In the Matter of the Accusation Against:

HARSHAD H. GAJJAR
20608 Vercelli Way
Porter Ranch, CA 91326

Pharmacist License No. RPH 41722

Respondent.

Case No. 5866
OAH No. 2017100704

STIPULATED SURRENDER OF LICENSE AND ORDER

DECISION AND ORDER

The attached Stipulated Surrender 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 February 14, 2019.

It is so ORDERED on January 15, 2019.

By

Victor Law, R.Ph.
Board President
BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

HARSHAD H. GAJJAR
20608 Vercelli Way
Porter Ranch, CA 91326
Pharmacist License No. RPH 41722
Respondent.

Case No. 5866
OAH No. 2017100704
STIPULATED SURRENDER OF LICENSE AND ORDER

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

PARTIES

1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Langston M. Edwards, Deputy Attorney General.

2. Harshad H. Gajjar (Respondent) is represented in this proceeding by attorney Herbert L. Weinberg, whose address is: Fenton Law Group, LLP, 1990 S. Bundy Drive, Suite 777, Los Angeles, CA 90025.

Stipulated Surrender of License (Case No. 5866)
3. On or about April 23, 1988, the Board issued Pharmacist License No. RPH 41722 to Harshad H. Gajjar (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 5866 and will expire on December 31, 2017, unless renewed.

JURISDICTION

4. Accusation No. 5866 was filed before the (Board), and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 1, 2017. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 5866 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 5866. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

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

8. Respondent understands that the charges and allegations in Accusation No. 5866, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist License.

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

10. Respondent understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Pharmacist License without further process.

CONTINGENCY

11. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of License and Order, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

13. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
executed by an authorized representative of each of the parties.

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

ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 41722, issued to Respondent
Harshad H. Gajjar, is surrendered and accepted by the Board of Pharmacy.

1. The surrender of Respondent’s Pharmacist License and the acceptance of the
surrendered license by the Board shall constitute the imposition of discipline against Respondent.
This stipulation constitutes a record of the discipline and shall become a part of Respondent’s
license history with the Board of Pharmacy.

2. Respondent shall lose all rights and privileges as a pharmacist in California as of the
effective date of the Board’s Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
issued, his wall certificate on or before the effective date of the Decision and Order.

4. Respondent may only seek a new or reinstated license from the board by way of a
new application for licensure. Respondent understands and agrees that if he ever files an
application for licensure or a petition for reinstatement in the State of California, the board shall
treat it as a new application for licensure. Respondent shall not be eligible to petition for
reinstatement of licensure.

Respondent may not apply for any license, permit, or registration from the board for three
years from the effective date of this decision. Respondent stipulates that should he apply for any
license from the board on or after the effective date of this decision, all allegations set forth in the
Accusation shall be deemed to be true, correct and admitted by respondent when the board
determines whether to grant or deny the application. Respondent shall satisfy all requirements
applicable to that license as of the date the application is submitted to the board, including, but
not limited to, taking and passing licensing examination(s) as well as fulfilling any education or experience requirements prior to the issuance of a new license.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of $3,500 prior to issuance of a new or reinstated license.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 5866 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 5/5/2018

HARSHAD H. GAJJAR
Respondent

I have read and fully discussed with Respondent Harshad H. Gajjar the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 5/5/2018

HERBERT L. WEINBERG
Attorney for Respondent
ENDORSEMENT

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

Dated: May 7, 2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California

SHAWN P. COOK
Supervising Deputy Attorney General

LANGSTON M. EDWARDS
Deputy Attorney General

Attorneys for Complainant

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Exhibit A

Accusation No. 5866
BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA  

In the Matter of the First Amended Accusation  
Against:  

SAYBIAN ENTERPRISES INC. DBA WARNER WEST PHARMACY & SUPPLY, CAMILL SAYADEH  
22030 Sherman Way, #100  
Canoga Park, CA 91303  
Pharmacy Permit No. PHY 49208  

ASKAR NADJAVOF  
4601 Willis Ave., Apt. 208  
Sherman Oaks, CA 91403  
Pharmacist License No. RPH 71122  

AYOUB MERHI  
20921 Community St., Unit 9  
Canoga Park, CA 91304  
Pharmacist License No. RPH 72499  

and  

HARSHAD H. GAJJAR  
20608 Vercelli Way  
Porter Ranch, CA 91326  
Pharmacist License No. RPH 41722  

Respondents.
Complainant alleges:

PARTIES

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

Warner West Pharmacy & Supplies

2. On or about April 17, 2009, the Board of Pharmacy (Board) issued Original Pharmacy Permit Number PHY 49208 to Saybian Enterprises Inc. dba Warner West Pharmacy & Supply, Camill Sayadeh (Respondent Warner). The Original Pharmacy Permit expired on September 8, 2015, and has not been renewed.

Askar Nadjavof

3. On or about August 26, 2014, the Board issued Pharmacy License No. RPH 71122 to Askar Nadjavof (Respondent Nadjavof). RPH No. 71122 was in full force and effect at all times relevant to the Accusation and will expire on April 30, 2018, unless renewed. During the time period between March 1, 2015 to May 1, 2015, Respondent Nadjavof was employed as the Pharmacist-in-Charge at Warner West Pharmacy & Supplies.

Ayoub Merhi

4. On or about March 25, 2015, the Board issued Pharmacy License No. RPH 72499 to Ayoub Merhi (Respondent Merhi). RPH No. 72499 was in full force and effect at all times relevant to the Accusation and will expire on October 31, 2018, unless renewed. During the time period between May 1, 2015 to May 20, 2015, Respondent Merhi was employed as the Pharmacist-in-Charge at Warner West Pharmacy & Supplies.

Harshad H. Gajjar

5. On or about April 23, 1988, the Board issued Pharmacy License No. RPH 41722 to Harshad H. Gajjar (Respondent Gajjar). RPH No. 41722 was in full force and effect at all times relevant to the Accusation and will expire on December 31, 2017, unless renewed. During the time period between May 20, 2015 to October 14, 2015, Respondent Gajjar was employed as the Pharmacist-in-Charge at Warner West Pharmacy & Supplies.

//

(SAYBIAN ENTERPRISES INC. DBA WARNER WEST PHARMACY & SUPPLY) FIRST AMENDED ACCUSATION
6. This Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

7. Section 118, subdivision (b), provides in pertinent part that the suspension, expiration, or forfeiture by operation of law of a license issued by a board in the department, or its suspension, forfeiture, or cancellation by order of the board or by order of a court of law, or its surrender without the written consent of the board, shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

8. Section 4300 states, in pertinent part:

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

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

   (1) Suspending judgment.

   (2) Placing him or her upon probation.

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

   (4) Revoking his or her license.

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

9. Section 4307 subdivision (a) states, in pertinent part:

   Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner member, officer, director, associate, or partner or any partnership, corporation, firm, or association whose application for a license has been denied or
revoked, is under suspension or has been placed on probation, and while acting as the manager, administrator, owner, member, officer, director, associate, or partner had knowledge or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee as follows:

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

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

10. Section 4342 subdivision (a) states that "[t]he board may institute any action or actions as may be provided by law and that, in its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not conform to the standard and tests as to quality and strength, provided in the latest edition of the United States Pharmacopoeia or the National Formulary, or that violate any provision of the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of the Health and Safety Code)."

STATUTORY PROVISIONS

11. Section 4076 subdivision (a)(8) states in pertinent part:

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

(8) The quantity of the drug or drugs dispensed."

12. Section 4081 subdivision (a) states:

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

13. Section 4105 subdivision (a) states in pertinent part that “[a]ll records or other
documentation of the acquisition and disposition of dangerous drugs and dangerous devices by
any entity licensed by the board shall be retained on the licensed premises in a readily retrievable
form.”

14. Section 4301 subdivision (f) states in pertinent part:

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

... 

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

REGULATORY PROVISIONS

from the requirements of a prescription except upon the prior consent of the prescriber or to select
the drug product in accordance with Section 4073 of the Business and Professions Code. Nothing
in this regulation is intended to prohibit a pharmacist from exercising commonly-accepted
pharmaceutical practice in the compounding or dispensing of a prescription.”

16. Cal. Code of Regs. title 16 section 1717 states in pertinent part:

“(b) In addition to the requirements of Business and Professions Code Section 4040, the
following information shall be maintained for each prescription on file and shall be readily
retrievable:

...
4) A new prescription must be created if there is a change in the drug, strength, prescriber or directions for use, unless a complete record of all such changes is otherwise maintained.

... 

(f) The pharmacy must have written procedures that identify each individual pharmacist responsible for the filling of a prescription and a corresponding entry of information into an automated data processing system, or a manual record system, and the pharmacist shall create in his/her handwriting or through hand-initializing a record of such filling, not later than the beginning of the pharmacy's next operating day. Such record shall be maintained for at least three years.”

17. Cal. Code of Regs. title 16 section 1717.3 subdivision (a) states that “no person shall dispense a controlled substance pursuant to a preprinted multiple check-off prescription blank.”

18. Cal. Code of Regs. title 16 section 1735.2 states in pertinent part:

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

... 

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

(i) Every compounded drug preparation shall be given beyond use date representing the date or date and time beyond which the compounded drug preparation should not be used, stored, transported or administered, and determined based on the professional judgment of the pharmacist performing or supervising the compounding.”

19. Cal. Code of Regs. title 16 section 1735.3 states in pertinent part:

“(a) For each compounded drug preparation, pharmacy records shall include:

... 

(2) A compounding log consisting of a single document containing all of the following:

...
(F) The manufacturer, expiration date and lot number of each component. If the manufacturer name is demonstrably unavailable, the name of the supplier may be substituted. If the manufacturer does not supply an expiration date for any component, the records shall include the date of receipt of the component in the pharmacy, and the limitations of section 1735.2, subdivision (i) shall apply."

20. Cal. Code of Regs. title 16 section 1735.7 states:

"(a) A pharmacy engaged in compounding shall maintain documentation demonstrating that personnel involved in compounding have the skills and training required to properly and accurately perform their assigned responsibilities and documentation demonstrating that all personnel involved in compounding are trained in all aspects of policies and procedures. This training shall include but is not limited to support personnel (e.g. institutional environmental services, housekeeping), maintenance staff, supervising pharmacist and all others whose jobs are related to the compounding process.

(b) The pharmacy shall develop and maintain an ongoing competency evaluation process for pharmacy personnel involved in compounding, and shall maintain documentation of any and all training related to compounding undertaken by pharmacy personnel.

(c) Pharmacy personnel assigned to compounding duties shall demonstrate knowledge about processes and procedures used in compounding prior to compounding any drug preparation."

21. Cal. Code of Regs. title 16 section 1735.8 states in pertinent part:

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

..."

22. Cal. Code of Regs. title 16 section 1761 subdivision (a) states:

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

HEALTH AND SAFETY CODE SECTIONS

23. Health and Safety Code section 111330 states that any drug or device is misbranded if
its labeling is false or misleading in any particular.
24. Health and Safety Code section 111340 subdivision (b) states in pertinent part that
any drug or device is misbranded unless it bears a label containing an accurate statement of the
quantity of the contents in terms of weight, measure, or numerical count.

FIRST CAUSE FOR DISCIPLINE

(Unlawfully Dispensing Prescription Medication)
25. Respondent Warner and Respondent Nadjavof are subject to disciplinary action
pursuant to Bus. & Prof. Code § 4076(a)(8) in conjunction with Health and Safety Code sections
111330 and 111340(b) in that Respondents dispensed inadequately labeled prescriptions.
Specifically, Respondents failed to accurately identify the quantity of the drug dispensed.
26. On or around March 26, 2015, while Respondent Nadjavof was employed as
Pharmacist-in-Charge for Respondent Warner, an unidentified pharmacist verified Rx# 636526
for consumer CS\(^1\) for Resveratrol 21gm, however, pharmacy records showed the quantity
dispensed was Resveratrol 121gm.

SECOND CAUSE FOR DISCIPLINE

\(^1\) Initials are used here and throughout to protect consumer confidentiality.
3. Respondent Gajjar is subject to disciplinary action pursuant to Cal. Code of Regs. title 16 § 1716 in that Respondent deviated from the requirements of a prescription.

27. On or around July 24, 2015 while employed for Respondent Warner, Respondent Gajjar incorrectly dispensed Rx# 658026 (VC3 Stress Metabolic Capsule) to consumer DP. Rx# 658026 was a compounded product which contained magnesium glycinate 60mg and lipoic acid 200mg instead of the prescribed amount of magnesium glycinate 100mg and lipoic acid 150mg, respectively. Rx# 658026 also failed to contain vitamin A .65mg, as ordered.

THIRD CAUSE FOR DISCIPLINE

(Failure to Create a New Prescription for Drug Changes)

29. Respondent Warner, Respondent Merhi and Respondent Nadjavof are subject to disciplinary action pursuant to Cal. Code of Regs. title 16 § 1717(b)(4) in that Respondents failed to create a new prescription pursuant to a change in drug used, strength, prescriber or directions for use.

Respondent Warner

30. On or around May 1, 2015, unidentified pharmacist(s) dispensed Rx# 641735 to consumer CE, labeled as “Resveratrol 700mg powder, mix ½ tsp (=700mg) of powder, three times daily” and “Resveratrol 350mg/cap, empty contents of two capsules three times daily”. However, computerized pharmacy records obtained on August 11, 2015 showed that the directions for Rx# 641735 was “mix ¼ tsp (=350mg) of powder in 8 oz. of water twice daily”. Accordingly, there was a change in direction for consumer CE’s use of Rx# 641735 however a new prescription was not created.

Respondent Merhi

31. During the time period between May 1, 2015 and May 20, 2015, while Respondent Merhi was employed as Pharmacist-in-Charge for Respondent Warner, an unidentified pharmacist(s) compounded Rx# 636940 for consumer JD. However, there was a discrepancy in
the documentation of the product dispensed. The April 2, 2015 compounding log linked to Rx# 636940 showed that the product compounded was Resveratrol 175mg capsule. However, the May 4, 2015 compounding log linked to Rx# 636940 showed that the product compounded was Resveratrol 350mg capsule. Accordingly, there was a change in the strength of the drug dispensed however a new prescription was not created.

Respondent Nadjavof

32. During the time period between March 1, 2015 and May 1, 2015 while Respondent was employed as Pharmacist-in-Charge for Respondent Warner, an unidentified pharmacist(s) dispensed Rx# 636914, labeled as Resveratrol 175mg POW to consumer AA. On April 6, 2015, Rx# 636914 was labeled as Resveratrol 350mg capsules. Accordingly, there was a change in the strength of the drug dispensed however a new prescription was not created.

FOURTH CAUSE FOR DISCIPLINE
(Failure to Possess Prescription Filling Procedures)

33. Respondent Warner, Respondent Nadjavof, Respondent Merhi and Respondent Gajjar are subject to disciplinary action pursuant to Cal. Code of Regs. title 16 § 1717(f) in that Respondents failed to have written procedures that identify the pharmacist(s) responsible for filling prescriptions and a corresponding entry of information into an automated data processing system, or a manual record system.

34. Specifically, during the time period between March 26, 2015 and June 8, 2015, Respondents failed to maintain procedures identifying each individual pharmacist responsible for compounding the following prescriptions:

Respondent Nadjavof

- Rx# 636526, 3/26/15;
- Rx# 636914, 4/1/15 (Resveratrol 175mg capsule);
- Rx# 636914, 4/6/15 (Resveratrol 350mg capsule);
- Rx# 636940, compounded 4/2/15 (Resveratrol 175mg capsule);
• Rx# 640553, 4/24/15 (Resveratrol 350mg capsule; date made was 4/28/15 per compounding log.
  Respondent Merhi

• Rx# 636940, compounded 5/4/15 (Resveratrol 350mg capsule);
• VITAC 5 BCCFMPV-RESV Caps, Lot# 05112015@2, compounded on 5/11/15.
  Respondent Gajjar

• PAIN BGAN Cream, Lot# 06022015@10, compounded on 6/2/15;
• PAIN BGAN Cream, Lot# 06082015@1, compounded on 6/8/2015.

FIFTH CAUSE FOR DISCIPLINE
(Unlawfully Dispensing a Controlled Substance)

35. Respondent Warner is subject to disciplinary action pursuant to Cal. Code of Regs. title 16 § 1717.3(a) in that Respondents dispensed a controlled substance pursuant to a preprinted multiple check-off prescription blank.

SIXTH CAUSE FOR DISCIPLINE
(Misbranded Drugs)

36. Respondents Warner, Respondent Merhi and Respondent Gajjar are subject to disciplinary action pursuant to Bus. & Prof. Code §4342(a) and Cal. Code of Regs. title 16 § 1735.2(f) in conjunction with Health and Safety Code §§ 111330 and 111340(b) in that Respondent failed to properly record the master formula.

37. On or around May 11, 2015 while employed as Pharmacist-in-Charge for Respondent Warner, an unidentified staff pharmacist compounded VITAC 5 BCCFMPV-RESV CAPS (Lot# 05112015@2) containing Resveratrol and other active ingredients, including biotin 2mg. However, the container from compounded product PCCFMPV-RESV CAPS (Lot# 05112015@2) was labeled as containing Resveratrol and other active ingredients, including biotin 1.5mg. The
pharmacist did not ensure the compounded product contained the accurate content and quantity of biotin as labeled.

Respondent Gajjar

38. On or around July 29, 2015 while Respondent Gajjar was employed as Pharmacist-in-Charge for Respondent Warner, a laboratory report from Eagle Analytical Services revealed that BGAN Cream (Lot# 06082015) was subpotent. Compounding logs revealed that the pharmacy dispensed Rx# 649149, consisting of subpotent BGAN Cream (Lot# 06082015) to consumer LJ on June 2, 2015. The compounded product dispensed did not contain an accurate amount of baclofen 2%, gabapentin 6%, amitriptyline 3%, and nifedipine 2% as ordered.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Properly Store Components of Compounded Drugs)

39. Respondent Warner, Respondent Merhi, and Respondent Gajjar are subject to disciplinary action pursuant to Cal. Code of Regs. title 16 § 1735.2(h) in that Respondents failed to properly store chemicals, bulk drug substances, drug products and other components used for drug compounding according to requirements provided to maintain their integrity, potency, quality and labeled strength as follows:

Respondent Merhi

40. On or around May 11, 2015 while Respondent Merhi was employed as Pharmacist-in-Charge for Respondent Warner, unidentified pharmacist(s) compounded VITAC 5 BCCFMPV-RESV CAPS (Lot# 05112015@2). The beyond use date on the container label was November 14, 2015, a date exceeding 180 days from the compounding date of May 11, 2015.

Respondent Gajjar

41. On or around June 8, 2015, while Respondent Gajjar was employed as Pharmacist-in-Charge for Respondent Warner, an unidentified pharmacist(s) compounded Multivita-Resv capsule (Lot# 06082015@12). The beyond use date identified on the container label was "15/5/2015", an invalid date.
42. On or around June 15, 2015, an unidentified pharmacist(s) compounded Resveratrol 350mg capsule (Lot# 06152015@7). The beyond use date on the label exceeded the beyond use date identified on the compounding log.

EIGHTH CAUSE FOR DISCIPLINE

(Inadequate “Beyond Use” Date Labeling)

43. Respondent Warner and Respondent Nadjavof are subject to disciplinary action pursuant to Cal. Code ofRegs. title 16 § 1735.2(i) in that Respondents failed to properly provide a “beyond use” date representing the date and/or time beyond which the compounded drug should not be used, stored, transported or administered based on the professional judgment of the pharmacist performing or supervising the compounding as follows:

   Respondent Warner, Respondent Nadjavof

44. On or around March 26, 2015, while Respondent Nadjavof was employed as Pharmacist-in-Charge for Respondent Warner, an unidentified pharmacist(s) verified consumer CS’ Rx# 636526, however, there was a discrepancy in the documentation of the product. Specifically, the stickered label on the back of the prescription document identified the dispensed product as “CVIT1 RESVERATROL 175mg POW” however, the Rx Linked to a Log document identified the product as “Resveratrol 175mg capsule”.

45. The Drug Utilization Report (DUR) document for RX# 636914 was “Resveratrol 350mg*POW”. The label reprint indicated the product was “VITAP2 Resveratrol POW”.

46. On or around April 24, 2015, unidentified pharmacist(s) verified consumer ML’s Rx# 640553, however, there was a discrepancy in the documentation of the product. Specifically, the stickered label on the back of the prescription document identified the dispensed product as “CVIT1 RESVERATROL 175mg POW” however, the Rx Log document identified the product as “Resveratrol 175mg capsule”. In addition, the April 28, 2015 compounding log indicated the product dispensed was “Resveratrol 350mg capsule, however, the Drug Utilization Report (DUR) document for RX# 640533 was “Resveratrol 350mg*POW”.

(SAYBIAN ENTERPRISES INC. DBA WARNER WEST PHARMACY & SUPPLY) FIRST AMENDED ACCUSATION
NINTH CAUSE FOR DISCIPLINE
(Inadequate Compounded Drug Logs)

47. Respondent Warner, Respondent Nadjavof and Respondent Gajjar are subject to disciplinary action pursuant to Cal. Code of Regs. title 16 § 1735.3(a)(2)(F) in that Respondents failed to properly maintain records of compounded drug logs providing the name of the manufacturer (or supplier), expiration date and lot number of each compounded drug component.

Respondent Nadjavof

48. On or around April 2, 2015, while Respondent Nadjavof was employed as Pharmacist-in-Charge for Respondent Warner, an unidentified pharmacist(s) compounded Resveratrol 175mg capsule (Lot# 04022015) and dispensed Rx# 636940 to consumer JD. However, the compound log showed there was no lot number and expiration date for microcrystalline used in compounding the dispensed product.

Respondent Gajjar

49. On or around June 2, 2015, while Respondent Gajjar was employed as Pharmacist-in-Charge for Respondent Warner, an unidentified pharmacist(s) compounded BGAN Cream (Lot# 06022015@10) and dispensed Rx# 643177 to consumer RB. However, the compound log showed there was no lot number or expiration date for the propylene glycol used to compound the dispensed product.

50. On or around June 15, 2015, an unidentified pharmacist(s) compounded Resveratrol 350mg capsules (Lot# 06152015@7). However, the compound log showed there was no expiration date for the Resveratrol used to compound the product.

TENTH CAUSE FOR DISCIPLINE
(Failure to Document Compounded Drug Personnel Skills and Training)

51. Respondent Gajjar is subject to disciplinary action pursuant to Cal. Code of Regs. title 16 § 1735.7(a)-(c) in that Respondent failed to properly demonstrate the skills and training possessed by compounded drug personnel.
52. On or around August 11, 2015 while Respondent Gajjar was employed as Pharmacist-in-Charge for Respondent Warner, an inspection revealed that Respondent Warner did not have written documentation indicating the technicians had the skills and training required to properly and accurately perform their assigned tasks related to compounding. In addition, Respondent Gajjar failed to develop or maintain an ongoing competency evaluation process for pharmacy personnel and staff involved in compounding prior to August 11, 2015.

ELEVENTH CAUSE FOR DISCIPLINE

(Inadequate Quality Assurance Plan)

53. Respondent Warner and Respondent Gajjar are subject to disciplinary action pursuant to Cal. Code of Regs. title 16 § 1735.8(a) and (d) in that Respondents failed to maintain a written quality assurance plan designed to monitor and ensure the integrity, potency, quality and strength of compounded drugs.

54. On or around July 29, 2015 while Respondent Gajjar was employed as Pharmacist-in-Charge for Respondent Warner, a laboratory report from Eagle Analytical Services revealed that BGAN Cream (Lot# 06082015) was subpotent. Compounding logs revealed that the pharmacy dispensed Rx# 649149, consisting of subpotent BGAN Cream (Lot# 06082015) to consumer LJ on June 2, 2015. The Respondents' subpotent/superpotent compounded policy stated that in the event a laboratory test result indicated a deviation of 10 percent or more from the labeled potency, the pharmacy shall institute a recall of the products dispensed. Respondents did not follow written quality assurance and institute a recall for prescriptions dispensed to LJ, per its policy.
TWELFTH CAUSE FOR DISCIPLINE  
(Erroneous or Uncertain Prescriptions)

55. Respondent Warner and Respondent Nadjavof are subject to disciplinary action pursuant to Cal. Code of Regs. title 16 § 1761(a) in conjunction with Health and Safety Code sections 111330 and 111340(b) that Respondents dispensed prescriptions containing errors, omissions or irregularities and failed to contact the prescriber to validate them.

56. Specifically, on or around April 1, 2015 and April 6, 2015 Respondents dispensed Rx# 636914 to AA dated 4/1/15 (Resveratrol 175mg Pow) and 4/6/15 (Resveratrol 350mg Pow), two different products, with different directions and dosages pursuant to an incomplete, uncertain and ambiguous prescription document. The prescription document did not specify a quantity and the dosage was for two (2) scoops twice daily. The directions on the prescription labels were for capsules. There was no indication or a reference to connect the capsules (as dispensed) to scoops (as ordered). Respondents did not contact the prescriber to obtain the information needed to verify the prescription prior to dispensing to AA.

THIRTEENTH CAUSE FOR DISCIPLINE  
(Failure to Maintain Records of Dangerous Drugs)

57. Respondent Warner is subject to disciplinary action pursuant to Bus. & Prof. Code § 4105(a) in that it failed to retain records of dangerous drugs on licensed premises. Specifically, during the time period between 9/8/15 and 8/26/16, Respondent stored records of acquisition and disposition of dangerous drugs (Resveratrol) at an unlicensed location “where [Respondent Warner] used to conduct business.”

FOURTEENTH CAUSE FOR DISCIPLINE  
(Failure to Keep Records of Dangerous Drugs Open for Inspection)

58. Respondent Warner is subject to disciplinary action pursuant to Bus. & Prof. Code § 4081(a) in that it failed to keep open for inspection, all records of manufacture, sale, acquisition and disposition of dangerous drugs, by authorized officers of the law. Specifically, on 9/9/16 and
12/19/17, Respondent Warner did not produce, vis-à-vis The Pharmacy Depot, all records of acquisition and disposition for the following prescriptions for inspection:

<table>
<thead>
<tr>
<th>Prescription Number</th>
<th>Date Filled</th>
<th>NDC Label Name</th>
<th>Name of Prescriber</th>
</tr>
</thead>
<tbody>
<tr>
<td>637383</td>
<td>3/24/15</td>
<td>Resveratrol Pow</td>
<td>K.S.</td>
</tr>
<tr>
<td>638562</td>
<td>4/13/15</td>
<td>Resveratrol Pow</td>
<td>A.E.</td>
</tr>
<tr>
<td>639132</td>
<td>4/16/15</td>
<td>Compound</td>
<td>N.G.</td>
</tr>
<tr>
<td>640249</td>
<td>4/23/15</td>
<td>Compound</td>
<td>K.S.</td>
</tr>
<tr>
<td>646069</td>
<td>5/15/15</td>
<td>Compound</td>
<td>N.G.</td>
</tr>
</tbody>
</table>

**FIFTEENTH CAUSE FOR DISCIPLINE**

(Unprofessional Conduct)

59. Respondent Merhi and Respondent Nadjafov are subject to disciplinary action pursuant to Bus. & Prof. Code § 4301(f) in that Respondents committed acts constituting unprofessional conduct.

**Respondent Merhi**

60. Specifically, on 5/17/15, while Respondent Merhi was the Pharmacist-in-Charge of Respondent Warner from 3/1/15 until 5/20/15, Respondent Warner processed and dispensed Resveratrol prescription Rx#636624 for patient P.Y. Investigation revealed that Rx#636624 was not prescribed by T.L., the listed physician. P.Y.’s insurer paid $14,862.06 for the unlawful prescription.

**Respondent Nadjafov**

61. Specifically, on 3/27/15 and 4/23/15, while Respondent Nadjafov was the Pharmacist-in-Charge of Respondent Warner, from 3/1/15 until 5/1/15, Respondent Warner processed and dispensed Resveratrol prescription Rx#636624 for patient P.Y. Investigation revealed that Rx#636624 was not prescribed by T.L., the listed physician. P.Y.’s insurer paid $14,862.06 per each unlawful prescription processed on each day.

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2 The Pharmacy Depot, located at 4948B Pico Blvd., Los Angeles, CA 90019

(SAYBIAN ENTERPRISES INC. DBA WARNER WEST PHARMACY & SUPPLY) FIRST AMENDED ACCUSATION
Specifically, on 4/22/15, while Respondent Nadjafov was the Pharmacist-in-Charge of Respondent Warner, from 3/1/15 until 5/1/15, Respondent Warner processed and dispensed Resveratrol prescription Rx#648271 for patient A.K. Investigation revealed that Rx#636624 was not prescribed by T.L., the listed physician. A.K.’s insurer paid $44,824.61 for the prescription.

**DISCIPLINARY CONSIDERATIONS**

On or around August 26, 2011 during an inspection of Santa Anita Prescription Compound Respondent Gajjar was found to be in violation of the following:

- Bus. and Prof. Code § 4081 – Failure to Maintain Records of Dangerous Drugs
- Bus. and Prof. Code § 4342 – Drugs Lacking Quality and Strength
- Bus. and Prof. Code § 4169(a)(3) – Misbranded Drugs
- Cal. Code of Regs. title 16 § 1735.3(a) – Improper Records of Compounded Drug Products
- Cal. Code of Regs. title 16 § 1735.5(a) – Failure to Maintain Compounding Policies and Procedures

On or around January 26, 2012, Respondent Gajjar was issued an Order of Abatement and Citation and Fine in Case No. CI 2011 50910. The citation amount of $4,250 was paid in full.

**OTHER MATTERS**

Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 49208 issued to Saybian Enterprises Inc. dba Warner West Pharmacy & Supply, then Saybian Enterprises Inc. dba Warner West Pharmacy & Supply shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 49208 is placed on probation or until Pharmacy Permit Number PHY 49208 is reinstated if it is revoked.

Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 49208 issued to Saybian Enterprises Inc. dba Warner West Pharmacy & Supply, Pharmacy while Camill Sayadeh was an officer and owner and had knowledge of or knowingly...
participated in any conduct for which the licensee was disciplined, Camill Sayadah shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 49208 is placed on probation or until Pharmacy Permit Number PHY 49208 is reinstated if it is revoked.

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 Original Pharmacy Permit Number PHY 49208, issued to Saybian Enterprises Inc. dba Warner West Pharmacy & Supply, Camill Sayadeh;
2. Revoking or suspending Pharmacy License No. RPH 71122, issued to Askar Nadjavof;
3. Revoking or suspending Pharmacy License No. RPH 72499, issued to Ayoub Merhi;
4. Revoking or suspending Pharmacy License No. RPH 41722, issued to Harshad H. Gajjar;
5. Prohibiting Saybian Enterprises Inc. dba Warner West Pharmacy & Supply from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 49208 is placed on probation or until Pharmacy Permit Number PHY 49208 is reinstated if Pharmacy Permit Number PHY 49208 issued to Saybian Enterprises Inc. dba Warner West Pharmacy & Supply is revoked;
6. Prohibiting Camill Sayadeh from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 49208 is placed on probation or until Pharmacy Permit Number PHY 49208 is reinstated if Pharmacy Permit Number 49208 issued to Saybian Enterprises Inc. dba Warner West Pharmacy & Supply is revoked;
7. Ordering Saybian Enterprises Inc. dba Warner West Pharmacy & Supply, Askar Nadjavof, Ayoub Merhi, and Harshad H. Gajjar 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; and,

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

DATED: April 12, 2018

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