

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

In the Matter of the Accusation Against:

**ANSR CORPORATION, DBA ANSR PHARMACY 101; SHAHID J.
RANA, CEO; SEYED ALI NOWBAR, PRES. and PIC; THU THI VU,
SHAREHOLDER, Pharmacy License No. PHY 50526; and**

**SEYED ALI NOWBAR,
Pharmacist License No. RPH 45567; and**

**THU THI VU,
Pharmacist License No. RPH 49153; and**

**FARROKH AGHAI YAZDI,
Pharmacist License No. RPH 43968; and**

**ELEANOR AGNES TOLENTINO,
Pharmacist License No. RPH 62286,**

Respondents

Agency Case No. 6254

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 at 5:00 p.m. on March 26, 2020.

It is so ORDERED on February 25, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe", written in a cursive style.

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 BRETT A. KINGSBURY
Deputy Attorney General
4 State Bar No. 243744
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-3472
6 Facsimile: (415) 703-5480
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 6254

13 **ANSR CORPORATION,**
14 **DBA ANSR PHARMACY 101;**
15 **SHAHID J. RANA, CEO;**
16 **SEYED ALI NOWBAR, PRES. and PIC;**
17 **THU THI VU, SHAREHOLDER**
581 McCray Street
Hollister, CA 95023

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT SEYED ALI NOWBAR;**

**WITHDRAWAL OF ACCUSATION AND
ISSUANCE OF CITATION TO
RESPONDENT THU THI VU; and**

18 Pharmacy License No. PHY 50526,

**STIPULATED SURRENDER AS TO
RESPONDENT ANSR CORPORATION,
DBA ANSR PHARMACY 101**

19 **SEYED ALI NOWBAR**
2882 Birkdale Court
Gilroy, CA 95020

**[NOT APPLICABLE TO RESPONDENT
FARROKH AGHAI YAZDI OR
RESPONDENT ELEANOR AGNES
TOLENTINO.]**

20 Pharmacist License No. RPH 45567,

21 **THU THI VU**
3317 Ruffino Lane
San Jose, CA 95148

22 Pharmacist License No. RPH 49153,

23 **FARROKH AGHAI YAZDI**
5212 Hecker Court
San Jose, CA 95135

24 Pharmacist License No. RPH 43968

25 and
26
27
28

ELEANOR AGNES TOLENTINO

1950 Parkview Circle
Hollister, CA 95023

Pharmacist License No. RPH 62286

Respondents.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:¹

PARTIES

1. Anne Sodergren (Complainant) is the Interim 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 Brett A. Kingsbury, Deputy Attorney General.

2. Respondents Seyed Ali Nowbar (Respondent Nowbar), Thu Thi Vu (Respondent Vu), and Respondent ANSR Corporation, doing business as ANSR Pharmacy 101; Shahid J. Rana, CEO; Seyed Ali Nowbar, President and Pharmacist in Charge; Thu Thi Vu, Shareholder (Respondent Pharmacy) (collectively, Respondent Pharmacy, Respondent Nowbar, and Respondent Vu are referenced herein as Respondents) are 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.

3. On or about August 17, 1992, the Board issued Pharmacist License number RPH 45567 to Respondent Nowbar. The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2020, unless renewed.

4. On or about September 17, 1996, the Board issued Pharmacist License number RPH 49153 to Respondent Vu. The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2020, unless renewed.

¹ This stipulation does not address Respondent Eleanor Agnes Tolentino or Respondent Farrokh Aghai Yazdi.

5. On or about February 7, 2011, the Board issued Pharmacy License number PHY 50526 to Respondent Pharmacy. The Pharmacy License was in full force and effect at all times relevant to the charges brought herein, expired on September 12, 2017, and was cancelled on September 12, 2017, due to a discontinuance of business.

JURISDICTION

6. Accusation No. 6254 was filed before the Board and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on November 21, 2018. Respondents timely filed one or more Notices of Defense contesting the Accusation.

7. A copy of Accusation No. 6254 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

8. Respondents have carefully read, fully discussed with counsel, and understand the charges and allegations in Accusation No. 6254. Respondents have also carefully read, fully discussed with counsel, and understand the effects of this agreement.

9. Respondents are fully aware of their 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 them; the right to present evidence and to testify on their own behalfs; 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.

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

CULPABILITY

11. Respondents understand and agree that the charges and allegations in Accusation No. 6254, if proven at a hearing, constitute cause for imposing discipline upon their licenses.

12. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual

1 basis for the charges in the Accusation, and Respondents hereby give up their right to contest
2 those charges.

3 13. Respondents agree that their licenses are subject to discipline. Respondent Vu agrees
4 to accept imposition of a citation, and waives and gives up her right to appeal that citation, as set
5 forth below. Respondent Pharmacy and Respondent Nowbar agree to be bound by the
6 disciplinary order below.

7 CONTINGENCY

8 14. This stipulation shall be subject to approval by the Board. Respondents understand
9 and agree that counsel for Complainant and the staff of the Board may communicate directly with
10 the Board regarding this stipulation and settlement, without notice to or participation by
11 Respondents or their counsel. By signing the stipulation, Respondents understand and agree that
12 they may not withdraw their agreement or seek to rescind the stipulation prior to the time the
13 Board considers and acts upon it. If the Board fails to adopt this stipulation, this agreement shall
14 be of no force or effect, except for this paragraph it shall be inadmissible in any legal action
15 between the parties, and the Board shall not be disqualified from further action by having
16 considered this matter.

17 15. The parties understand and agree that Portable Document Format (PDF) and facsimile
18 copies of this agreement, including PDF and facsimile signatures thereto, shall have the same
19 force and effect as the originals.

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

26 17. In consideration of the foregoing admissions and stipulations, the parties agree on the
27 following resolution of this matter for Respondent Vu, and that the Board may, without further
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1 notice or formal proceeding, issue and enter the following Disciplinary Order with respect to
2 Respondent Pharmacy and Respondent Nowbar:

3 **RESOLUTION AS TO RESPONDENT VU**

4 1. Complainant shall withdraw the pending Accusation against Respondent Vu, and in
5 its place issue a citation to Respondent Vu under Business and Professions Code section 125.9,
6 on the following terms:

- 7 a. Respondent Vu shall be cited for unprofessional conduct pursuant to Business and
8 Professions Code section 4301, subdivision (o), for violation of Health and Safety
9 Code section 11164 and California Code of Regulations, title 16, section 1761, in
10 that on or about August 22, 2016, Respondent Vu filled a prescription for
11 promethazine with codeine, where the prescription form violated Health and Safety
12 Code section 11162.1 in multiple respects.
- 13 b. Respondent Vu shall also be cited for unprofessional conduct pursuant to Business
14 and Professions Code section 4301, subdivision (j), in that Respondent Vu
15 purchased, compounded, and/or dispensed a misbranded drug (domperidone).
- 16 c. The citation shall carry an administrative fine in the amount of \$2,500 due 30 days
17 after the citation's issuance.
- 18 d. Payment of the fine shall not constitute an admission of the violations charged.
- 19 e. Respondent Vu shall not appeal or contest the citation.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves Respondent Nowbar's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

2. Report to the Board

Respondent Nowbar shall report to the Board quarterly, on a schedule as directed by the Board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent Nowbar shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the Board.

3. Interview with the Board

Upon receipt of reasonable prior notice, Respondent Nowbar shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to

Board staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

Respondent Nowbar shall timely cooperate with the Board's inspection program and with the Board's monitoring and investigation of Respondent Nowbar's compliance with the terms and conditions of probation, including but not limited to: timely responses to requests for information by Board staff; timely compliance with directives from Board staff regarding requirements of any term or condition of probation; and timely completion of documentation pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a violation of probation.

5. Continuing Education

Respondent Nowbar shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the Board or its designee.

6. Reporting of Employment and Notice to Employers

During the period of probation, Respondent Nowbar shall notify all present and prospective employers of the decision in case number 6254 and the terms, conditions and restrictions imposed on Respondent Nowbar by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within ten (10) days of undertaking any new employment, Respondent Nowbar shall report to the Board in writing the name, physical address, and mailing address of each of his employer(s), and the name(s) and telephone number(s) of all of his direct supervisor(s), as well as any pharmacist(s)-in-charge, designated representative(s)-in-charge, responsible manager, or other compliance supervisor(s), and the work schedule, if known. Respondent Nowbar shall also include the reason(s) for leaving the prior employment. Respondent Nowbar shall sign and return to the Board a written consent authorizing the Board or its designee to communicate with all of Respondent Nowbar's employer(s) and supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the Board or its designee, concerning Respondent Nowbar's work status, performance, and monitoring. Failure to comply with the requirements or deadlines of this condition shall be considered a violation of probation.

1 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
2 Respondent Nowbar undertaking any new employment, Respondent Nowbar shall cause (a) his
3 direct supervisor, (b) his pharmacist-in-charge, designated representative-in-charge, responsible
4 manager, or other compliance supervisor, and (c) the owner or owner representative of his
5 employer, to report to the Board in writing acknowledging that the listed individual(s) has/have
6 read the decision in case number 6254, and the terms and conditions imposed thereby. If one
7 person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so
8 state. It shall be Respondent Nowbar's responsibility to ensure that these acknowledgment(s) are
9 timely submitted to the Board. In the event of a change in the person(s) serving the role(s)
10 described in (a), (b), or (c) during the term of probation, Respondent Nowbar shall cause the
11 person(s) taking over the role(s) to report to the Board in writing within fifteen (15) days of the
12 change acknowledging that he or she has read the decision in case number 6254, and the terms
13 and conditions imposed thereby.

14 If Respondent Nowbar works for or is employed by or through an employment service,
15 Respondent Nowbar must notify the person(s) described in (a), (b), and (c) above at every entity
16 licensed by the Board of the decision in case number 6254, and the terms and conditions imposed
17 thereby in advance of Respondent Nowbar commencing work at such licensed entity. A record of
18 this notification must be provided to the Board upon request.

19 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
20 (15) days of Respondent Nowbar undertaking any new employment by or through an employment
21 service, Respondent Nowbar shall cause the person(s) described in (a), (b), and (c) above at the
22 employment service to report to the Board in writing acknowledging that he or she has read the
23 decision in case number, and the terms and conditions imposed thereby. It shall be Respondent
24 Nowbar's responsibility to ensure that these acknowledgment(s) are timely submitted to the
25 Board.

26 Failure to timely notify present or prospective employer(s) or failure to cause the identified
27 person(s) with that/those employer(s) to submit timely written acknowledgments to the Board
28 shall be considered a violation of probation.

"Employment" within the meaning of this provision includes any full-time, part-time, temporary, relief, or employment/management service position as a Pharmacist, or any position for which a Pharmacist is a requirement or criterion for employment, whether Respondent Nowbar is an employee, independent contractor or volunteer.

7. Notification of Change(s) in Name, Address(es), or Phone Number(s)

Respondent Nowbar shall further notify the Board in writing within ten (10) days of any change in name, residence address, mailing address, e-mail address or phone number.

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

8. Restrictions on Supervision and Oversight of Licensed Facilities

During the period of probation, Respondent Nowbar shall not supervise any intern pharmacist, be the pharmacist-in-charge, designated representative-in-charge, responsible manager or other compliance supervisor of any entity licensed by the Board, nor serve as a consultant. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

9. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, Respondent Nowbar shall pay to the Board its costs of investigation and prosecution in the amount of \$25,285.75. Respondent Nowbar shall make said payments in twelve equal amounts, due on the 1st of each month during the first year of probation.

There shall be no deviation from this schedule absent prior written approval by the Board or its designee. Respondent Nowbar shall be permitted to pay these costs in an alternative payment plan if approved by the Board or its designee, so long as full payment is completed no later than one (1) year prior to the end date of probation. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

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1 **10. Probation Monitoring Costs**

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

6 **11. Status of License**

7 Respondent Nowbar shall, at all times while on probation, maintain an active, current
8 Pharmacy License with the Board, including any period during which suspension or probation is
9 tolled. Failure to maintain an active, current Pharmacy License shall be considered a violation of
10 probation.

11 If Respondent Nowbar's Pharmacy License expires or is cancelled by operation of law or
12 otherwise at any time during the period of probation, including any extensions thereof due to
13 tolling or otherwise, upon renewal or reapplication Respondent Nowbar's license shall be subject
14 to all terms and conditions of this probation not previously satisfied.

15 **12. License Surrender While on Probation**

16 Following the effective date of this decision, should Respondent Nowbar cease practice due
17 to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
18 Respondent Nowbar may relinquish his license, including any indicia of licensure issued by the
19 Board, along with a request to surrender the license. The Board or its designee shall have the
20 discretion whether to accept the surrender or take any other action it deems appropriate and
21 reasonable. Upon formal acceptance of the surrender of the license, Respondent Nowbar will no
22 longer be subject to the terms and conditions of probation. This surrender constitutes a record of
23 discipline and shall become a part of Respondent Nowbar's license history with the Board.

24 Upon acceptance of the surrender, Respondent Nowbar shall relinquish his pocket and/or
25 wall license, including any indicia of licensure not previously provided to the Board within ten
26 (10) days of notification by the Board that the surrender is accepted if not already provided.
27 Respondent Nowbar may not reapply for any license from the Board for three (3) years from the
28 effective date of the surrender. Respondent Nowbar shall meet all requirements applicable to the

1 license sought as of the date the application for that license is submitted to the Board, including
2 any outstanding costs.

3 **13. Practice Requirement – Extension of Probation**

4 Except during periods of suspension, Respondent Nowbar shall, at all times while on
5 probation, be employed as a Pharmacist in California for a minimum of 60 hours per calendar
6 month. Any month during which this minimum is not met shall extend the period of probation by
7 one month. During any such period of insufficient employment, Respondent Nowbar must
8 nonetheless comply with all terms and conditions of probation, unless Respondent Nowbar
9 receives a waiver in writing from the Board or its designee.

10 If Respondent Nowbar does not practice as a Pharmacist in California for the minimum
11 number of hours in any calendar month, for any reason (including vacation), Respondent Nowbar
12 shall notify the Board in writing within ten (10) days of the conclusion of that calendar month.
13 This notification shall include at least: the date(s), location(s), and hours of last practice; the
14 reason(s) for the interruption or reduction in practice; and the anticipated date(s) on which
15 Respondent Nowbar will resume practice at the required level. Respondent Nowbar shall further
16 notify the Board in writing within ten (10) days following the next calendar month during which
17 Respondent Nowbar practices as a Pharmacist in California for the minimum of hours. Any
18 failure to timely provide such notification(s) shall be considered a violation of probation.

19 It is a violation of probation for Respondent Nowbar's probation to be extended pursuant to
20 the provisions of this condition for a total period, counting consecutive and non-consecutive
21 months, exceeding thirty-six (36) months. The Board or its designee may post a notice of the
22 extended probation period on its website.

23 **14. Violation of Probation**

24 If Respondent Nowbar has not complied with any term or condition of probation, the Board
25 shall have continuing jurisdiction over Respondent Nowbar, and the Board shall provide notice to
26 Respondent Nowbar that probation shall automatically be extended, until all terms and conditions
27 have been satisfied or the Board has taken other action as deemed appropriate to treat the failure
28 to comply as a violation of probation, to terminate probation, and to impose the penalty that was

1 stayed. The Board or its designee may post a notice of the extended probation period on its
2 website.

3 If Respondent Nowbar violates probation in any respect, the Board, after giving Respondent
4 Nowbar notice and an opportunity to be heard, may revoke probation and carry out the
5 disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed
6 against Respondent Nowbar during probation, or the preparation of an accusation or petition to
7 revoke probation is requested from the Office of the Attorney General, the Board shall have
8 continuing jurisdiction and the period of probation shall be automatically extended until the
9 petition to revoke probation or accusation is heard and decided.

10 **15. Completion of Probation**

11 Upon written notice by the Board or its designee indicating successful completion of
12 probation, Respondent Nowbar's license will be fully restored.

13 **16. Remedial Education**

14 Within sixty (60 days of the effective date of this decision, Respondent Nowbar shall
15 submit to the Board or its designee, for prior approval, an appropriate program of remedial
16 education related to compounding. The program of remedial education shall consist of at least 10
17 hours during each year of probation, which shall be completed by the end of each year of
18 probation at Respondent Nowbar's own expense. At least 50% of the remedial education must be
19 completed in person or via live webinar. All remedial education shall be in addition to, and shall
20 not be credited toward, continuing education (CE) courses used for license renewal purposes for
21 pharmacists.

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

26 Following the completion of each course, the Board or its designee may require Respondent
27 Nowbar, at his own expense, to take an approved examination to test Respondent Nowbar's
28 knowledge of the course. If Respondent Nowbar does not achieve a passing score on the

examination that course shall not count towards satisfaction of this term. Respondent Nowbar shall take another course approved by the Board in the same subject area.

17. Ethics Course

Within sixty (60) calendar days of the effective date of this decision, Respondent Nowbar shall enroll in a course in ethics, at Respondent Nowbar's expense, approved in advance by the Board or its designee that complies with California Code of Regulations, title 16, section 1773.5. Respondent Nowbar shall provide proof of enrollment upon request. Within five (5) days of completion, Respondent Nowbar shall submit a copy of the certificate of completion to the Board or its designee. Failure to timely enroll in an approved ethics course, to initiate the course during the first year of probation, to successfully complete it before the end of the second year of probation, or to timely submit proof of completion to the Board or its designee, shall be considered a violation of probation.

18. No Ownership or Management of Licensed Premises

Respondent Nowbar shall not own, have any legal or beneficial interest in, nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board. Respondent Nowbar shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

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1 ACCEPTANCE

2 I am authorized to act on behalf of Respondent Pharmacy. I have carefully read the above
3 stipulation and have fully discussed it with my attorney, Herbert L. Weinberg. I understand the
4 stipulation and the effect it will have on Respondent Pharmacy's license. I enter into this
5 agreement voluntarily, knowingly, and intelligently, and Respondent Pharmacy agrees to be
6 bound by the Decision and Order of the Board of Pharmacy.

7
8 DATED: 11/20/2019

SEYED ALI NOWBAR
9 SEYED ALI NOWBAR, PRESIDENT/PIC
Respondent ANSR Corporation, d.b.a.
10 ANSR Pharmacy 101

11
12 I have carefully read the above stipulation and have fully discussed it with my attorney,
13 Herbert L. Weinberg. I understand the stipulation and the effect it will have on my Pharmacist
14 License. I enter into this agreement voluntarily, knowingly, and intelligently, and agree to be
15 bound by the Decision and Order of the Board of Pharmacy.

16 DATED: 11/20/2019

THU THI VU
17 THU THI VU
Respondent Vu
18
19

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

24 DATED: 11/20/2019

SEYED ALI NOWBAR
25 SEYED ALI NOWBAR
Respondent Nowbar

26 ///

27 ///

28 ///

1 I have read and fully discussed with Respondent Nowbar, Respondent Vu, and Respondent
2 Pharmacy the terms and conditions and other matters contained in this agreement. I approve its
3 form and content.

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5 DATED: 11/20/2019


HERBERT L. WEINBERG
Attorney for Respondent


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8 **ENDORSEMENT**

9 The foregoing settlement is hereby respectfully submitted for consideration by the Board of
10 Pharmacy.

11 DATED: 1/13/2020

Respectfully submitted,

13 XAVIER BECERRA
Attorney General of California
14 JOSHUA A. ROOM
Supervising Deputy Attorney General

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16 BRETT A. KINGSBURY
Deputy Attorney General
17 *Attorneys for Complainant*

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Exhibit A

Accusation No. 6254

1 XAVIER BECERRA
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 KRISTINA T. JARVIS
Deputy Attorney General
4 State Bar No. 258229
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 210-6088
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

8 **BEFORE THE**
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11 **STATE OF CALIFORNIA**

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A C C U S A T I O N

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1 **ELEANOR AGNES TOLENTINO**

2 1950 Parkview Circle
3 Hollister, CA 95023

4 Pharmacist License No. RPH 62286

5 Respondents.

6 Complainant alleges:

7 **PARTIES**

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

10 2. On or about February 7, 2011, the Board of Pharmacy issued Pharmacy License
11 number PHY 50526 to ANSR Corporation, doing business as (dba) ANSR Pharmacy 101; Shahid
12 J. Rana, CEO; Seyed Ali Nowbar, Pres. and Pharmacist in Charge (PIC); Thu Thi Vu, Shareholder
13 (Respondent Pharmacy). The Pharmacy License was in full force and effect at all times relevant to
14 the charges brought herein and expired on September 12, 2017, and has not yet been renewed.

15 3. On or about August 17, 1992, the Board of Pharmacy issued Pharmacist License
16 number RPH 45567 to Seyed Ali Nowbar (Respondent Nowbar). The Pharmacist License was in
17 full force and effect at all times relevant to the charges brought herein and will expire on August
18 31, 2020, unless renewed.

19 4. On or about September 17, 1996, the Board of Pharmacy issued Pharmacist License
20 number RPH 49153 to Thu Thi Vu (Respondent Vu). The Pharmacist License was in full force
21 and effect at all times relevant to the charges brought herein and will expire on October 31, 2020,
22 unless renewed.

23 5. On or about February 26, 1991, the Board of Pharmacy issued Pharmacist License
24 number RPH 43968 to Farrokh Aghai Yazdi (Respondent Yazdi). The Pharmacist License was in
25 full force and effect at all times relevant to the charges brought herein and will expire on April 30,
26 2020, unless renewed.

27 ///

6. On or about March 2, 2009, the Board of Pharmacy issued Pharmacist License number RPH 62286 to Eleanor Agnes Tolentino (Respondent Tolentino). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2018, unless renewed.

JURISDICTION

7. 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.

8. Section 4300 of the Code 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.

“ . . .

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

9. Section 4300.1 of the Code states:

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

///

1 10. Section 4301 of the Code states in pertinent part:

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

5 “...

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

8 “...

9 “(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
10 violation of or conspiring to violate any provision or term of this chapter or of the applicable
11 federal and state laws and regulations governing pharmacy, including regulations established by the
12 board or by any other state or federal regulatory agency...”

13 11. Section 4022 of the Code states:

14 ““Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in
15 humans or animals, and includes the following:

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

18 “(b) Any device that bears the statement: "Caution: federal law restricts this device to sale by
19 or on the order of a _____," "Rx only," or words of similar import, the blank to be filled in
20 with the designation of the practitioner licensed to use or order use of the device.

21 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
22 prescription or furnished pursuant to Section 4006.”

23 12. Section 4113 of the Code states in pertinent part:

24 “(a) Every pharmacy shall designate a pharmacist-in-charge and, within 30 days thereof, shall
25 notify the board in writing of the identity and license number of that pharmacist and the date he or
26 she was designated.

27 “...

28 “(c) The pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all state
29 and federal laws and regulations pertaining to the practice of pharmacy...”

///

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

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

“...

“(2) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were adulterated, as set forth in Article 2 (commencing with Section 111250) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

“(3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were misbranded, as defined in Section 111335 of the Health and Safety Code.

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

14. Section 4306.5 of the Code states in pertinent part:

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

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

HEALTH AND SAFETY CODE

15. Health and Safety Code section 11162.1 states in pertinent part:

“(a) The prescription forms for controlled substances shall be printed with the following features:

“(1) A latent, repetitive “void” pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word “void” shall appear in a pattern across the entire front of the prescription.

“(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words “California Security Prescription.”

“...

“(7) (A) Six quantity check off boxes shall be printed on the form so that the prescriber may indicate the quantity by checking the applicable box where the following quantities shall appear:

“1–24

1 “25–49

2 “50–74

3 “75–100

4 “101–150

5 “151 and over.

6 “...

7 (8) Prescription blanks shall contain a statement printed on the bottom of the prescription
8 blank that the “Prescription is void if the number of drugs prescribed is not noted.”

9 “...

10 “(10) Check boxes shall be printed on the form so that the prescriber may indicate the
11 number of refills ordered.

12 “...

13 “(12) A check box indicating the prescriber’s order not to substitute.

14 “(13) An identifying number assigned to the approved security printer by the Department of
15 Justice.

16 “...

17 “(b) Each batch of controlled substance prescription forms shall have the lot number printed
18 on the form and each form within that batch shall be numbered sequentially beginning with the
19 numeral one...”

20 16. Health and Safety Code section 11164 states in pertinent part:

21 “Except as provided in Section 11167, no person shall prescribe a controlled substance, nor
22 shall any person fill, compound, or dispense a prescription for a controlled substance, unless it
complies with the requirements of this section.

23 “(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V,
24 except as authorized by subdivision (b), shall be made on a controlled substance prescription form
as specified in Section 11162.1 and shall meet the following requirements:

25 “(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the
26 prescriber’s address and telephone number; the name of the ultimate user or research subject, or
27 contact information as determined by the Secretary of the United States Department of Health and
Human Services; refill information, such as the number of refills ordered and whether the

28 prescription is a first-time request or a refill; and the name, quantity, strength, and directions for
use of the controlled substance prescribed.

1 “(2) The prescription shall also contain the address of the person for whom the controlled
2 substance is prescribed. If the prescriber does not specify this address on the prescription, the
3 pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall
4 write or type the address on the prescription or maintain this information in a readily retrievable
5 form in the pharmacy.

6 “(b) (1) Notwithstanding paragraph (1) of subdivision (a) of Section 11162.1, any
7 controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or
8 electronically transmitted prescription, which shall be produced in hard copy form and signed and
9 dated by the pharmacist filling the prescription or by any other person expressly authorized by
10 provisions of the Business and Professions Code. Any person who transmits, maintains, or receives
11 any electronically transmitted prescription shall ensure the security, integrity, authority, and
12 confidentiality of the prescription.

13 “(2) The date of issue of the prescription and all the information required for a written
14 prescription by subdivision (a) shall be included in the written record of the prescription; the
15 pharmacist need not include the address, telephone number, license classification, or federal
16 registry number of the prescriber or the address of the patient on the hard copy, if that information
17 is readily retrievable in the pharmacy.

18 “(3) Pursuant to an authorization of the prescriber, any agent of the prescriber on behalf of
19 the prescriber may orally or electronically transmit a prescription for a controlled substance
20 classified in Schedule III, IV, or V, if in these cases the written record of the prescription required
21 by this subdivision specifies the name of the agent of the prescriber transmitting the
22 prescription...”

23 17. Health and Safety Code section 11167.5 states:

24 (a) An order for a controlled substance classified in Schedule II for a patient of a licensed
25 skilled nursing facility, a licensed intermediate care facility, a licensed home health agency, or a
26 licensed hospice may be dispensed upon an oral or electronically transmitted prescription. If the
27 prescription is transmitted orally, the pharmacist shall, prior to filling the prescription, reduce the
28 prescription to writing in ink in the handwriting of the pharmacist on a form developed by the
29 pharmacy for this purpose. If the prescription is transmitted electronically, the pharmacist shall,
30 prior to filling the prescription, produce, sign, and date a hard copy prescription. The prescriptions
31 shall contain the date the prescription was orally or electronically transmitted by the prescriber, the
32 name of the person for whom the prescription was authorized, the name and address of the
33 licensed skilled nursing facility, licensed intermediate care facility, licensed home health agency, or
34 licensed hospice in which that person is a patient, the name and quantity of the controlled
35 substance prescribed, the directions for use, and the name, address, category of professional
36 licensure, license number, and federal controlled substance registration number of the prescriber.
37 The original shall be properly endorsed by the pharmacist with the pharmacy's state license
38 number, the name and address of the pharmacy, and the signature of the person who received the
39 controlled substances for the licensed skilled nursing facility, licensed intermediate care facility,
40 licensed home health agency, or licensed hospice. A licensed skilled nursing facility, a licensed
41 intermediate care facility, a licensed home health agency, or a licensed hospice shall forward to the
42 dispensing pharmacist a copy of any signed telephone orders, chart orders, or related
43 documentation substantiating each oral or electronically transmitted prescription transaction under
44 this section.

45 ///

46 18. Health and Safety Code section 111295 states:

1 “It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or
2 device that is adulterated.”

3 19. Health and Safety Code section 111335 states:

4 “Any drug or device is misbranded if its labeling or packaging does not conform to the
5 requirements of Chapter 4 (commencing with Section 110290).”

6 20. Health and Safety Code section 111375 states in pertinent part:

7 “Any drug or device is misbranded unless its labeling bears all of the following information:

8 “...

9 “(c) Adequate warning against unsafe dosage or methods or duration of administration or
10 application...”

11 21. Health and Safety Code section 111440 states:

12 “It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or
13 device that is misbranded.”

14 **CALIFORNIA CODE OF REGULATIONS**

15 22. California Code of Regulations, title 16, (Regulation), section 1707.2 states in
16 pertinent part:

17 “...

18 “(b)(1) In addition to the obligation to consult set forth in subsection (a), a pharmacist shall
19 provide oral consultation to his or her patient or the patient's agent in any care setting in which the
20 patient or agent is present:

21 “(A) whenever the prescription drug has not previously been dispensed to a patient...”

22 23. Regulation section 1707.5 states in pertinent part:

23 “(a) Labels on drug containers dispensed to patients in California shall conform to the
24 following format:

25 “...

26 “(d) The pharmacy shall have policies and procedures in place to help patients with limited
27 or no English proficiency understand the information on the label as specified in subdivision (a) in
28 the patient's language. The pharmacy's policies and procedures shall be specified in writing and

1 shall include, at minimum, the selected means to identify the patient's language and to provide
2 interpretive services and translation services in the patient's language. The pharmacy shall, at
3 minimum, provide interpretive services in the patient's language, if interpretive services in such
4 language are available, during all hours that the pharmacy is open, either in person by pharmacy
5 staff or by use of a third-party interpretive service available by telephone at or adjacent to the
6 pharmacy counter.

7
8 24. Regulation section 1711 states in pertinent part:

9 “(a) Each pharmacy shall establish or participate in an established quality assurance program
10 which documents and assesses medication errors to determine cause and an appropriate response
11 as part of a mission to improve the quality of pharmacy service and prevent errors.
12

13 “...

14 “(d) Each pharmacy shall use the findings of its quality assurance program to develop
15 pharmacy systems and workflow processes designed to prevent medication errors. An
16 investigation of each medication error shall commence as soon as is reasonably possible, but no
17 later than 2 business days from the date the medication error is discovered. All medication errors
18 discovered shall be subject to a quality assurance review...”

19 25. Regulation section 1714 subdivision (b) states:

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

24 26. Regulation section 1717, subdivision (a), states in pertinent part:

25 “(a) No medication shall be dispensed on prescription except in a new container which
26 conforms with standards established in the official compendia...”

27 27. Regulation section 1735.2 states in pertinent part:

28 “...

“(i) Every compounded drug preparation shall be given a 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.

“(1) For non-sterile compounded drug preparation(s), the beyond use date shall not exceed
any of the following:

“(A) the shortest expiration date or beyond use date of any ingredient in the compounded
drug preparation...”

///

1 Drug Administration (“FDA”) has determined that any products containing domperidone are
2 unapproved new drugs and misbranded. Consequently, any product containing domperidone
3 violates the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301, et seq.; “the Act”).
4 Domperidone is available for use in the treatment of certain gastrointestinal disorders, but only if
5 an Investigational New Drug Application (“IND”) is submitted to and approved by the FDA.
6 Domperidone is also sold under the brand name Motilium.

7 33. Promethazine with Codeine is a Schedule V controlled substance pursuant to Health
8 and Safety Code section 11058, subdivision (c)(1), and a dangerous drug pursuant to Code section
9 4022. Promethazine with Codeine is also sold under the brand name Phenergan with codeine.

10 34. Clarithromycin is an antibiotic and is a dangerous drug pursuant to Code section 4022.
11 Clarithromycin is also sold under the brand name Biaxin.

12 35. Ipratropium and Albuterol is an inhalant that opens airways in the lungs and is a
13 dangerous drug pursuant to Code section 4022. Ipratropium and Albuterol is also sold under the
14 brand name DuoNeb.

15 **COST RECOVERY**

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

20 **March 14, 2017 Inspection and Patient S.B. Complaint**

21 37. On or about January 6, 2017, the Board received a complaint from S.B. against
22 Respondent Pharmacy alleging that Respondent had given her prescriptions to another patient,
23 N.G., by mistake. When N.G. returned the prescriptions, Respondent Pharmacy’s staff simply
24 handed the prescriptions to S.B. without confirming that the prescriptions returned were in fact
25 S.B.’s prescriptions. Additionally, no pharmacist provided S.B. with medication consultation.

26 38. On or about March 14, 2017, inspector K.N. went to Respondent Pharmacy’s facility
27 and conducted an inspection with the assistance of Respondent Nowbar, PIC.

28 ///

39. After the inspection, inspector K.N. requested documents from Respondent Pharmacy, which were provided to her by Respondent Nowbar.

FIRST CAUSE FOR DISCIPLINE

(Purchase, Trade, Sell, or Transfer of Adulterated Drugs)

40. Respondent Pharmacy, Respondent Nowbar, and Respondent Tolentino are subject to disciplinary action for unprofessional conduct pursuant to section 4301, subdivision (j), in that Respondent Pharmacy, Respondent Nowbar, and Respondent Tolentino violated Code section 4169, subdivision (a)(2), by purchasing, trading, selling, or transferring dangerous drugs that Respondents knew or should have known were adulterated. The circumstances are that on or about January 6, 2017, S.B. dropped off two prescriptions, Clarithromycin and Ipratropium with Albuterol, at Respondent Pharmacy to be filled. When S.B. went back to pick up her prescriptions, the cashier informed S.B. that another patient, N.G., had been given her prescriptions and she would have to wait for N.G. to bring them back. When N.G. returned to the pharmacy with S.B.'s prescriptions, the cashier took the prescriptions from N.G. and handed them to S.B. without ever looking at the drugs to ensure they had not been tampered with and were in fact S.B.'s prescriptions.

SECOND CAUSE FOR DISCIPLINE

(Unauthorized Disclosure of Prescriptions)

41. Respondent Pharmacy, Respondent Nowbar, and Respondent Tolentino are subject to disciplinary action for unprofessional conduct pursuant to section 4301, subdivision (o), in that Respondent Pharmacy, Respondent Nowbar, and Respondent Tolentino violated Regulation section 1764, and Civil Code section 56.10, subdivision (a), by disclosing S.B.'s confidential prescription and medical information to N.G. The circumstances are as set forth in paragraph 40, above.

THIRD CAUSE FOR DISCIPLINE

(Failure to Perform Quality Assurance Review)

42. Respondent Pharmacy, Respondent Nowbar, and Respondent Tolentino are subject to disciplinary action for unprofessional conduct pursuant to section 4301, subdivision (o), in that

Respondent Pharmacy, Respondent Nowbar, and Respondent Tolentino violated Regulation section 1711, subdivision (d), by failing to perform a quality assurance review after a medication error. The circumstances are that on or about January 6, 2017, a medication error occurred and patient N.G. was dispensed and sold patient S.B.'s prescriptions and medical information. Respondent Tolentino was informed of this error and failed to conduct a quality assurance review of the error. On or about March 14, 2017, when inspector K.N. inspected the pharmacy, no quality assurance review had been completed.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Consult with Patient)

43. Respondent Pharmacy, Respondent Nowbar, and Respondent Tolentino are subject to disciplinary action for unprofessional conduct pursuant to section 4301, subdivision (o), in that Respondent Pharmacy, Respondent Nowbar, and Respondent Tolentino violated Regulation section 1707.2. subdivision (b)(1), by failing to consult with a patient when the drug prescribed had not previously been dispensed to the patient. The circumstances are that on or about January 6, 2017, Respondent Tolentino provided a consultation to patient N.G., who received S.B.'s prescription in error, but failed to provide any consultation to patient S.B.

FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Operational Standards and Security)

44. Respondent Pharmacy and Respondent Nowbar are subject to disciplinary action for unprofessional conduct pursuant to section 4301, subdivision (o), in that Respondent Pharmacy and Respondent Nowbar violated Regulation section 1714, subdivision (b), by failing to maintain the pharmacy facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured, and distributed. The circumstances are that at the inspection on March 14, 2017, inspector K.N. observed that the digital thermometer for the refrigerator and freezer was not operational to ensure proper storage of drugs and vaccines. Additionally, there were no temperature logs kept to ensure the proper temperature was maintained.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Re-use of Drug Containers)**

3 45. Respondent Pharmacy and Respondent Nowbar are subject to disciplinary action for
4 unprofessional conduct pursuant to section 4301, subdivision (o), in that Respondent Pharmacy
5 and Respondent Nowbar violated Regulation section 1717, subdivision (a), by re-using medication
6 containers that had previously been used. The circumstances are that at the inspection on March
7 14, 2017, inspector K.N. observed drug containers with remnants of prescription labels affixed to
8 the containers. Respondent Nowbar informed inspector K.N. that these were return-to-stock
9 (RTS) prescriptions that the patient had failed to pick up and the containers would be re-used for
10 different drugs and different patients.

11 **SEVENTH CAUSE FOR DISCIPLINE**

12 **(Failure to Have Policies and Procedures for Non-English Speaking Patients)**

13 46. Respondent Pharmacy and Respondent Nowbar are subject to disciplinary action for
14 unprofessional conduct pursuant to section 4301, subdivision (o), in that Respondent Pharmacy
15 and Respondent Nowbar violated Regulation section 1707.5, subdivision (d), by failing to have a
16 policy and procedure in place for interpretive services to provide language assistance to patients
17 with limited or no English-language proficiency. The circumstances are that at the inspection on
18 March 14, 2017, inspector K.N. requested Respondent Nowbar provide the pharmacy policies and
19 procedures for interpretive services. Respondent Nowbar was unable to provide any policy or
20 procedure for interpretive services.

21 **EIGHTH CAUSE FOR DISCIPLINE**

22 **(Holding Expired Drugs in Active Inventory)**

23 47. Respondent Pharmacy and Respondent Nowbar are subject to disciplinary action for
24 unprofessional conduct pursuant to section 4301, subdivision (j), in that Respondent Pharmacy and
25 Respondent Nowbar violated Health and Safety Code section 111295, by holding expired drugs in
26 their active inventory. The circumstances are that at the inspection on March 14, 2017, inspector
27 K.N. observed the following expired drugs and compounding ingredients in active drug inventory:
28

<u>Expired Drug</u>	<u>Expiration Date</u>	<u>Packaged Date</u>
Flavor, Banana Crème, Artificial		08/2011
Flavor, Beef, Liquid		08/2011
Flavor, Grape, Artificial		11/2012
Flavor, Fish, Artificial		02/25/2016
Acesulfame Potassium	08/2016	
Benzalkonium Chloride	04/05/2015	
Edetate Disodium	06/2016	
Estriol (Micronized)	03/2016	
Fluconazole	05/31/2016	
Gabapentin	02/2016	
Hydrocortisone (Micronized)	08/2015	
Hydroxyethyl Cellulose	01/2017	
Hydroxyethyl Cellulose		01/2011
Hydroquinone	01/2017	
Lidocaine Hydrochloride	11/2016	
Mandelic Acid	08/31/2016	
Mefenamic Acid	10/04/2016	
Sodium Bisulfate	09/17/2016	
Topiramate	12/31/2016	
Metronidazole Benzoate Powder	08/31/2016	

NINTH CAUSE FOR DISCIPLINE

(Invalid Beyond Use Dates)

48. Respondent Pharmacy and Respondent Nowbar are subject to disciplinary action for unprofessional conduct pursuant to section 4301, subdivision (o), in that Respondent Pharmacy and Respondent Nowbar violated Regulations section 1735.2, subdivision (i), and Code section 4169, subdivision (a)(4), by purchasing, trading, selling, or transferring dangerous drugs after the beyond use date (BUD) on the label. The circumstances are as follows:

a. At the inspection on March 14, 2017, inspector K.N. discovered that multiple compounded drug products had been compounded and assigned BUDs after the expiration dates of the ingredients used. Inspector K.N. audited compounded drug products using the ingredient Estriol, which expired on March 31, 2016. Inspector K.N. found fifteen (15) products that were compounded between May 2016, and February 2017, after the Estriol's expiration date of March 31, 2016. These fifteen (15) products were given BUDs between November 2016 and August 2017. Inspector K.N. found five additional compounded drug products using Estriol, Hydroxyethyl Cellulose, Ursodiol, Lanolin, and Lidocaine all of which were expired when

///

1 Respondents used them for compounding. These drug ingredients expired between August 2015
2 and January 2017, but Respondent's had assigned BUDs from March to August 2017.

3 b. At the inspection on March 14, 2017, inspector K.N. discovered that eight (8)
4 compounded drug products had two or more documented BUDs on the compounding record.
5 Specifically, there was a BUD listed at the top of the compounding log sheet and a different BUD
6 listed at the bottom of the compounding log sheet. There should only be one BUD listed in the
7 compounding log.

8 **TENTH CAUSE FOR DISCIPLINE**

9 **(Failure to Train Compounding Staff)**

10 49. Respondent Pharmacy and Respondent Nowbar are subject to disciplinary action for
11 unprofessional conduct pursuant to section 4301, subdivision (o), in that Respondent Pharmacy
12 and Respondent Nowbar violated Regulations section 1735.7, by failing to train compounding staff
13 or to document compounding staff training and maintain records of such training. The
14 circumstances are that on March 14, 2017, when inspector K.N. inspected the pharmacy, there
15 was no written documentation to demonstrate that pharmacy personnel had the skills and training
16 required to properly and accurately perform their assigned responsibilities relating to
17 compounding.

18 **ELEVENTH CAUSE FOR DISCIPLINE**

19 **(Use of Expired Drugs in Compounding)**

20 50. Respondent Pharmacy and Respondent Nowbar are subject to disciplinary action for
21 unprofessional conduct pursuant to section 4301, subdivision (j), in that Respondent Pharmacy and
22 Respondent Nowbar violated Code section 4169, subdivision (a)(2), and Health and Safety Code
23 section 111295, by manufacturing, purchasing, trading, holding, selling, offering for sale, or
24 transferring adulterated and expired drugs. The circumstances are that approximately twenty-one
25 (21) drug products were compounded by Respondents between May 9, 2016, and February 24,
26 2017, using already expired ingredients.

27 ///

28 ///

1 **TWELFTH CAUSE FOR DISCIPLINE**

2 **(Misuse of Pharmacist Education)**

3 51. Respondent Nowbar is subject to disciplinary action for unprofessional conduct
4 pursuant to section 4306.5, subdivision (a), in that Respondent Nowbar failed to exercise or
5 inappropriately exercised his or her education, training, or experience as a pharmacist. The
6 circumstances are that on or about March 14, 2017, during an inspection of Respondent
7 Pharmacy's facilities, Respondent Nowbar changed the expiration dates of compounded
8 ingredients in the compounding record to extend the expiration date beyond that which was
9 assigned by the manufacturer.

10 **July 13, 2017, Inspection**

11 52. On or about July 13, 2017, Board of Pharmacy inspector I.T. assisted the Drug
12 Enforcement Agency (DEA) with a pharmacy inspection at Respondent Pharmacy's facility.
13 During the inspection, Respondent Nowbar, PIC, and Respondent Vu provided information and
14 documents to inspector I.T.

15 **THIRTEENTH CAUSE FOR DISCIPLINE**

16 **(Violation of Statutes Governing Oral or Electronic Prescriptions)**

17 53. Respondent Pharmacy and Respondent Nowbar are subject to disciplinary action for
18 unprofessional conduct pursuant to section 4301, subdivision (o), in that Respondents, and each of
19 them, failed to comply with Health and Safety code section 11167.5, in regards to oral and
20 electronic prescriptions. The circumstances are that it was Respondent Pharmacy's pattern and
21 practice to fill controlled substance prescriptions for a skilled nursing facility by obtaining a faxed
22 sheet with an auxiliary sticker from a previous dispensing of the medication affixed to the sheet.
23 The original hard copy prescriptions were never produced, signed and dated by the pharmacy, nor
24 were copies of the signed telephone orders, chart orders, or related documentation obtained to
25 substantiate the prescriptions.

26 ///

27 ///

28 ///

1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(False or Fraudulent Prescription Form)**

3 54. Respondent Pharmacy, Respondent Nowbar, and Respondent Vu are subject to
4 disciplinary action for unprofessional conduct pursuant to section 4301, subdivision (o), in that
5 they, and each of them, violated Health and Safety Code section 11164 and Regulations section
6 1761. The circumstances are as follows:

7 55. On or about August 22, 2016, Respondent Vu filled prescription number 263389 for
8 patient S.B.¹, for promethazine with codeine, a highly abused Schedule V controlled substance.
9 The prescription form for this prescription violated Health and Safety Code section 11162.1 as
10 follows:

- 11 a. Failing to have a latent, repetitive “void” pattern printed across the entire front of the
12 prescription document.
- 13 b. Failing to have a security watermark consisting of the words “California Security
14 Prescription.”
- 15 c. Failing to have six quantity check off boxes so that the prescriber may indicate
16 quantity by checking the applicable box: 1-24, 25-49, 50-74, 75-100, 101-150, 151
17 and over.
- 18 d. Failing to have the statement printed on the bottom of the prescription document
19 “Prescription is void if the number of drugs prescribed is not noted.”
- 20 e. Failing to have check boxes so that the prescriber may indicate the number of refills
21 ordered.
- 22 f. Failing to have a check box indicating the prescriber’s order not to substitute a generic
23 drug.
- 24 g. Failing to have an identifying number assigned to the approved security printer by the
25 Department of Justice.
- 26 h. Failing to have the lot number printed on the prescription document.

27 _____
28 ¹ This S.B. is a different patient than the one referenced in causes for discipline 1-4.

1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **(Unlawful Manufacturing and Sales and Misbranded Drugs)**

3 56. Respondent Pharmacy, Respondent Nowbar, Respondent Vu, and Respondent Yazdi
4 are subject to disciplinary action for unprofessional conduct pursuant to section 4301, subdivision
5 (j), in that they, and each of them, violated Health and Safety Code sections 111335, 111375,
6 111440, and Code section 4169, regulating controlled substances and dangerous drugs by
7 purchasing, compounding, and dispensing the misbranded drug domperidone to a patient. The
8 circumstances are as follows:

9 57. On April 14, 2015, the California Board of Pharmacy issued a subscriber alert² stating
10 that domperidone is not approved for any use in humans and outlining the process by which a
11 physician could continue to legally prescribe domperidone using the Food and Drug
12 Administration's (FDA's) expanded access program. Respondent Nowbar, PIC, acknowledged
13 receiving this alert, yet Respondents still purchased, compounded, and dispensed sixteen (16)
14 domperidone prescriptions of ninety (90) capsules each to patient T.W. since the date of the
15 subscriber alert. Additionally, Respondents failed to notify patient T.W. of the unapproved use
16 and its potentially unsafe dosage status with the FDA.

17 **PRAYER**

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

20 1. Revoking or suspending Pharmacy License Number RPHY 50526, issued to ANSR
21 Corporation, dba ANSR Pharmacy 101; Shahid J. Rana, CEO; Seyed Ali Nowbar, President and
22 PIC; Thu Thi Vu, Shareholder;

23 2. Revoking or suspending Pharmacist License Number RPH 45567, issued to Seyed Ali
24 Nowbar;

25 3. Revoking or suspending Pharmacist License Number RPH 49153, issued to Thu Thi
26 Vu;

27 _____
28 ² All pharmacists are required to subscribe to the Board's Subscriber Alert email blasts.

1 8. Revoking or suspending Pharmacist License Number RPH 43968, issued to Farrokh
2 Aghai Yazdi;

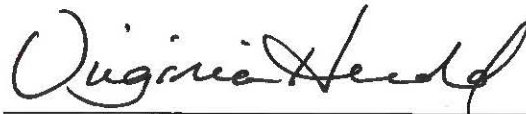
3 9. Revoking or suspending Pharmacist License Number RPH 62286, issued to Eleanor
4 Agnes Tolentino;

5 10. Ordering ANSR Corporation, dba ANSR Pharmacy 101; Shahid J. Rana, CEO; Seyed
6 Ali Nowbar, President and PIC; Thu Thi Vu, Shareholder; Seyed Ali Nowbar, RPh, Thu Thi Vu,
7 RPh, Farrokh Aghai Yazdi, RPh, and Eleanor Agnes Tolentino, RPh to pay the Board of
8 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
9 Business and Professions Code section 125.3; and,

10 11. Taking such other and further action as deemed necessary and proper.

11
12 DATED: _____

11/7/18



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

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