

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

In the Matter of the Accusation Against:

ALAMO PHARMACY, INC., dba TMC #4, WASSIM ALBER ARMANIOUS;

Pharmacy Permit No. PHY 54527

and

WASSIM ALBER ARMANIOUS

Pharmacist License No. RPH 59305

Respondents

Agency Case No. 6670

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 September 10, 2020.

It is so ORDERED on August 11, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
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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:

13 **ALAMO PHARMACY, INC., DBA TMC**
14 **#4, WASSIM ALBER ARMANIOUS**
15 **4476 Tweedy Blvd.**
16 **South Gate, CA 90280**

17 **Pharmacy Permit No. PHY 54527,**

18 **and**

19 **WASSIM ALBER ARMANIOUS**
20 **135 W. Del Mar Blvd. #3117**
21 **Pasadena, CA 91105**

22 **Pharmacist License No. RPH 59305**

23 Respondents.

Case No. 6670

OAH No. 2020020654

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
PHARMACIST LICENSE NO. RPH 59305**

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

26 **PARTIES**

27 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
28 (Board). She brought this action solely in her official capacity and is represented in this matter by

1 Xavier Becerra, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
2 General.

3 2. Respondent Wassim Alber Armanious (Respondent) is represented in this proceeding
4 by attorney Herbert L. Weinberg, whose address is: 1990 South Bundy Drive, Suite 777,
5 Los Angeles, CA 90025.

6 3. On or about January 23, 2007, the Board of Pharmacy issued Pharmacist License
7 Number RPH 59305 to Wassim Alber Armanious. The Pharmacist License was in full force and
8 effect at all times relevant to the charges brought herein and will expire on April 30, 2022, unless
9 renewed.

10 **JURISDICTION**

11 4. Accusation No. 6670 was filed before the Board, and is currently pending against
12 Respondent. The Accusation and all other statutorily required documents were properly served
13 on Respondent on October 8, 2019. Respondent timely filed his Notice of Defense contesting the
14 Accusation.

15 5. A copy of Accusation No. 6670 is attached as exhibit A and incorporated herein by
16 reference.

17 **ADVISEMENT AND WAIVERS**

18 6. Respondent has carefully read, fully discussed with counsel, and understands the
19 charges and allegations in Accusation No. 6670. Respondent has also carefully read, fully
20 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
21 Order.

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

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 6670, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist License.

10. 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 his right to contest those charges.

11. Respondent agrees that his Pharmacist License is subject to discipline and he agrees to be bound by the Board's probationary terms as set forth in 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 he may not withdraw this 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 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.

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

14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
3 writing executed by an authorized representative of each of the parties.

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Pharmacist License No. RPH 59305 issued to Respondent
9 Wassim Alber Armanious (Respondent) is revoked. However, the revocation is stayed and
10 Respondent is placed on probation for five (5) years on the following terms and conditions:

11 1. **Obey All Laws**

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

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

15 an arrest or issuance of a criminal complaint for violation of any provision of the

16 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
17 substances laws

18 a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal

19 criminal proceeding to any criminal complaint, information or indictment

20 a conviction of any crime

21 the filing of a disciplinary pleading, issuance of a citation, or initiation of another

22 administrative action filed by any state or federal agency which involves

23 respondent's license or which is related to the practice of pharmacy or the

24 manufacturing, obtaining, handling, distributing, billing, or charging for any drug,

25 device or controlled substance.

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

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1 2. **Report to the Board**

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

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

11 3. **Interviews with the Board**

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

17 4. **Cooperate with Board Staff**

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

24 5. **Continuing Education**

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

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1 **6. Reporting of Employment and Notice to Employers**

2 During the period of probation, Respondent shall notify all present and prospective
3 employers of the decision in case number 6670 and the terms, conditions and restrictions imposed
4 on respondent by the decision, as follows:

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

16 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
17 Respondent undertaking any new employment, Respondent shall cause (a) his direct supervisor,
18 (b) his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
19 compliance supervisor, and (c) the owner or owner representative of his employer, to report to the
20 board in writing acknowledging that the listed individual(s) has/have read the decision in case
21 number 6670, and terms and conditions imposed thereby. If one person serves in more than one
22 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the Respondent's
23 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
24 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
25 of probation, Respondent shall cause the person(s) taking over the role(s) to report to the board in
26 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
27 in case number 6670, and the terms and conditions imposed thereby.

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1 If Respondent works for or is employed by or through an employment service, Respondent
2 must notify the person(s) described in (a), (b), and (c) above at every Entity licensed by the board
3 of the decision in case number 6670, and the terms and conditions imposed thereby in advance of
4 respondent commencing work at such licensed Entity. A record of this notification must be
5 provided to the board upon request.

6 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
7 (15) days of Respondent undertaking any new employment by or through an employment service,
8 Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment
9 service to report to the board in writing acknowledging that he or she has read the decision in case
10 number 6670, and the terms and conditions imposed thereby. It shall be Respondent's
11 responsibility to ensure that these acknowledgment(s) are timely submitted to the board.

12 Failure to timely notify present or prospective employer(s) or failure to cause the identified
13 person(s) with that/those employer(s) to submit timely written acknowledgments to the board
14 shall be considered a violation of probation.

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

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

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

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

24 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

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

1 **9. Reimbursement of Board Costs**

2 As a condition precedent to successful completion of probation, Respondent shall pay to the
3 board its costs of investigation and prosecution in the amount of \$38,970.00. Respondent shall
4 make said payments as follows:

5 Respondent shall be permitted to pay these costs in a payment plan approved by the board
6 or its designee, so long as full payment is completed no later than one (1) year prior to the end
7 date of probation.

8 There shall be no deviation from this schedule absent prior written approval by the board or
9 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
10 probation.

11 **10. Probation Monitoring Costs**

12 Respondent shall pay any costs associated with probation monitoring as determined by the
13 board each and every year of probation. Such costs shall be payable to the board on a schedule as
14 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
15 be considered a violation of probation.

16 **11. Status of License**

17 Respondent shall, at all times while on probation, maintain an active, current Pharmacist
18 License with the board, including any period during which suspension or probation is tolled.
19 Failure to maintain an active, current Pharmacist License shall be considered a violation of
20 probation.

21 If Respondent's Pharmacist License expires or is cancelled by operation of law or otherwise
22 at any time during the period of probation, including any extensions thereof due to tolling or
23 otherwise, upon renewal or reapplication Respondent's Pharmacist License shall be subject to all
24 terms and conditions of this probation not previously satisfied.

25 **12. License Surrender While on Probation/Suspension**

26 Following the effective date of this decision, should Respondent cease practice due to
27 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
28 Respondent may relinquish his license, including any indicia of licensure issued by the board,

1 along with a request to surrender the license. The board or its designee shall have the discretion
2 whether to accept the surrender or take any other action it deems appropriate and reasonable.
3 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to
4 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
5 become a part of the Respondent's license history with the board.

6 Upon acceptance of the surrender, Respondent shall relinquish his pocket and/or wall
7 license, including any indicia of licensure not previously provided to the board within ten (10)
8 days of notification by the board that the surrender is accepted if not already provided.
9 Respondent may not reapply for any license from the board for three (3) years from the effective
10 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
11 of the date the application for that license is submitted to the board, including any outstanding
12 costs.

13 13. Practice Requirement – Extension of Probation

14 Except during periods of suspension, Respondent shall at all times while on probation, be
15 employed as a pharmacist in California for a minimum of 80 hours per calendar month. Any
16 month during which this minimum is not met shall extend the period of probation by one month.
17 During any such period of insufficient employment, Respondent must nonetheless comply with
18 all terms and conditions of probation, unless Respondent receives a waiver in writing from the
19 board or its designee.

20 If Respondent does not practice as a pharmacist in California for the minimum number of
21 hours in any calendar month for any reason (including vacation), Respondent shall notify the
22 board in writing within ten (10) days of the conclusion of that calendar month. This notification
23 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the
24 interruption or reduction in practice; and the anticipated date(s) on which Respondent will resume
25 practice at the required level. Respondent shall further notify the board in writing within ten (10)
26 days following the next calendar month during which Respondent practices as a pharmacist in
27 California for the minimum of hours. Any failure to timely provide such notification(s) shall be
28 considered a violation of probation.

1 It is a violation of probation for Respondent's probation to be extended pursuant to the
2 provisions of this condition for a total period, counting consecutive and non-consecutive months,
3 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended
4 probation period on its website.

5 **14. Violation of Probation**

6 If Respondent has not complied with any term or condition of probation, the board shall
7 have continuing jurisdiction over Respondent, and the board shall provide notice to respondent
8 that probation shall automatically be extended, until all terms and conditions have been satisfied
9 or the board has taken other action as deemed appropriate to treat the failure to comply as a
10 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
11 board or its designee may post a notice of the extended probation period on its website.

12 If Respondent violates probation in any respect, the board, after giving Respondent notice
13 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
14 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
15 probation, or the preparation of an accusation or petition to revoke probation is requested from
16 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
17 probation shall be automatically extended until the petition to revoke probation or accusation is
18 heard and decided, and the charges and allegations in Accusation No. 6670 shall be deemed true
19 and correct.

20 **15. Completion of Probation**

21 Upon written notice by the board or its designee indicating successful completion of
22 probation, Respondent's license will be fully restored.

23 **16. Remedial Education**

24 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
25 board or its designee, for prior approval, an appropriate program of remedial education related to
26 the grounds for discipline, in such areas which may include but is not limited to Pharmacy Law,
27 and Pharmacy Operations. The program of remedial education shall consist of at least 10 hours
28 per year of probation at Respondent's own expense (50% which is live/in-person/webinar). All

1 remedial education shall be in addition to, and shall not be credited toward, continuing education
2 (CE) courses used for license renewal purposes for pharmacists.

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

7 Following the completion of each course, the board or its designee may require the
8 Respondent, at his own expense, to take an approved examination to test the Respondent's
9 knowledge of the course. If the Respondent does not achieve a passing score on the examination
10 that course shall not count towards satisfaction of this term. Respondent shall take another course
11 approved by the board in the same subject area.

12 **17. Ethics Course**

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

21 **18. No Ownership or Management of Licensed Premises**

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

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19. Community Service Term

Within sixty (60) days of the effective date of this Decision, Respondent shall submit to the board or its designee, for prior approval a plan to make a \$10,000.00 donation to a non-profit organization which furnishes naloxone hydrochloride or another opioid antagonist exclusively for use at a school district schoolsite, county office of education schoolsite, or charter school, in furtherance of Business and Professions Code section 4119.8. Thereafter, Respondent shall make the \$10,000.00 donation to the designated approved non-profit organization within thirty (30) days of the approved plan. Failure to comply with any part of this term shall constitute a violation of probation.

ACCEPTANCE


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

DATED: 6/25/2020


WASSIM ALBER ARMANIOUS
Respondent

I have read and fully discussed with Respondent Wassim Alber Armanious the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 6/25/2020


HERBERT L. WEINBERG
Attorney for Respondent

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ENDORSEMENT

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

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General

KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

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ENDORSEMENT

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

DATED: 6/25/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General


KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6670

1 XAVIER BECERRA
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 MABEL LEW
Deputy Attorney General
4 State Bar No. 158042
1300 I Street, Suite 125
5 P.O. Box 944255
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6 Telephone: (916) 210-6104
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

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13 In the Matter of the Accusation Against:

Case No. 6670

14 **ALAMO PHARMACY, INC., DBA TMC #4;**
15 **WASSIM ALBER ARMANIOUS, Chief**
16 **Executive Officer, President, Secretary, and**
17 **Treasurer/Chief Financial Officer**
4476 Tweedy Blvd.
South Gate, CA 90280

A C C U S A T I O N

18 **Original Permit No. PHY 54527,**

19 **WASSIM ALBER ARMANIOUS**
20 **135 W. Del Mar Blvd. #3117**
Pasadena, CA 91105
21 **Pharmacist-In-Charge**

22 **Pharmacist License No. RPH 59305**

23 Respondents.
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1 Complainant alleges:

2 **PARTIES**

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

6 2. On or about January 23, 2007, the Board of Pharmacy issued Pharmacist License
7 Number RPH 59305 to Wassim Alber Armanious. The Pharmacist License was in full force and
8 effect at all times relevant to the charges brought herein and will expire on April 30, 2020, unless
9 renewed.

10 3. On or about September 5, 2016, the Board of Pharmacy issued Original Permit
11 Number PHY 54527 to Alamo Pharmacy Inc., dba TMC #4 (Respondent Pharmacy). The Permit
12 was in full force and effect at all times relevant to the charges brought herein. The Permit expired
13 on May 24, 2018 due to discontinuance of business.

14 4. From September 5, 2016 to May 24, 2018, Wassim Alber Armanious (Respondent
15 PIC) was the Chief Executive Officer, President, Secretary, Treasurer/Chief Financial Officer,
16 and pharmacist-in-charge of Respondent Pharmacy.

17 5. Respondent Pharmacy and Respondent PIC will be collectively referred to as
18 "Respondents."

19 **JURISDICTION**

20 6. This Accusation is brought before the Board under the authority of the following
21 laws. All section references are to the Business and Professions Code unless otherwise indicated.

22 7. Section 4300 of the Code states in pertinent part:

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

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

26 (1) Suspending judgment.

27 (2) Placing him or her upon probation.

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

1 year.

2 (4) Revoking his or her license.

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

5

6 8. Section 4300.1 of the Code states:

7 The expiration, cancellation, forfeiture, or suspension of a board-issued license by
8 operation of law or by order or decision of the board or a court of law, the placement
9 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.

10 **STATUTORY AND REGULATORY PROVISIONS**

11 9. Section 4006 of the Code states in pertinent part:

12 The board may adopt regulations . . . limiting or restricting the furnishing of a
13 particular drug upon a finding that the otherwise unrestricted retail sale of the drug...
14 is dangerous to the public health or safety.

15 10. Section 4021 of the Code provides that a “controlled substance” means any substance
16 listed in Schedules I through V, contained in Health and Safety Code section 11053 *et seq.*

17 11. Section 4022 of the Code states in pertinent part:

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

20

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

23 12. Section 4059 of the Code states in pertinent part:

24 (a) A person may not furnish any dangerous drug, except upon the
25 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
26 naturopathic doctor . . .

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13. Section 4081 of the Code states in pertinent part:

(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every . . . pharmacy . . . or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption . . . who maintains a stock of dangerous drugs or dangerous devices.

. . . .

14. Section 4105 of the Code provides in pertinent part:

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

. . . .

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

. . . .

15. Section 4113 of the Code provides in pertinent part:

. . . .

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

. . . .

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

The board shall take action against any holder of a license who is guilty of unprofessional conduct . . . Unprofessional conduct shall include, but is not limited to, any of the following:

. . . .

(b) Incompetence;

(c) Gross Negligence;

. . . .

(f) The commission of any act involving moral turpitude, dishonesty, fraud,

deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

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

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

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

....
(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board.

....
17. California Code of Regulations, Title 16, section 1718 states:

“Current inventory” as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4331. The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory.

18. Code of Federal Regulations, title 21, section 1317.40, subdivision (a), provides in pertinent part:

“(R)etail pharmacies that desire to be collectors shall modify their registration to obtain authorization to be a collector in accordance with Section 1301.52(f)....”

CONTROLLED SUBSTANCES / DANGEROUS DRUGS

19. *Lorazepam* is a Schedule IV controlled substance as designated by Health & Safety Code section 11057(d)(16) and a dangerous drug as designated by section 4022 of the Code. It is indicated for the treatment of anxiety disorders, alcohol withdrawal, and chemotherapy-induced nausea and vomiting. “Ativan” is a brand name for Lorazepam.

///

20. *Lidocaine* 5% ointment is a dangerous drug pursuant to Code section 4022 and is indicated as an anesthetic that works to decrease pain by temporarily numbing the area. “Xylocaine” is a brand name for Lidocaine.

21. *Naproxen* 550mg is a dangerous drug pursuant to Code section 4022 and is indicated for the relief of pain. “Naprosyn” is a brand name for Naproxen.

22. *Diclofenac* 3% gel is a dangerous drug pursuant to Code section 4022 and is indicated for the relief of pain. “Solaraze” is a brand name for Diclofenac.

23. *Omeprazole* and sodium bicarbonate 40-1,100 is a dangerous drug pursuant to Code section 4022 and is indicated for the treatment of gastric ulcers, gastroesophageal reflux disease (GERD), and other conditions involving excessive stomach acid production. “Zegerid” is a brand name for Omeprazole and sodium bicarbonate 40-1,100.

24. Under Section 4059 of the Code, each of the drugs listed in Paragraphs 19-23 require a physician’s prescription.

COST RECOVERY

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

BACKGROUND

26. At all times relevant to the charges brought herein, Respondent PIC worked as an employee and/or agent of Respondent Pharmacy, an independent pharmacy located inside the Pioneer Medical Building Clinic (Pioneer Clinic), located at 4476 Tweedy Blvd., South Gate, CA 90280, which primarily dispensed prescriptions to Pioneer Clinic’s patients.

27. All drugs relevant to the charges brought and cited herein are dangerous drugs as defined under Business and Professions Code, section 4022, or controlled substances pursuant to Health & Safety Code section 11057(d)(16).

28. On or about September 5, 2017, the Board received an anonymous complaint alleging Respondent Pharmacy had billed unauthorized prescriptions (prescriptions not approved by the

1 physician) to patients' insurance without dispensing the medication. The complaint stated the
2 following medications were processed through the insurance, but were never prescribed nor
3 dispensed and "never reversed if not picked up": lidocaine 5%, diclofenac 3% gel, econazole 85
4 gm, Zegerid (Omeprazole and sodium bicarbonate), naproxen 550mg, and Fortamet (metformin
5 HCL).

6 29. On January 9, 2018, Board Inspector ED conducted an investigation inspection at
7 Respondent Pharmacy. Respondent PIC was present and assisted with the inspection.
8 Respondent PIC directed Inspector ED to Respondent Pharmacy's two waiting bins¹ area. An
9 inspection of those areas and the pharmacy's filling counter resulted in a finding of more than 100
10 unfilled paper prescription labels located inside several baskets, which had dates they were
11 processed through the insurance, ranging from 11/22/2017 to 12/14/2017².

12 30. Also in the waiting bins area were weekly baskets that had duplicate prescription
13 labels. Although these prescriptions had a pickup date, it is unclear whether the patient actually
14 received the medications.

15 31. The "Patient Will Call Back" box in the waiting bins area contained delivery
16 prescriptions which were billed through the insurance, but had not been filled or delivered.

17 32. The "PU" waiting bin contained 20 unfilled prescription labels³ which had been
18 processed through the insurance.

19 33. Inspector ED also found in the waiting bins area unfilled prescription labels stapled to
20 empty paper bags which had also been processed through the insurance.

21 34. On top of the pharmacy's filling counter, Inspector ED located two baskets
22 containing "queue unfilled prescription labels" (prescription labels with no tags) which were

23
24 ¹ The waiting bins area was a location for the prescriptions which were processed and
25 verified by the pharmacist, and which were ready to be dispensed to patients. These prescriptions
were never filled.

26 ² There were many unfilled prescriptions labels. The inspector took photographs of some
of the unfilled prescription labels which were identified.

27 ³ There were many unfilled prescriptions labels. The inspector took photographs of some
28 of the unfilled prescription labels which were identified.

1 never filled, yet they had also been processed through the insurance. Inspector ED collected
2 information on prescription 540022 in that area, documenting that the prescription was
3 processed/billed through the insurance twice (12/22/2017 and 1/03/2018), never dispensed both
4 times, and the insurance claim was not reversed after 14 days had passed. Inspector ED noted
5 that this was contrary to the common industry practice of filling the prescription, and within 14
6 days of the patient not picking up the medication, reversing the prescription through the
7 insurance, and returning the medication to stock (Return to Stock (RTS) prescriptions⁴).

8 35. While inspecting the pharmacy's drawers, Inspector ED found a folder containing
9 several copies of blank prescription forms ("New Prescription Request Form") which bore the
10 physician's name written on the top of the form and the physician's signature on the bottom.
11 Inspector ED collected a sample of the pre-signed prescription request forms which contained the
12 DEA numbers and phone numbers of the following physicians: David Abiva, P. Eunice, and
13 Joseph Echeverrn. There was also a form that did not have a name; only a signature. She also
14 found a folder containing several copies of a "New Prescription Request Form" which contained
15 the patient's name, medication, and prescriber's signature.

16 36. During the inspection, Inspector ED requested from Respondent PIC the Respondent
17 Pharmacy's opening inventory dated 9/05/2016, which was a part of Respondent Pharmacy's
18 record of acquisition that needed to be maintained for three years, but Respondent PIC did not
19 provide it.

20 37. During the inspection, Inspector ED received Respondent Pharmacy's Drug
21 Utilization Report ("DUR")⁵ for the period of 09/05/2016 and 01/09/2018. However, Inspector
22 ED could not rely on it since Respondent PIC later informed him that it was incorrect.

24 ⁴ Return to Stock (RTS) prescriptions are any filled prescriptions which have neither been
25 picked up by patients nor left the pharmacy premises and were returned by pharmacy staff to the
26 active inventory stock of the pharmacy. Common industry practice is to fill the prescription and,
within 14 days of the patient not picking up the medication, the prescription is reversed through
the insurance and medication is returned to stock.

27 ⁵ A Drug Utilization Report ("DUR") is a computer generated report of the pharmacy's
28 dispensing records. It contains the following data elements: date prescription was dispensed,
prescription number, drug name, drug strength, quantity dispensed and national drug code (NDC)
and some additional information.

38. During her inspection, Inspector ED located on a wooden box of prescriptions with Respondent Pharmacy's label or other pharmacies' label (e.g. CVS Pharmacy and Walmart Pharmacy), which Respondent PIC acknowledged as returned prescriptions for destruction. Included in the returned prescriptions was a controlled substance medication (Lorazepam 1mg) from a patient. However, Respondent Pharmacy was not registered as a collector site.

39. At the conclusion of the inspection, Inspector ED requested that Respondent PIC send: proof of all expired medications being returned for destruction, or returning them to a Board certified reverse distributor and submit an invoice; Proof and Respondent PIC's confirmatory statement that there was a reversal of all the prescriptions that were billed past the 14 days period; and Respondent Pharmacy's records of acquisition and disposition between 9/05/2016 and 01/09/2018 for the following medications:

- Lidocaine 5% ointment;
- Diclofenac 3% gel;
- Econazole 85gm cream;
- Zegerid 40mg,
- Naproxen 550mg tablets, and
- Fortamet 1gram.

40. In response, Respondent PIC only provided Inspector ED with prescription labels and a note that "All Rx Past 14 days were reversed + Returned to Stock" (a total of 17 prescriptions), Respondent Pharmacy's wholesaler invoices (acquisition records), a statement about the accuracy of the DUR which conflicted with DigitalRx, Respondent Pharmacy's dispensing software⁶.

41. On June 4, 2018, Inspector ED called Respondent Pharmacy ((323) 249-0360) and was redirected to RITE AID 5484 pharmacy (PHY42364). He spoke to the pharmacist and pharmacy technician there. Each of them informed him that Respondent Pharmacy closed on May 25, 2018, and the prescriptions were transferred on May 25, 2018 to RITE AID 5484.

⁶ Statement from DigitalRx explained the different fields in the DUR provided it did not conflict with PIC's statement.

42. On June 5, 2018, Inspector ED received a call from Respondent PIC, who informed him that he had sold Respondent Pharmacy because his father was very ill and had open heart surgery, and because OptumRx and HealthNet had contacted his patients and performed many audits, which consumed a lot of his time.

43. Throughout the course of the investigation, Inspector ED exchanged emails with Respondents' wholesalers⁷, requesting their records of purchases, credits and dispositions for Respondent Pharmacy as to the following medications ("Dangerous Drugs") between 09/05/2016 and 01/09/2018:

- Lidocaine 5% ointment (35.44 grams per tube);
- Diclofenac (100 grams per tube);
- Omeprazole and sodium bicarbonate 40-1,100 (capsules);
- Naproxen 550mg (tablets).

44. Some of the wholesalers⁸ provided certification letters or emails stating that they did not have any records on these medications for that period.

45. As a result of the statement from DigitalRx (Respondent Pharmacy's dispensing software company), Inspector ED's conversation with Digital Rx on October 15, 2018, and the evidence collected from the investigation, Inspector ED performed two types of audits⁹ for the period between 09/05/2016 and 01/09/2018 on the Dangerous Drugs. Both audits indicated negative variances, which meant Respondents did not dispense all of the Dangerous Drugs they billed for. Both audits revealed overages of the following Dangerous Drugs: Lidocaine 5%

⁷ H&H Wholesale Group, Masters Pharmaceutical, LLC, Wasatch Rx, Paragon Enterprises Inc, Valley Wholesaler (subsidiary of AmerisourceBergen), Dynasty Pharmaceuticals Inc (Dynasty), Bonita Pharmaceuticals (Bonita), ParMed Pharmaceuticals, TopRx, Republic Pharmaceuticals LLC (Republic), Northeast Medical, Bellco Drug (subsidiary of AmerisourceBergen), TruCare Pharmacy, Mercer Medical and Harvard Drug Group.

⁸ Mercer Medical LLC, Wasatch Rx, TopRx, Northeast Medical, Bellco Drug, Paragon Enterprises Inc, Valley Wholesaler and AmerisourceBergen, Mercer Medical and Harvard Drug Group.

⁹ In the first audit, using the DigitalRx DUR, Inspector ED only accounted for the Dangerous Drugs for which the "RxStatusFin", meaning the prescription was processed through the insurance and the "RxSatutswf" field was either "TYPED" or "RE-NEWED".

In the second audit, using the DigitalRx DUR, Inspector ED only accounted for the Dangerous Drugs for which the "RxStatusFin" field was "BILLED", "RxSatutswf" field was either "TYPED" or "RENEWED" and "RxDelivered" field was not "Null", meaning allegedly the patients signed for the receipt of their prescriptions.

ointment; Diclofenac 3% gel; Omeprazole and sodium bicarbonate 40-1,100; and Naproxen 550mg.

46. Inspector ED contacted 29 patients via mail, focusing on patients Respondent Pharmacy allegedly dispensed the Dangerous Drugs to. Out of the 10 responses received, one patient (“GE”), who signed her survey under penalty of perjury, claimed she did not receive the following prescriptions which were billed to her insurance:

Alleged Delivery Date / Time (Dispensed date)	Rx Number	Rx	Total amount reimbursed by insurance	Quantity (grams/capsule)	Prescriber
1/25/2017 18:30	510367	Diclofenac Sodium 3% gel	\$1,232.91	200	RJ
9/02/2017 17:58	521235	Diclofenac Sodium 3% gel	\$3,698.88	600	RJ
11/08/2017 17:42	521235	Diclofenac Sodium 3% gel	\$3,402.96	600	RJ
2/14/2017 11:32	512705	Lidocaine 5% ointment	\$288.37	106.32	RJ
4/07/2017 16:42	512705	Lidocaine 5% ointment	\$288.37	106.32	RJ
5/02/2017 13:53	512705	Lidocaine 5% ointment	\$288.37	106.32	RJ
9/13/2017 11:39	512705	Lidocaine 5% ointment	\$288.37	106.32	RJ
12/13/2017 15:11	548674	Lidocaine 5% ointment	\$266.17	106.32	RJ

1/04/2018 13:09	548674	Lidocaine 5% ointment	\$286.72	106.32	RJ
10/11/2017 16:23	540330	Lidocaine 5% ointment	\$288.37	106.32	MM
4/20/2017 13:29	513113	Omeprazole Bicarb 40-1,100 capsules	\$3,476.97	90	RJ
8/28/2017 16:34	513113	Omeprazole Bicarb 40-1,100 capsules	\$3,476.97	90	RJ
1/04/2018 13:09	513113	Omeprazole Bicarb 40-1,100 capsules	\$3,198.82	90	RJ

47. Using the DigitalRx DUR, Inspector ED found that in 2016, there were a total of 91 prescriptions which were billed through insurance without ever having been dispensed.

48. Using the DigitalRx DUR, Inspector ED found that in 2017, there were a total of 194 prescriptions which were billed through insurance without ever having been dispensed.

49. Throughout the course of the investigation, Inspector ED contacted (via telephone, facsimile, and letter) a random sample of 6 physicians using the DigitalRx DUR. She received 3 statements from the following prescribers who stated that they did not authorize the prescriptions which were documented as dispensed in Respondent Pharmacy's DigitalRx DUR:

Prescriber Name	Rx Date Written	Rx Number	Drug Name	Qty	Patient Initials
MB	12/28/2017	555067	Naproxen Sodium 550mg tab	60	CR
MB	12/02/2017	550539	60 Naproxen Sodium 550mg tab	60	CR
MB	9/07/2017 13:58	538909	Naproxen Sodium 550mg tab	60	CR
RJ	1/25/2017 5:38 PM	510367	Diclofenac Sodium 3% gel	200	GE
RJ	4.24/2017 12:00 AM	521235	Diclofenac Sodium 3% gel	600	GE

RJ	2/13/2017 6:12 PM	512705	Lidocaine 5% ointment	106.32	GE
RJ	11/15/2017 12:00 AM	548674	Lidocaine 5% ointment	106.32	GE
RJ	2/16/2017 5:03 AM	513113	Omeprazole-Bicarb 40-1,100 cap	90	GE
CK	3/20/2017 14:31	516724	Omeprazole-Bicarb 40-1,100 cap	180	GA

50. In furtherance of his investigation, Inspector ED contacted KM, Director, Human Resources of Pioneer Medical Group, and provided her with an Excel spreadsheet of a list of prescriptions which were dispensed under Pioneer's prescribers per Respondents' records. On January 4, 2019, Inspector ED received a statement from KM stating that the following 37 prescriptions, which were documented as dispensed in Respondent Pharmacy's DigitalRx DUR, were not authorized by Dr. RJ nor Physician Assistant DA¹⁰:

Prescriber Name	Rx Date Written	Rx Number	Drug Name	Total Qty Including Refills	Patient Initials
DA	6/04/2017	526443	Diclonfenac Sodium 3% gel	600	RM
DA	10/07/2017	543372	Diclonfenac Sodium 3% gel	800	RM
DA	6/04/2017	526444	Lidocaine 5% ointment	425	RM
DA	7/12/2017	531250	Diclonfenac Sodium 3% gel	1,200	EF
DA	10/14/2016	501891	Diclonfenac Sodium 3% gel	500	AR
DA	4/07/2017	518938	Diclonfenac Sodium 3% gel	400	AR
DA	10/14/2016	501892	Lidocaine 5% ointment	319	AR
DA	12/09/2016	505901	Lidocaine 5% ointment	106	AR
DA	4/07/2017	518939	Lidocaine 5% ointment	213	AR
DA	10/14/2016	501884	Naproxen Sodim 500mg tab	30	AR
DA	10/27/2016	502613	Omeprazole-Bicarb 20mg-1,100 cap	60	AR

¹⁰ A total of 37 prescriptions were dispensed without prescribers' authorization based on the table on page 12, line 18-28, and the table on page 13 and 14.

1	DA	9/14/2017	540012	Diclonfenac Sodium 3% gel	1,200	CS
2	DA	10/13/2016	501817	Diclonfenac Sodium 3% gel	400	JV
3	RJ	9/23/2016	500740	Diclonfenac Sodium 3% gel	800	PC
4	RJ	9/23/2016	500742	Lidocaine 5% ointment	425	PC
5	RJ	2/28/2017	514403	Metformin ER 1,000mg OSM-tab	720	PC
6	RJ	1/25/2017	510367	Diclonfenac Sodium 3% gel	800	EG
7	RJ	4/24/2017	521235	Lidocaine 5% ointment	3,000	EG
8	RJ	2/13/2017	512705	Lidocaine 5% ointment	851	EG
9	RJ	11/15/2017	548674	Lidocaine 5% ointment	319	EG
10	RJ	2/16/2017	513113	Omeprazole-Bicarb 40mg-1,100 cap	540	EG
11	RJ	11/15/2016	503689	Diclonfenac Sodium 3% gel	200	NB (Deceased 2/07/2018)
12	RJ	11/16/2016	503810	Diclonfenac Sodium 3% gel	200	NB (Deceased 2/07/2018)
13	RJ	12/15/2016	506425	Lidocaine 5% ointment	600	NB (Deceased 2/07/2018)
14	RJ	11/06/2017	547343	Lidocaine 5% ointment	319	NB (Deceased 2/07/2018)
15	RJ	12/30/2016	507634	Naproxen Sodium 550mg tab	720	NB (Deceased 2/07/2018)
16	RJ	12/03/2016	550561	Omeprazole-Bicarb 40mg-1,100 cap	180	NB (Deceased 2/07/2018)
17	RJ	8/17/2017	536030	Omeprazole-Bicarb 40mg-1,100 cap	270	NB (Deceased 2/07/2018)

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1 **RESPONDENT PHARMACY**

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Respondent Pharmacy - Received Return of Controlled Substance**
4 **Without Proper Registration)**

5 51. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
6 subdivision (j), for violating Code of Federal Regulations, title 21, section 1317.40, subdivision
7 (a), in that Respondent Pharmacy accepted the return of a controlled substance (Lorezapam 1mg)
8 without Respondent Pharmacy being registered as a collector with the Drug Enforcement
9 Administration, as set forth in Paragraph 38, which is incorporated herein by reference.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Respondent Pharmacy - Failure to Maintain Accurate Records of Acquisition and**
12 **Disposition)**

13 52. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
14 subsections (j) and (o), and, by reference to sections 4081, subsection (a), 4105, subsections (a)
15 and (c), 4332, and California Code of Regulations, title 16, section 1718, for violating statutes
16 regulating controlled substances or dangerous drugs, and/or indirectly violating, attempting to
17 violate, or assisting in or abetting a violation of laws or regulations governing the practice of
18 pharmacy, in that Respondent Pharmacy failed to maintain accurate records or documentation of
19 the acquisition and disposition of all dangerous drugs in a readily retrievable form on the licensed
20 premises for at least 3 years from the date of making. Specifically, an audit for the period
21 between 09/05/2016 and 01/09/2018 of Respondent Pharmacy revealed overages of Dangerous
22 Drugs, as set forth above in Paragraphs 43-45.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Respondent Pharmacy - Failure to Maintain Current Inventory)**

25 53. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
26 subsections (j) and (o), and, by reference to sections 4081, subsection (a), 4105, subsections (a)
27 and (c), 4332, and California Code of Regulations, title 16, section 1718, for violating statutes
28 regulating controlled substances or dangerous drugs, and/or indirectly violating, attempting to
violate, or assisting in or abetting a violation of laws or regulations governing the practice of

1 pharmacy, in that Respondents failed to keep a current inventory of all Dangerous Drugs on the
2 licensed premises for at least 3 years from the making, as set forth above in Paragraph 36.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Respondent Pharmacy - Unprofessional Conduct Involving Moral Turpitude,
5 Dishonesty, Fraud, Deceit, or Corruption – Billing Fraud)**

6 54. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
7 subdivisions (f) and (g), in that Respondent Pharmacy engaged in unprofessional conduct that
8 involved moral turpitude, dishonesty, fraud, deceit, or corruption by knowingly processing
9 prescriptions through insurance for unauthorized prescriptions or for prescriptions the patient(s)
10 did not receive for the period between 09/05/2016 and 01/09/2018, as set forth above in
11 Paragraphs 46-48.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(Respondent Pharmacy - Furnishing Dangerous Drugs Without a Prescription)**

14 55. Respondent Pharmacy is subject to disciplinary action under section 4059,
15 subdivision (a), in that during the course of an investigation, it was determined that Respondent
16 Pharmacy, as set forth above in Paragraphs 49-50, had documented in its records as dispensing
17 dangerous drugs multiple times without a prescriber's authorization.

18 **RESPONDENT PIC**

19 **SIXTH CAUSE FOR DISCIPLINE**

20 **(Respondent PIC - Received Return of Controlled Substance
21 Without Proper Registration)**

22 56. Respondent PIC is subject to disciplinary action under Code section 4301,
23 subdivision (j), for violating Code of Federal Regulations, title 21, section 1317.40, subdivision
24 (a), in that Respondent Pharmacy accepted the return of a controlled substance (Lorezapam 1mg)
25 without Respondent Pharmacy being registered as a collector with the Drug Enforcement
26 Administration, as set forth in Paragraph 38.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Respondent PIC - Failure to Maintain Accurate Records of Acquisition and Disposition)**

3 57. Respondent PIC is subject to disciplinary action under Code sections 4113(c), 4301,
4 subsections (j) and (o), and, by reference to sections 4081, subsection (a), 4105, subsections (a)
5 and (c), 4332, and California Code of Regulations, title 16, section 1718, for violating statutes
6 regulating controlled substances or dangerous drugs, and/or indirectly violating, attempting to
7 violate, or assisting in or abetting a violation of laws or regulations governing the practice of
8 pharmacy, in that, as set forth above in Paragraphs 43-45, Respondent Pharmacy failed to
9 maintain accurate, complete, and readily retrievable records of acquisition and disposition of all
10 dangerous drugs on the licensed premises for at least 3 years from the date of making. Two
11 audits of these records and other evidence regarding the period between 09/05/2016 and
12 01/09/2018 revealed that during that time period, Respondents' records of acquisition and
13 disposition could not account for the overages of the following Dangerous Drugs:

- 14 • Over 132,000 grams of Lidocaine 5% ointment;
- 15 • Over 270,000 grams of Diclofenac 3% gel;
- 16 • Over 34,000 capsules of Omeprazole and sodium bicarbonate 40-1,100;

17 Over 214,000 tablets of Naproxen 550mg.

18 **EIGHTH CAUSE FOR DISCIPLINE**

19 **(Respondent PIC - Failure to Maintain Current Inventory)**

20 58. Respondent PIC is subject to disciplinary action under Code sections 4113(c), 4301,
21 subsections (j) and (o), and, by reference to sections 4081, subsection (a), 4105, subsections (a)
22 and (c), 4332, and California Code of Regulations, title 16, section 1718, for violating statutes
23 regulating controlled substances or dangerous drugs, and/or indirectly violating, attempting to
24 violate, or assisting in or abetting a violation of laws or regulations governing the practice of
25 pharmacy, in that, as set forth above in Paragraph 36, Respondents failed to keep a current
26 inventory of all dangerous drugs in the pharmacy.

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NINTH CAUSE FOR DISCIPLINE
**(Respondent PIC - Unprofessional Conduct Involving Moral Turpitude,
 Dishonesty, Fraud, Deceit, or Corruption – Billing Fraud)**

59. Respondent PIC is subject to disciplinary action under Code section 4301, subdivisions (f) and (g), in that Respondent PIC engaged in unprofessional conduct that involved moral turpitude, dishonesty, fraud, deceit, or corruption by knowingly providing to the Board fraudulent dispensing records for the period between 09/05/2016 and 01/09/2018, and had knowingly billed patient(s) insurance for unauthorized prescriptions or for prescriptions the patient(s) did not receive, as set forth above in Paragraphs 46-48.

TENTH CAUSE FOR DISCIPLINE
(Respondent PIC - Furnishing Dangerous Drugs Without a Prescription)

60. Respondent PIC is subject to disciplinary action under section 4059, subdivision (a), in that during the course of an investigation, it was determined that Respondent PIC, as set forth above in Paragraphs 49-50, had documented in Respondent Pharmacy's records as dispensed dangerous drugs multiple times without a prescriber's authorization.

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MATTERS IN AGGRAVATION

61. To determine the degree of discipline, if any, to be imposed on Respondents,
Complainant alleges:

a. On or about April 10, 2014, the Board issued Citation Number CI 2013 60773 to
Respondent PIC for a violation of CCR, Title 16, section 1711 subdivision (d)¹¹ (\$850.00 fine);

b. On or about March 23, 2015, the Board issued Citation Number CI 2014 64176 to
Respondent PIC for a violation of Health & Safety Code section 11165 subdivision (d)¹² (\$500.00
fine);

c. On or about June 16, 2015, the Board issued Citation Number CI 2014 65749 to
Respondent PIC for the following violations: Business & Professions Code section 4301
subdivision (g)¹³ (\$500.00 fine); Business & Professions Code section 4231 subdivision (d)¹⁴ /
CCR, Title 16, section 1732.5 (\$500.00 fine).

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¹¹ CCR 1711 subdivision (d) provides in part: "... An investigation of each medication error shall commence as soon as is reasonable possible, but no later than 2 business days from the date the medication error is discovered. All medication errors discovered shall be subject to a quality assurance review."

¹² Health & Safety Code section 11165 subdivision (d) provides in part: "For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report (the patient's information, the pharmacy's dispensing information, and the prescriber's information) to the Department of Justice as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed, in a format specified by the Department of Justice...."

¹³ Business & Professions Code section 4301 states in pertinent part: "The board shall take action against any holder of a licensee who is guilty of unprofessional conduct.... Unprofessional conduct shall include, but is not limited to ... (g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts."

¹⁴ Business & Professions Code section 4231(d) – Failure to provide documentation substantiating the completion of continuing education as part of an investigation or audit by the Board.

OTHER MATTERS

62. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY 54527 issued to Alamo Pharmacy, Inc., doing business as TMC #4, Respondent Pharmacy shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit No. PHY 54527 is placed on probation or until Pharmacy Permit Number PHY 54527 is reinstated if it is revoked.

63. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No. RPH 59305 issued to Wassim Armanious, Respondent PIC shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License No. RPH 59305 is placed on probation or until Pharmacist License No. RPH 59305 is reinstated if it is revoked.

PRAYER

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

1. Revoking or suspending Permit Number PHY 54527, issued to Alamo Pharmacy, Inc. dba TMC #4;

2. Revoking or suspending Pharmacist License Number RPH 59305, issued to Wassim Armanious;

3. Prohibiting Respondent Alamo Pharmacy Inc., doing business as TMC #4, from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit No. PHY 54527 is placed on probation or until Pharmacy Permit No. PHY 54527 is reinstated if Pharmacy Permit No. PHY 54527 issued to Alamo Pharmacy Inc., doing business as TMC #4 is revoked;

4. Prohibiting Respondent Wassim Alber Armanious from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License No. RPH 59305 is placed on probation or until Pharmacist License No. RPH 59305 is reinstated if Pharmacist License No. RPH 59305 issued to Respondent Wassim Alber Armanious is revoked;

1 5. Ordering Respondents to wholly and separately pay the Board of Pharmacy the
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
3 Professions Code section 125.3; and,

4 6. Taking such other and further action as deemed necessary and proper.
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6 DATED: October 8, 2019
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8 ANNE SODERGREN
9 Interim Executive Officer
10 Board of Pharmacy
11 Department of Consumer Affairs
12 State of California
13 Complainant
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