

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

In the Matter of the Accusation Against:

Case No. 4569

OAH No. 2013050370

**INDIO MEDICAL PHARMACY;
WANG KAN, PRES/PIC
81-893 Dr. Carreon Blvd., Ste. 7
Indio, CA 92201**

Pharmacy Permit No. PHY 21267

and

**WANG YUEN KAN
41-550 Yucca Lane
Bermuda Dunes, CA 92201**

Pharmacist License No. RPH 30545

Respondents.

DECISION AND ORDER

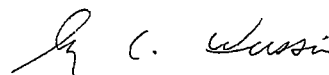
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on May 1, 2014.

It is so ORDERED on March 28, 2014.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STAN C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
Deputy Attorney General
4 State Bar No. 263607
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2143
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:
12 **INDIO MEDICAL PHARMACY;**
13 **WANG KAN, PRES/PIC**
14 **81-893 Dr. Carreon Blvd., Ste. 7**
Indio, CA 92201
15
16 **Pharmacy Permit No. PHY 21267**
17 and
18 **WANG YUEN KAN**
41-550 Yucca Lane
19 **Bermuda Dunes, CA 92201**
20 **Pharmacist License No. RPH 30545**
21 Respondents.

Case No. 4569
OAH No. 2013050370
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

22
23 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
24 entitled proceedings that the following matters are true:

25 PARTIES

26 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
27 She brought this action solely in her official capacity and is represented in this matter by Kamala
28

1 D. Harris, Attorney General of the State of California, by Nicole R. Trama, Deputy Attorney
2 General.

3 2. Respondent Indio Medical Pharmacy and Respondent Wang Yuen Kan
4 ("Respondents") are represented in this proceeding by attorney Tony J. Park, Esq., whose address
5 is: 6789 Quail Hill Parkway, Ste. 405, Irvine, CA 92603.

6 3. On or about August 1, 1984, the Board of Pharmacy issued Pharmacy Permit No.
7 PHY 21267 to Indio Medical Pharmacy with Wang Kan, as President and Pharmacist-in-Charge
8 (Respondent). The Pharmacy Permit was in full force and effect at all times relevant to the
9 charges brought in Accusation No. 4569 and will expire on August 1, 2014, unless renewed.

10 4. On or about August 16, 1976, the Board of Pharmacy issued Pharmacist License No.
11 RPH 30545 to Wang Yuen Kan (Respondent). The Pharmacist License was in full force and
12 effect at all times relevant to the charges brought in Accusation No. 4569 and will expire on June
13 30, 2014, unless renewed.

14 JURISDICTION

15 5. Accusation No. 4569 was filed before the Board of Pharmacy (Board), Department
16 of Consumer Affairs, and is currently pending against Respondents. The Accusation and all other
17 statutorily required documents were properly served on Respondents on April 17, 2013.
18 Respondents timely filed their Notice of Defense contesting the Accusation.

19 6. A copy of Accusation No. 4569 is attached as exhibit A and incorporated herein by
20 reference.

21 ADVISEMENT AND WAIVERS

22 7. Respondents have carefully read, fully discussed with counsel, and understand the
23 charges and allegations in Accusation No. 4569. Respondents have also carefully read, fully
24 discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary
25 Order.

26 8. Respondents are fully aware of their legal rights in this matter, including the right to a
27 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
28 the witnesses against them; the right to present evidence and to testify on their own behalf; the

1 right to the issuance of subpoenas to compel the attendance of witnesses and the production of
2 documents; the right to reconsideration and court review of an adverse decision; and all other
3 rights accorded by the California Administrative Procedure Act and other applicable laws.

4 9. Respondents voluntarily, knowingly, and intelligently waive and give up each and
5 every right set forth above.

6 CULPABILITY

7 10. Respondents admit the truth of each and every charge and allegation in Accusation
8 No. 4569.

9 11. Respondents agree that Pharmacy Permit No. PHY 21267 and Pharmacist License
10 No. RPH 30545 are subject to discipline and agree to be bound by the Board's probationary terms
11 as set forth in the Disciplinary Order below.

12 CONTINGENCY

13 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
14 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
15 communicate directly with the Board regarding this stipulation and settlement, without notice to
16 or participation by Respondents or Respondents' counsel. By signing the stipulation,
17 Respondents understand and agree that they may not withdraw their agreement or seek to rescind
18 the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt
19 this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall
20 be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
21 between the parties, and the Board shall not be disqualified from further action by having
22 considered this matter.

23 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
24 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
25 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

26 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

4 15. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 21267 issued to Respondent
9 Indio Medical Pharmacy and Pharmacist License No. RPH 30545 issued to Respondent Wang
10 Yuen Kan (Respondents) are revoked. However, the revocation is stayed and Respondents are
11 placed on probation for five (5) years on the following terms and conditions. The Decision shall
12 become effective no sooner than May 1, 2014.

13 1. **Suspension**

14 As part of probation, Respondent Wang Yuen Kan is suspended from the practice of
15 pharmacy for forty-five (45) days beginning the effective date of this decision.

16 During suspension, Respondent Wang Yuen Kan shall not enter any pharmacy area or any
17 portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other
18 distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous
19 drugs and devices or controlled substances are maintained. Respondent Wang Yuen Kan shall
20 not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing,
21 compounding, dispensing or patient consultation; nor shall Respondent manage, administer, or be
22 a consultant to any licensee of the Board, or have access to or control the ordering, manufacturing
23 or dispensing of dangerous drugs and devices or controlled substances.

24 Respondent Wang Yuen Kan shall not engage in any activity that requires the professional
25 judgment of a pharmacist. Respondent Wang Yuen Kan shall not direct or control any aspect of
26 the practice of pharmacy. Respondent Wang Yuen Kan shall not perform the duties of a
27 pharmacy technician or a designated representative for any entity licensed by the Board.

28

1 Subject to the above restrictions, Respondent Wang Yuen Kan may continue to own or hold
2 an interest in any licensed premises in which he holds an interest at the time this decision
3 becomes effective unless otherwise specified in this order.

4 Failure to comply with this suspension shall be considered a violation of probation.

5 **2. Obey All Laws**

6 Respondents shall obey all state and federal laws and regulations.

7 Respondents shall report any of the following occurrences to the Board, in writing, within
8 seventy-two (72) hours of such occurrence:

- 9 • an arrest or issuance of a criminal complaint for violation of any provision of the
10 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
11 substances laws
- 12 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
13 criminal complaint, information or indictment
- 14 • a conviction of any crime
- 15 • discipline, citation, or other administrative action filed by any state or federal agency
16 which involves Respondent's pharmacy permit or pharmacist license or which is
17 related to the practice of pharmacy or the manufacturing, obtaining, handling,
18 distributing, billing, or charging for any drug, device or controlled substance.

19 Failure to timely report such occurrence shall be considered a violation of probation.

20 **3. Report to the Board**

21 Respondents shall report to the Board quarterly, on a schedule as directed by the Board or
22 its designee. The report shall be made either in person or in writing, as directed. Among other
23 requirements, Respondents shall state in each report under penalty of perjury whether there has
24 been compliance with all the terms and conditions of probation. Failure to submit timely reports
25 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
26 in submission of reports as directed may be added to the total period of probation. Moreover, if
27 the final probation report is not made as directed, probation shall be automatically extended until
28 such time as the final report is made and accepted by the Board.

1 4. **Interview with the Board**

2 Upon receipt of reasonable prior notice, Respondents shall appear in person for interviews
3 with the Board or its designee, at such intervals and locations as are determined by the Board or
4 its designee. Failure to appear for any scheduled interview without prior notification to Board
5 staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee
6 during the period of probation, shall be considered a violation of probation.

7 5. **Cooperate with Board Staff**

8 Respondents shall cooperate with the Board's inspection program and with the Board's
9 monitoring and investigation of Respondents' compliance with the terms and conditions of
10 probation. Failure to cooperate shall be considered a violation of probation.

11 6. **Reimbursement of Board Costs**

12 As a condition precedent to successful completion of probation, Respondents shall pay to
13 the Board its costs of investigation and prosecution in the amount of \$4,539.50. Respondents
14 shall be jointly and severally liable for payment of these costs. Respondents shall make said
15 payment on or before June 30, 2014.

16 There shall be no deviation from this payment due date absent prior written approval by the
17 Board or its designee. Failure to pay costs by the deadline as directed shall be considered a
18 violation of probation.

19 The filing of bankruptcy by Respondents shall not relieve Respondents of the responsibility
20 to reimburse the Board its costs of investigation and prosecution.

21 7. **Probation Monitoring Costs**

22 Respondents shall pay any costs associated with probation monitoring as determined by the
23 Board each and every year of probation. Such costs shall be payable to the Board on a schedule
24 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
25 shall be considered a violation of probation.

26

27

28

1 **8. Status of License**

2 Respondents shall, at all times while on probation, maintain active, current licenses with the
3 Board, including any period during which suspension or probation is tolled. Failure to maintain
4 active, current licenses shall be considered a violation of probation.

5 If Respondent Indio Medical Pharmacy submits an application to the Board, and the
6 application is approved, for a change of location, change of permit or change of ownership, the
7 Board shall retain continuing jurisdiction over the license, and Respondent Indio Medical
8 Pharmacy shall remain on probation as determined by the Board.

9 If Respondents' licenses expire or are cancelled by operation of law or otherwise at any
10 time during the period of probation, including any extensions thereof due to tolling or otherwise,
11 upon renewal or reapplication Respondents' licenses shall be subject to all terms and conditions
12 of this probation not previously satisfied.

13 **9. Pharmacy Permit Surrender While on Probation/Suspension**

14 Following the effective date of this decision, should Respondent Indio Medical Pharmacy
15 discontinue business, Respondent owner may tender the premises license to the board for
16 surrender. The Board or its designee shall have the discretion whether to grant the request for
17 surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance
18 of the surrender of the license, Respondent Indio Medical Pharmacy will no longer be subject to
19 the terms and conditions of probation.

20 Upon acceptance of the surrender, Respondent owner shall relinquish the premises wall and
21 renewal license to the Board within ten (10) days of notification by the Board that the surrender is
22 accepted. Respondent owner shall further submit a completed Discontinuance of Business form
23 according to Board guidelines and shall notify the Board of the records inventory transfer.

24 Respondent owner shall also, by the effective date of this decision, arrange for the
25 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written
26 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that
27 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating
28 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five

1 days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a copy
2 of the written notice to the Board. For the purposes of this provision, "ongoing patients" means
3 those patients for whom the pharmacy has on file a prescription with one or more refills
4 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)
5 days.

6 Respondent owner may not apply for any new licensure from the Board for three (3) years
7 from the effective date of the surrender. Respondent owner shall meet all requirements applicable
8 to the license sought as of the date the application for that license is submitted to the Board.

9 Respondent owner shall also reimburse the Board for its costs of investigation and
10 prosecution prior to the acceptance of the surrender.

11 **10. Pharmacist License Surrender While on Probation/Suspension**

12 Following the effective date of this decision, should Respondent Wang Yuen Ken cease
13 practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of
14 probation, Respondent Wang Yuen Kan may tender his Pharmacist License to the Board for
15 surrender. The Board or its designee shall have the discretion whether to grant the request for
16 surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance
17 of the surrender of the licenses, Respondent Wang Yuen Kan will no longer be subject to the
18 terms and conditions of probation. This surrender constitutes a record of discipline and shall
19 become a part of the Respondent Wang Yuen Kan's license history with the Board.

20 Upon acceptance of the surrender, Respondent Wang Yuen Kan shall relinquish his pocket
21 and wall license to the board within ten (10) days of notification by the Board that the surrender is
22 accepted. Respondent Wang Yuen Kan may not reapply for any license from the Board for three
23 (3) years from the effective date of the surrender. Respondent shall meet all requirements
24 applicable to the license sought as of the date the application for that license is submitted to the
25 Board, including any outstanding costs.

26 **11. Notice to Employees**

27 Respondent Indio Medical Pharmacy shall, upon or before the effective date of this
28 decision, ensure that all employees involved in permit operations are made aware of all the terms

1 and conditions of probation, either by posting a notice of the terms and conditions, circulating
2 such notice, or both. If the notice required by this provision is posted, it shall be posted in a
3 prominent place and shall remain posted throughout the probation period. Respondent owner
4 shall ensure that any employees hired or used after the effective date of this decision are made
5 aware of the terms and conditions of probation by posting a notice, circulating a notice, or both.
6 Additionally, Respondent owner shall submit written notification to the Board, within fifteen (15)
7 days of the effective date of this decision, that this term has been satisfied. Failure to submit such
8 notification to the Board shall be considered a violation of probation.

9 "Employees" as used in this provision includes all full-time, part-time, volunteer, temporary
10 and relief employees and independent contractors employed or hired at any time during
11 probation.

12 **12. Owners and Officers: Knowledge of the Law**

13 Respondent Indio Medical Pharmacy shall provide, within thirty (30) days after the
14 effective date of this decision, signed and dated statements from its owners, including any owner
15 or holder of ten percent (10%) or more of the interest in Respondent or Respondent's stock, and
16 any officer, stating under penalty of perjury that said individuals have read and are familiar with
17 state and federal laws and regulations governing the practice of pharmacy. The failure to timely
18 provide said statements under penalty of perjury shall be considered a violation of probation.

19 **13. Posted Notice of Probation**

20 Respondent Indio Medical Pharmacy shall prominently post a probation notice provided by
21 the Board in a place conspicuous and readable to the public. The probation notice shall remain
22 posted during the entire period of probation.

23 Respondent owner shall not, directly or indirectly, engage in any conduct or make any
24 statement which is intended to mislead or is likely to have the effect of misleading any patient,
25 customer, member of the public, or other person(s) as to the nature of and reason for the probation
26 of the licensed entity.

27 Failure to post such notice shall be considered a violation of probation.
28

1 **14. Violation of Probation**

2 If Respondents have not complied with any term or condition of probation, the Board shall
3 have continuing jurisdiction over Respondents, and probation shall automatically be extended,
4 until all terms and conditions have been satisfied or the Board has taken other action as deemed
5 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
6 to impose the penalty that was stayed.

7 If Respondents violate probation in any respect, the Board, after giving Respondents notice
8 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
9 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
10 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
11 a petition to revoke probation or an accusation is filed against Respondents during probation, the
12 Board shall have continuing jurisdiction and the period of probation shall be automatically
13 extended until the petition to revoke probation or accusation is heard and decided.

14 **15. Completion of Probation**

15 Upon written notice by the Board or its designee indicating successful completion of
16 probation, Respondents' licenses will be fully restored.

17 **16. Restricted Practice**

18 Respondents shall not prepare, oversee, or participate in the preparation of injectable sterile
19 products during probation. Respondents shall submit proof satisfactory to the Board of
20 compliance with this term of probation. Failure to abide by this restriction or to timely submit
21 proof to the Board of compliance therewith shall be considered a violation of probation.
22 Respondent Indio Medical Pharmacy shall not apply for a Licensed Sterile Compounding (LSC)
23 license during the length of probation.

24 **17. Administrative Fine**

25 Respondent Indio Medical Pharmacy shall pay an administrative fine to the Board in the
26 amount of \$10,000.00. Respondent owner shall pay the administrative fine pursuant to the
27 following payment plan: Commencing on the effective date of this Decision, Respondent Indio
28 Medical Pharmacy shall pay \$500.00 per month, until the amount is paid in full. There shall be

1 no deviation from this schedule absent prior written approval by the Board or its designee.

2 Failure to pay fines by the deadline(s) as directed shall be considered a violation of probation.

3 Respondent owner understands and agrees that such administrative fine is not dischargeable
4 in bankruptcy. Respondent owner further understands and agrees that the filing of bankruptcy by
5 Respondent shall not relieve Respondent of the obligation to pay the balance of the administrative
6 fine to the Board.

7 **18. Continuing Education**

8 Respondent Wang Yuen Kan shall provide evidence of efforts to maintain skill and
9 knowledge as a pharmacist as directed by the Board or its designee.

10 **19. Notice to Employers**

11 During the period of probation, Respondent Wang Yuen Kan shall notify all present and
12 prospective employers of the decision in case number 4569 and the terms, conditions and
13 restrictions imposed on respondent by the decision, as follows:

14 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
15 Respondent Wang Yuen Kan undertaking any new employment, Respondent shall cause his
16 direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed
17 during respondent's tenure of employment) and owner to report to the Board in writing
18 acknowledging that the listed individual(s) has/have read the decision in case number 4569, and
19 terms and conditions imposed thereby. It shall be Respondent Wang Yuen Kan's responsibility to
20 ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

21 If Respondent Wang Yuen Kan works for or is employed by or through a pharmacy
22 employment service, Respondent must notify his direct supervisor, pharmacist-in-charge, and
23 owner at every entity licensed by the Board of the terms and conditions of the decision in case
24 number 4569 in advance of Respondent commencing work at each licensed entity. A record of
25 this notification must be provided to the Board upon request.

26 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
27 (15) days of Respondent undertaking any new employment by or through a pharmacy
28 employment service, Respondent Wang Yuen Kan shall cause his direct supervisor with the

1 pharmacy employment service to report to the Board in writing acknowledging that he has read
2 the decision in case number 4569 and the terms and conditions imposed thereby. It shall be
3 Respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely
4 acknowledgment(s) to the Board.

5 Failure to timely notify present or prospective employer(s) or to cause that/those
6 employer(s) to submit timely acknowledgments to the Board shall be considered a violation of
7 probation.

8 "Employment" within the meaning of this provision shall include any full-time, part-time,
9 temporary, relief or pharmacy management service as a pharmacist or any position for which a
10 pharmacist license is a requirement or criterion for employment, whether the respondent is an
11 employee, independent contractor or volunteer.

12 **20. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
13 **Designated Representative-in-Charge, or Serving as a Consultant**

14 During the period of probation, Respondent Wang Yuen Kan shall not supervise any intern
15 pharmacist, be the pharmacist-in-charge or designated representative-in-charge of any entity
16 licensed by the Board nor serve as a consultant unless otherwise specified in this order.
17 Assumption of any such unauthorized supervision responsibilities shall be considered a violation
18 of probation.

19 **21. Notification of a Change in Name, Residence Address, Mailing Address or**
20 **Employment**

21 Respondent Wang Yuen Kan shall notify the Board in writing within ten (10) days of any
22 change of employment. Said notification shall include the reasons for leaving, the address of the
23 new employer, the name of the supervisor and owner, and the work schedule if known.

24 Respondent Wang Yuen Kan shall further notify the Board in writing within ten (10) days of a
25 change in name, residence address, mailing address, or phone number.

26 Failure to timely notify the Board of any change in employer(s), name(s), address(es), or
27 phone number(s) shall be considered a violation of probation.
28

1 **22. Tolling of Probation**

2 Except during periods of suspension, Respondent Wang Yuen Kan shall, at all times while
3 on probation, be employed as a pharmacist in California for a minimum of forty (40) hours per
4 calendar month. Any month during which this minimum is not met shall toll the period of
5 probation, i.e., the period of probation shall be extended by one month for each month during
6 which this minimum is not met. During any such period of tolling of probation, Respondent
7 Wang Yuen Kan must nonetheless comply with all terms and conditions of probation.

8 Should Respondent Wang Yuen Kan, regardless of residency, for any reason (including
9 vacation) cease practicing as a pharmacist for a minimum of forty (40) hours per calendar month
10 in California, Respondent must notify the Board in writing within ten (10) days of the cessation of
11 practice, and must further notify the Board in writing within ten (10) days of the resumption of
12 practice. Any failure to provide such notification(s) shall be considered a violation of probation.

13 It is a violation of probation for Respondent Wang Yuen Kan's probation to remain tolled
14 pursuant to the provisions of this condition for a total period, counting consecutive and non-
15 consecutive months, exceeding thirty-six (36) months.

16 "Cessation of practice" means any calendar month during which respondent is not
17 practicing as a pharmacist for at least forty (40) hours, as defined by Business and Professions
18 Code section 4000 et seq . "Resumption of practice" means any calendar month during which
19 respondent is practicing as a pharmacist for at least forty (40) hours as a pharmacist as defined by
20 Business and Professions Code section 4000 et seq.

21 **23. Community Services Program**

22 Within sixty (60) days of the effective date of this decision, Respondent Wang Yuen Kan
23 shall submit to the Board or its designee, for prior approval, a community service program in
24 which Respondent shall provide free health-care related services on a regular basis to a
25 community or charitable facility or agency for at least eight (8) hours per month for the first three
26 (3) years of probation. Within thirty (30) days of Board approval thereof, Respondent Wang
27 Yuen Kan shall submit documentation to the board demonstrating commencement of the
28 community service program. A record of this notification must be provided to the Board upon

1 request. Respondent Wang Yuen Kan shall report on progress with the community service
2 program in the quarterly reports. Failure to timely submit, commence, or comply with the
3 program shall be considered a violation of probation.

4 **24. Remedial Education**

5 Within thirty (30) days of the effective date of this decision, Respondent Wang Yuen Kan
6 shall submit to the Board or its designee, for prior approval, an appropriate program of remedial
7 education related to pharmacy management or compounding. The program of remedial education
8 shall consist of at least fifteen (15) hours per year of probation, which shall be completed
9 Respondent's own expense. All remedial education shall be in addition to, and shall not be
10 credited toward, continuing education (CE) courses used for license renewal purposes.

11 Failure to timely submit or complete the approved remedial education shall be considered a
12 violation of probation. The period of probation will be automatically extended until such
13 remedial education is successfully completed and written proof, in a form acceptable to the
14 Board, is provided to the Board or its designee.

15 Following the completion of each course, the Board or its designee may require
16 Respondent, at his own expense, to take an approved examination to test Respondent's knowledge
17 of the course. If Respondent does not achieve a passing score on the examination, this failure
18 shall be considered a violation of probation. Any such examination failure shall require
19 Respondent to take another course approved by the Board in the same subject area.

20 **25. No Ownership of Licensed Premises**

21 Respondent Wang Yuen Kan shall not acquire any new ownership, legal or beneficial
22 interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or
23 partner of any additional business, firm, partnership, or corporation licensed by the Board. If
24 Respondent Wang Yuen Kan currently owns or has any legal or beneficial interest in, or serves as
25 a manager, administrator, member, officer, director, trustee, associate, or partner of any business,
26 firm, partnership, or corporation currently or hereinafter licensed by the Board, Respondent Wang
27 Yuen Kan may continue to serve in such capacity or hold that interest, but only to the extent of
28 that position or interest as of the effective date of this decision. Violation of this restriction shall

1 be considered a violation of probation.

2 **26. Consultant for Owner or Pharmacist-In-Charge**

3 During the period of probation, Respondent Wang Yuen Kan shall not supervise any intern
4 pharmacist or serve as a consultant to any entity licensed by the Board. Respondent Wang Yuen
5 Kan may be the pharmacist-in-charge of Respondent Indio Medical Pharmacy. However, if
6 during the period of probation Respondent Wang Yuen Kan serves as a pharmacist-in-charge,
7 Respondent Wang Yuen Kan shall retain an independent consultant at his own expense who shall
8 be responsible for reviewing pharmacy operations on a monthly basis for compliance by
9 Respondent Wang Yuen Kan with state and federal laws and regulations governing the practice of
10 pharmacy and for compliance by Respondent Wang Yuen Kan with the obligations of a
11 pharmacist-in-charge. The consultant shall be a pharmacist licensed by and not on probation with
12 the Board and whose name shall be submitted to the Board or its designee, for prior approval,
13 within thirty (30) days of the effective date of this decision. Respondent Wang Yuen Kan shall
14 not be a pharmacist-in-charge at more than one pharmacy. Failure to timely retain, seek approval
15 of, or ensure timely reporting by the consultant shall be considered a violation of probation.

16 **27. Tolling of Suspension**

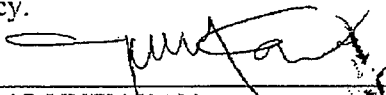
17 During the period of suspension, Respondent Wang Yuen Kan shall not leave California for
18 any period exceeding ten (10) days, regardless of purpose (including vacation). Any such
19 absence in excess of the (10) days during suspension shall be considered a violation of probation.
20 Moreover, any absence from California during the period of suspension exceeding ten (10) days
21 shall toll the suspension, i.e., the suspension shall be extended by one day for each day over ten
22 (10) days Respondent is absent from California. During any such period of tolling of suspension,
23 Respondent Wang Yuen Kan must nonetheless comply with all terms and conditions of
24 probation.

25 Respondent Wang Yuen Kan must notify the Board in writing within ten (10) days of
26 departure, and must further notify the Board in writing within ten (10) days of return. The failure
27 to provide such notification(s) shall constitute a violation of probation. Upon such departure and
28 return, Respondent Wang Yuen Kan shall not resume the practice of pharmacy until notified by


1 the Board that the period of suspension has been satisfactorily completed.

2 ACCEPTANCE

3 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
4 discussed it with my attorney, Tony J. Park, Esq. I understand the stipulation and the effect it will
5 have on my Pharmacy Permit and Pharmacist License. I enter into this Stipulated Settlement and
6 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
7 Decision and Order of the Board of Pharmacy.

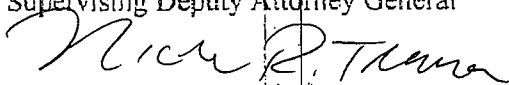
8 DATED: 2/12/2014 
9 WANG YUEN KAN,
10 As an individual and as the President and authorized
11 agent on behalf of INDIO MEDICAL PHARMACY
12 Respondents

12 I have read and fully discussed with Respondents the terms and conditions and other
13 matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form
14 and content.

15 DATED: 02/20/2014 
16 TONY J. PARK, ESQ.
17 Attorney for Respondent

18 ENDORSEMENT

19 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
20 submitted for consideration by the Board of Pharmacy.

21 Dated: 2/20/14 Respectfully submitted,
22 KAMALA D. HARRIS
23 Attorney General of California
24 JAMES M. LEDAKIS
25 Supervising Deputy Attorney General
26 
27 NICOLE R. TRAMA
28 Deputy Attorney General
Attorneys for Complainant

SD2013704970
70820196.docx

Exhibit A

Accusation No. 4569

1 KAMALA D. HARRIS
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
Deputy Attorney General
4 State Bar No. 263607
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2143
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 Case No. 4569

12 In the Matter of the Accusation Against:

13 **INDIO MEDICAL PHARMACY;**
WANG KAN, PRES/PIC
14 **81-893 Dr. Carreon Blvd., Ste. 7**
Indio, CA 92201

15 **Pharmacy Permit No. PHY 21267,**

16 **and**

17 **WANG YUEN KAN**
18 **41-550 Yucca Lane**
Bermuda Dunes, CA 92201

19 **Pharmacist License No. RPH 30545**

20 Respondents.

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

22
23 Complainant alleges:

24 **PARTIES**

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

27 2. On or about August 1, 1984, the Board of Pharmacy issued Pharmacy Permit Number
28 PHY 21267 to Indio Medical Pharmacy; with Wang Kan, as the President and Pharmacist in

1 Charge (PIC) (Respondent). The Pharmacy Permit was in full force and effect at all times
2 relevant to the charges brought herein and will expire on August 1, 2013, unless renewed.

3 3. On or about August 16, 1976, the Board of Pharmacy issued Pharmacist License
4 Number RPH 30545 to Wang Yuen Kan (Respondent). The Pharmacist License was in full force
5 and effect at all times relevant to the charges brought herein and will expire on June 30, 2014,
6 unless renewed.

7 JURISDICTION

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

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

15 6. Section 4300 of the Code states in pertinent part:

16 (a) Every license issued may be suspended or revoked.

17 (b) The board shall discipline the holder of any license issued by the board,
18 whose default has been entered or whose case has been heard by the board and
found guilty, by any of the following methods:

19 (1) Suspending judgment.

20 (2) Placing him or her upon probation.

21 (3) Suspending his or her right to practice for a period not exceeding one
22 year.

23 (4) Revoking his or her license.

24 (5) Taking any other action in relation to disciplining him or her as the board
25 in its discretion may deem proper.

26

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

7. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a 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.

STATUTORY PROVISIONS

8. Section 4076 of the Code states in pertinent part:

(a) A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

....

(11)(A) Commencing January 1, 2006, the physical description of the dispensed medication, including its color, shape, and any identification code that appears on the tablets or capsules. . . .

9. Section 4081 of the Code states:

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

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

10. Section 4169 of the Code states in pertinent part:

(a) A person or entity may not do any of the following:

....

(4) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices after the beyond use date on the label.

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

.....
11. 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:

.....
(o) Violating or attempting to violate, directly or indirectly, or assisting in 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 or by any other state or federal regulatory agency.

.....
12. Section 4306.5 of the Code states:

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

(a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.

.....
FEDERAL PROVISIONS

13. United States Code, title 21, chapter 9, subchapter V, section 353(d) states in part:

(1) Except as provided in paragraphs (2) and (3), no person may distribute any drug sample. For purposes of this subsection, the term "distribute" does not include the providing of a drug sample to a patient by a—

(A) practitioner licensed to prescribe such drug,

(B) health care professional acting at the direction and under the supervision of such a practitioner, or

(C) pharmacy of a hospital or of another health care entity that is acting at the direction of such a practitioner and that received such sample pursuant to paragraph (2) or (3).

1 (2)(A) The manufacturer or authorized distributor of record of a drug subject
2 to subsection (b) of this section may, in accordance with this paragraph, distribute
3 drug samples by mail or common carrier to practitioners licensed to prescribe such
4 drugs or, at the request of a licensed practitioner, to pharmacies of hospitals or
5 other health care entities. Such a distribution of drug samples may only be made—

6 (i) in response to a written request for drug samples made on a form which
7 meets the requirements of subparagraph (B), and

8 (ii) under a system which requires the recipient of the drug sample to
9 execute a written receipt for the drug sample upon its delivery and the return of the
10 receipt to the manufacturer or authorized distributor of record.

11 (B) A written request for a drug sample required by subparagraph (A)(i)
12 shall contain—

13

14 (C) Each drug manufacturer or authorized distributor of record which makes
15 distributions by mail or common carrier under this paragraph shall maintain, for a
16 period of 3 years, the request forms submitted for such distributions and the
17 receipts submitted for such distributions and shall maintain a record of
18 distributions of drug samples which identifies the drugs distributed and the
19 recipients of the distributions. Forms, receipts, and records required to be
20 maintained under this subparagraph shall be made available by the drug
21 manufacturer or authorized distributor of record to Federal and State officials
22 engaged in the regulation of drugs and in the enforcement of laws applicable to
23 drugs.

24 (3) The manufacturer or authorized distributor of record of a drug subject to
25 subsection (b) of this section may, by means other than mail or common carrier,
26 distribute drug samples only if the manufacturer or authorized distributor of record
27 makes the distributions in accordance with subparagraph (A) and carries out the
28 activities described in subparagraphs (B) through (F) as follows:

(A) Drug samples may only be distributed—

(i) to practitioners licensed to prescribe such drugs if they make a written
request for the drug samples, or

(ii) at the written request of such a licensed practitioner, to pharmacies of
hospitals or other health care entities.

STATE REGULATORY PROVISIONS

14. California Code of Regulations, title 16, section 1714 states in pertinent part:

....

(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice of pharmacy.

(c) The pharmacy and fixtures and equipment shall be maintained in a clean and orderly condition. The pharmacy shall be dry, well-ventilated, free from rodents and insects, and properly lighted. The pharmacy shall be equipped with a sink with hot and cold running water for pharmaceutical purposes.

....

15. California Code of Regulations, title 16, section 1735.2 states in pertinent part:

....

(d) A drug product shall not be compounded until the pharmacy has first prepared a written master formula record that includes at least the following elements:

- (1) Active ingredients to be used.
- (2) Equipment to be used.
- (3) Expiration dating requirements.
- (4) Inactive ingredients to be used.
- (5) Process and/or procedure used to prepare the drug.
- (6) Quality reviews required at each step in preparation of the drug.
- (7) Post-compounding process or procedures required, if any.

(e) Where a pharmacy does not routinely compound a particular drug product, the master formula record for that product may be recorded on the prescription document itself.

(f) The pharmacist performing or supervising compounding is responsible for the integrity, potency, quality, and labeled strength of a compounded drug product until it is dispensed.

(g) All chemicals, bulk drug substances, drug products, and other components used for drug compounding shall be stored and used according to compendial and other applicable requirements to maintain their integrity, potency, quality, and labeled strength.

(h) Every compounded drug product shall be given an expiration date representing the date beyond which, in the professional judgment of the

1 pharmacist performing or supervising the compounding, it should not be used.
2 This "beyond use date" of the compounded drug product shall not exceed 180 days
3 from preparation or the shortest expiration date of any component in the
4 compounded drug product, unless a longer date is supported by stability studies of
5 finished drugs or compounded drug products using the same components and
6 packaging. Shorter dating than set forth in this subsection may be used if it is
7 deemed appropriate in the professional judgment of the responsible pharmacist.

8 (i) The pharmacist performing or supervising compounding is responsible
9 for the proper preparation, labeling, storage, and delivery of the compounded drug
10 product.

11 (j) Prior to allowing any drug product to be compounded in a pharmacy,
12 the pharmacist-in-charge shall complete a self-assessment for compounding
13 pharmacies developed by the board. (Incorporated by reference is "Community
14 Pharmacy & Hospital Outpatient Pharmacy Compounding Self-Assessment" Form
15 17M-39 Rev. 02/12.) That form contains a first section applicable to all
16 compounding, and a second section applicable to sterile injectable compounding.
17 The first section must be completed by the pharmacist-in-charge before any
18 compounding is performed in the pharmacy. The second section must be
19 completed by the pharmacist-in-charge before any sterile injectable compounding
20 is performed in the pharmacy. The applicable sections of the self-assessment shall
21 subsequently be completed before July 1 of each odd-numbered year, within 30
22 days of the start of a new pharmacist-in-charge, and within 30 days of the issuance
23 of a new pharmacy license. The primary purpose of the self-assessment is to
24 promote compliance through self-examination and education.

25 16. California Code of Regulations, title 16, section 1735.3 states in pertinent part:

26 (a) For each compounded drug product, the pharmacy records shall
27 include:

- 28 (1) The master formula record.
- (2) The date the drug product was compounded.
- (3) The identity of the pharmacy personnel who compounded the drug product.
- (4) The identity of the pharmacist reviewing the final drug product.
- (5) The quantity of each component used in compounding the drug product.
- (6) The manufacturer, expiration date and lot number of each component. If the manufacturer name is demonstrably unavailable, the name of the supplier may be substituted. Exempt from the requirements in this paragraph are sterile products compounded on a one-time basis for administration within seventy-two (72) hours and stored in accordance with standards for "Redispensed CSPS" found in Chapter 797 of the United States Pharmacopeia - National Formulary (USP-NF) (35th Revision, Effective May 1, 2012), hereby incorporated by reference, to an inpatient in a health care facility licensed under section 1250 of the Health and Safety Code.
- (7) A pharmacy assigned reference or lot number for the compounded drug product.

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) The expiration date of the final compounded drug product.

(9) The quantity or amount of drug product compounded.

....

17. California Code of Regulations, title 16, section 1735.5 states in pertinent part:

(a) Any pharmacy engaged in compounding shall maintain a written policy and procedure manual for compounding that establishes procurement procedures, methodologies for the formulation and compounding of drugs, facilities and equipment cleaning, maintenance, operation, and other standard operating procedures related to compounding.

....

18. California Code of Regulations, title 16, section 1735.6 states in pertinent part:

(a) Any pharmacy engaged in compounding shall maintain written documentation regarding the facilities and equipment necessary for safe and accurate compounded drug products. Where applicable, this shall include records of certification(s) of facilities or equipment.

....

19. California Code of Regulations, title 16, section 1735.7 states in pertinent part:

(a) Any pharmacy engaged in compounding shall maintain written documentation sufficient to demonstrate that pharmacy personnel have the skills and training required to properly and accurately perform their assigned responsibilities relating to compounding.

....

20. California Code of Regulations, title 16, section 1735.8 states in pertinent part:

(a) Any pharmacy engaged in compounding shall maintain, as part of its written policies and procedures, a written quality assurance plan designed to monitor and ensure the integrity, potency, quality, and labeled strength of compounded drug products.

....

COST RECOVERY

21. 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, with failure of the licentiate to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 DRUGS

4 22. Ambien is a brand name for zolpidem, and is a Schedule IV controlled substance as
5 designated by Health and Safety Code section 11057(d)(32) and is a dangerous drug pursuant to
6 Business and Professions Code section 4022.

7 23. HydroDiuril is a brand name for hydrochlorothiazide, and is classified as a dangerous
8 drug pursuant to Business and Professions Code section 4022.

9 24. Lopressor and Toprol XL are brand names for metoprolol, and are classified as a
10 dangerous drug pursuant to Business and Professions Code section 4022.

11 25. Norvasc is a brand name for amlodipine, and is classified as a dangerous drug
12 pursuant to Business and Professions Code section 4022.

13 26. Prinivil and Zestril are brand names for lisinopril, and are classified as a dangerous
14 drug pursuant to Business and Professions Code section 4022.

15 27. Tambocor is a brand name for flecainide, and is classified as a dangerous drug
16 pursuant to Business and Professions Code section 4022.

17 28. Ultram is a brand name for tramadol and is a dangerous drug pursuant to Business
18 and Professions Code section 4022.

19 29. Xanax and Niravam are brand names for alprazolam and are Schedule IV controlled
20 substances as designated by Health and Safety Code section 11057(d)(1), and dangerous drugs
21 pursuant to Business and Professions Code section 4022. Alprazolam tablets are indicated for the
22 management of anxiety disorder or the short-term relief of symptoms of anxiety.

23 30. Zocor is a brand name for simvastatin, and is classified as a dangerous drug pursuant
24 to Business and Professions Code section 4022.

25 FACTUAL ALLEGATIONS

26 31. On April 10, 2012, a Board inspector performed a routine inspection of Indio Medical
27 Pharmacy located at 81-893 Dr. Carreon Boulevard, Ste. 7, in Indio, California. President and
28 Pharmacist-in-Charge (PIC) Wang Kan was present during the inspection.

1 32. During the inspection, the Board inspector discovered that the pharmacy was very
2 dirty, with a thick layer of dust on most surfaces. The Board inspector also discovered that the
3 pharmacy was unorganized, and that there were boxes, totes and shelves that contained expired
4 medications in the pharmacy. The Board inspector discovered that there were expired
5 medications throughout the dispensing area and co-mingled with unexpired medications on the
6 pharmacy's shelves. The shelves had not been checked or cleaned routinely and expired
7 medications were not quarantined.

8 33. The Board inspector also discovered an aisle of the pharmacy was blocked by totes
9 (filled with expired medications) making the shelves inaccessible. When the inspector asked
10 about the area, the PIC informed her that the pharmacy had been broken into during the last week
11 of March 2012, and that the totes were placed in front of the window in an attempt to prevent a
12 second break-in (by blocking this area off.)

13 34. When the Board inspector reviewed the "will call" area, she discovered that several
14 prescription containers prepared for customers that did not contain the required physical
15 description for the dispensed medication. Specifically, the following nine prescription containers
16 lacked the required physical description:

17

	Rx Number	Date Filled	Medication	
18				
19	1	7058266	3/12/12	Metoprolol
20	2	7058269	3/12/12	Amlodipine
21	3	7058268	3/12/12	Hydrochlorothiazide
22	4	7058267	3/12/12	Lisinopril
23	5	7048177	2/12/12	Flecainide
24	6	4883901	4/9/12	Alprazolam
25	7	7042507	3/12/12	Simvastatin
26	8	7042511	3/12/12	Tramadol
27	9	4884183	4/7/12	Zolpidem
28				

1 to maintain the pharmacy in a clean and orderly condition, as set forth in paragraphs 31 through
2 37, which are incorporated herein by reference.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Failure to Prevent Sales of Drugs Lacking Quality of Strength)

5 39. Respondents are subject to disciplinary action under section 4301, subdivision (o) for
6 violation of section 4169, subdivision (a)(4) in that Respondents had expired medications for
7 transfer throughout the dispensing area and co-mingled with unexpired medications of the
8 pharmacy shelves, as set forth in paragraphs 31 through 37, which are incorporated herein by
9 reference.

10 **THIRD CAUSE FOR DISCIPLINE**

11 (Incorrect Prescription Container Labeling)

12 40. Respondents are subject to disciplinary action under section 4301, subdivision (o) for
13 violation of section 4076 (a)(11)(A) in that during the inspection of the pharmacy, nine
14 prescription containers in the will call area were found to have lacked auxiliary labels with the
15 required physical description for the dispensed medication, as set forth in paragraph 34, which is
16 incorporated herein by reference.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 (Failure to Maintain Written Documentation of Staff Training Related to Compounding)

19 41. Respondents are subject to disciplinary action under section 4301, subdivision (o) for
20 violation of California Code of Regulations, title 16, section 1735.7(a) in that Respondents failed
21 to maintain training records for pharmacy personnel that demonstrate that personnel have the
22 skills and training required to properly and accurately perform their assigned responsibilities
23 related to compounding, as set forth in paragraphs 35 through 36, which are incorporated herein
24 by reference.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 (Failure to Maintain a Compounding Quality Assurance Plan)

27 42. Respondents are subject to disciplinary action under section 4301, subdivision (o) for
28 violation of California Code of Regulations, title 16, section 1735.8(a) in that Respondents failed

1 to maintain or produce as required, its written quality assurance plan designed to monitor and
2 ensure the integrity, potency, quality and labeled strength of compounded drug products, as set
3 forth in paragraphs 35 through 36, which are incorporated herein by reference.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 (Failure to Maintain Compounding Policy and Procedures)

6 43. Respondents are subject to disciplinary action under section 4301, subdivision (o) for
7 violation of California Code of Regulations, title 16, section 1735.5(a) in that Respondents failed
8 to maintain as required, a written policy and procedure manual for compounding that establishes
9 procurement procedures, methodologies for formulation and compounding of drugs, facilities and
10 equipment cleaning, maintenance, operation, and other standard operating procedures related to
11 compounding, as set forth in paragraphs 35 through 36, which are incorporated herein by
12 reference.

13 **SEVENTH CAUSE FOR DISCIPLINE**

14 (Failure to Maintain Documentation Re Facilities & Equipment Necessary for Safe & Accurate
15 Compounded Products)

16 44. Respondents are subject to disciplinary action under section 4301, subdivision (o) for
17 violation of California Code of Regulations, title 16, section 1735.6(a) in that Respondents failed
18 to maintain as required, written documentation regarding the facilities and equipment necessary
19 for safe and accurate compounded drug products, as set forth in paragraphs 35 through 36, which
20 are incorporated herein by reference.

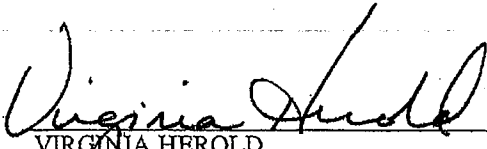
21 **EIGHTH CAUSE FOR DISCIPLINE**

22 (Failure to Maintain Records of Compounded Drug Products)

23 45. Respondents are subject to disciplinary action under section 4301, subdivision (o) for
24 violation of California Code of Regulations, title 16, section 1735.3(a) in that Respondents failed
25 to maintain as required, pharmacy records of compounded drug products, as set forth in
26 paragraphs 35 through 36, which are incorporated herein by reference.

27
28

- 1 3. Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the
- 2 investigation and enforcement of this case, pursuant to Business and Professions Code section
- 3 125.3;
- 4 4. Taking such other and further action as deemed necessary and proper.

5
6
7 DATED: 4/4/13 

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

12 SD2013704970
13 70690199.docx

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28