

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

In the Matter of the Accusation Against:

**VIBRANT CARE PHARMACY INC.,
KALPESH I. PATEL, OWNER,
Pharmacy Permit No. PHY 51969; and**

**SAYED WAHIDUDEEN HASHEMI,
Pharmacist License No. RPH 65145,**

Respondents

Agency Case No. 6482

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand 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 5, 2021.

It is so ORDERED on February 3, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe".

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 COURTNEY S. LUI
Deputy Attorney General
4 State Bar No. 173064
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 879-0287
Facsimile: (510) 622-2270
7 E-mail: Courtney.Lui@doj.ca.gov
Attorneys for Complainant
8

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

13 In the Matter of the Accusation Against:

14 **VIBRANT CARE PHARMACY INC.,**
15 **KALPESH I. PATEL, OWNER**
16 **7400 MacArthur Blvd., Ste. B**
17 **Oakland, CA 94605**

18 **Original Pharmacy Permit No. PHY 51969**

19 **SAYED WAHIDUDEEN HASHEMI**
20 **1160 Broadway, #A**
21 **Alameda, CA 94501**

22 **Original Pharmacist License No. RPH 65145**

23 Respondents.

Case No. 6482

OAH No. 2020030368

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL REGARDING VIBRANT
CARE PHARMACY, INC., KALPESH
PATEL, OWNER**

[Bus. & Prof. Code § 495]

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

25 **PARTIES**

26 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
27 (Board). She brought this action solely in her official capacity and is represented in this matter by
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1 Xavier Becerra, Attorney General of the State of California, by Courtney S. Lui, Deputy Attorney
2 General.

3 2. Respondent Vibrant Care Pharmacy Inc. (Respondent) is represented in this
4 proceeding by attorney Herbert Weinberg, Esq., whose address is: 1990 South Bundy Drive,
5 Suite 777, Los Angeles, CA 90025.

6 **JURISDICTION**

7 3. On or about February 9, 2015, the Board issued Original Pharmacy Permit No. PHY
8 51969 to Vibrant Care Pharmacy Inc., with Kalpesh I. Patel as the Chief Executive Officer and
9 the owner of one hundred percent of the outstanding shares (Respondent). The Original
10 Pharmacy Permit was in full force and effect at all times relevant to the charges brought in
11 Accusation No. 6482 and will expire on February 1, 2021, unless renewed.

12 4. Accusation No. 6482 was filed before the Board of Pharmacy (Board), Department of
13 Consumer Affairs and is currently pending against Respondent. The Accusation and all other
14 statutorily required documents were properly served on Respondent on March 8, 2019.
15 Respondent timely filed its Notice of Defense contesting the Accusation. A copy of Accusation
16 No. 6482 is attached as exhibit A and incorporated herein by reference.

17 **ADVISEMENT AND WAIVERS**

18 5. Respondent has carefully read, fully discussed with counsel, and understands the
19 charges and allegations in Accusation No. 6482. Respondent has also carefully read, fully
20 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
21 Order for Public Reproval.

22 6. Respondent is fully aware of its legal rights in this matter, including the right to a
23 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
24 its own expense; the right to confront and cross-examine the witnesses against them; the right to
25 present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel
26 the attendance of witnesses and the production of documents; the right to reconsideration and
27 court review of an adverse decision; and all other rights accorded by the California
28 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 and agrees that the charges and allegations in Accusation No. 6482, if proven at a hearing, constitute cause for imposing discipline upon its Original Pharmacy Permit.

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 Respondent hereby gives up its right to contest those charges.

10. If Respondent fails to satisfy any of the conditions of this Order, then it shall be deemed that Respondent admits the truth of each and every charge and allegation in Accusation No. 6482.

11. Respondent agrees that its Original Pharmacy Permit is subject to discipline and they agree to be bound by the Disciplinary Order below.

CONTINGENCY

12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that they may not withdraw its 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 Settlement and Disciplinary Order for Public Reprimand 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.

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

14. This Stipulated Settlement and Disciplinary Order for Public Reproval 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 Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

15. 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 Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Original Pharmacy Permit No. PHY 51969 issued to Respondent Vibrant Care Pharmacy Inc. (Respondent) shall be publicly reproved by the Board of Pharmacy under Business and Professions Code section 495 in resolution of Accusation No. 6482, attached as exhibit A. This decision constitutes a record of discipline and shall become a part of Respondent's license history with the Board.

Ethics Course. Within two (2) years of the effective date of this decision, Respondent shall direct its owner(s) and officers to enroll in a course in ethics, at their own expense, approved in advance by the Board or its designee, that complies with Title 16 California Code of Regulations section 1773.5. Respondent shall provide proof of enrollment upon request. Within five (5) days of completion, Respondent shall submit copies of the certificates of completion to the Board or its designee. If any of Respondent's owner(s) or officers fail to timely enroll in an approved ethics course, or to timely submit proof of completion to the Board or its designee, Respondent shall not be allowed to renew its Original Pharmacy Permit until this condition is satisfied.

Cost Recovery. Respondent shall pay \$43,970.25 to the Board for its costs associated with the investigation and enforcement of this matter. Respondent shall be permitted to pay these costs in a payment plan approved by the Board. If Respondent fails to pay the Board costs as ordered, Respondent shall not be allowed to renew its Original Pharmacy Permit until Respondent pays costs in full.

Full Compliance. As a resolution of the charges in Accusation No. 6482, this stipulated settlement is contingent upon Respondent's full compliance with all conditions of this Order. If Respondent fails to satisfy any of these conditions, such failure to comply constitutes cause for discipline, including outright revocation, of Respondent's Original Pharmacy Permit No. PHY 51969.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Reprimand and have fully discussed it with my attorney, Herbert L. Weinberg, Esq.. I understand the stipulation and the effect it will have on my Original Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order for Public Reprimand voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED:

VIBRANT CARE PHARMACY INC.,
KALPESH PATEL, OWNER
Respondent

I have read and fully discussed with Respondent Vibrant Care Pharmacy Inc. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Reprimand. I approve its form and content.

DATED:

HERBERT L. WEINBERG, ESQ.
Attorney for Respondent

Full Compliance. As a resolution of the charges in Accusation No. 6482, this stipulated settlement is contingent upon Respondent's full compliance with all conditions of this Order. If Respondent fails to satisfy any of these conditions, such failure to comply constitutes cause for discipline, including outright revocation, of Respondent's Original Pharmacy Permit No. PHY 51969.

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Reprimand and have fully discussed it with my attorney, Herbert L. Weinberg, Esq.. I understand the stipulation and the effect it will have on my Original Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order for Public Reprimand voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

VIBRANT CARE PHARMACY INC.,
KALPESH PATEL, OWNER
Respondent

HERBERT L. WEINBERG, ESQ.
Attorney for Respondent

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ENDORSEMENT

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

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General

COURTNEY S. LUI
Deputy Attorney General
Attorneys for Complainant

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ENDORSEMENT

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

DATED: September 27, 2020

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
DIANN SOKOLOFF
Supervising Deputy Attorney General



COURTNEY S. LUI
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6482

1 XAVIER BECERRA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 COURTNEY S. LUI
Deputy Attorney General
4 State Bar No. 173064
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 879-0287
Facsimile: (510) 622-2270
7 E-mail: Courtney.Lui@doj.ca.gov
Attorneys for Complainant

8
9 **BEFORE THE**
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11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 6482

14 **VIBRANT CARE PHARMACY INC.,**
15 **KALPESH I. PATEL, OWNER**
16 **7400 MacArthur Blvd., Ste. B**
17 **Oakland, CA 94605**

A C C U S A T I O N

18 **Original Pharmacy Permit No. PHY 51969**

19 **SAYED WAHIDUDEEN HASHEMI**
20 **1160 Broadway, #A**
21 **Alameda, CA 94501**

22 **Original Pharmacist License No. RPH 65145**

23 Respondents.

24 Complainant alleges:

25 **PARTIES**

26 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
27 as the Interim Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

28 2. On or about February 9, 2015, the Board of Pharmacy issued Original Pharmacy
Permit Number PHY 51969 to Vibrant Care Pharmacy Inc., with Sayed Wahidudeen Hashemi
designated as the Pharmacist-in-Charge from September 21, 2015 to April 24, 2016, and Kalpesh

1 I. Patel as the Chief Executive Officer and the owner of one hundred percent of the outstanding
2 shares (Respondent Vibrant Care Pharmacy). The Original Pharmacy Permit, which was in full
3 force and effect at all times relevant to the charges brought in this Accusation, expired on
4 February 1, 2019, and has not been renewed.

5 3. On or about January 12, 2011, the Board of Pharmacy issued Original Pharmacist
6 License Number RPH 65145 to Sayed Wahidudeen Hashemi (Respondent Hashemi). The
7 Original Pharmacist License was in full force and effect at all times relevant to the charges
8 brought in this Accusation, and will expire on March 31, 2020, unless renewed.

9 4. Respondent Hashemi was the Pharmacist-in-Charge of Vibrant Care Pharmacy from
10 September 21, 2015 to April 24, 2016.

11 **JURISDICTION**

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

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

17 7. Section 4300.1 of the Code states:

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

23 **STATUTORY PROVISIONS**

24 8. Section 733, subdivision (a) of the Code states:

25 "(a) A licentiate shall not obstruct a patient in obtaining a prescription drug or device that
26 has been legally prescribed or ordered for that patient. A violation of this section constitutes
27 unprofessional conduct by the licentiate and shall subject the licentiate to disciplinary or
28 administrative action by his or her licensing agency."

1 9. Section 4022 of the Code states:

2 “Dangerous drug” or “dangerous device” means any drug or device unsafe for self-use in
3 humans or animals, and includes the following:

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

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

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

11 10. Section 4070, subdivision (a) of the Code states:

12 “(a) Except as provided in Section 4019 and subdivision (b), an oral or an electronic data
13 transmission prescription as defined in subdivision (c) of Section 4040 shall as soon as
14 practicable be reduced to writing by the pharmacist and shall be filled by, or under the direction
15 of, the pharmacist. The pharmacist need not reduce to writing the address, telephone number,
16 license classification, federal registry number of the prescriber or the address of the patient or
17 patients if the information is readily retrievable in the pharmacy.”

18 11. Section 4081 of the Code states in relevant part:

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

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

....”

12. Section 4301 of the Code states in relevant 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:

...

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

13. Section 4307(a) of the Code states that:

“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 of 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 manger, 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 manger, 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.

....”

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14. Health and Safety Code section 11164, subdivision (b)(1) states:

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

15. Health and Safety Code section 11200 states in relevant part:

“(a) No person shall dispense or refill a controlled substance prescription more than six months after the date thereof.

(b) No prescription for a Schedule III or IV substance may be refilled more than five times and in an amount, for all refills of that prescription taken together, exceeding a 120-day supply.

...”

REGULATORY PROVISIONS

16. Title 21, Code of Federal Regulations, section 1306.22, subdivision (a) states:

“(a) No prescription for a controlled substance listed in Schedule III or IV shall be filled or refilled more than six months after the date on which such prescription was issued. No prescription for a controlled substance listed in Schedule III or IV authorized to be refilled may be refilled more than five times.”

17. California Code of Regulations, title 16, section 1717, subdivision (c) states:

“(c) Promptly upon receipt of an orally transmitted prescription, the pharmacist shall reduce it to writing, and initial it, and identify it as an orally transmitted prescription. If the prescription is then dispensed by another pharmacist, the dispensing pharmacist shall also initial the prescription to identify him or herself. All orally transmitted prescriptions shall be received and transcribed by a pharmacist prior to compounding, filling, dispensing, or furnishing. Chart orders as defined in section 4019 of the Business and Professions Code are not subject to the provisions of this subsection.”

1 18. California Code of Regulations, title 16, section 1718 states:

2 “‘Current Inventory’ as used in Sections 4081 and 4332 of the Business and Professions
3 Code shall be considered to include complete accountability for all dangerous drugs handled by
4 every licensee enumerated in Sections 4081 and 4332.

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

7 **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

8 19. Aripiprazole is a dangerous drug pursuant to Business and Professions Code section
9 4022. Aripiprazole is used to treat certain mental/mood disorders, and may also be used in
10 combination with other medication to treat depression.

11 20. Lorazepam is a Schedule IV controlled substance pursuant to Health and Safety Code
12 section 11057, subdivision (d)(16), and a dangerous drug pursuant to Business and Professions
13 Code section 4022. Lorazepam is the generic form of the brand-name drug Ativan, used to treat
14 anxiety symptoms, insomnia, and severe seizures.

15 21. Zolpidem is a Schedule IV controlled substance pursuant to Health and Safety Code
16 section 11057, subdivision (d)(32), and a dangerous drug pursuant to Business and Professions
17 Code section 4022. Zolpidem is a sedative, used to treat insomnia.

18 **COST RECOVERY**

19 22. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
20 administrative law judge to direct a licentiate found to have committed a violation or violations of
21 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
22 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
23 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
24 included in a stipulated settlement.

25 **FACTUAL ALLEGATIONS**

26 23. On or about February 15, 2017, the Board of Pharmacy (Board) conducted an
27 inspection at Vibrant Care Pharmacy which revealed multiple violations of Pharmacy Law as
28 described below.

24. The Board inspector determined that a pharmacist working at Vibrant Care Pharmacy received multiple new telephone prescriptions from the office of Physician's Assistant Vance Angeles, but did not reduce them to writing, nor sign and date them. The following prescription documents were written on a blank piece of paper, or a label from the pharmacy computer with the patient and drug information on it, but did not identify who took the prescriptions:

- Rx#C446322
- Rx#C446329
- Rx#C446394
- Rx#C446395
- Rx#C446398
- Rx#C446808
- Rx#C446818
- Rx#C446827
- Rx#C446992
- Rx#C446993

Each prescription, dated July 27, 2016, was for controlled substances. Each indicated only Vance Angeles as the prescriber, and was not signed or dated by a pharmacist.

25. A review of CURES¹ data for Vibrant Care Pharmacy, where Respondent Hashemi was Pharmacist-in-Charge during the times relevant to the charges brought in this Accusation, indicated that the following prescriptions were filled in excess of the five-refills limit:

- Rx#C436732 for lorazepam was filled nine times under the same prescription number

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¹ Controlled Substance Utilization Review and Evaluation System, or CURES, is a database that contains over 100 million entries of controlled substance drugs that were dispensed in California. CURES is part of program developed by the California Department of Justice and Bureau of Narcotic Enforcement, which allows access to the Prescription Drug Monitoring Program (PDMP) system. The PDMP allows pre-registered users including licensed healthcare prescribers eligible to prescribe controlled substances, pharmacists authorized to dispense controlled substances, law enforcement and regulatory boards to access patient controlled substance history information. (<http://oag.ca.gov/cures-pdmp>)

- Rx#413795 for zolpidem was refilled 16 times under the same prescription number
- Rx#403493 for lorazepam was refilled 11 times under the same prescription number

26. An audit performed on Vibrant Care Pharmacy, where Respondent Hashemi was Pharmacist-in-Charge during the times relevant to the charges brought in this Accusation, revealed there were overages in the inventory for the following drugs:

- Aripiprazole 2mg: 28 tablets
- Aripiprazole 5mg: 256 tablets
- Aripiprazole 10mg: 372 tablets
- Aripiprazole 15mg: 133 tablets
- Aripiprazole 20 mg: 248 tablets
- Aripiprazole 30mg: 1002 tablets

27. A review of Vibrant Care Pharmacy records including a dispensing report, dated from February 9, 2015 to February 15, 2017, part of which time Respondent Hashemi was Pharmacist-in-Charge, indicates that the pharmacy computer program did not keep accurate records of billed and dispensed medications. Several prescriptions reviewed showed the quantity of drug billed was less than the quantity of drug dispensed under the same prescription number. The excess of drug dispenses under the previous prescription number was billed under a new prescription number at a later time.

28. A review of dispensing records for Vibrant Care Pharmacy, where Respondent Hashemi was Pharmacist-in-Charge during the times relevant to the charges brought in this Accusation, indicated that a patient did not receive the adequate quantity of medications prescribed to him to last until his next doctor appointment, causing him to have to seek emergency medical services. Specifically, Rx# 426934 and Rx# 426936 were billed on February 22, 2016, March 15, 2016, and April 6, 2016 for 28 tablets each. Rx# 426938 was billed on February 24, 2016, March 18, 2016, and April 10, 2016 for 28 tablets each. From those billed dates, the patient should have had enough medication to last him until May 17, 2016 and May 19,

2016, respectively. However, when the delivery dates were reviewed, it showed that the pharmacy did not deliver the medications until March 3, 2016, March 31, 2016, and May 11, 2016. The medications would have lasted until June 9, 2016 had they been delivered properly. However, as of May 11, 2016, Vibrant Care Pharmacy had delivered only seven days' worth of each medication, causing the patient to run out of medicine before he was due to see his doctor again.

FIRST CAUSE FOR DISCIPLINE

Unprofessional Conduct – Violation of Law
(Against Respondents Vibrant Care Pharmacy)
[Bus. & Prof. Code, § 4301]

29. Respondent Vibrant Care Pharmacy has subjected its Original Pharmacy Permit to discipline in that it engaged in unprofessional conduct by: failing to reduce oral or electronic prescriptions to writing; filling or refilling a controlled substance listed in Schedule III or IV more than six months after the prescription issue date or more than five times in total; failing to maintain complete accountability of the pharmacy inventory by storing an overage of dangerous drugs; failing to maintain accurate records of billed and dispensed medication; and obstructing a patient from receiving a prescription drug that was legally prescribed or ordered for that patient. (Bus. & Prof. Code, § 4301.) The circumstances are set forth in paragraphs 23 through 28, above.

SECOND CAUSE FOR DISCIPLINE

Unprofessional Conduct – Violation of Law
(Against Respondent Hashemi)
[Bus. & Prof. Code, § 4301]

30. Respondent Hashemi has subjected his Original Pharmacist License to discipline, in that he engaged in unprofessional conduct by: filling or refilling a controlled substance listed in Schedule III or IV more than six months after the prescription issue date or more than five times in total; failing to maintain complete accountability of the pharmacy inventory by storing an overage of dangerous drugs; failing to maintain accurate records of billed and dispensed medication; and obstructing a patient from receiving a prescription drug that was legally prescribed or ordered for that patient. (Bus. & Prof. Code, § 4301.) The circumstances are set forth in paragraphs 23 through 28, above.

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THIRD CAUSE FOR DISCIPLINE

Failure to Reduce Oral or Electronic Prescription to Writing
(Against Respondent Vibrant Care Pharmacy)

[Bus. & Prof. Code, § 4070, subd. (a); Health & Safety Code § 11164, subd. (b)(1);
Cal. Code Regs tit. 16, § 1717, subd. (c)]

31. Respondent Vibrant Care Pharmacy has subjected its Original Pharmacy Permit to discipline in that it failed to properly reduce oral or electronic prescriptions to writing. (Bus. & Prof. Code, § 4070, subd. (a); Health & Safety Code § 11164, subd. (b)(1); Cal. Code Regs tit. 16, § 1717, subd. (c).) The circumstances are set forth in paragraph 24, above.

FOURTH CAUSE FOR DISCIPLINE

Filling or Refilling a Controlled Substance in Excess of Statutory Limit
(Against Respondent Vibrant Care Pharmacy)

[Health & Safety Code § 11200, subds. (a) and (b); 21 C.F.R., § 1306.22, subd. (a)]

32. Respondent Vibrant Care Pharmacy has subjected its Original Pharmacy Permit to discipline in that it filled or refilled a controlled substance listed in Schedule II or IV more than six months after the prescription issue date or more than five times in total. (Health & Safety Code § 11200, subds. (a) and (b); 21 C.F.R., § 1306.22, subd. (a).) The circumstances are set forth in paragraph 25, above.

FIFTH CAUSE FOR DISCIPLINE

Filling or Refilling a Controlled Substance in Excess of Statutory Limit
(Against Respondent Hashemi)

[Health & Safety Code § 11200, subds. (a) and (b); 21 C.F.R., § 1306.22, subd. (a)]

33. Respondent Hashemi has subjected his Original Pharmacist License to discipline, in that he filled or refilled a controlled substance listed in Schedule II or IV more than six months after the prescription issue date or more than five times in total. (Health & Safety Code § 11200, subds. (a) and (b); 21 C.F.R., § 1306.22, subd. (a).) The circumstances are set forth in paragraph 25, above.

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SIXTH CAUSE FOR DISCIPLINE

Storing Overages of Dangerous Drugs in Inventory
(Against Respondent Vibrant Care Pharmacy)

[Bus. & Prof. Code, § 4081, subd. (a); Cal. Code Regs tit. 16, § 1718]

34. Respondent Vibrant Care Pharmacy has subjected its Original Pharmacy Permit to discipline in that it failed to maintain complete accountability of the pharmacy inventory by storing an overage of dangerous drugs. (Bus. & Prof. Code, § 4081, subd. (a); Cal. Code Regs tit. 16, § 1718.) The circumstances are set forth in paragraph 26, above.

SEVENTH CAUSE FOR DISCIPLINE

Storing Overages of Dangerous Drugs in Inventory
(Against Respondent Hashemi)

[Bus. & Prof. Code, § 4081, subd. (a); Cal. Code Regs tit. 16, § 1718]

35. Respondent Hashemi has subjected his Original Pharmacist License to discipline, in that he failed to maintain complete accountability of the pharmacy inventory by storing an overage of dangerous drugs. (Bus. & Prof. Code, § 4081, subd. (a); Cal. Code Regs tit. 16, § 1718.) The circumstances are set forth in paragraph 26, above.

EIGHTH CAUSE FOR DISCIPLINE

Failure to Maintain Accurate Records of Billed and Dispensed Medication
(Against Respondent Vibrant Care Pharmacy)

[Bus. & Prof. Code, § 4081, subd. (b)]

36. Respondent Vibrant Care Pharmacy has subjected its Original Pharmacy Permit to discipline in that it failed to maintain accurate records of billed and dispensed medication. (Bus. & Prof. Code, § 4081, subd. (b).) The circumstances are set forth in paragraph 27, above.

NINTH CAUSE FOR DISCIPLINE

Failure to Maintain Accurate Records of Billed and Dispensed Medication
(Against Respondent Hashemi)

[Bus. & Prof. Code, § 4081, subd. (b)]

37. Respondent Hashemi has subjected his Original Pharmacist License to discipline in that he failed to maintain accurate records of billed and dispensed medication. (Bus. & Prof. Code, § 4081, subd. (b).) The circumstances are set forth in paragraph 27, above.

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PRAYER

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

1. Revoking or suspending Original Pharmacy Permit Number PHY 51969, issued to Vibrant Care Pharmacy Inc.;
2. Revoking or suspending Original Pharmacist License Number RPH 65145, issued to Sayed Wahidudeen Hashemi;
3. Prohibiting Vibrant Care Pharmacy Inc. from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 51969 is placed on probation or until Pharmacy Permit Number PHY 51969 is reinstated if Pharmacy Permit Number 51969 issued to Vibrant Care Pharmacy Inc. is revoked;
4. Prohibiting Kalpesh I. Patel from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 51969 is placed on probation or until Pharmacy Permit Number PHY 51969 is reinstated if Pharmacy Permit Number 51969 issued to Vibrant Care Pharmacy Inc. is revoked;
5. Ordering Vibrant Care Pharmacy to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
6. Ordering Sayed Wahidudeen Hashemi 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,

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

DATED: March 8, 2019



ANNE SODERGREN
Interim Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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