15 maintained in a board-licensed facility for at least three years.

16 12. Section 480 states, in pertinent part:

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

19 (2) Done any act involving dishonesty, fraud or deceit with the intent to
substantially benefit himself or another, or substantially injure another; or

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

21
22 13. Section 118, subdivision (b), of the Code provides that the
23 suspension/expiration/surrender/cancellation of a license shall not deprive the Board of
24 jurisdiction to proceed with a disciplinary action during the period within which the license may
25 be renewed, restored, reissued or reinstated.

26 14. California Code of Regulations, title 16, section 1717, states:

27 (c) Promptly upon receipt of an orally transmitted prescription, the
28 pharmacist shall reduce it to writing, and initial it, and identify it as an orally transmitted
prescription. If the prescription is then dispensed by another pharmacist, the dispensing

1 pharmacist shall also initial the prescription to identify him or herself.

2 All orally transmitted prescriptions shall be received and transcribed by a
3 pharmacist prior to compounding, filling, dispensing, or furnishing.

4 Chart orders as defined in Section 4019 of the Business and Professions
5 Code are not subject to the provisions of this subsection.

6 15. California Code of Regulations section 1715, entitled, Self-Assessment of
7 a Pharmacy by the Pharmacist-in-Charge states:

8 (a) The pharmacist-in-charge of each pharmacy as defined under section 4029 or
9 section 4037 of the Business and Professions Code shall complete a self-assessment of
10 the pharmacy's compliance with federal and state pharmacy law. The assessment shall be
11 performed before July 1 of every odd-numbered year. The primary purpose of the
12 self-assessment is to promote compliance through self-examination and education.

13 (b) In addition to the self-assessment required in subdivision (a) of this section,
14 the pharmacist-in-charge shall complete a self-assessment within 30 days whenever:

15 (1) A new pharmacy permit has been issued, or

16 (2) There is a change in the pharmacist-in-charge, and he or she becomes the new
17 pharmacist-in-charge of a pharmacy.

18 (c) The components of this assessment shall be on Form 17M-13 (Rev. 1/05)
19 entitled "Community Pharmacy & Hospital Outpatient Pharmacy Self-Assessment" or
20 Form 17M-14 (Rev. 1/05) entitled "Hospital Pharmacy Self-Assessment" which are
21 hereby incorporated by reference to evaluate compliance with federal and state laws and
22 regulations.

23 (d) Each self-assessment shall be kept on file in the pharmacy for three years after
24 it is performed.

25 16. California Code of Regulations section 1793.1 states:

26 Only a pharmacist, or an intern pharmacist acting under the supervision of a
27 pharmacist, may:

28 (a) Receive a new prescription order orally from a prescriber or other person
authorized by law.

17 Title 21, Code of Federal Regulations section 1304.11, (a) and c), states in
18 part as follows:

19 (a) General requirements. Each inventory shall contain a complete and accurate
20 record of all controlled substances on hand on the date the inventory is taken, and shall be
21 maintained in written, typewritten, or printed form at the registered location. An
22 inventory taken by use of an oral recording device must be promptly transcribed.
23 Controlled substances shall be deemed to be "on hand" if they are in the possession of or
24 under the control of the registrant, including substances returned by a customer, ordered
25 by a customer but not yet invoiced, stored in a warehouse on behalf of the registrant, and
26 substances in the possession of employees of the registrant and intended for distribution
27 as complimentary samples. A separate inventory shall be made for each registered
28 location and each independent activity registered, except as provided in paragraph (e)(4)
of this section. In the event controlled substances in the possession or under the control of
the registrant are stored at a location for which he/she is not registered, the substances
shall be included in the inventory of the registered location to which they are subject to
control or to which the person possessing the substance is responsible. The inventory may

1 be taken either as of opening of business or as of the close of business on the inventory
2 date and it shall be indicated on the inventory.

3 (c) Biennial inventory date. After the initial inventory is taken, the registrant shall
4 take a new inventory of all stocks of controlled substances on hand at least every two
5 years. The biennial inventory may be taken on any date which is within two years of the
6 previous biennial inventory date.

7 **FACTS:**

8 18. On July 23, 2004, the Board filed an accusation against pharmacist Cesar
9 Cabrera resulting from his conviction for possession of dangerous drugs. Following Cesar
10 Cabrera's conviction and subsequent stipulated settlement, the Board placed Cabrera on five
11 years probation, ordered him to serve 90 days suspension and to enter the Pharmacist's Recovery
12 Program. Cabrera's suspension was to be served from March 5, 2005 through June 4, 2005.

13 19. On March 8, 2005, Cabrera met with the Inspector Knight as part of a
14 probation conference to go over the conditions of his probation. Cabrera acknowledged that he
15 was suspended for 90 days, that he could not be employed where a relative was employed and
16 that he had to complete the paper work to get prior approval for a work site monitor in order to
17 work at a pharmacy. Cabrera was employed at Home Care Pharmacy where his wife, Anne R.
18 Cabrera, was the pharmacist in charge. Cabrera signed a declaration that he understood the terms
19 of his probation and suspension.

20 20. On May 25, 2005, Maximus representative, Don Fensterman, the manager
21 for the Pharmacists Recovery Program (PRP), met with Cabrera and discussed the terms of the
22 pharmacists recovery program treatment contract with him. Thereafter, on June 10, 2005,
23 Cabrera signed the contract and agreed to be bound by the terms and conditions.

24 21. The following are some of the pertinent conditions of PRP recovery
25 program that Cabrera contractually agreed to:

- 26 A. Not work in a pharmacy where a family member is employed or where
27 a family member has a beneficial interest;
28 B. Be supervised 75% of each work week by another pharmacist;
C. Not supervise others, act as a pharmacist in charge, pharmacy manager,
or as a preceptor to interns or new employees;
D. Understand that he could be terminated from the program for failure to
comply with the contract;
E. Agree to abstain from the use of alcohol and all other mind altering

1 drugs, except as prescribed by a physician;

2 F. Agree to report all relapses to Maximus immediately and to cease
3 practice upon relapse.

4 22. On July 6, 2005, Maximus notified the Board that Cabrera has relapsed
5 and verbally suspended Cabrera from practicing pharmacy and told him to leave Home Care
6 Pharmacy, where he was working. Maximus advised Cabrera that he had not completed the
7 work site monitor paper work, that he did not have a work site monitor in place, and that he was
8 working at Home Care Pharmacy where his wife, Anne R. Cabrera, was the pharmacist in charge,
9 and hence, he violated the terms of his recovery program. Maximus notified Cabrera of the
10 aforementioned violations in writing on July 6, 2005. Maximus ordered Cabrera to cease
11 practice and to enter into a residential inpatient chemical dependency treatment program on or
12 before July 13, 2005, and to complete a 30 day treatment.

13 23. On July 12, 2005, the Board conducted an inspection of the Home Care
14 Pharmacy and discovered that Cabrera was the only pharmacist on duty. There were two
15 pharmacy technicians, a clerk, and a manager, Ms. Marian Rano, who was in her office next to
16 the pharmacy.

17 24. The Board inspector noted violations at Home Care Pharmacy, that were
18 the direct responsibility of the pharmacist in charge, in this case, Anne R. Cabrera. Home Care
19 Pharmacy pharmacist in charge, Anne R. Cabrera, failed to maintain a DEA inventory which
20 required all schedules to be faxed to the Board. The pharmacist in charge allowed a suspended
21 pharmacist to possess a key to the pharmacy. The Pharmacy/pharmacist in charge failed to
22 provide a current self assessment and fax it to the Board. The pharmacy/pharmacist in charge
23 allowed Mr. Cabrera to work at Home Care Pharmacy and failed to include the initials of the
24 receiving pharmacist on all orally transmitted prescriptions. The Pharmacy/pharmacist in charge
25 failed to fax the required corrections to the Board as requested.

26 25. On July 12, 2005, the pharmacy inspector confronted Mr. Cabrera who
27 admitted that he knew that he was not supposed to be working because of the Maximus
28 suspension. Additional inspection of the prescriptions verified that Mr. Cabrera had been filling
and dispensing prescriptions from at least July 8, 2005 through July 12, 2005, as evidenced by

1 his initials "CC" on the prescriptions. Mr. Cabrera admitted to having a key to the pharmacy.
2 The inspector told Mr. Cabrera and the manager, Marian Rano, and a man representing himself
3 as the pending owner of the pharmacy, Richard Lacson, that Mr. Cabrera could not have a key to
4 the pharmacy and that he could not work as a pharmacist at Home Care Pharmacy while on
5 suspension. The inspector admonished Mr. Cabrera to stop working at the pharmacy.

6 26. On July 13, 2005, Maximus, notified the Board that Mr. Cabrera had been
7 terminated from the PRP for the following reasons:

- 8 A. Tested positive for alcohol on 6-27-05 and again on 7-05-05;
9 B. Returned to work without a work site monitor agreement in place;
10 C. Returned to work where a relative (wife, Anne) also works;
11 D. Failed to enter inpatient chemical dependency treatment;
12 E. Returned to work after relapse;
13 F. Returned to work after suspension by Maximus;
14 G. Non compliance with his PRP contact.

15 27. On July 13, 2005, Maximus notified Mr. Cabrera in writing that he was
16 terminated from the pharmacist recovery program. On July 14, 2005, the Board sent Mr. Cabrera
17 a certified letter informing him that his license was suspended due to his termination from the
18 PRP, as per his stipulated settlement and the decision of the Board. The letter admonished Mr.
19 Cabrera that he was not allowed to enter or work at any pharmacy or have access to or control of
20 controlled substances. On July 20, 2005, Mr. Cabrera signed for receipt of the Board's certified
21 letter placing him on disciplinary suspension.

22 28. On October 6, 2005, the Board conducted a follow up inspection at Home
23 Care Pharmacy. Again, Mr. Cabrera was the only pharmacist on duty. There was one technician
24 and a biller in the front office. Again, Mr. Cabrera admitted to working but had no excuse for
25 violating his suspension imposed by the both the Board and Maximus. Mr. Cabrera again had a
26 key to the pharmacy which he admitted to taking. He also admitted to continuing working at
27 Home Care Pharmacy after the Board's July 12, 2005, inspection in defiance of his suspension.

28 29. On October 6, 2005, the Board's inspection confirmed that none of the
prior July 12, 2005 corrections had been completed. For example, there was no completed DEA
inventory, no quality assurance and no current pharmacy self assessment on the premises.

1 30. The inspector asked Mr. Cabrera to get his wife (pharmacist in charge) on
2 the telephone for the inspector to speak with. Mrs. Cabrera denied receiving a copy of the
3 Board's prior July 12, 2005 correction notice. She admitted to knowing that her husband's
4 license was suspended. The inspector admonished Mrs. Cabrera that her husband was suspended
5 and could not work and that he should not have a key to the pharmacy where she is the
6 pharmacist in charge. The inspector reminded Mrs. Cabrera that as the pharmacist in charge, she
7 was responsible for compliance with all the rules and regulations pertaining to pharmacy at
8 Home Care Pharmacy. The inspector requested that Anne R. Cabrera fax a completed copy of
9 the corrections to her as soon as possible. As of November 4, 2005, Mrs. Cabrera has not faxed
10 the corrections as requested.

11 31. Following the telephone call to Mrs. Cabrera, the inspector continued to
12 look through prescription evidence. The inspector found and documented prescriptions filled by
13 Mr. Cabrera during the time of the Board imposed suspension on his license, that is, March 5,
14 2005 through June 4, 2005. Mr. Cabrera initially denied working during the 90 suspension but
15 later admitted to the inspector that he had worked during the suspension period. The prescription
16 dates filled by Mr. Cabrera, "CC", were from January 28, 2005 through October 6, 2005 which
17 confirm that he worked as a pharmacist after suspension from the PRP. Mr. Cabrera admitted to
18 the inspector that he allowed technicians to receive and transcribe prescriptions which is against
19 the Board regulations. Mr. Cabrera told the inspector that he was unaware of that regulation.

20 32. The inspector asked Mr. Cabrera for Home Care Pharmacy's recent drug
21 purchases. Mr. Cabrera stated that none of the invoices for the purchases were at the pharmacy
22 as required by regulations but were at the house of a purported new owner, Richard Lacson. The
23 inspector reminded Mr. Cabrera that all acquisition and disposition records had to be kept in the
24 pharmacy, accessible to the Board.

25 33. On October 25, 2005, written letters were sent by the Board to the owners
26 and the pharmacist in charge notifying them of the violations found during the October
27 inspection.

28

1 I. Violations by Residential Home Care For You, Inc., d.b.a. Home Care Pharmacy, its
2 owners, Luis Gaurano, and Valerie Gaurano license no. RPH 38852 and Pharmacist in
3 Charge, hereinafter Home Care Pharmacy.

4 FIRST CAUSE FOR DISCIPLINE

5 (No DEA Inventory)

6 34. Respondent Home Care Pharmacy is subject to disciplinary action under
7 section 4301 (j), (o), and Title 21, Code of Federal Regulations section 1304.11, (a) and c) for
8 failing to have a Biannual DEA Inventory at Home Care Pharmacy as set forth in paragraphs 18
9 through 33 above.

10 SECOND CAUSE FOR DISCIPLINE

11 (No Pharmacy Self Assessment)

12 35. Respondent Home Care Pharmacy is subject to disciplinary action under
13 section 4301 (j), (o) and California Code of Regulations section 1715 for failing to have a current
14 pharmacy self assessment on the premises at Home Care Pharmacy as set forth in paragraphs 18
15 through 33 above.

16 THIRD CAUSE FOR DISCIPLINE

17 (Pharmacists Initials Readily Retrievable)

18 36. Respondent Home Care Pharmacy is subject to disciplinary action under
19 section 4301 (j), (o) and California Code of Regulations section 1717 (c) for failing to have the
20 initials of the pharmacist filling the prescriptions readily available at Home Care Pharmacy upon
21 request by the Board as set forth in paragraphs 18 through 33 above.

22 FOURTH CAUSE FOR DISCIPLINE

23 (Failure to have Records on Licensed Premises)

24 37. Respondent Home Care Pharmacy is subject to disciplinary action under
25 section 4301 (j), (o), 4081 (a), 4105 and 4333 for failing to have all records of acquisition and
26 disposition of dangerous drugs on the premises of Home Care Pharmacy upon request by the
27 Board as set forth in paragraphs 18 through 33 above.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Failure to Have Quality Assurance Program Records)

3 38. Respondent Home Care Pharmacy is subject to disciplinary action under
4 section 4125 and California Code of Regulations section 1715 for failing to have the quality
5 assurance records at Home Care Pharmacy available upon request by the Board as set forth in
6 paragraphs 18 through 33 above.

7 SIXTH CAUSE FOR DISCIPLINE

8 (Non-Pharmacists Received and Transcribed Prescriptions)

9 39. Respondent Home Care Pharmacy is subject to disciplinary action under
10 section 4301 (j), (o), 4070 and California Code of Regulations section 1793.1 (a) and 1717 (c)
11 for allowing non-pharmacists to receive and transcribe orally transmitted prescriptions at Home
12 Care Pharmacy as set forth in paragraphs 18 through 33 above.

13 SEVENTH CAUSE FOR DISCIPLINE

14 (Allowing Suspended Pharmacist to Work as Pharmacist)

15 40. Respondent Home Care Pharmacy is subject to disciplinary action under
16 section 4301 (c), (f), (o), and (q) for allowing pharmacist Cesar Cabrera to work at Home Care
17 Pharmacy while on suspension, without regard to public health or safety as set forth in
18 paragraphs 18 through 33 above.

19 EIGHTH CAUSE FOR DISCIPLINE

20 (Allowing Non-Pharmacist to Receive Drug Orders)

21 41. Respondent Home Care Pharmacy is subject to disciplinary action under
22 section 4301 (j), (o), and 4059.5 (a) for allowing non-pharmacists, specifically pharmacy
23 technicians to receive drug wholesale orders at Home Care Pharmacy as set forth in paragraphs
24 18 through 33 above.

25 II. Violations by Pharmacist-in-Charge, Anne R. Cabrera

26 NINTH CAUSE FOR DISCIPLINE

27 (No DEA Inventory)

28 42. Respondent Pharmacist-in-Charge (PIC), Anne R. Cabrera, is subject to

1 disciplinary action under section 4301 (j), (o), and Title 21, Code of Federal Regulations section
2 1304.11, (a) and c) for failing to have a Biannual DEA Inventory at Home Care Pharmacy as set
3 forth in paragraphs 18 through 33 above.

4 TENTH CAUSE FOR DISCIPLINE

5 (No Pharmacy Self Assessment)

6 43. Respondent, (PIC) Anne R. Cabrera, is subject to disciplinary action under
7 section 4301 (j), (o) and California Code of Regulations section 1715 for failing to have a current
8 pharmacy self assessment on the premises at Home Care Pharmacy as set forth in paragraphs 18
9 through 33 above.

10 ELEVENTH CAUSE FOR DISCIPLINE

11 (Pharmacists Initials Readily Retrievable)

12 44. Respondent, PIC Anne R. Cabrera, is subject to disciplinary action under
13 section 4301 (j), (o) and California Code of Regulations section 1717 (c) for failing to have the
14 initials of the pharmacist filling the prescriptions readily available at Home Care Pharmacy upon
15 request by the Board as set forth in paragraphs 18 through 33 above.

16 TWELFTH CAUSE FOR DISCIPLINE

17 (Failure to have Records on Licensed Premises)

18 45. Respondent, PIC, Anne R. Cabrera, is subject to disciplinary action under
19 section 4301 (j), (o), 4081 (a), 4105 and 4333 for failing to have all records of acquisition and
20 disposition of dangerous drugs on the premises of Home Care Pharmacy upon request by the
21 Board as set forth in paragraphs 18 through 33 above.

22 THIRTEENTH CAUSE FOR DISCIPLINE

23 (Failure to Have Quality Assurance Program Records)

24 46. Respondent, PIC, Anne R. Cabrera, is subject to disciplinary action under
25 section 4125 and California Code of Regulations section 1715 for failing to have the quality
26 assurance records at Home Care Pharmacy available upon request by the Board as set forth in
27 paragraphs 18 through 33 above.

1 FOURTEENTH CAUSE FOR DISCIPLINE

2 (Allowing Non-Pharmacist to Receive Drug Orders)

3 47. Respondent, PIC, Anne R. Cabrera is subject to disciplinary action under
4 section 4301 (j), (o), and 4059.5 (a) for allowing non-pharmacists, specifically pharmacy
5 technicians to receive drug wholesale orders at Home Care Pharmacy as set forth in paragraphs
6 18 through 33 above.

7 FIFTEENTH CAUSE FOR DISCIPLINE

8 (Non-Pharmacists Received and Transcribed Prescriptions)

9 48. Respondent, PIC, Anne R. Cabrera is subject to disciplinary action under
10 section 4301 (j), (o), 4059.5, 4070 (a) and California Code of Regulations section 1793.1 (a) and
11 1717 (c) for allowing non-pharmacists to receive and transcribe orally transmitted prescriptions
12 at Home Care Pharmacy as set forth in paragraphs 18 through 33 above.

13 SIXTEENTH CAUSE FOR DISCIPLINE

14 (Allowing Suspended Pharmacist to Work as Pharmacist)

15 49. Respondent, PIC, Anne R. Cabrera is subject to disciplinary action under
16 section 4301 (c), (f), (o), and (q) for allowing pharmacist Cesar Cabrera to work at Home Care
17 Pharmacy while on suspension, without regard to public health or safety as set forth in
18 paragraphs 18 through 33 above.

19 PRAYER

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

22 1. Revoking or suspending Original Pharmacist License Number RPH 38852
23 issued to VALERIE REYES GAURANO aka VALERIE ANNE ABANIL REYE, owner and
24 vice president of Residential Care Home For You, Inc., d.b.a. Home Care Pharmacy.

25 2. Revoking or suspending Original Pharmacy Permit Number PHY 45192,
26 issued to Residential Care Home For You, Inc., d.b.a. Home Care Pharmacy;

27 3. Revoking or suspending Original Pharmacist License Number RPH 40776
28 issued to Anne Roberto Cabrera;

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4. Ordering Anne Roberto Cabrera and or VALERIE GAURANO 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;

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

DATED: 4/3/06

P. F. Harris
Patricia F. Harris,
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

SD2005800399
ACCUSSION 4.wpd

**BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

CITATION AND FINE

Citation Number CI 2005 30007	Name, License No. Home Care Pharmacy, PHY 45192
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JURISDICTION: Bus. & Prof. Code § 4005; CCR, title 16, § 1775; Bus. & Prof. Code § 4301, subd. (o)

VIOLATION CODE SECTION	OFFENSE	AMT OF FINE
Bus. & Prof. Code § 4126.5 subd. (a)/Bus. & Prof. Code § 4380 subd. (a)/Title 15 USC § 13 subd. (c)	Furnishing Dangerous Drugs by Pharmacy; Authorized recipients/Resale of Preferentially Priced Drugs: Prohibition; Exceptions; Resale of drugs acquired per Nonprofit Institutions Act/Discrimination in price, services, or facilities; Payment or acceptance of commission, brokerage, or other compensation	\$81,000.00

CONDUCT:

During 2005 at Home Care Pharmacy, PHY 45192, while under the supervision of Pharmacist-In-Charge Anne Roberto Cabrera, RPH 40776, in eighty-one transactions, preferentially priced drugs were transferred to a wholesaler not authorized to receive the drugs from Home Care Pharmacy.

CITATION ISSUED ON: September 15, 2006

TOTAL AMOUNT OF FINE(S): \$81,000.00

PAYMENT OF FINE(S) DUE BY: October 15, 2006

THE RUTHERFORD LAW FIRM

MEMORANDUM

TO: Greg Anthony and Jim Ledakis
FROM: Tim Rutherford
RE: Stipulation to resolve all matters regarding Home Care Pharmacy and Valerie Gaurano
DATE: December 12, 2006

This follows this morning's several telephone conversations and voice messages between, and amongst, me, Jim Ledakis and Greg Anthony. As a full and final resolution of all matters involving Valerie Gaurano and Residential Care Home For You, Inc. dba Home Care Pharmacy, we would propose the "global" stipulation contain the points set forth below.

- 1. This stipulation would constitute a full and final resolution of Accusation 2959 and Citation CI 2005-30007 [OAH No. L-2006070547].
2. Payment of \$50,000, payable in full on or before December 12, 2007.
3. One year summary probation for Valerie Gaurano, i.e. license revocation suspended on condition that she obey all laws and report to the Pharmacy Board as required by them. No other terms and conditions.
4. Home Care Pharmacy would cease to do business as a pharmacy and would surrender its pharmacy license.
5. This stipulation and order would constitute full and final resolution of all issues, known and unknown, between the Board of Pharmacy and Valerie Gaurano and Home Care Pharmacy.

Handwritten notes: (2), ok, Folley 40 hrs

Jim, we understand that certain economies may exist, at present, to facilitate what we have been referring to as a "global settlement." Accordingly, please present this proposal to your client, and let us know, today, if possible, that we can get this done.

THE RUTHERFORD LAW FIRM
Charlotte Bushnell House
2368 Second Avenue
San Diego, CA 92101
619-269-5263
Fax 619-702-6911

**BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

CITATION AND FINE

Citation Number CI 2005 30007	Name, License No. Home Care Pharmacy, PHY 45192
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JURISDICTION: Bus. & Prof. Code § 4005; CCR, title 16, § 1775; Bus. & Prof. Code § 4301, subd. (o)		
VIOLATION CODE SECTION	OFFENSE	AMT OF FINE
Bus. & Prof. Code § 4126.5 subd. (a)/Bus. & Prof. Code § 4380 subd. (a)/Title 15 USC § 13 subd. (c)	Furnishing Dangerous Drugs by Pharmacy; Authorized recipients/Resale of Preferentially Priced Drugs: Prohibition; Exceptions; Resale of drugs acquired per Nonprofit Institutions Act/Discrimination in price, services, or facilities; Payment or acceptance of commission, brokerage, or other compensation	\$81,000.00

CONDUCT:

During 2005 at Home Care Pharmacy, PHY 45192, while under the supervision of Pharmacist-In-Charge Anne Roberto Cabrera, RPH-40776, in eighty-one transactions, preferentially priced drugs were transferred to a wholesaler not authorized to receive the drugs from Home Care Pharmacy.

CITATION ISSUED ON: September 15, 2006	TOTAL AMOUNT OF FINE(S): \$81,000.00
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PAYMENT OF FINE(S) DUE BY: October 15, 2006
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