

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

In the Matter of the First Amended Accusation  
Against:

Case No. 5636

RXCHANGE CO.,  
STEPHEN M. COSTA, President,  
MOHAMMAD M. SALEMI, Director,  
and DRIC SRBUHI TONELYAN  
2545 N. Ontario Street  
Burbank, CA 91504  
Wholesale Permit No. WLS 5795

OAH No. 2016050685

**STIPULATED SETTLEMENT  
AND DISCIPLINARY ORDER RE  
SRBUHI TONELYAN ONLY**

and

SRBUHI TONELYAN  
219 E. Garfield Avenue, #4  
Glendale, CA 91205  
Certificate Number EXC 18823

Respondents.

**DECISION AND ORDER**

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

This Decision shall become effective at 5:00 p.m. on August 30, 2017.

It is so ORDERED on July 31, 2017.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

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

1 XAVIER BECERRA  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 NANCY A. KAISER  
Deputy Attorney General  
4 State Bar No. 192083  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-5794  
6 Facsimile: (213) 897-2804  
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 First Amended Accusation  
Against:

Case No. 5636

12 **RXCHANGE CO.,**  
13 **STEPHEN M. COSTA, President,**  
14 **MOHAMMAD M. SALEMI, Director,**  
and **DRIC SRBUHI TONELYAN**  
15 **2545 N. Ontario Street**  
**Burbank, CA 91504**

OAH No. 2016050685

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER RE SRBUHI**  
**TONELYAN ONLY**

16 Wholesale Permit No. WLS 5795

17 and

18 **SRBUHI TONELYAN**  
219 E. Garfield Avenue., #4  
19 Glendale, CA 91205

20 Certificate Number EXC 18823

21 Respondents.

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 (Board). She brought this action solely in her official capacity and is represented in this matter by  
28

1 Xavier Becerra, Attorney General of the State of California, by Nancy A. Kaiser, Deputy  
2 Attorney General.

3 2. Respondent Srбуhi Tonelyan (Respondent) is represented in this proceeding by  
4 attorney David Gurnick, whose address is Lewitt Hackman, 16633 Ventura Blvd. #1100, Encino,  
5 CA 91436.

6 3. On or about September 24, 2006, the Board issued Designated Representative  
7 License No. EXC 18823 to Srбуhi Tonelyan (Respondent). The Designated Representative  
8 License was in full force and effect at all times relevant to the charges brought in Accusation No.  
9 5636, and will expire on September 1, 2017, unless renewed.

10 JURISDICTION

11 4. Accusation No. 5636 was filed before the Board, and is currently pending against  
12 Respondent. The Accusation and all other statutorily required documents were properly served  
13 on Respondent on April 6, 2016, and was subsequently amended and served on Respondent.  
14 Respondent timely filed her Notice of Defense contesting the Accusation.

15 5. A copy of Accusation No. 5636 is attached as exhibit A and incorporated herein by  
16 reference.

17 ADVISEMENT AND WAIVERS

18 6. Respondent has carefully read, fully discussed with counsel, and understands the  
19 charges and allegations in Accusation No. 5636. Respondent has also carefully read, fully  
20 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
21 Order.

22 7. Respondent is fully aware of her legal rights in this matter, including the right to a  
23 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
24 the witnesses against her; the right to present evidence and to testify on her own behalf; the right  
25 to the issuance of subpoenas to compel the attendance of witnesses and the production of  
26 documents; the right to reconsideration and court review of an adverse decision; and all other  
27 rights accorded by the California Administrative Procedure Act and other applicable laws.  
28

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

3 CULPABILITY

4 9. Respondent understands and agrees that the charges and allegations in Accusation  
5 No. 5636, if proven at a hearing, constitute cause for imposing discipline upon her Designated  
6 Representative License.

7 10. For the purpose of resolving the Accusation without the expense and uncertainty of  
8 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual  
9 basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest  
10 those charges.

11 11. Respondent agrees that her Designated Representative License is subject to discipline  
12 and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary  
13 Order below.

14 CONTINGENCY

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

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

27 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
28 integrated writing representing the complete, final, and exclusive embodiment of their agreement.

1 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
2 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
3 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
4 writing executed by an authorized representative of each of the parties.

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

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that Designated Representative License No. EXC 18823 issued  
10 to Respondent Srбуhi Tonelyan is revoked. However, the revocation is stayed and Respondent is  
11 placed on probation for five (5) years on the following terms and conditions.

12 1. **Obey All Laws**

13 Respondent shall obey all state and federal laws and regulations.

14 Respondent shall report any of the following occurrences to the Board, in writing, within  
15 seventy-two (72) hours of such occurrence:

16  an arrest or issuance of a criminal complaint for violation of any  
17 provision of the Pharmacy Law, state and federal food and drug laws, or state and  
18 federal controlled substances laws

19  an arrest or issuance of a criminal complaint for violation of any state or  
20 federal law

21  a plea of guilty or nolo contendere in any state or federal criminal  
22 proceeding to any criminal complaint, information or indictment

23  a conviction of any crime

24  discipline, citation, or other administrative action filed by any state or  
25 federal agency which involves Respondent's Designated Representative License or  
26 which is related to the practice of pharmacy or the manufacturing, obtaining, handling  
27 or distribution or billing or charging for of any drug, device or controlled substance.

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

1           **2. Report to the Board**

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

10           **3. Interview with the Board**

11           Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews  
12 with the Board or its designee, upon request at such intervals and locations as are determined by  
13 the Board or its designee. Failure to appear for any scheduled interview without prior notification  
14 to Board staff, or failure to appear for two (2) or more scheduled interviews with the Board or its  
15 designee during the period of probation, shall be considered a violation of probation.

16           **4. Cooperate with Board Staff**

17           Respondent shall cooperate with the Board's inspection program and with the Board's  
18 monitoring and investigation of Respondent's compliance with the terms and conditions of her  
19 probation. Failure to cooperate shall be considered a violation of probation.

20           **5. Notice to Employers**

21           During the period of probation, Respondent shall notify all present and prospective  
22 employers of the decision in case number 5636 and the terms, conditions and restrictions imposed  
23 on Respondent by the decision, as follows:

24           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
25 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,  
26 designated representative-in-charge (including each new designated representative-in-charge  
27 employed during Respondent's tenure of employment) and owner to report to the Board in  
28 writing acknowledging that the listed individual(s) has/have read the decision in case number

1 5636 and terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure  
2 that her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the Board.

3 If Respondent works for or is employed by or through a pharmacy employment service,  
4 Respondent must notify her direct supervisor, designated representative-in-charge and owner at  
5 each entity licensed by the Board of the terms and conditions of the decision in case number 5636  
6 in advance of the Respondent commencing work at each licensed entity. A record of this  
7 notification must be provided to the Board upon request.

8 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
9 (15) days of Respondent undertaking any new employment by or through a pharmacy  
10 employment service, Respondent shall cause her direct supervisor with the pharmacy  
11 employment service to report to the Board in writing acknowledging that she has read the  
12 decision in case number 5636 and the terms and conditions imposed thereby. It shall be the  
13 Respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely  
14 acknowledgment(s) to the Board.

15 Failure to timely notify present or prospective employer(s) or to cause that/those  
16 employer(s) to submit timely acknowledgements to the Board shall be considered a violation of  
17 probation.

18 "Employment" within the meaning of this provision shall include any full-time,  
19 part-time, temporary or relief service or pharmacy management service as a  
20 designated representative or in any position for which a designated representative  
21 license is a requirement or criterion for employment, whether the Respondent is  
22 considered an employee or independent contractor or volunteer.

23 **6. No Being Designated Representative-in-Charge**

24 During the period of probation, Respondent shall not be the designated representative-in-  
25 charge of any entity licensed by the Board unless otherwise specified in this order. Assumption  
26 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

27 **7. Reimbursement of Board Costs**

28 As a condition precedent to successful completion of probation, Respondent shall pay to

1 the Board its costs of investigation and prosecution in the amount of \$2,143.71. Respondent shall  
2 make said payments pursuant to a Board approved payment plan. There shall be no deviation  
3 from this schedule absent prior written approval by the Board or its designee. Failure to pay costs  
4 by the deadline(s) as directed shall be considered a violation of probation.

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

7 **8. Probation Monitoring Costs**

8 Respondent shall pay any costs associated with probation monitoring as determined by the  
9 Board each and every year of probation. Such costs shall be payable to the Board on a schedule  
10 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed  
11 shall be considered a violation of probation.

12 **9. Status of License**

13 Respondent shall, at all times while on probation, maintain an active, current designated  
14 representative license with the Board, including any period during which suspension or probation  
15 is tolled. Failure to maintain an active, current license shall be considered a violation of  
16 probation.

17 If Respondent's designated representative license expires or is cancelled by operation of  
18 law or otherwise at any time during the period of probation, including any extensions thereof due  
19 to tolling or otherwise, upon renewal or reapplication Respondent's license shall be subject to all  
20 terms and conditions of this probation not previously satisfied.

21 **10. License Surrender While on Probation/Suspension**

22 Following the effective date of this decision, should Respondent cease work due to  
23 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
24 Respondent may tender her designated representative license to the Board for surrender. The  
25 Board or its designee shall have the discretion whether to grant the request for surrender or take  
26 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of  
27 the license, Respondent will no longer be subject to the terms and conditions of probation. This

28 ///



1 surrender constitutes a record of discipline and shall become a part of the Respondent's license  
2 history with the Board.

3       Upon acceptance of the surrender, Respondent shall relinquish her designated  
4 representative license to the Board within ten (10) days of notification by the Board that the  
5 surrender is accepted. Respondent may not reapply for any license, permit, or registration from  
6 the Board for three (3) years from the effective date of the surrender. Respondent shall meet all  
7 requirements applicable to the license sought as of the date the application for that license is  
8 submitted to the Board.

9       **11. Notification of a Change in Name, Residence Address, Mailing Address or**  
10 **Employment**

11       Respondent shall notify the Board in writing within ten (10) days of any change of  
12 employment. Said notification shall include the reasons for leaving and the address of the new  
13 employer, supervisor and owner and work schedule, if known. Respondent shall further notify  
14 the Board in writing within ten (10) days of a change in name, residence address and mailing  
15 address, or phone number.

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

18       **12. Tolling of Probation**

19       Except during periods of suspension, Respondent shall, at all times while on probation, be  
20 employed as a designated representative in California for a minimum of 30 hours per calendar  
21 month. Any month during which this minimum is not met shall toll the period of probation, i.e.,  
22 the period of probation shall be extended by one month for each month during which this  
23 minimum is not met. During any such period of tolling of probation, Respondent must  
24 nonetheless comply with all terms and conditions of probation.

25       Should Respondent, regardless of residency, for any reason (including vacation) cease  
26 working as a designated representative for a minimum of 30 hours in California, Respondent must  
27 notify the Board in writing within ten (10) days of cessation of work and must further notify the  
28 Board in writing within ten (10) days of the resumption of work. Any failure to provide such

1 notification(s) shall be considered a violation of probation.

2 It is a violation of probation for Respondent's probation to remain tolled pursuant to the  
3 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
4 exceeding thirty-six (36) months.

5 "Cessation of work" means any calendar month during which Respondent is  
6 not working as a designated representative for at least 30 hours as a designated  
7 representative as defined by Business and Professions Code section 4053.

8 "Resumption of work" means any calendar month during which Respondent is  
9 working as a designated representative for at least 30 hours as a designated  
10 representative as defined by Business and Professions Code section 4053.

11 **13. Violation of Probation**

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

17 If Respondent violates probation in any respect, the board, after giving Respondent notice  
18 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
19 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a  
20 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If  
21 a petition to revoke probation or an accusation is filed against Respondent during probation, the  
22 board shall have continuing jurisdiction and the period of probation shall be automatically  
23 extended until the petition to revoke probation or accusation is heard and decided, and the charges  
24 and allegations in the Accusation shall be deemed true and correct.

25 **14. Completion of Probation**

26 Upon written notice by the Board indicating successful completion of probation,  
27 Respondent's designated representative license will be fully restored.  
28

1           15.     **No Ownership of Licensed Premises**

2           Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
3 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
4 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell  
5 or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90)  
6 days following the effective date of this decision and shall immediately thereafter provide written  
7 proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide  
8 documentation thereof shall be considered a violation of probation.

9           16.     **Remedial Education**

10          Within sixty (60) days of the effective date of this decision, Respondent shall submit to the  
11 Board or its designee, for prior approval, an appropriate program of remedial education related to  
12 designated representative training, as required for licensure pursuant to Business and Professions  
13 Code section 4053. The program of remedial education shall consist of at least eight (8) hours,  
14 which shall be completed within six (6) months at Respondent's own expense. The program, at a  
15 minimum, must address each of the following subjects:

16           (A) Knowledge and understanding of California law and federal law relating to the  
17 distribution of dangerous drugs and dangerous devices.

18           (B) Knowledge and understanding of California law and federal law relating to the  
19 distribution of controlled substances.

20           (C) Knowledge and understanding of quality control systems.

21           (D) Knowledge and understanding of the United States Pharmacopoeia standards relating  
22 to the safe storage and handling of drugs.

23           (E) Knowledge and understanding of prescription terminology, abbreviations, dosages,  
24 and format.

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

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


6 17. Ethics Course

7 Within sixty (60) calendar days of the effective date of this decision, Respondent shall  
8 enroll in a course in ethics, at Respondent's expense, approved in advance by the Board or its  
9 designee. Failure to initiate the course during the first year of probation, and complete it within  
10 the second year of probation, is a violation of probation.

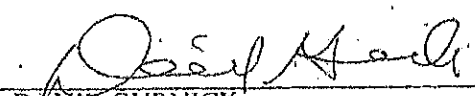
11 Respondent shall submit a certificate of completion to the Board or its designee within five  
12 days after completing the course.

13 ACCEPTANCE

14 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
15 discussed it with my attorney, David Gurnick. I understand the stipulation and the effect it will  
16 have on my Designated Representative License. I enter into this Stipulated Settlement and  
17 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
18 Decision and Order of the Board of Pharmacy.

19  
20 DATED: 5/5/17   
21 SRBUSH TONELYAN  
*Respondent*

22 I have read and fully discussed with Respondent Srubhi Tonelyan the terms and conditions  
23 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve  
24 its form and content.

25 DATED: 5-19-17   
26 DAVID GURNICK  
*Attorney for Respondent*

27 ///  
28 ///

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

ENDORSEMENT

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

Dated: 5/22/17

Respectfully submitted,  
XAVIER BECERRA  
Attorney General of California  
ARMANDO ZAMBRANO  
Supervising Deputy Attorney General

*N Kaiser*  
NANCY A. KAISER  
Deputy Attorney General  
*Attorneys for Complainant*

LA2015603816  
52410075\_3.docx

**Exhibit A**

**Accusation No. 5636**

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 NANCY A. KAISER  
Deputy Attorney General  
4 State Bar No. 192083  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-5794  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

11 In the Matter of the First Amended Accusation Case No. 5636  
Against:

12 **RXCHANGE CO.,**  
13 **STEPHEN M. COSTA, President,**  
14 **and DRIC SRBUHI TONELYAN**  
15 **2545 N. Ontario Street**  
**Burbank, CA 91504**

16 **Wholesale Permit No. WLS 5795**

17 **and**

18 **SRBUHI TONELYAN**  
19 **219 E. Garfield Avenue., #4**  
**Glendale, CA 91205**

20 **Certificate Number EXC 18823**

21 **Respondents.**

**FIRST AMENDED ACCUSATION**

22 Complainant alleges:

23 **PARTIES**

24 I. Virginia Herold (Complainant) brings this First Amended Accusation solely in her  
25 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer  
26 Affairs.  
27

28

1           2.    On or about August 19, 2011, the Board of Pharmacy issued Wholesale Permit  
2 Number WLS 5795 to Nuline Pharmaceuticals (now known as RxChange Co.), which was  
3 located at 434 West Broadway, Glendale, CA 91204, with Stephen M. Costa, as owner and  
4 President, and Srбуhi Tonelyan, as Designated Representative-in-Charge (Respondent  
5 Wholesaler). On or about August 1, 2012, Respondent Wholesaler (WLS 5795) changed its  
6 address of record with the Board from 434 West Broadway, Glendale, CA 91204 to 2545 N.  
7 Ontario St, Burbank, CA 91504. On or about March 8, 2013, Nuline Pharmaceuticals changed its  
8 trade style name to RxChange Co. with the Board. Srбуhi Tonelyan is and has been the  
9 Designated Representative-in-Charge (DRIC) of Respondent Wholesaler since August 19, 2011,  
10 Stephen M. Costa is and has been the President of Respondent Wholesaler since August 19, 2011.  
11 Mohammad M. Salemi is and has been a Director of Respondent Wholesaler since July 15, 2013.  
12 Wholesale Permit number WLS 5795 was in full force and effect at all times relevant to the  
13 charges brought herein and will expire on August 1, 2016, unless renewed.

14           3.    On or about September 24, 2006, the Board of Pharmacy issued original Certificate  
15 Number EXC 18823 to Srбуhi Tonelyan to act as a Designated Representative-in-Charge  
16 (Respondent Tonelyan).<sup>1</sup> The license was in full force and effect at all times relevant to the  
17 charges brought herein and will expire on September 1, 2016, unless renewed.

#### JURISDICTION

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

22           5.    Section 480 of the Code states:

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

25  
26           <sup>1</sup> On or about October 16, 2006, the Board issued Wholesale Permit Number WLS 4964 to  
27 Nuline Pharmaceuticals, located at 434 West Broadway, Glendale, CA 91204. Respondent  
28 Tonelyan was Designated Representative-in-Charge for WLS 4964. On or about August 19,  
2011, there was a change of ownership of the business and WLS 4964 was canceled.



1 (1) Been convicted of a crime. A conviction, within the meaning of this section means  
2 a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a  
3 board is permitted to take following the establishment of a conviction may be taken when the time  
4 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an  
5 order granting probation is made suspending the imposition of sentence, irrespective of a  
6 subsequent order under the provisions of Section 1203.4, 1203.4a, or 1203.41 of the Penal Code.

7 (2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially  
8 benefit himself or herself or another, or substantially injure another.

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

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

14 "(b) Notwithstanding any other provision of this code, a person shall not be denied a  
15 license solely on the basis that he or she has been convicted of a felony if he or she has obtained a  
16 certificate of rehabilitation under Chapter 3.5 (commencing with Section 4852.01) of Title 6 of  
17 Part 3 of the Penal Code or that he or she has been convicted of a misdemeanor if he or she has  
18 met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate  
19 the rehabilitation of a person when considering the denial of a license under subdivision (a) of  
20 Section 482.

21 "(c) Notwithstanding any other provisions of this code, a person shall not be denied a  
22 license solely on the basis of a conviction that has been dismissed pursuant to Section 1203.4,  
23 1203.4a, or 1203.41 of the Penal Code. An applicant who has a conviction that has been  
24 dismissed pursuant to Section 1203.4, 1203.4a, or 1203.41 of the Penal Code shall provide proof  
25 of the dismissal.

26 "(d) A board may deny a license regulated by this code on the ground that the applicant  
27 knowingly made a false statement of fact that is required to be revealed in the application for the  
28 license."

1           6.     Section 4300 of the Code provides, in part, that every license issued by the Board is  
2 subject to discipline, including suspension or revocation.

3           7.     Section 4300.1 of the Code states:

4           "The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
5 operation of law or by order or decision of the board or a court of law, the placement of a license  
6 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board  
7 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
8 proceeding against, the licensee or to render a decision suspending or revoking the license."

9           8.     Section 4301 of the Code states, in part:

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

13          ...

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

17          ...

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

20          ...

21          (j) The violation of any of the statutes of this state, of any other state, or of the United  
22 States regulating controlled substances and dangerous drugs.

23          ...

24          (l) The conviction of a crime substantially related to the qualifications, functions, and  
25 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13  
26 (commencing with Section 801) of Title 21 of the United States Code regulating controlled  
27 substances or of a violation of the statutes of this state regulating controlled substances or  
28 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the

1 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.  
2 The board may inquire into the circumstances surrounding the commission of the crime, in order  
3 to fix the degree of discipline or, in the case of a conviction not involving controlled substances or  
4 dangerous drugs, to determine if the conviction is of an offense substantially related to the  
5 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or  
6 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning  
7 of this provision. The board may take action when the time for appeal has elapsed, or the  
8 judgment of conviction has been affirmed on appeal or when an order granting probation is made  
9 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of  
10 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not  
11 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or  
12 indictment.

13 ...  
14 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
15 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
16 federal and state laws and regulations governing pharmacy, including regulations established by  
17 the board or by any other state or federal regulatory agency.

18 (p) Actions or conduct that would have warranted denial of a license.”

19 9. Section 4302 of the Code states:

20 “The board may deny, suspend, or revoke any license of a corporation where conditions  
21 exist in relation to any person holding 10 percent or more of the corporate stock of the  
22 corporation, or where conditions exist in relation to any officer or director of the corporation that  
23 would constitute grounds for disciplinary action against a licensee.”

24 10. Section 4307, subdivision (a), of the Code states, in pertinent part:

25 “Any person who has been denied a license or whose license has been revoked or is  
26 under suspension, or who has failed to renew his or her license while it was under suspension, or  
27 who has been a manager, administrator, owner, member, officer, director, associate, or partner of  
28 any partnership, corporation, firm, or association whose application for a license has been denied

1 or revoked, is under suspension or has been placed on probation, and while acting as the manager,  
2 administrator, owner, member, officer, director, associate, or partner had knowledge of or  
3 knowingly participated in any conduct for which the license was denied, revoked, suspended, or  
4 placed on probation, shall be prohibited from serving as a manager, administrator, owner,  
5 member, officer, director, associate, or partner of a licensee as follows:

6 (1) Where a probationary license is issued or where an existing license is placed on  
7 probation, this prohibition shall remain in effect for a period not to exceed five years.

8 (2) Where the license is denied or revoked, the prohibition shall continue until the  
9 license is issued or reinstated."

10 11. Section 4022 of the Code states

11 "'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use in  
12 humans or animals, and includes the following:

13 "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without  
14 prescription,' 'Rx only,' or words of similar import.

15 "(b) Any device that bears the statement: 'Caution: federal law restricts this device to sale  
16 by or on the order of a \_\_\_\_\_,' 'Rx only,' or words of similar import, the blank to be filled  
17 in with the designation of the practitioner licensed to use or order use of the device.

18 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
19 prescription or furnished pursuant to Section 4006."

20 12. Section 4059 of the Code states, in part:

21 "(a) A person may not furnish any dangerous drug, except upon the prescription of a  
22 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
23 3640.7. A person may not furnish any dangerous device, except upon the prescription of a  
24 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
25 3640.7.

26 "(b) This section does not apply to the furnishing of any dangerous drug or dangerous  
27 device by a manufacturer, wholesaler, or pharmacy to each other or to a physician, dentist,  
28 podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or to a

1 laboratory under sales and purchase records that correctly give the date, the names and addresses  
2 of the supplier and the buyer, the drug or device, and its quantity. This section does not apply to  
3 the furnishing of any dangerous device by a manufacturer, wholesaler, or pharmacy to a physical  
4 therapist acting within the scope of his or her license under sales and purchase records that  
5 correctly provide the date the device is provided, the names and addresses of the supplier and the  
6 buyer, a description of the device, and the quantity supplied."

7 13. Section 4081 of the Code states, in part:

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

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

20 14. Section 4105 of the Code states, in part:

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

24 ...  
25 "(c) The records required by this section shall be retained on the licensed premises for a  
26 period of three years from the date of making.

27 ...  
28 ///

1           “(f) When requested by an authorized officer of the law or by an authorized representative  
2 of the board, the owner, corporate officer, or manager of an entity licensed by the board shall  
3 provide the board with the requested records within three business days of the time the request  
4 was made...”

5           15. Section 4160 of the Code states, in part:

6           “(a) A person shall not act as a wholesaler or third-party logistics provider of any dangerous  
7 drug or dangerous device unless he or she has obtained a license from the board.

8           ...

9           “(c) (1) A separate license shall be required for each place of business owned or operated by  
10 a wholesaler or third-party logistics provider. Each place of business may only be issued a single  
11 license by the board, except as provided in paragraph (2). Each license shall be renewed annually  
12 and shall not be transferable.

13           ...

14           “(d) Every wholesaler shall be supervised or managed by a designated representative-in-  
15 charge. The designated representative-in-charge shall be responsible for the wholesaler's  
16 compliance with state and federal laws governing wholesalers.”

17           16. Section 4163 of the Code states, in part:

18           “(a) A manufacturer, wholesaler, repackager, or pharmacy may not furnish a dangerous  
19 drug or dangerous device to an unauthorized person.

20           “(b) Dangerous drugs or dangerous devices shall be acquired from a person authorized by  
21 law to possess or furnish dangerous drugs or dangerous devices. When the person acquiring the  
22 dangerous drugs or dangerous devices is a wholesaler, the obligation of the wholesaler shall be  
23 limited to obtaining confirmation of licensure of those sources from whom it has not previously  
24 acquired dangerous drugs or dangerous devices.”

25           ///

26           ///

27           ///

28           ///

1 17. Section 4163.1 of the Code<sup>2</sup> states:

2 "It is the intent of the Legislature that commencing on January 1, 2007, and continuing  
3 through the full implementation of the pedigree requirements specified by Section 4163,  
4 manufacturers and wholesalers shall use best efforts to provide in the most readily accessible form  
5 possible, information regarding the manufacturer's specific relationships in the distribution of  
6 dangerous drugs with wholesalers."

7 18. Section 4169 of the Code states, in part:

8 "(a) A person or entity shall not do any of the following:

9 (1) Purchase, trade, sell, warehouse, distribute, or transfer dangerous drugs or dangerous  
10 devices at wholesale with a person or entity that is not licensed with the board as a wholesaler,  
11 third-party logistics provider, or pharmacy.

12 ...  
13 (5) Fail to maintain records of the acquisition or disposition of dangerous drugs or  
14 dangerous devices for at least three years."

### 15 REGULATIONS

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

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

23 20. California Code of Regulations, title 16, section 1718, states:

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

27 \_\_\_\_\_  
28 <sup>2</sup> Section 4163.1 was repealed as of January 1, 2015.

1 "The controlled substances inventories required by Title 21, CFR, Section 1304 shall be  
2 available for inspection upon request for at least 3 years after the date of the inventory."

3 **FEDERAL REGULATIONS**

4 21. Code of Federal Regulations, title 21, section 1301.11, subdivision (a) states:

5 "Every person who manufactures, distributes, dispenses, imports, or exports any controlled  
6 substance or who proposes to engage in the manufacture, distribution, dispensing, importation or  
7 exportation of any controlled substance shall obtain a registration [with the U.S. Drug  
8 Enforcement Administration (DEA)] unless exempted by law or pursuant to §§ 1301.22 through  
9 1301.26."

10 22. Code of Federal Regulations, title 21, section 1301.12, subdivision (a) states:

11 "A separate registration is required for each principal place of business or professional  
12 practice at one general physical location where controlled substances are manufactured,  
13 distributed, imported, exported, or dispensed by a person."

14 **COST RECOVERY**

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

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28



1           24.    DRUG CLASSIFICATIONS

2

3

Generic Name	Dangerous Drug Per Bus. & Prof. Code § 4022	Scheduled Drug per Health & Safety Code (HSC)	Indications For Use
Carisoprodol <sup>3</sup> (brand name, Soma)	Yes	Not scheduled in California. Carisoprodol is a Schedule IV under federal law per 21 CFR 1308.14(c)(6).	Muscle relaxant
Hydrocodone/ Acetaminophen (APAP) (brand names include Norco, Vicodin, and Lorcet)	Yes	Schedule II Per HSC § 11055(b)(1)	Pain
Lorazepam (brand name, Ativan)	Yes	Schedule IV Per HSC § 1057(d)(16)	Anxiety
Zolpidem (non-barbiturate, non- benzodiazepine sedative hypnotic) (brand name, Ambien)	Yes	Schedule IV Per HSC § 1057(d)(32)	Insomnia

4

5

6

7

8

9

10

11

12

13

14   **FACTUAL SUMMARY**

15           25. On or about November 14, 2013, a Board inspector conducted a routine inspection of  
16 Respondent Wholesaler's facility, located at 2545 N. Ontario St., Burbank, CA 91504. The  
17 inspection revealed that Respondent Wholesaler was purchasing dangerous drugs, including  
18 controlled substances, from an unlicensed wholesaler broker, SCT RX Health, 1500 Walnut St.  
19 Philadelphia, PA 19102 (SCT RX Health). At times those purchases were being ordered from  
20 and delivered to an unlicensed premises in California.

21   **FIRST CAUSE FOR DISCIPLINE**

22   **(Failure to Comply with Record-Keeping Requirements)**

23           26. Respondent Wholesaler and Respondent Tonelyan are subject to disciplinary action  
24 under Section 4301, subdivisions (j) and (o), for violating sections 4081, subsection (a), and 4105  
25 and Californian Code of Regulations, title 16, section 1718, in that, while Respondent Tonelyan  
26 was serving as the DRIC, Respondent Wholesaler failed to have all records of acquisition of all

27           <sup>3</sup> Drug abusers are known to combine Soma with hydrocodone to produce similar effects  
28 to those of Heroin.

1 dangerous drugs open for inspection and preserved for at least three years from the making and  
2 failed to maintain complete accountability for all dangerous drugs.

3 a. During November 14, 2013, inspection, Respondents provided the inspector with  
4 partial copies of purchase orders of dangerous drugs. Specifically, Respondent Wholesaler's  
5 Purchase Order #700002335, dated July 19, 2012, refers to invoice # 54325-05 from SCT RX  
6 Health, dated July 16, 2012, but the purchase order does not match the related invoice. Invoice  
7 #54325-05 documents an order of 25 x 1000 famotidine 20mg and 50 x 500 hydrocodone/apap  
8 5/500mg, but the purchase order does not list famotidine or hydrocodone. Also, the bottom of the  
9 purchase order document says "continued" and there is no dollar total on the document.  
10 Respondent Wholesaler either did not retain or have the complete record available for review by  
11 the Board's inspector.

12 **SECOND CAUSE FOR DISCIPLINE**

13 **(Purchasing from Unlicensed Wholesaler)**

14 27. Respondent Wholesaler and Respondent Tonelyan are subject to disciplinary action  
15 under Section 4301, subdivision (j), for violating Section 4169, subdivision (a)(1), in that, while  
16 Respondent Tonelyan was serving as the DRIC, Respondent Wholesaler purchased controlled  
17 substances and/or dangerous drugs from SCT RX Health, an entity that is not licensed with the  
18 board as a wholesaler, third-party logistics provider, or pharmacy. The purchases are documented  
19 by the following invoices:

20 a. Invoice #54325-01, dated June 18, 2012, documented Respondent Wholesaler's  
21 purchase of 48 x 5000 fluoxetine 20mg from SCT RX Health.

22 b. Invoice #54325-02, dated June 21, 2012, documented Respondent Wholesaler's  
23 purchase of 50 x 1000 carisprodol 350mg from SCT RX Health.

24 c. Invoice #54325-03, dated June 26, 2012, documented Respondent Wholesaler's  
25 purchase of 10 x 500 hydrocodone/apap 10/325 and 10 x 500 hydrocodone/apap 10/650,  
26 meloxicam and Baclofen from SCT RX Health.

27 d. Invoice #54325-04, dated July 10, 2012, documented Respondent Wholesaler's  
28 purchase of Baclofen, famotidine, folic acid 1mg, Gabapentin, tramadol, 10 x 500

1 hydrocodone/apap 10/325, 6 x 500 hydrocodone 10/500 and 8 x 500 hydrocodone 7.5/750, from  
2 SCT RX Health.

3 e. Invoice #54325-05, dated July 16, 2012, documented Respondent Wholesaler's  
4 purchase of famotidine 20mg, citalopram 20mg, azithromycin, Fluoxetine 20mg,  
5 hydrochlorothiazide, lisinopril 20mg, lorazepam 1mg, omeprazole and 50 x 500  
6 hydrocodone/apap 5/500, from SCT RX Health.

7 f. Invoice #54325-06, dated July 17, 2012, documented Respondent Wholesaler's  
8 purchase of 42 x 1000 carisprodol 350mg, from SCT RX Health.

9 g. Invoice #54325-07, dated July 27, 2012, documented Respondent Wholesaler's  
10 purchase of baclofen 10mg, 20 x 500 zolpidem 10mg, ranitidine 150mg, ibuprofen 600, folic acid  
11 2mg and 40 x 100 hydrocodone/apap 7.5/325, from SCT RX Health.

12 h. Invoice #54325-08, dated August 3, 2012, documented Respondent Wholesaler's  
13 purchase of 36 x 500 hydrocodone/apap 10/500, baclofen, famotidine, folic acid, lisinopril,  
14 citalopram, ibuprofen and meloxicam, from SCT RX Health.

15 i. Invoice #54325-09, dated August 13, 2012, documented Respondent Wholesaler's  
16 purchase of folic acid, ibuprofen, lisinopril, metformin, 17 x 100 hydrocodone 7.5/325 and 60 x  
17 500 hydrocodone/apap 7.5/500, from SCT RX Health.

18 j. Invoice #54325-10, dated September 13, 2012, documented Respondent Wholesaler's  
19 purchase of azithromycin, baclofen, citalopram, Famotidine, folic acid, furosemide,  
20 hydrochlorothiazide, ibuprofen, lisinopril, ranitidine, tramadol, 30 x 100 hydrocodone/apap  
21 7.5/325, 30 x 500 hydrocodone/apap 5/500, 24 x 500 hydrocodone 7.5/500 and 20 x 1000  
22 carisprodol 350mg, from SCT RX Health.

23 k. Invoice #54325-11, dated September 27, 2012, documented Respondent Wholesaler's  
24 purchase of ibuprofen, 6 x 500 hydrocodone/apap 10/325 and 6 x 500 hydrocodone/apap 10/500,  
25 from SCT RX Health.

26 ///

27 ///

28 ///

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unlicensed Activity)**

3 28. Respondent Wholesaler and Respondent Tonelyan are subject to disciplinary action  
4 under Section 4301, subdivision (j), for violating Section 4160, in that, while Respondent  
5 Tonelyan was serving as the DRIC, Respondent Wholesaler engaged in unlicensed activity.  
6 Section 4160, subdivision (c), provides that a separate license shall be required for each place of  
7 business owned or operated by a wholesaler, and that each license shall be renewed annually and  
8 shall not be transferable. Specifically, on August 1, 2012, the Board approved a change of  
9 location for Respondent Wholesaler from their original address in Glendale, CA to 2545 N.  
10 Ontario St., Burbank, CA. Respondent Wholesaler's records show that controlled substances and  
11 dangerous drugs were ordered and received by it at the Glendale address after August 1, 2012, as  
12 follows:

13 a. Invoice #54325-08, dated August 3, 2012, documented Respondent Wholesaler's  
14 purchase of 36 x 500 hydrocodone /apap 10/500, baclofen, famotidine, folic acid, lisinopril,  
15 citalopram, ibuprofen and meloxicam, from SCT RX Health. The invoice indicated that the order  
16 was billed to Respondent Wholesaler at 434 West Broadway, Glendale, CA 91204 and shipped to  
17 Respondent Wholesaler at 434 West Broadway, Glendale, CA 91204.

18 b. Invoice # 54325-09, dated August 13, 2012, documented Respondent Wholesaler's  
19 purchase of folic acid, ibuprofen, lisinopril, metformin, 17 x 100 hydrocodone 7.5/325 and 60 x  
20 500 hydrocodone/apap 7.5/500, from SCT RX Health. The invoice indicated that the order was  
21 billed to Respondent Wholesaler at 434 West Broadway, Glendale, CA 91204 and shipped to  
22 Respondent Wholesaler at 434 West Broadway, Glendale, CA 91204.

23 c. Invoice # 54325-10, dated September 13, 2012, documented Respondent  
24 Wholesaler's purchase of azithromycin, baclofen, citalopram, famotidine, folic acid, furosemide,  
25 hydrochlorothiazide, ibuprofen, lisinopril, ranitidine, tramadol, 30 x 100 hydrocodone/apap  
26 7.5/325, 30 x 500 hydrocodone/apap 5/500, 24 x 500 hydrocodone 7.5/500 and 20 x 1000  
27 carisprodol 350mg, from SCT RX Health. The invoice indicated that the order was billed to  
28

1 Respondent Wholesaler at 434 West Broadway, Glendale, CA 91204 and shipped to Respondent  
2 Wholesaler at 434 West Broadway, Glendale, CA 91204.

3 d. Invoice # 54325-11, dated September 27, 2012, documented Respondent  
4 Wholesaler's purchase of ibuprofen, 6 x 500 hydrocodone/apap 10/325 and 6 x 500  
5 hydrocodone/apap 10/500, from SCT RX Health. The invoice indicated that the order was billed  
6 to Respondent Wholesaler at 434 West Broadway, Glendale, CA 91204 and shipped to  
7 Respondent Wholesaler at 434 West Broadway, Glendale, CA 91204.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Unregistered Activity)**

10 29. Respondent Wholesaler and Respondent Tonelyan are subject to disciplinary action  
11 under Section 4301, subdivision (o), for violating Code of Federal Regulations, title 21, section  
12 1301.11, subdivision (a), in that, while Respondent Tonelyan was serving as the DRIC,  
13 Respondent Wholesaler ordered and received controlled substances without a valid DEA  
14 registration. In order for a wholesaler's place of business to be registered with the DEA, it must be  
15 licensed by the entity's home state.<sup>4</sup> Specifically, on August 1, 2012, Respondent Wholesaler  
16 changed its address with the Board from 434 West Broadway, Glendale, CA 91204 to 2545 N.  
17 Ontario Street, Burbank, CA 91504 and did not notify the DEA of its change of address.  
18 Therefore, Respondent Wholesaler's DEA registration was considered invalid at the Glendale  
19 location, because Respondent Wholesaler no longer had a California wholesaler's license for that  
20 location, and Respondent Wholesaler was not registered with the DEA at the Burbank location, as  
21 it failed to notify the DEA of its change of address. Respondent Wholesaler's orders and  
22 deliveries of controlled substances that were made without a valid DEA registration are  
23 documented in the following invoices:

24 ///

25 ///

26 ///

27 <sup>4</sup> See 21 U.S.C., §823 (DEA registration requirements for distributors of controlled  
28 substances).

1 a. Invoice #54325-08, dated August 3, 2012, documented Respondent Wholesaler's  
2 purchase of 36 x 500 hydrocodone /apap 10/500 from SCT Rx Health. The invoice provided that  
3 the order was billed to Respondent Wholesaler at 434 West Broadway, Glendale, CA 91204 and  
4 shipped to Respondent Wholesaler at 434 West Broadway, Glendale, CA 91204.

5 b. Invoice #54325-09, dated August 13, 2012, documented Respondent Wholesaler's  
6 purchase of 17 x 100 hydrocodone 7.5/325 and 60 x 500 hydrocodone/apap 7.5/500 from SCT Rx  
7 Health. The invoice provided that the order was to be billed and shipped to Nuline  
8 Pharmaceuticals, 434 West Broadway, Glendale, CA 91204.

9 c. Invoice # 54325-10, dated September 13, 2012, documented Respondent  
10 Wholesaler's purchase of 30 x 100 hydrocodone/apap 7.5/325, 30 x 500 hydrocodone/apap 5/500,  
11 24 x 500 hydrocodone 7.5/500 and 20 x 1000 carisprodol 350mg, from SCT Rx Health. The  
12 invoice provided that the order was billed and shipped to Respondent Wholesaler at 434 West  
13 Broadway, Glendale, CA 91204.

14 d. Invoice #54325-11, dated September 27, 2012, documented Respondent Wholesaler's  
15 purchase of ibuprofen, 6 x 500 hydrocodone/apap 10/325 and 6 x 500 hydrocodone/apap 10/500,  
16 from SCT Rx Health. The invoice provided that the order was billed and shipped to Respondent  
17 Wholesaler at 434 West Broadway, Glendale, CA 91204.

18 **FIFTH CAUSE FOR DISCIPLINE**

19 **(Failure to Comply with Sale Pedigree Requirements)**

20 30. Respondent Wholesaler and Respondent Tonelyan are subject to disciplinary action  
21 under Section 4301, subdivision (j), for violating Section 4163.1, in that they failed to provide in  
22 readily accessible form information regarding the manufacturer's specific relationships in the  
23 distribution of dangerous drugs. Specifically, Nuline, 2545 N. Ontario St., Burbank, CA 91504  
24 sold dangerous drugs to pharmacies and other wholesalers and did not provide pedigrees to the  
25 following:

26 a. Invoice # 7245, dated August 1, 2013, to South East Coast Enterprises, located at 105  
27 Central Ave., Goose Creek, SC 29445, was on a Nuline Pharmaceuticals invoice, 2545 N. Ontario  
28 St., Burbank, CA 91504 with DEA# RN0419641. No pedigree was provided to customer.

1 b. Invoice# 6664, dated February 12, 2013, to DNA Pharmacy, 9419 Mesa Rd. Houston,  
2 TX 77028 was on a Nuline Pharmaceuticals invoice, 2545 N. Ontario St., Burbank, CA 91504  
3 with DEA# RN0419641. No pedigree was provided to customer.

4 c. Invoice # 7114, dated June 27, 2013, to Garden Grove Community Pharmacy located  
5 at 12665 Garden Grove Blvd., Garden Grove, CA 92843 was on a Nuline Pharmaceuticals  
6 invoice, 2545 N. Ontario St., Burbank, CA 91504 with DEA# RN0419641. No pedigree was  
7 provided to customer.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Failure to Ensure Compliance)**

10 31. Respondent Tonelyan is subject to disciplinary action under Section 4301,  
11 subdivision (j), for violating Section 4160, subdivision (d), in that she failed to ensure Respondent  
12 Wholesaler's compliance with state laws governing wholesalers. Complainant refers to, and by  
13 this reference incorporates, the allegations set forth above in paragraphs 25 through 30, as though  
14 set forth fully herein.

15 **SEVENTH CAUSE FOR DISCIPLINE**

16 **(Conviction of a Substantially Related Crime)**

17 32. Respondent Wholesaler is subject to disciplinary action under sections 4301,  
18 subdivisions (l) and (o), and 4302, in conjunction with California Code of Regulations, title 16,  
19 section 1770, on the grounds of unprofessional conduct, in that Stephen M. Costa, the president  
20 and owner of Respondent RxChange Co., committed a substantially related crime, as follows:

21 a. On or about April 20, 2016, after a plea of guilty, Stephen M. Costa (Costa) was  
22 convicted of violating Title 18, United States Code, Section 1349 (conspiracy to commit  
23 healthcare fraud), a felony, in the criminal proceeding entitled *U.S.A. v. Stephen M. Costa* (S.D.  
24 Florida, 2013, Case No. 1:15-cr-21004-CMA-1). On or about April 20, 2016, the Court  
25 sentenced Costa to 35 months in federal prison, followed by 3 years of supervised release, and  
26 ordered him to pay \$1,200,000 in restitution to Medicaid and a \$10,000 fine.

27 ///

28 ///

1 b. The circumstances underlying the conviction are as follows:

2 i. During the charged conspiracy, from in or about September 2008, through December  
3 2013, Respondent's co-conspirators obtained quantities of expensive medicines such as those  
4 used to treat asthma, psychiatric symptoms and HIV infections by buying them from purported  
5 patients who had obtained them from retail pharmacies in New York City as Medicaid  
6 beneficiaries. These medicines were aggregated into quantities by co-conspirators, and Costa then  
7 purchased them in quantity.

8 ii. With Costa's knowledge, to make the medicines re-marketable, the pharmacy labels  
9 with the patients' identities were removed, and the bottles were cleaned to make them appear new  
10 instead of having been previously dispensed. Costa incorporated and used wholesale distribution  
11 companies to sell the second-hand prescription drugs to pharmacies. As part of the scheme,  
12 Costa's co-conspirators created fraudulent documentation to falsely show the medicines bought  
13 on the streets from individuals were, instead, new medicines being shipped through legitimate  
14 pharmaceutical distributors and kept in properly controlled conditions.

15 iii. Some of the pharmacies did not know they were receiving illegally obtained, second-  
16 hand medicines. Medicaid reimbursed various pharmacies for the sales of such medicines to  
17 patients which the Medicaid program would not have done, had the nature of the medicines as  
18 repurchased and relabeled been known.

19 iv. During the course of this scheme, the value of the pharmaceuticals involved in  
20 Costa's illegal transactions was approximately \$1.2 million. Payments for these medicines  
21 ultimately came from funds provided to the Medicaid program for the purpose of providing  
22 medicines to low income patients.

23 **EIGHTH CAUSE FOR DISCIPLINE**

24 **(Dishonesty, fraud, or deceit)**

25 33. Respondent Wholesaler is subject to disciplinary action under Sections 4301,  
26 subsection (f), and 4302, of the Code, in that Costa committed dishonesty, fraud, or deceit by  
27 conspiring to commit healthcare fraud. Complainant refers to, and by this reference incorporates,  
28 the allegations set forth above in paragraph 32, as though set forth fully herein.



1 NINTH CAUSE FOR DISCIPLINE

2 (Acts warranting denial of a license).

3 34. Respondent Wholesaler is subject to disciplinary action under section 4301,  
4 subsection (p), of the Code, in conjunction with section 480, subdivisions (a)(1), (2), and (3), in  
5 that Costa engaged in conduct that would have warranted denial of a license, as more fully set  
6 forth in paragraphs 32 and 33, above.

7 OTHER MATTERS

8 35. Pursuant to Code section 4307, if discipline is imposed on Wholesale Permit  
9 Number WLS 5795 issued to Respondent Pharmacy while Stephen M. Costa has been an officer  
10 and owner and had knowledge of or knowingly participated in any conduct for which the licensee  
11 was disciplined, Stephen M. Costa shall be prohibited from serving as a manager, administrator,  
12 owner, member, officer, director, associate, or partner of a licensee for five years if Wholesale  
13 Permit Number WLS 5795 is placed on probation or until Wholesale Permit Number WLS 5795  
14 is reinstated if it is revoked.

15 36. Pursuant to Code section 4307, if discipline is imposed on Wholesale Permit  
16 Number WLS 5795 issued to Respondent Wholesaler while Mohammad M. Salemi has been an  
17 officer and/or owner and had knowledge of or knowingly participated in any conduct for which  
18 the licensee was disciplined, Mohammad M. Salemi shall be prohibited from serving as a  
19 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for  
20 five years if Wholesale Permit Number WLS 5795 is placed on probation or until Wholesale  
21 Permit Number WLS 5795 is reinstated if it is revoked.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28

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

PRAYER

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

1. Revoking or suspending Wholesale Permit Number WLS 5795 issued to RxChange Co.;

2. Revoking or suspending Certificate Number EXC. 18823 issued to Srбуhi Tonelyan;

3. Prohibiting Stephen M. Costa from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Wholesale Permit Number WLS 5795 is placed on probation or until Wholesale Permit Number WLS 5795 is reinstated, as applicable, if Wholesale Permit Number WLS 5795 issued to RxChange Co. is revoked;

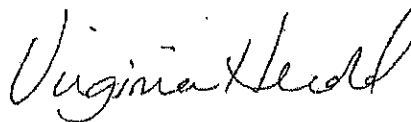
4. Prohibiting Mohammad M. Salemi from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Wholesale Permit Number WLS 5795 is placed on probation or until Wholesale Permit Number WLS 5795 is reinstated, as applicable, if Wholesale Permit Number WLS 5795 issued to RxChange Co. is revoked;

5. Ordering RxChange Co. and Srбуhi Tonelyan to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: \_\_\_\_\_

11/16/16



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

LA2015603816  
61745223\_8.doc

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

In the Matter of the First Amended Accusation  
Against:

**RXCHANGE CO.,  
STEPHEN M. COSTA, President,  
MOHAMMAD M. SALEMI, Director,  
and DRIC SRBUHI TONELYAN  
2545 N. Ontario Street  
Burbank, CA 91504**

**Wholesale Permit No. WLS 5795**

and

**SRBUHI TONELYAN  
219 E. Garfield Avenue., #4  
Glendale, CA 91205**

**Certificate Number EXC 18823**

Respondents.

Case No. 5636

OAH No. 2016050685

**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 \_\_\_\_\_.

It is so ORDERED \_\_\_\_\_.

\_\_\_\_\_  
**FOR THE BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS**