

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

In the Matter of the Accusation and Petition  
to Revoke Probation Against:

Case No. 4877

OAH No. 2014120887

FRED O. GREGORIAN

Pharmacist License No. RPH 47542,

Respondent.

**DECISION AND ORDER**

The attached Proposed Decision of the Administrative Law Judge is hereby adopted  
by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on October 16, 2015.

It is so ORDERED on September 16, 2015.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

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

In the Matter of the Accusation  
and Petition to Revoke Probation  
Against:

FRED O. GREGORIAN, Pharm. D.,  
Pharmacist License No. RPH 47542

Respondent.

Case No. 4877

OAH No. 2014120887

**PROPOSED DECISION**

This matter was heard by Laurie R. Pearlman, Administrative Law Judge (ALJ) with the Office of Administrative Hearings, on July 14, 2015, in Los Angeles, California. Complainant was represented by Thomas L. Rinaldi, Deputy Attorney General. Fred O. Gregorian (Respondent) was present and was represented by Oscar A. Acosta, Attorney at Law.

At the hearing, Complainant withdrew the Accusation and elected to proceed solely with the Petition to Revoke Probation. Complainant's motion to strike the first cause for discipline, at page 3, lines 3-10 of the Accusation and Petition to Revoke Probation (Petition), was granted.

Complainant's motion to strike the Fourth Cause to Revoke Probation, at page 5, lines 20-27 and page 6, lines 1-2 of the Petition, was granted.

Complainant's motion to amend paragraph 11, at page 4, lines 6-8 of the Petition was also granted. Paragraph 11 shall read: "Respondent's probation is subject to revocation because he failed to comply with Probation Condition No. 4 by failing to file quarterly reports for the periods January 10, 2013, and October 10, 2013."

Oral and documentary evidence was received and argument was heard. The record was closed and the matter was submitted for decision on July 14, 2015.

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## FACTUAL FINDINGS

1. On May 8, 2014, Complainant Virginia Herold (Complainant) filed the Petition while acting in her official capacity as Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

2. On August 12, 1994, the Board issued pharmacist license No. RPH 47542 (License) to Respondent. The License is in full force and effect and will expire on November 30, 2015, unless renewed.

### *Prior Discipline of Respondent's Pharmacist License*

3. Effective April 20, 2005, in Case No. AC 2669, entitled *In the Matter of the Accusation against Fred O. Gregorian*, (Prior Decision), the Board revoked Respondent's License.<sup>1</sup> However, the revocation was stayed, Respondent's License was suspended for 180 days, and his License was placed on probation for three years under terms and conditions which included the following:

#### [Condition] 4. **Reporting to the Board**

Respondent shall report to the Board quarterly. The report shall be made either in person or in writing, as directed. Respondent shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the Board.

[¶] . . . [¶]

#### [Condition] 8. **Notice to Employers**

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<sup>1</sup> In the Stipulated Settlement, Respondent admitted to the truth of each allegation contained in the Accusation. The causes for discipline involved filling erroneous or uncertain prescriptions; dispensing without a prescription; processing prescriptions with incorrect information on the prescription label; failing to have prescriptions on file; having physician drug samples on the premises; failing to keep a current and accurate inventory of dangerous drugs; failing to report the theft of controlled substances to the Board, following a burglary; failing to provide the Board with invoices for drugs; and storing records at premises not licensed by the Board.

Respondent shall notify all present and prospective employers of the decision in Board Case No. CI 2002 24086<sup>2</sup> and the terms, conditions and restrictions imposed on Respondent by the decision. Within 30 days of the effective date of this decision, and within 15 days of Respondent undertaking new employment, Respondent shall cause their direct supervisor, pharmacist-in-charge and/or owner to report to the Board in writing acknowledging the employer has read the decision in Board Case No. CI 2002 24086.

If Respondent works for or is employed by or through a pharmacy employment service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy of the and terms conditions of the decision in Case No. CI 2002 24086 in advance of the Respondent commencing work at each pharmacy. "Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist, whether the Respondent is considered an employee or independent contractor.

[Condition] 9. **Reimbursement of Board Costs**

Respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$25,000. Respondent shall make quarterly payments. If payment of \$25,000 is not made by the end of the three (3) year probation period, the probationary term shall continue until such sum is paid in full.

The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to reimburse the Board its costs of investigation and prosecution.

[¶] . . . [¶]

[Condition] 13. **Notification of Employment/Mailing Address Change**

Respondent shall notify the Board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor or owner and work schedule if known. Respondent shall notify the Board in writing within 10 days of a change in name, mailing address or phone number.

[¶] . . . [¶]

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<sup>2</sup> This Condition incorrectly identified as the Board's case number CI 2002 24086. The correct case number is 2669.

[Condition] 15. **Violation of Probation**

If Respondent violates probation in any respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order which was stayed. If a petition to revoke probation or an accusation is filed against Respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be extended, until the petition to revoke probation or accusation is heard and decided.

[¶] . . . [¶]

4. Under the terms and conditions of his probation, Respondent was required to submit written quarterly reports to the Board. Even if he were not working in the field of pharmacy, the terms of probation required that he provide to the Board the name, address and telephone number of his employer, with a description of his duties, hours worked, and plans for obtaining employment in the field of pharmacy. (Exhibit 6.)

*Bases for Discipline*

5. In the Petition, Complainant alleged several bases for revocation of probation based on Respondent's failure to comply with the terms and conditions of probation.

(a). Respondent stipulated that he failed to comply with Probation Condition No. 4 in that he failed to file quarterly reports for the periods January 10, 2013, and October 10, 2013.

(b). Respondent stipulated that he failed to comply with Probation Condition No. 8 in that he did not have his employer, Medical Arts Pharmacy, complete an Employment Verification form within fifteen days of his undertaking employment at the pharmacy.

(c). Complainant failed to establish, by clear and convincing evidence, that Respondent failed to comply with Probation Condition No. 8. The evidence presented established that Respondent did notify his employer, Medical Arts Pharmacy, of his probationary status with the Board.

(d). Complainant established, by clear and convincing evidence, that Respondent failed to comply with Probation Condition No. 9 in that he failed to make quarterly payments to reimburse the Board for its costs of investigation and prosecution totaling \$25,000, as required. At the time of the hearing, Respondent had only paid \$450.00 to the Board.

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(e). Complainant established, by clear and convincing evidence, that Respondent failed to comply with Probation Condition No. 13 in that he failed to notify the Board of the termination of his employment with Medical Arts Pharmacy, which began in September, 2008 and ended in March, 2010.

### *Rehabilitation and Mitigation*

6. H.P.,<sup>3</sup> the pharmacist-in-charge at Medical Arts Pharmacy, testified at the hearing. Respondent informed her of his probationary status with the Board before he began employment at Medical Arts Pharmacy. He was hired as an independent contractor and consultant to market her newly acquired pharmacy and to be a work-site monitor for her husband, C.P., a pharmacist who had been placed on Board probation due to substance abuse and other related issues. On March 10, 2010, H.P. provided Board investigators with a declaration stating that Respondent was hired at Medical Arts Pharmacy to supervise C.P. for eight hours per week and to be a “consultant with the compounding aspect of the business. . . . to produce materials that can be used to increase the sales of our compounds. This role does require a pharmacist license.” (Exhibit E.) However, on April 21, 2010, she and C.P. sent a letter to the Board stating that, “[Respondent] has not worked, nor does he currently work in any capacity as a pharmacist at this time.” (Exhibit B.) This contradictory assertion lacks credibility.

7(a). Respondent testified and was respectful of the proceedings. Respondent suffered a misdemeanor conviction in Los Angeles Superior Court, arising out of the facts contained in the Accusation in Board Case no. CI 2002 24086. (Exhibit 1.) He had been working as a pharmacist at Burbank Compounding Pharmacy, but lost that job following his conviction, when he was placed on a list of individuals excluded from participating in Medicare, Medicaid, and other federally-funded plans (“exclusion list”) in 2010. No payment will be made by any federal health care program for any items furnished, ordered or prescribed by an excluded individual. The exclusion list is maintained by the Office of Inspector General (OIG) of the U.S. Department of Health & Human Services. Respondent will be on the exclusion list until 2020.

7(b). Three years after he began his Board probation, Respondent responded to an on-line posting for a job as a probation monitor at Medical Arts Pharmacy. In September, 2008, Respondent began working 32 hours per month at Medical Arts Pharmacy, producing marketing literature for Medical Arts Pharmacy, and acting as a work-site monitor for C.P. As a probation monitor, Respondent’s role was to ensure that C.P. did not endanger himself or others by self-administering controlled substances. In his role as C.P.’s probation monitor, Respondent filled out reports which were provided to the Maximus Diversion Program (Maximus). Respondent stated that he did not believe that he was required to be a pharmacist in order to be C.P.’s probation monitor. This is disingenuous, in light of the fact that Respondent informed C.P. and H.P. that he held a probationary license as a pharmacist

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<sup>3</sup> Initials are used to protect the privacy of the probationer who was monitored by Respondent at Medical Arts Pharmacy.

before he began employment at Medical Arts Pharmacy. Moreover, the Maximus form provides that a worksite monitor must be at least one management step above on the organization chart and must monitor the individual's job performance. These two Maximus requirements suggest that only a pharmacist could serve as C.P.'s probation monitor.

7(c). Respondent asserted that he was not required to complete an Employment Verification form within fifteen days of his undertaking employment at Medical Arts Pharmacy, nor did he have to notify the Board of the termination of his employment there, based upon his contention that he did not work at Medical Arts Pharmacy as a pharmacist. However, under the terms and conditions of his probation, Respondent was required to submit written quarterly reports to the Board as to any employment he held. Even if he were not working as a pharmacist for Medical Arts Pharmacy, Respondent had to notify the Board of the name, address and telephone number of all employers, with a description of his duties and hours worked. He failed to do so as to his employment at Medical Arts Pharmacy.

7(d). At the time of hearing, Respondent had only reimbursed \$450 of the \$25,000 he had agreed to pay for Board costs of prosecution and investigation. In August 2007, Respondent was diagnosed with Hodgkins' Lymphoma and received chemotherapy for six months. He testified that he incurred "a lot of medical bills" from 2007-2012, but he did not communicate that to the Board. His medical bills have been paid in full. Health insurance covered most of his bills, and Respondent paid a total of \$10,000-\$12,000. As a result of his illness, Respondent did not work from October 2007 through Fall 2008. Being on the exclusion list also severely limits Respondent's employment opportunities as a pharmacist. In 2008, he filed bankruptcy. Since beginning probation, he has gotten divorced and his mother died. Respondent has remarried, but he entered into a prenuptial agreement, so his wife's income "is not available" to him for payment of Board costs. He paid \$450 in payments to the Board in the first three years of his probation, before being put on the exclusion list. He then stopped paying any money to the Board because he felt that he "would never make a dent" in the amount he owes to the Board. He would be willing to make monthly payments of \$50 to \$100 to the Board in order to remain on probation.

7(e). Respondent is 47-years-old. He and his second wife have two children, ages 3 and 6. Respondent is now a stay-at-home dad, his wife is employed, and his father helps Respondent pay his bills.

#### *Costs of Investigation and Prosecution*

8. Complainant did not submit evidence of costs of investigation and prosecution of this matter. Complainant withdrew the Accusation and elected to proceed solely with the Petition to Revoke Probation. Costs related to probation violations are not awarded.

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## LEGAL CONCLUSIONS

1. Business and Professions Code<sup>4</sup> section 118, subdivision (b), provides that the suspension, expiration, surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

2. 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 prosecution.

3. Cause exists to revoke Respondent's probation and reimpose the order of revocation of Respondent's Pharmacist License, in that Respondent failed to comply with Probation Term Number 4 (Failure to File Quarterly Reports), as set forth in Factual Findings 3-5.

4. Cause does not exist to revoke Respondent's probation and reimpose the order of revocation of Respondent's Pharmacist License, in that Complainant did not present clear and convincing evidence establishing that Respondent failed to comply with Probation Term Number 8 (Employer Notification), as set forth in Factual Findings 5(c), 6, and 7(b).

5. Cause exists to revoke Respondent's probation and reimpose the order of revocation of Respondent's Pharmacist License, in that Respondent failed to comply with Probation Term Number 8 (Failure to Pay Board Costs), as set forth in Factual Findings 3, 5, and 7(d).

6. Cause exists to revoke Respondent's probation and reimpose the order of revocation of Respondent's Pharmacist License, in that Respondent failed to comply with Probation Term Number 13 (Notification of Employment), as set forth in Factual Findings 3-5, and 7(c).

7. Pursuant to Business and Professions Code section 125.3, Complainant is not entitled to recover reasonable costs of investigation and prosecution of this matter, as set forth in Factual Finding 8.

8. Respondent has had ten years to demonstrate his ability to comply with the terms of his Board probation. He paid only a fraction of the costs owed to the Board, and has not paid any amount at all in the past seven years. Respondent neglected to inform the Board about his employment at Medical Arts Pharmacy, and continues to deny that he was obligated to do so. Respondent has failed to take responsibility for his actions, or to express any remorse for his failure to comply with his probation. No assurance of Respondent's

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<sup>4</sup> All section references are to the Business and Professions Code unless otherwise indicated.




future compliance with probationary terms was provided. Consequently, his probation should be revoked. Respondent will be able to petition the Board for reinstatement in three years, if he chooses to do so.

**ORDER**

**WHEREFORE, THE FOLLOWING ORDER is hereby made:**

1. The probation that was granted to Fred O. Gregorian by the Board of Pharmacy in Case No. AC 2669 is hereby revoked, and the disciplinary order that was stayed is imposed.
2. Pharmacist License No. RPH 47542, issued to Fred O. Gregorian, is hereby revoked.

DATED: August 12, 2015

  
LAURIE R. PEARLMAN  
Administrative Law Judge  
Office of Administrative Hearings

1 KAMALA D. HARRIS  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
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4 State Bar No. 206911  
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*Attorneys for Complainant*

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

10 In the Matter of the Accusation and Petition to  
11 Revoke Probation Against,

Case No. 4877

12 **FRED O. GREGORIAN**  
13 **19776 Ahwancee Lane**  
**Northridge, CA 91326**  
14 **Pharmacist License No. RPH 47542**

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

15 Respondent.

16 Complainant alleges:

17 PARTIES

- 18 1. Virginia Herold (Complainant) brings this Accusation and Petition to Revoke  
19 Probation solely in her official capacity as the Executive Officer of the Board of Pharmacy,  
20 Department of Consumer Affairs.
- 21 2. On or about August 12, 1994, the Board of Pharmacy issued Pharmacist License  
22 Number RPH 47542 to Fred O. Gregorian (Respondent). The Pharmacist License was in effect at  
23 all times relevant to the charges brought herein and will expire on November 30, 2015, unless  
24 renewed.
- 25 3. In a disciplinary action entitled "In the Matter of Accusation Against Fred O.  
26 Gregorian," Case No. AC 2669, the Board of Pharmacy, issued a decision, effective April 20,  
27 2005, in which Respondent's Pharmacist License was revoked. However, the revocation was  
28 stayed and Respondent's Pharmacist License was placed on probation for a period of three years

1 with certain terms and conditions. A copy of that decision is attached as Exhibit A and is  
2 incorporated by reference.

3 JURISDICTION AND STATUTORY

4 PROVISIONS FOR ACCUSATION

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

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

12 6. Section 4301 of the Code states, in pertinent part:

13 "The board shall take action against any holder of a license who is guilty of  
14 unprofessional conduct or whose license has been procured by fraud or misrepresentation or  
15 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the  
16 following:

17 . . . .

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

21 "(g) Knowingly making or signing any certificate or other document that falsely  
22 represents the existence or nonexistence of a state of facts.

23 . . . .

24 COST RECOVERY

25 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
26 administrative law judge to direct a licentiate found to have committed a violation or violations of  
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
28

1 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
2 renewed or reinstated.

3 FIRST CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct: Dishonesty/False Representations)

5 8. Respondent is subject to disciplinary action under section 4301, subdivisions (f) and  
6 (g), in that Respondent engaged in acts of dishonesty and/or deceit when he made false  
7 representations to the Board. The circumstances are that between November, 2008 and October,  
8 2009, Respondent submitted signed statements to the Pharmacists Recovery Program at Maximus  
9 Inc. representing that a participant under his supervision was working 30-32 hours per week. In  
10 fact, the participant was only working eight hours per week.

11 JURISDICTION FOR PETITION TO REVOKE PROBATION

12 9. This Petition to Revoke Probation is brought before the Board under Probation Term  
13 and Condition Number 15 of the Decision and Order In the Matter of Accusation Against Fred O.  
14 Gregorian, Case No. 2669. That term and condition states as follows:

15 "If respondent violates probation in any respect, the Board, after giving Respondent  
16 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order  
17 which was stayed. If a petition to revoke probation or an accusation is filed against Respondent  
18 during probation, the Board shall have continuing jurisdiction and the period of probation shall be  
19 extended, until the petition to revoke probation or accusation is heard and decided.

20 If Respondent has not complied with any term or condition of probation, the Board shall  
21 have continuing jurisdiction over Respondent, and probation shall automatically be extended until  
22 all terms and conditions have been satisfied or the Board has taken other action as deemed  
23 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
24 to impose the penalty which was stayed.

25 FIRST CAUSE TO REVOKE PROBATION

26 (Failure to File Quarterly Reports as Required)

27 10. At all times after the effective date of Respondent's probation, Condition No. 4  
28 stated:

1       **Reporting to the Board.** Respondent shall report to the Board quarterly. The report shall  
2 be made either in person or in writing, as directed. Respondent shall state under penalty of  
3 perjury whether there has been compliance with all the terms and conditions of probation. If the  
4 final probation report is not made as directed, probation shall be extended automatically until  
5 such time as the final report is made and accepted by the Board.

6       11. Respondent's probation is subject to revocation because he failed to comply with  
7 Probation Condition No. 4 by failing to provide reports on a quarterly basis. Respondent has only  
8 reported sporadically if at all.

9   **SECOND CAUSE TO REVOKE PROBATION**

10    (Employer Notification)

11       12. At all times after the effective date of Respondent's probation, Condition No. 8  
12 stated:

13       **Notice to Employers.** Respondent shall notify all present and prospective employers of the  
14 decision in Board Case No. CI 2002 24086 and the terms, conditions and restrictions imposed on  
15 respondent by the decision. Within 30 days of the effective date of this decision, and within 15  
16 days of respondent undertaking new employment, respondent shall cause their direct supervisor,  
17 pharmacist-in-charge and/or owner to report to the board in writing acknowledging the employer  
18 has read the decision in Board Case No. CI 2002 24086.<sup>1</sup>

19       If respondent works for or is employed by or through a pharmacy employment service,  
20 Respondent must notify his direct supervisor, pharmacist-in-charge, and/or owner at every  
21 pharmacy of the terms and conditions of the decision in Case No. CI 2002 24086 in advance of  
22 the respondent commencing work at each pharmacy. "Employment" within the meaning of this  
23 provision shall include any full-time, part-time, temporary, relief or pharmacy management  
24 service as a pharmacist, whether the Respondent is considered an employee or independent  
25 contractor.

26  
27       <sup>1</sup> Condition No. 8 in the original stipulation incorrectly identified the Board's case  
28 number as CI 2002 24086. The correct case number is 2669.

1 13. Respondent's probation is subject to revocation in that he failed to comply with  
2 Probation Condition No. 8 in the following respects:

3 a. Respondent failed to notify his employer (Medical Arts Pharmacy) of his  
4 probationary status with the Board.

5 b. Respondent failed to have his employer (Medical Arts Pharmacy) complete an  
6 Employment Verification form within fifteen days of his undertaking employment at the  
7 pharmacy.

8 THIRD CAUSE TO REVOKE PROBATION

9 (Failure to Pay Board Costs)

10 14. At all times after the effective date of Respondent's probation, Condition No. 9  
11 stated:

12 Reimbursement of Board Costs. Respondent shall pay to the Board its costs of  
13 investigation and prosecution in the amount of \$25,000. Respondent shall make quarterly  
14 payments. If payment of \$25,000 is not made by the end of the three (3) year probation period,  
15 the probation term shall continue until such sum is paid in full.

16 The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to  
17 reimburse the Board its costs of investigation and prosecution.

18 15. Respondent's probation is subject to revocation because he has failed to make  
19 quarterly payments as required. Respondent has only paid \$450.00 to date.

20 FOURTH CAUSE TO REVOKE PROBATION

21 (Failure to Pay Probation Monitoring Costs)

22 16. At all times after the effective date of Respondent's probation, Condition No. 10  
23 stated:

24 Probation Monitoring Costs. Respondent shall pay the costs associated with probation  
25 monitoring as determined by the Board each and every quarter of probation. Such costs shall be  
26 payable to the Board at the end of each quarter of probation. Failure to pay such costs shall be  
27 considered a violation of probation.

28

1 17. Respondent's probation is subject to revocation because he has failed to pay  
2 probation monitoring costs as required.

3 FIFTH CAUSE TO REVOKE PROBATION

4 (Notification of Employment)

5 18. At all times after the effective date of Respondent's probation, Condition No. 13  
6 stated:

7 Notification of Employment/Mailing Address Change. Respondent shall notify the  
8 Board in writing within 10 days of any change of employment. Said notification shall include the  
9 reasons for leaving and/or the address of the new employer, supervisor or owner and work  
10 schedule if known. Respondent shall notify the Board in writing within ten days of a change in  
11 name, mailing address or phone number.

12 19. Respondent's probation is subject to revocation because he failed to notify the Board  
13 of the termination of his employment with Medical Arts Pharmacy, which began in September,  
14 2008 and ended in March, 2010.

15 PRAYER

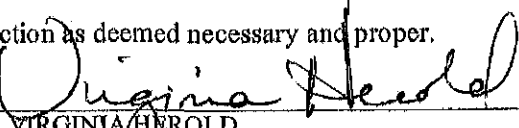
16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Board of Pharmacy issue a decision:

18 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. AC  
19 2669 and imposing the disciplinary order that was stayed thereby revoking Pharmacist License  
20 No. RPH 47542 issued to Fred O. Gregorian;

21 2. Revoking or suspending Pharmacist License No. RPH 47542, issued to Fred O.  
22 Gregorian;

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 5/8/14

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

25  
26  
27  
28 LA2013510070/51415179.doc

# **Exhibit A**

**Decision and Order**

**Board of Pharmacy Case No. 2669**



1 KAMALA D. HARRIS  
Attorney General of California  
2 KAREN B. CHAPPELLE  
Supervising Deputy Attorney General  
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*Attorneys for Complainant*

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15 Respondent.

16 Complainant alleges:

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1 with certain terms and conditions. A copy of that decision is attached as Exhibit A and is  
2 incorporated by reference.

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5 4. This Accusation is brought before the Board of Pharmacy (Board), under the  
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10 disciplinary action during the period within which the license may be renewed, restored, reissued  
11 or reinstated.

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13 "The board shall take action against any holder of a license who is guilty of  
14 unprofessional conduct or whose license has been procured by fraud or misrepresentation or  
15 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the  
16 following:

17 .....

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

21 "(g) Knowingly making or signing any certificate or other document that falsely  
22 represents the existence or nonexistence of a state of facts.

23 .....

24 COST RECOVERY

25 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
26 administrative law judge to direct a licentiate found to have committed a violation or violations of  
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
28

1 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
2 renewed or reinstated.

3 FIRST CAUSE FOR DISCIPLINE

4 (Unprofessional Conduct: Dishonesty/False Representations)

5 8. Respondent is subject to disciplinary action under section 4301, subdivisions (f) and  
6 (g), in that Respondent engaged in acts of dishonesty and/or deceit when he made false  
7 representations to the Board. The circumstances are that between November, 2008 and October,  
8 2009, Respondent submitted signed statements to the Pharmacists Recovery Program at Maximus  
9 Inc. representing that a participant under his supervision was working 30-32 hours per week. In  
10 fact, the participant was only working eight hours per week.

11 JURISDICTION FOR PETITION TO REVOKE PROBATION

12 9. This Petition to Revoke Probation is brought before the Board under Probation Term  
13 and Condition Number 15 of the Decision and Order In the Matter of Accusation Against Fred O.  
14 Gregorian, Case No. 2669. That term and condition states as follows:

15 "If respondent violates probation in any respect, the Board, after giving Respondent  
16 notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order  
17 which was stayed. If a petition to revoke probation or an accusation is filed against Respondent  
18 during probation, the Board shall have continuing jurisdiction and the period of probation shall be  
19 extended, until the petition to revoke probation or accusation is heard and decided.

20 If Respondent has not complied with any term or condition of probation, the Board shall  
21 have continuing jurisdiction over Respondent, and probation shall automatically be extended until  
22 all terms and conditions have been satisfied or the Board has taken other action as deemed  
23 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
24 to impose the penalty which was stayed.

25 FIRST CAUSE TO REVOKE PROBATION

26 (Failure to File Quarterly Reports as Required)

27 10. At all times after the effective date of Respondent's probation, Condition No. 4  
28 stated:

1        **Reporting to the Board.** Respondent shall report to the Board quarterly. The report shall  
2 be made either in person or in writing, as directed. Respondent shall state under penalty of  
3 perjury whether there has been compliance with all the terms and conditions of probation. If the  
4 final probation report is not made as directed, probation shall be extended automatically until  
5 such time as the final report is made and accepted by the Board.

6            11. Respondent's probation is subject to revocation because he failed to comply with  
7 Probation Condition No. 4 by failing to provide reports on a quarterly basis. Respondent has only  
8 reported sporadically if at all.

9                                **SECOND CAUSE TO REVOKE PROBATION**

10                              (Employer Notification)

11            12. At all times after the effective date of Respondent's probation, Condition No. 8  
12 stated:

13        **Notice to Employers.** Respondent shall notify all present and prospective employers of the  
14 decision in Board Case No. CI 2002 24086 and the terms, conditions and restrictions imposed on  
15 respondent by the decision. Within 30 days of the effective date of this decision, and within 15  
16 days of respondent undertaking new employment, respondent shall cause their direct supervisor,  
17 pharmacist-in-charge and/or owner to report to the board in writing acknowledging the employer  
18 has read the decision in Board Case No. CI 2002 24086.<sup>1</sup>

19            If respondent works for or is employed by or through a pharmacy employment service,  
20 Respondent must notify his direct supervisor, pharmacist-in-charge, and/or owner at every  
21 pharmacy of the terms and conditions of the decision in Case No. CI 2002 24086 in advance of  
22 the respondent commencing work at each pharmacy. "Employment" within the meaning of this  
23 provision shall include any full-time, part-time, temporary, relief or pharmacy management  
24 service as a pharmacist, whether the Respondent is considered an employee or independent  
25 contractor.

26  
27        <sup>1</sup> Condition No. 8 in the original stipulation incorrectly identified the Board's case  
28 number as CI 2002 24086. The correct case number is 2669.

1 13. Respondent's probation is subject to revocation in that he failed to comply with  
2 Probation Condition No. 8 in the following respects:

3 a. Respondent failed to notify his employer (Medical Arts Pharmacy) of his  
4 probationary status with the Board.

5 b. Respondent failed to have his employer (Medical Arts Pharmacy) complete an  
6 Employment Verification form within fifteen days of his undertaking employment at the  
7 pharmacy.

8 THIRD CAUSE TO REVOKE PROBATION

9 (Failure to Pay Board Costs)

10 14. At all times after the effective date of Respondent's probation, Condition No. 9  
11 stated:

12 Reimbursement of Board Costs. Respondent shall pay to the Board its costs of  
13 investigation and prosecution in the amount of \$25,000. Respondent shall make quarterly  
14 payments. If payment of \$25,000 is not made by the end of the three (3) year probation period,  
15 the probation term shall continue until such sum is paid in full.

16 The filing of bankruptcy by Respondent shall not relieve Respondent of his responsibility to  
17 reimburse the Board its costs of investigation and prosecution.

18 15. Respondent's probation is subject to revocation because he has failed to make  
19 quarterly payments as required. Respondent has only paid \$450.00 to date.

20 FOURTH CAUSE TO REVOKE PROBATION

21 (Failure to Pay Probation Monitoring Costs)

22 16. At all times after the effective date of Respondent's probation, Condition No. 10  
23 stated:

24 Probation Monitoring Costs. Respondent shall pay the costs associated with probation  
25 monitoring as determined by the Board each and every quarter of probation. Such costs shall be  
26 payable to the Board at the end of each quarter of probation. Failure to pay such costs shall be  
27 considered a violation of probation.

28

1 17. Respondent's probation is subject to revocation because he has failed to pay  
2 probation monitoring costs as required.

3 FIFTH CAUSE TO REVOKE PROBATION

4 (Notification of Employment)

5 18. At all times after the effective date of Respondent's probation, Condition No. 13  
6 stated:

7 Notification of Employment/Mailing Address Change. Respondent shall notify the  
8 Board in writing within 10 days of any change of employment. Said notification shall include the  
9 reasons for leaving and/or the address of the new employer, supervisor or owner and work  
10 schedule if known. Respondent shall notify the Board in writing within ten days of a change in  
11 name, mailing address or phone number.

12 19. Respondent's probation is subject to revocation because he failed to notify the Board  
13 of the termination of his employment with Medical Arts Pharmacy, which began in September,  
14 2008 and ended in March, 2010.

15 PRAYER

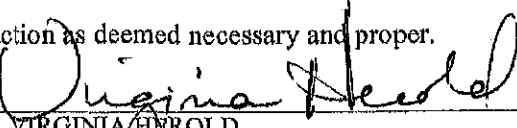
16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Board of Pharmacy issue a decision:

18 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. AC  
19 2669 and imposing the disciplinary order that was stayed thereby revoking Pharmacist License  
20 No. RPH 47542 issued to Fred O. Gregorian;

21 2. Revoking or suspending Pharmacist License No. RPH 47542, issued to Fred O.  
22 Gregorian;

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: 5/8/14

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

25  
26  
27  
28 LA2013510070/51415179.doc

**Exhibit A**

**Decision and Order**

**Board of Pharmacy Case No. 2669**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 MICHEL W. VALENTINE, State Bar No. 153078  
Deputy Attorney General  
3 California Department of Justice  
300 So. Spring Street, Suite 1702  
4 Los Angeles, CA 90013  
Telephone: (213) 897-1034  
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

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

12 In the Matter of the Accusation Against:  
13 TOTAL CARE PHARMACY  
10223 B Colima Road  
14 Whittier, CA 90603  
15 Original Pharmacy Permit No. PHY 44701  
16 and  
17 FRED O. GREGORIAN, RPH  
19360 Riwaldi Street, No. 262  
18 Porter Ranch, CA 92326-1607  
19 Original Pharmacist License No. RPH 47542  
20 Respondents.

Case No. CI 2002 24086  
AC 2669

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

21  
22 In the interest of a prompt and speedy settlement of this matter, consistent with the  
23 public interest and the responsibility of the Board of Pharmacy of the Department of Consumer  
24 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order  
25 which will be submitted to the Board for approval and adoption as the final disposition of the  
26 Accusation solely with respect to Total Care Pharmacy, and Fred O. Gregorian, Pharmacist-in-  
27 Charge.

28 //



1 PARTIES

2 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of  
3 Pharmacy. She brought this action solely in her official capacity and is represented in this matter  
4 by Bill Lockyer, Attorney General of the State of California, by Michel W. Valentine, Deputy  
5 Attorney General.

6 2. Respondent Total Care Pharmacy (Respondent Pharmacy) and Fred O.  
7 Gregorian (Respondent Gregorian) are represented in this proceeding by attorney Donald B.  
8 Brown, whose address is 3848 Carson Street, Suite 206, Torrance, California 90503.

9 3. On or about March 21, 2000, the Board of Pharmacy issued Original  
10 Pharmacy Permit No. PHY 44701 to Total Care Pharmacy. The Permit expired on March 1,  
11 2003, and has not been renewed. Fred O. Gregorian was listed as the Pharmacist-in-Charge.

12 4. On or about August 12, 1994, the Board of Pharmacy issued Original  
13 Pharmacist License No. RPH 47542 to Respondent Fred O. Gregorian. Respondent Gregorian's  
14 license expired on November 30, 2003, and has not been renewed.

15 JURISDICTION

16 5. Accusation No. CI 2002 24086 was filed before the Board of Pharmacy  
17 (Board), Department of Consumer Affairs, and is currently pending against Respondents. The  
18 Accusation and all other statutorily required documents were properly served on Respondents on  
19 January 22, 2004, February 4, 2004, and March 9, 2004. Respondents timely filed their Notice of  
20 Defense contesting the Accusation. A copy of Accusation, Bd. Case No. CI 2002 24086, is  
21 attached as exhibit A and incorporated herein by reference.

22 ADVISEMENT AND WAIVERS

23 6. Respondents have carefully read, fully discussed with counsel, and  
24 understand the charges and allegations in Accusation No. CI 2002 24086. Respondents have also  
25 carefully read, fully discussed with counsel, and understand the effects of this Stipulated  
26 Settlement and Disciplinary Order.

27 7. Respondents are fully aware of their legal rights in this matter, including  
28 the right to a hearing on the charges and allegations in the Accusation; the right to be represented

1 by counsel at its own expense; the right to confront and cross-examine the witnesses against  
2 them; the right to present evidence and to testify on their own behalf; the right to the issuance of  
3 subpoenas to compel the attendance of witnesses and the production of documents; the right to  
4 reconsideration and court review of an adverse decision; and all other rights accorded by the  
5 California Administrative Procedure Act and other applicable laws.

6 8. Respondents voluntarily, knowingly, and intelligently waive and give up  
7 each and every right set forth above.

8 CULPABILITY

9 9. Respondents admit the truth of each and every charge and allegation in  
10 Accusation No. CI 2002 24086.

11 10. Respondents agree that its Original Pharmacy Permit No. PHY 44701  
12 (Respondent Pharmacy) and Original Pharmacist License No. RPH 47542 (Respondent  
13 Gregorian) are subject to discipline and they agree to be bound by the Board's imposition of  
14 discipline as set forth in the Disciplinary Order below.

15 CONTINGENCY

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

26 12. The admissions made by Respondents herein are only for the purpose of  
27 this proceeding, or any other proceedings in which the Board of Pharmacy or other professional  
28 licensing agency is involved, and shall not be admissible in any other criminal or civil

1 proceeding.

2 13. The parties understand and agree that facsimile copies of this Stipulated  
3 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same  
4 force and effect as the originals.

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

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that Original Pharmacy Permit No. PHY 44701  
10 issued to Respondent Total Care Pharmacy is revoked. Original Pharmacist License No. RPH  
11 47542 issued to Respondent Fred O. Gregorian is revoked. However, the revocation of  
12 Respondent Gregorian is stayed and Respondent Gregorian is placed on probation for three (3)  
13 years on the following terms and conditions.

14 1. **Actual Suspension - Pharmacist.** License No. RPH 47542, issued to  
15 Respondent Gregorian is suspended from the practice of pharmacy for 180 days beginning the  
16 effective date of this decision.

17 2. **Reexamination Prior to Resuming Work.** Respondent shall be  
18 suspended from working as an exemptee until he takes and passes the exemption examination as  
19 scheduled by the Board after the effective date of the decision.

20 During suspension, Respondent shall not enter any pharmacy area or any  
21 portion of the licensed premises of a wholesaler, medical device retailer or any other  
22 distributor of drugs which is licensed by the Board, or any manufacturer, or where dangerous  
23 drugs, controlled substances or legend drugs are maintained. Respondent shall not practice  
24 pharmacy nor do any act involving drug selection, selection of stock, manufacturing,  
25 compounding, dispensing or patient consultation; nor shall Respondent manage, administer,  
26 or be a consultant to any licensee of the Board, or have access to or control the ordering,  
27 manufacturing or dispensing of dangerous drugs or controlled substances of dangerous drugs  
28 or controlled substances. Respondent shall not direct or control any aspect of the practice of

1 pharmacy. Subject to the above restrictions, Respondent may continue to own or hold an  
2 interest in any pharmacy in which he holds an interest at the time this decision becomes  
3 effective.

4           3.     **Obey All Laws.** Respondent shall obey all state and federal laws and  
5 regulations substantially related to or governing the practice of pharmacy.

6           Respondent shall report any of the following occurrences to the Board, in  
7 writing, within 72 hours of such occurrence:

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

18           4.     **Reporting to the Board.** Respondent shall report to the Board  
19 quarterly. The report shall be made either in person or in writing, as directed. Respondent  
20 shall state under penalty of perjury whether there has been compliance with all the terms and  
21 conditions of probation. If the final probation report is **not** made as directed, probation shall  
22 be extended automatically until such time as the final report is made and accepted by the  
23 Board.

24           5.     **Interview with the Board.** Upon receipt of reasonable notice,  
25 Respondent shall appear in person for interviews with the Board upon request at various  
26 intervals at a location to be determined by the Board. Failure to appear for a scheduled  
27 interview without prior notification to Board staff shall be considered a violation of probation.

28           6.     **Cooperation with Board Staff.** Respondent shall cooperate with the

1 Board's inspectional program and in the Board's monitoring and investigation of Respondent's  
2 compliance with the terms and conditions of their probation. Failure to comply shall be  
3 considered a violation of probation.

4           7.     **Continuing Education.** Respondent shall provide evidence of efforts  
5 to maintain skill and knowledge as a pharmacist as directed by the Board.

6           8.     **Notice to Employers.** Respondent shall notify all present and  
7 prospective employers of the decision in Board Case No. CI 2002 24086 and the terms,  
8 conditions and restrictions imposed on Respondent by the decision. Within 30 days of the  
9 effective date of this decision, and within 15 days of Respondent undertaking new  
10 employment, Respondent shall cause their direct supervisor, pharmacist-in-charge and/or  
11 owner to report to the Board in writing acknowledging the employer has read the decision in  
12 Board Case No. CI 2002 24086.

13           If Respondent works for or is employed by or through a pharmacy employment  
14 service, Respondent must notify the direct supervisor, pharmacist-in-charge, and/or owner at  
15 every pharmacy of the and terms conditions of the decision in Case No. CI 2002 24086 in  
16 advance of the Respondent commencing work at each pharmacy. "Employment" within the  
17 meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy  
18 management service as a pharmacist, whether the Respondent is considered an employee or  
19 independent contractor.

20           9.     **Reimbursement of Board Costs.** Respondent shall pay to the Board  
21 its costs of investigation and prosecution in the amount of \$25,000. Respondent shall make  
22 quarterly payments. If payment of \$25,000 is not made by the end of the three (3) year  
23 probation period, the probationary term shall continue until such sum is paid in full.

24           The filing of bankruptcy by Respondent shall not relieve Respondent of his  
25 responsibility to reimburse the Board its costs of investigation and prosecution.

26           10.    **Probation Monitoring Costs.** Respondent shall pay the costs  
27 associated with probation monitoring as determined by the Board each and every quarter of  
28 probation. Such costs shall be payable to the Board at the end of each quarter of probation.

1 Failure to pay such costs shall be considered a violation of probation.

2           11.     **Status of License.** Respondent shall, at all times while on probation,  
3 maintain an active current license with the Board, including any period during which  
4 suspension or probation is tolled.

5           If Respondent's license expires or is cancelled by operation of law or otherwise,  
6 upon renewal or reapplication, Respondent's license shall be subject to all terms and  
7 conditions of this probation not previously satisfied.

8           12.     **License Surrender while on Probation/Suspension.** Following the  
9 effective date of this decision, should Respondent cease practice due to retirement or health,  
10 or be otherwise unable to satisfy the terms and conditions of probation, Respondent may  
11 tender their license to the Board for surrender. The Board shall have the discretion whether to  
12 grant the request for surrender or take any other action it deems appropriate and reasonable.  
13 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject  
14 to the terms and conditions of probation.

15           Upon acceptance of the surrender, Respondent shall relinquish his pocket  
16 license to the Board within 10 days of notification by the Board that the surrender is accepted.  
17 Respondent may not reapply for any license from the Board for three years from the effective  
18 date of the surrender. Respondent shall meet all requirements applicable to the license sought  
19 as of the date the application for that license is submitted to the Board.

20           13.     **Notification of Employment/Mailing Address Change.** Respondent  
21 shall notify the Board in writing within 10 days of any change of employment. Said  
22 notification shall include the reasons for leaving and/or the address of the new employer,  
23 supervisor or owner and work schedule if known. Respondent shall notify the Board in  
24 writing within 10 days of a change in name, mailing address or phone number.

25           14.     **Tolling of Probation.** Should Respondent, regardless of residency, for  
26 any reason cease practicing pharmacy for a minimum of 40 hours per calendar month in  
27 California, Respondent must notify the Board in writing within 10 days of cessation of the  
28 practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time

1 shall not apply to the reduction of the probation period. It is a violation of probation for  
2 Respondent's probation to remain tolled pursuant to the provisions of this condition for a  
3 period exceeding three years.

4 "Cessation of practice" means any period of time exceeding 30 days in which  
5 Respondent is not engaged in the practice of pharmacy as defined in Section 4052 of  
6 the Business and Professions Code.

7 **15. Violation of Probation.** If Respondent violates probation in any  
8 respect, the Board, after giving Respondent notice and an opportunity to be heard, may revoke  
9 probation and carry out the disciplinary order which was stayed. If a petition to revoke  
10 probation or an accusation is filed against Respondent during probation, the Board shall have  
11 continuing jurisdiction and the period of probation shall be extended, until the petition to  
12 revoke probation or accusation is heard and decided.

13 If Respondent has not complied with any term or condition of probation, the  
14 Board shall have continuing jurisdiction over Respondent, and probation shall automatically  
15 be extended until all terms and conditions have been satisfied or the Board has taken other  
16 action as deemed appropriate to treat the failure to comply as a violation of probation, to  
17 terminate probation, and to impose the penalty which was stayed.

18 **16. Completion of Probation.** Upon successful completion of probation,  
19 Respondent's license will be fully restored.

20 **17. No Ownership of Premises.** Respondent shall not own, have any legal  
21 or beneficial interest in, or serve as a manager, administrator, member, officer, director,  
22 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter  
23 licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any  
24 entity licensed by the Board within 90 days following the effective date of this decision and  
25 shall immediately thereafter provide written proof thereof to the Board.

26 **18. Tolling of Suspension.** If Respondent leaves California to reside or  
27 practice outside this state, for any period exceeding 10 days (including vacation), Respondent  
28 must notify the Board in writing of the dates of departure and return. Periods of residency or

01/31/2006 11:07 FAX 10 782 0681

DONALD B BROWN

010

JAN-31-2005 10:09

ATTY GENERAL OFFICE

2136975320

P.09

1 practice outside the state - or any absence exceeding a period of 10 days shall not apply to the  
2 reduction of the suspension period.

3 Respondent shall not practice pharmacy upon returning to this state until  
4 notified by the Board that the period of suspension has been completed.

5  
6 ACCEPTANCE

7 We have carefully read the above Stipulated Settlement and Disciplinary Order  
8 and have fully discussed it with our attorney, Donald B. Brown. We understand the  
9 stipulation and the effect it will have on my Original Pharmacy Permit. We enter into this  
10 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and  
11 agree to be bound by the Decision and Order of the Board of Pharmacy.

12 DATED: JAN 31 2005

13  
14 

15  
16 TOTAL CARE PHARMACY  
17 FRED O. GREGORIAN, RPH  
18 Respondents

19 I have read and fully discussed with Respondent Total Care Pharmacy the  
20 terms and conditions and other matters contained in the above Stipulated Settlement and  
21 Disciplinary Order. I approve its form and content.

22 DATED: JAN 31 2005

23  
24   
25 DONALD B BROWN  
26 Attorney for Respondents

27  
28



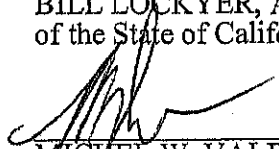
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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 1/31/05

BILL LOCKYER, Attorney General  
of the State of California



MICHEL W. VALENTINE  
Deputy Attorney General

Attorneys for Complainant

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

In the Matter of the Accusation Against:

Case No. CI 2002 24086  
AC 2669

TOTAL CARE PHARMACY  
10223 B Colima Road  
Whittier, CA 90603

Original Pharmacy Permit No. PHY 44701

and

FRED O. GREGORIAN, RPH  
19360 Riwaldi Street, No. 262  
Porter Ranch, CA 92326-1607

Respondents.

**DECISION AND ORDER**

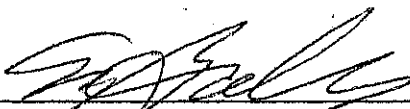
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on April 20, 2005.

It is so ORDERED March 21, 2005.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

  
\_\_\_\_\_  
STANLEY W. GOLDENBERG  
Board President

**Exhibit A**

**Accusation No. CI 2002 24086**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 MICHEL VALENTINE, State Bar No. 153078  
Deputy Attorney General  
3 California Department of Justice  
300 So. Spring Street, Suite 1702  
4 Los Angeles, CA 90013  
Telephone: (213) 897-1034  
5 Facsimile: (213) 897-2804  
6 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Bd. Case No. CI 2002 24086

12 TOTAL CARE PHARMACY  
10223 B Colima Road,  
13 Whittier, CA 90603

**ACCUSATION**

14 Original Pharmacy Permit No. PHY 44701

15 and

16 FRED O. GREGORIAN, RPH  
19360 Riwaldi Street, No. 262  
17 Porter Ranch, CA 92326-1607

18 Original Pharmacist License No. RPH 47542

19 Respondents.

20  
21 Complainant alleges:

22 PARTIES

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

26 2. On or about March 21, 2000 the Board of Pharmacy issued Original  
27 Pharmacy Permit No. PHY 44701 to Total Care Pharmacy (Respondent Pharmacy). The license  
28 expired on March 1, 2003. Fred O. Gregorian was listed as the Pharmacist-in-Charge.

1 3. On or about August 12, 1994, the Board of Pharmacy issued Original  
2 Pharmacist License Number RPH 47542 to Respondent Fred O. Gregorian (Respondent  
3 Gregorian). Respondent Gregorian's license will expire on November 30, 2003.

#### 4 JURISDICTION

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

8 5. Section 118, subdivision (b) of the Code provides that the expiration of a  
9 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the  
10 period within which the license may be renewed, restored, reissued or reinstated.

11 6. Section 4300 of the Code states:

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

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

16 "(1) Suspending judgment.

17 "(2) Placing him or her upon probation.

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

19 "(4) Revoking his or her license.

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

22 "(c) The board may refuse a license to any applicant guilty of unprofessional  
23 conduct. The board may, in its sole discretion, issue a probationary license to any  
24 applicant for a license who is guilty of unprofessional conduct and who has met  
25 all other requirements for licensure. The board may issue the license subject to  
26 any terms or conditions not contrary to public policy, including, but not limited to,  
27 the following:

28 ///

1           "(1) Medical or psychiatric evaluation.

2           "(2) Continuing medical or psychiatric treatment.

3           "(3) Restriction of type or circumstances of practice.

4           "(4) Continuing participation in a board-approved rehabilitation program.

5           "(5) Abstention from the use of alcohol or drugs.

6           "(6) Random fluid testing for alcohol or drugs.

7           "(7) Compliance with laws and regulations governing the practice of pharmacy.

8           "(d) The board may initiate disciplinary proceedings to revoke or suspend any  
9 probationary certificate of licensure for any violation of the terms and conditions  
10 of probation. Upon satisfactory completion of probation, the board shall convert  
11 the probationary certificate to a regular certificate, free of conditions.

12           "(e) The proceedings under this article shall be conducted in accordance with  
13 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the  
14 Government Code, and the board shall have all the powers granted therein. The  
15 action shall be final, except that the propriety of the action is subject to review by  
16 the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

17           7.       Section 4301 of the Code states:

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

22                               \* \* \*

23           "(b) Incompetence.

24           "(c) Gross negligence.

25                               \* \* \*

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

1 "(g) Knowingly making or signing any certificate or other document that falsely  
2 represents the existence or nonexistence of a state of facts.

3 \* \* \*

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

6 \* \* \*

7 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or  
8 abetting the violation of or conspiring to violate any provision or term of this  
9 chapter or of the applicable federal and state laws and regulations governing  
10 pharmacy, including regulations established by the board.

11 "(p) Actions or conduct that would have warranted denial of a license.

12 8. Section 4059 of the Code states, in pertinent part, that a person may not  
13 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,  
14 optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the  
15 prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

16 9. Section 4060 of the Code in pertinent part states:

17 "No person shall possess any controlled substance, except that furnished to  
18 a person upon the prescription of a physician, dentist, podiatrist, or veterinarian,  
19 or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant  
20 to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a physician  
21 assistant pursuant to Section 3502.1. This section shall not apply to the  
22 possession of any controlled substance by a manufacturer, wholesaler, pharmacy,  
23 physician, podiatrist, dentist, veterinarian, certified nurse-midwife, nurse  
24 practitioner, or physician assistant, when in stock in containers correctly labeled  
25 with the name and address of the supplier or producer. . . ."

26 ///

27 ///

28

1           10.    Section 4081 of the Code states:

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

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

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

21           11. California Code of Regulations, title 16, section 1718 states:

22                   "'Current Inventory' as used in Section 4081 and 4332 of the Business and  
23 Profession Code shall be considered to include complete accountability of all  
24 dangerous drugs handled by every licensee enumerated in Sections 4081 and  
25 4332."

26           12. Section 4105, subdivision (a) of the Code states that all records or other  
27 documentation of the acquisition and disposition of dangerous drugs and dangerous devices by

28   ///



1 any entity licensed by the Board shall be retained on the licensed premises in a readily  
2 retrievable form.

3 13. Section 4113 of the Code states:

4 "(a) Every pharmacy shall designate a pharmacist-in-charge and within 30 days  
5 thereof, shall notify the Board in writing of the identity and license number of that  
6 pharmacist and the date he or she was designated.

7 "(b) The pharmacist-in-charge shall be responsible for a pharmacy's compliance  
8 with all state and federal laws and regulations pertaining to the practice of  
9 pharmacy."

10 14. California Code of Regulations, title 16, section 1708.2 states that any permit  
11 holder shall contact the Board prior to transferring or selling any dangerous drugs, devices or  
12 hypodermics inventory as a result of termination of business or bankruptcy proceedings and shall  
13 follow official instructions given by the Board applicable to the transaction.

14 15. Section 4332 of the Code provides, in pertinent part, that a person who fails,  
15 neglects or refuses to maintain the records required by Section 4081 or who fails, neglects or  
16 refuses to provide the records when called upon by an authorized authority is guilty of a  
17 misdemeanor.

18 16. Section 4333 of the Code states, in pertinent part, that all prescriptions filled  
19 by a pharmacy and all other records required by Section 4081 shall be maintained on the  
20 premises and available for inspection by authorized officers of the law for a period of at least  
21 three years. In cases where the pharmacy discontinues business, these records shall be  
22 maintained in a Board-licensed facility for at least three years.

23 17. Section 4059 states, in pertinent part, that a person may not furnish any  
24 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist, or  
25 veterinarian.

26 18. Section 4061 of the Code prohibits distribution of any dangerous drug or  
27 dangerous device as a complimentary sample of without the written request of a physician,  
28 dentist, podiatrist or veterinarian.

1                   19. Section 4063 of the Code states that no prescription for any dangerous drug or  
2 dangerous device may be refilled except upon the authorization of the prescriber. The  
3 authorization may be given orally or at the time of giving the original prescription. No  
4 prescription for any dangerous drug that is a controlled substance may be designated as refillable  
5 as needed.

6                   20. Section 4076 provides in pertinent part that a pharmacist shall not dispense  
7 any prescription except in a container that meets the requirements of state and federal law and is  
8 correctly labeled with, among other items, the name of the drug, the directions for its use, the  
9 name of the patient, the name of the prescriber, the date of issue, the name of the pharmacy and  
10 its location, the strength of the drug dispensed, the quantity of the drug dispensed, and the  
11 expiration date of the drug dispensed.

12                   21. California Code of Regulations, title 16, section 1715.6 provides that "The  
13 owner shall report to the Board within thirty (30) days of discovery of any loss of the controlled  
14 substances, including their amounts and strengths."

15                   22. California Code of Regulations, title 16, section 1761, provides that "No  
16 pharmacist shall compound or dispense any prescription which contains any significant error,  
17 omission, irregularity, uncertainty, ambiguity or alteration. . . ."

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

#### 22    DANGEROUS DRUGS

23                   24.     The following are dangerous drugs within the meaning of the Code,  
24 Section 4022.

- 25                   a. Allegra, a brand name for Fexofenadine, is used for the treatment of allergies.
- 26                   b. Alupent, a brand name for Metaproterolol, is used for the treatment of asthma.
- 27                   c. Amoxil, a brand name for Amoxicillin, is used as an antibiotic.
- 28                   d. Atrovent, a brand name for Ipratropium, is used for the treatment of asthma.

- 1 e. Catapres, a brand name for Clonidine, is used for the treatment of  
2 hypertension.
- 3 f. Celexa, a brand name for Citalopram, is used for the treatment of depression.
- 4 g. Chlortrimeton, a brand name for Chlorpheniramine, is used as an antihistamine.
- 5 h. Coreg, a brand name for Carvedilol, is used for the treatment of hypertension.
- 6 i. DDAVP, a brand name for Desmopressin, is a hormone used for the treatment  
7 of bed wetting.
- 8 j. Effexor XR is a brand name for Venlafaxine, is used for the treatment of  
9 depression.
- 10 k. Hyzaar, a brand name for Hydrochlorothiazide/losartan, is used for the treatment  
11 of hypertension.
- 12 l. Lidex, a brand name for Fluocinonide is used as a topical steroid.
- 13 n. Nexium, a brand name for Esomeprazole is used for the treatment of ulcers.
- 14 p. Prevacid, a brand name for Lansoprazole, is used for the treatment of ulcers.
- 15 q. Prilosec, a brand name for Omeprazole, is used for the treatment of ulcers.
- 16 r. Proventil Repetab, a brand name for Albuterol, is used for the treatment of  
17 asthma.
- 18 s. Rebetron, a brand name for Ribavirin/Interferon alpha 2b (recombinant) is used  
19 for the treatment of hepatitis C.
- 20 t. Rocephin, a brand name for Cetriaxone, is used as an antibiotic.
- 21 u. Seroquel, a brand name for Quetiapine is used for the treatment of  
22 schizophrenia.
- 23 v. Serostim, a brand name for Somatropin, is used as a growth hormone.
- 24 w. Vioxx, a brand name for Rofecoxib, is used for the treatment of pain.
- 25 x. Xylocaine, a brand name for Lidocane, is used as a local anesthetic.
- 26 z. Zoloft, a brand name for Sertraline, is used as an antidepressant.
- 27 aa. Zyprexa, a brand name for Olanzapine, is used as an antipsychotic.

28 ///

1 FIRST CAUSE FOR DISCIPLINE

2 (Erroneous or Uncertain Prescriptions)

3 25. Respondents Pharmacy and Gregorian are subject to discipline for  
4 unprofessional conduct as specified in Section 4301, subdivision (o) as it relates to California  
5 Code of Regulations section 1761 in that Respondent Pharmacy, with Respondent Gregorian in  
6 charge, filled several prescriptions too soon, filled prescriptions for patients who already had  
7 prescriptions in the same class of drugs, and filled prescriptions for the same patient for the same  
8 drugs. Specifically,

9 a. On 2/22/02 Carrie F. had Rx no. 6027273, prescribed by Jack Azad, MD., aka  
10 Jack Vossoughazad, M.D. filled for 30 capsules of Prilosec 20 mg. Rx no. 6027273 was  
11 dispensed on 2/22/02. Then on 2/25/02, Carrie F. had Rx no. 6020889 filled, written by D.  
12 Reyes, M.D. Rx no. 6020889 was refilled one day later, for 30 capsules of Prilosec 20 mg, on  
13 2/26/02.

14 b. Maria G. had a Rx no. 6043721 written for 30 capsules of Prilosec 20 mg  
15 prescribed by A. Islami, M.D., filled on 9/17/2002. Within 30 days, Maria G. had another  
16 prescription, Rx no. 6044867 written by A. Lopez, M.D. for 30 capsules Prilosec 20 mg, which  
17 was filled on 9/30/02. Two days later, Respondents filled a third prescription for the same  
18 medicine, Rx no. 6045116, written by A. Lopez, M.D., for 90 capsules of Prilosec 20 mg.

19 c. Laoura G. had prescriptions of Prilosec 20 mg, Prevacid 30 mg and Nexium 40  
20 mg (generic name for Esomeprazole, a dangerous drug) all classified as proton pump inhibitors  
21 with a similar mechanism. These prescriptions were filled concurrently.

22	Nexium was filled:	Prevacid was filled:	Prilosec was filled:
23	1/7/02	1/7/02	-----
24	4/4/02	-----	-----
25	5/3/02	5/31/02	-----
26	5/24/02	-----	-----
27	-----	6/12/02	-----
28	7/23/02	7/15/02	7/15/02

9/9/02

9/9/02

1 -----  
2 d. On 6/26/02, Anaida F. was dispensed 180 capsules of Prevacid, 15 mg, for a  
3 90 day supply, Rx no. 6038009. On 8/28/02, 63 days later, Rx no. 6038009 was refilled for 180  
4 capsules of Prevacid 30 mg. P. Chen, M.D. wrote both prescriptions. In addition, on 8/5/02  
5 Anaida F. was dispensed 90 capsules, of Prevacid, 15 mg, a 90 day supply, Rx. no. 6040899. P.  
6 Chen, M.D. wrote the prescription. On 10/3/02, prescription 6040899 was refilled for another 90  
7 capsules of Prevacid 15 mg, a 90 day supply.

8 e. Betty C. was receiving two different prescriptions for Prevacid. For Rx no.  
9 601856 Betty C. was dispensed 30 capsules, coded as 90 day supply, of Prevacid 30 mg on  
10 3/01/02. On 3/29/02 for Betty C. a new prescription, Rx no. 6030661, was dispensed for 30  
11 capsules of Prevacid 30 mg, coded as a 30 day supply. Three days later, 4/1/02, Rx no. 6018156  
12 was dispensed as a refilled prescription for another 30 capsules or a 30-day supply of Prevacid 30  
13 mg. On 5/13/02, for Betty C. respondents refilled prescription Rx no. 6030661, dispensed as 30  
14 capsules, a 30 day supply, of Prevacid 30 mg. Yet 22 days later, on 6/4/02, Rx no. 6030661  
15 was refilled for another 30 capsules or 30 day supply. Respondent Pharmacy filled all of these  
16 prescriptions.

17 f. On 1/4/02 Brenda G., for Rx no. 6022076, was dispensed 90 capsules, 90  
18 days' supply, of Prilosec. On 1/7/02 for Brenda G. Respondents filled Rx no. 6017205 for 30  
19 capsules (a 30 day supply) of Prevacid 30 mg, a drug with a mechanism similar to Prilosec. On  
20 1/24/02, seventeen days later a new prescription, Rx no. 06024150, for Prevacid 30 mg was filled  
21 for 30 capsules, a 30 day supply. On 2/5/02, twelve days later, another new prescription, Rx no.  
22 6025294, for Prevacid 30 mg was filled for 30 capsules, a 30 day supply. Rx no. 6022076, for  
23 Prilosec 20 mg was also refilled on 2/28/02 for 90 capsules, a 90 day supply.

24 SECOND CAUSE FOR DISCIPLINE

25 (Dispensing without a Prescription)

26 26. Respondent Pharmacy and Gregorian are subject to discipline for failure to  
27 comply with Section 4059 of the Code, in that prescriptions for dangerous drugs, as defined by  
28 Section 4022 of the Code, were billed to third party payors as dispensed prescriptions, without a

1 prescription authorized by a prescriber. Specifically the following prescriptions were filled  
2 without a prescription from a prescriber.

3 a. For Serostim 6 mg., the physicians denied that they wrote prescriptions for Rx  
4 no. 6022015, Rx no. 6022017, Rx no. 6026637, Rx no. 6032528, Rx no. 6033713,, Rx no.  
5 6039590,, Rx no. 6030950, Rx. no. 6039893 and Rx no. 6040472.

6 b. For Celexa 20 mg, the physician denied that he wrote Rx no. 6024618..

7 c. For DDAVP, the physician denied that he wrote Rx no. 6042466.

8 d. For Allegra, the physician denied that he wrote Rx no. 6042465.

9 e. For Vioxx 25 mg the physician denied that he wrote Rx no. 6042590.

10 f. For Hyzaar 100 mg, the physician denied that he wrote Rx no. 6042591

11 g. For Rebetrone 100 therapy pak, the physician denied that he wrote Rx no.  
12 6042592.

### 13 THIRD CAUSE FOR DISCIPLINE

14 (Wrong Information on Prescription Label)

15 26. Respondents Pharmacy and Gregorian are subject to discipline pursuant to  
16 Code, section 4076 in that one prescription was processed with the incorrect quantity and six  
17 prescriptions were processed with the incorrect prescriber's name. Specifically,

18 a. Rx no. 6039956, was written for Amparo C. for Prevacid 30 mg, 30 capsules;  
19 incorrectly, Respondents filled the prescription for Prevacid 30 mg, 90 capsules.

20 The following were labeled with a prescriber's name other than the name of the  
21 prescriber listed on the prescription:

22 b. Rx no. 6038094, written for Helen H. for 1 Alupent 650 mcg inhaler, 14  
23 grams, by C. Foster, M.D. and filled under the prescriber name of J. Azad, M.D.

24 c. Rx. no 6036884, written for Johnnie H. for Atrovent 0.02 % solution, 300 ml,  
25 by Voss, M.D. and filled under the prescriber name of A. Aschrafina, M.D.

26 d. Rx no. 6036891, written for Doris M. for 12 Compazine 25 mg suppositories,  
27 by Dr. Ass and filled under the prescriber name of J. Azad, M.D.

28 ///

1 e. Rx no. 6036892, written for Doris M. for Floucinolone 0.01 % cream, by Dr.  
2 Ass, was filled under the prescriber name of J. Azad, M.D.

3 f. Rx no. 6036894, written for Doris M. for Preventil 4 mg tabs, by Dr. Ass, was  
4 filled under the prescriber name of J. Azad, M.D.

5 g. Rx no. 6036883, written for Johnnie H., for Volmax 8 mg, 120 tabs was  
6 written by Voss, M.D. and was filled under the prescriber name of A. Aschrafina.

7 FOURTH CAUSE FOR DISCIPLINE

8 (Failure to Produce Records)

9 27. Respondents Pharmacy is subject to discipline for violation of Section 4081  
10 of the Code regarding the production of records. Specifically, Respondent Pharmacy did not  
11 have any prescriptions on file for patients to whom the Pharmacy dispensed Serostim. During an  
12 inspection of Respondent Pharmacy on November 15, 2002, there were no prescriptions for the  
13 Serostim dispensed for John W., Brenda G., Stephanie C., James C., Valerie C., Raffee S.,  
14 Brenda J. and Clifford W.

15 FIFTH CAUSE FOR DISCIPLINE

16 (Possession of Drug Samples)

17 28. Respondents Pharmacy and Gregorian are subject to discipline for  
18 noncompliance with Section 4061 of the Code in that Respondent Pharmacy had physician drug  
19 samples of Coreg on its premises. Specifically, on November 11, 2002, during an inspection of  
20 Respondent Pharmacy, Inspector Soriya Ly located 52 boxes of Coreg 3.125 mg and 8 boxes of  
21 Coreg patient titration kits, that is, physician drug samples within the premises.

22 SIXTH CAUSE FOR DISCIPLINE

23 (Failure to Maintain Current Inventory)

24 29. Respondent Pharmacy and Gregorian are subject to discipline for being out of  
25 compliance with Section 4081 of the Code, as defined in California Code of Regulations, title 16,  
26 section 1718, for failing to keep a current and accurate inventory of dangerous drugs as follows.  
27 In an audit for inventory from 1/1/02 to 11/15/02:

28 ///

	<u>Dangerous Drug</u>	<u>Overage</u>
1		
2	Prilosec 20 mg	1610 capsules
3	Prevacid 15 mg	990 capsules
4	Prevacid 30 mg	5026 capsules
5	Serostim 6 mg	140 vials
6	Zoloft 50 mg	1693 tablets
7	Zoloft 100 mg	3090 tablets
8	Zyprexa 2.5 mg	60 tablets
9	Zyprexa 5 mg	1140 tablets
10	Zyprexa 7.5 mg	60 tablets
11	Zyprexa 10 mg	1263 tablets

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Report Losses)

14               30. Respondent Pharmacy and Gregorian are subject to discipline in that it was  
15 not in compliance with California Code of Regulation , title 16, section 1715.6 in that it did not  
16 report to the Board, within 30 days, the loss of controlled substances, including the quantity and  
17 strengths after the burglary of the Respondent Pharmacy. Specifically, on or about November 19,  
18 2002, Respondent Pharmacy reported to the Whittier Police Department the theft of Vicodin and  
19 other controlled substances. As of March 24, 2003, the Board had not received a report from the  
20 Respondent Pharmacy reporting the strengths and quantity of controlled substances lost through  
21 the burglary.

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Produce Records: Invoices)

24               31. Respondent Pharmacy is subject to discipline in that it was not in compliance  
25 with Section 4332 of the Code in that it failed to submit to the Board invoices for the following  
26 drugs:

- 27               Serostim 6 mg,
- 28               Prilosec 20 mg,



1 Prevacid 15 mg and 30 mg,  
2 Zyprexa 2.5 mg, 5 mg, 7.5 mg, and 10 mg,  
3 Zolof, 50 mg and 100 mg.

4 Specifically, on November 15, 2002 Respondent Gregorian was instructed after an  
5 inspection of Respondent Pharmacy to submit to the Board all invoices for the above drugs.  
6 Respondent Gregorian furnished only one report from a wholesaler and also wrote to the Board,  
7 "I need to get invoices from the other wholesalers and other pharmacies." As of March 24, 2003,  
8 the Board had received no additional invoices from Respondent Pharmacy.

9 NINTH CAUSE FOR DISCIPLINE

10 (Fraudulent Prescriptions)

11 32. Respondent Gregorian is subject to discipline for unprofessional conduct  
12 pursuant to Section 4301, subdivision (g) of the Code in that prescriptions were billed to third  
13 party payors as dispensed prescriptions but were for prescriptions that were not authorized by the  
14 prescriber. In specific, the following were written as telephone prescriptions by Respondent  
15 Gregorian but were not authorized by the prescriber. The physician in question denied under  
16 oath that he had prescribed the medication for his patients.

17 Rx no. 6042466 for DDAVP,

18 Rx no. 6042465 for Allegra 60 mg,

19 Rx no. 6042590 for Vioxx 25 mg,

20 Rx no. 6042592 for Rebetrol,

21 Rx no. 6042591 Hyzaar 100 mg, and

22 Rx no. 6042767 for Lidex.

23 TENTH CAUSE FOR DISCIPLINE

24 (Maintaining Records at an Unlicensed Premise)

25 33. Respondents Pharmacy and Gregorian are further subject to discipline for a  
26 violation of Section 4333 in that the records of acquisition and disposal of dangerous drugs and  
27 controlled substances have been stored at a premise not licensed by the Board. In specific, on  
28 March 19, 2003 Respondent Pharmacy filed a Discontinuance of Business form and stated that


1 the location of all records of acquisition and disposal for dangerous drugs was 10231 S. Colima  
2 Road, a business named "Mini U Storage," which is not a premise licensed by the Board. The  
3 transfer of the records from a licensed premise to an unlicensed premise contravenes California  
4 Code of Regulations, title 16, section 1708.2.

5 PRAYER

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

- 8 1. Revoking or suspending Original Pharmacy Permit PHY 44701, issued to  
9 TOTAL CARE PHARMACY;
- 10 2. Revoking or suspending Original Pharmacist License RPH 47542, issued  
11 to FRED O. GREGORIAN;
- 12 3. Ordering TOTAL CARE PHARMACY and FRED O. GREGORIAN to  
13 pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,  
14 pursuant to Business and Professions Code section 125.3;
- 15 4. Taking such other and further action as deemed necessary and proper.

16 DATED: 1/12/04

17  
18   
19 PATRICIA F. HARRIS  
20 Executive Officer  
21 Board of Pharmacy  
22 Department of Consumer Affairs  
23 State of California  
24 Complainant

23 03583 110 LA 2003 600 440  
24 JRD: tota|pharmacy.2  
25 I:\all\Valentine\draftpleadings  
26 jrd: 11-20-03  
27  
28