

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

In the Matter of the Accusation Against:

**MONTEBELLO PHARMACY INC., LEN SHLAIN,
Pharmacy Permit No. PHY 41430**

and

**ALEILI BANTEGUI CENTENO,
Pharmacist License No. RPH 48641,**

Respondents

Agency Case No. 6692

OAH No. 2020070269

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on February 11, 2021.

It is so ORDERED on January 12, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
4 State Bar No. 131800
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 6692

13 **MONTEBELLO PHARMACY INC., LEN**
14 **SHLAIN**

OAH No. 2020070269

15 817 W. Whittier Boulevard
Montebello, CA 90640

**STIPULATED SURRENDER OF
LICENSE AND ORDER AS TO
PHARMACY PERMIT NO. PHY 41430**

16 Pharmacy Permit No. PHY 41430,

17 and

18 **ALEILI BANTEGUI CENTENO**

19 817 W. Whittier Boulevard
Montebello, CA 90640

20 Pharmacist License No. RPH 48641

21 Respondents.
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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 previous official capacity as Interim Executive

Officer of the Board of Pharmacy and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney General.

2. Respondent Montebello Pharmacy Inc., Len Shlain (Respondent) is represented in this proceeding by attorney Noah E. Jussim, Esq., whose address is: 350 S. Grand Avenue, Suite 3600, Los Angeles, California 90071.

3. On or about November 26, 1996, the Board of Pharmacy (Board) issued Pharmacy Permit No. PHY 41430 to Montebello Pharmacy Inc., Len Shlain (Respondent). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought in Accusation No. 6692, and will expire on November 1, 2021, unless renewed.

JURISDICTION

4. Accusation No. 6692 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 7, 2019. Respondent timely filed its Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 6692 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 6692. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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

///

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. 6692, if proven at a hearing, constitute cause for imposing discipline upon its Pharmacy Permit.

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 its right to contest those charges.

11. Respondent agrees that its Pharmacy Permit is subject to discipline and it agrees to be bound by the Board's imposition of discipline as set forth in the 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 Surrender of License and 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 Surrender of License and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

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

1 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
2 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
3 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 Order:

6 **ORDER**

7 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 41430 issued to Respondent
8 Montebello Pharmacy Inc., Len Shlain is surrendered and accepted by the Board. The effective
9 date of the Decision as to Respondent Pharmacy's permit surrender, however, shall be stayed
10 until April 30, 2021, at which time the pharmacy shall be sold or closed.

11 1. The surrender of Respondent's Pharmacy Permit and the acceptance of the
12 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
13 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
14 license history with the Board of Pharmacy.

15 2. Respondent shall lose all rights and privileges as a pharmacy in California as of the
16 effective date of the Board's Decision and Order.

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

19 4. If Respondent ever applies for licensure or petitions for reinstatement in the State of
20 California, the Board shall treat it as a new application for licensure. Respondent must comply
21 with all the laws, regulations and procedures for licensure in effect at the time the application or
22 petition is filed, and all of the charges and allegations contained in Accusation No. 6692 shall be
23 deemed to be true, correct and admitted by Respondent Pharmacy when the Board determines
24 whether to grant or deny the application or petition.

25 5. If Respondent should ever apply or reapply for a new license or certification, or
26 petition for reinstatement of a license, by any other health care licensing agency in the State of
27 California, all of the charges and allegations contained in Accusation, No. 6692 shall be deemed
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1 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
2 other proceeding seeking to deny or restrict licensure.

3 6. Reimbursement of Board Costs

4 Respondent further fully understands and agrees if it should ever apply for a new or
5 reinstated license, Respondent Pharmacy and Len Shlain shall be jointly and severally responsible
6 for paying to the Board, pursuant to Business and Professions Code section 125.3, the remaining
7 costs of its investigation and prosecution in the amount of \$10,000.00 prior to the issuance of a
8 new or reinstated license.

9 7. In the event that Respondent Pharmacy is not sold by April 30, 2021, Respondent
10 Pharmacy shall, within ten (10) days of the stayed effective date of the Board's order, arrange for
11 the destruction of, the transfer to, sale of or storage in a facility licensed by the Board of all
12 controlled substances and dangerous drugs and devices. Respondent Pharmacy shall further
13 provide written proof of such disposition and submit a completed Discontinuance of Business
14 form according to Board guidelines.

15 Respondent Pharmacy owner shall also, by the effective date of this decision, arrange for
16 the continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written
17 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that
18 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating
19 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five
20 days of its provision to the pharmacy's ongoing patients, Respondent Pharmacy owner shall
21 provide a copy of the written notice to the Board. For the purposes of this provision, "ongoing
22 patients" means those patients for whom the pharmacy has on file a prescription with one or more
23 refills outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty
24 (60) days.

25 8. Respondent Pharmacy may not apply, reapply, or petition for any Board-issued
26 licensure or registration for three (3) years from the effective date of the Decision and Order.

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ACCEPTANCE

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

DATED: _____
MONTEBELLO PHARMACY INC., LEN SHLAIN
Respondent

I have read and fully discussed with Respondent Montebello Pharmacy Inc., Len Shlain the terms and conditions and other matters contained in the above Stipulated Surrender of License and Order. I approve its form and content.

DATED: _____
NOAH E. JUSSIM, ESQ.
Attorney for Respondent

ENDORSEMENT

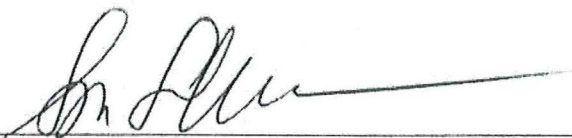
The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: _____	Respectfully submitted,
	XAVIER BECERRA
	Attorney General of California
	LINDA L. SUN
	Supervising Deputy Attorney General
	KEVIN J. RIGLEY
	Deputy Attorney General
	<i>Attorneys for Complainant</i>

1 ACCEPTANCE

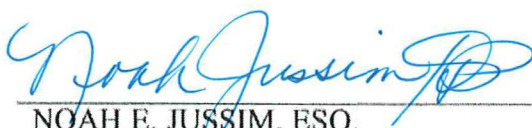
2 I have carefully read the above Stipulated Surrender of License and Order and have fully
3 discussed it with my attorney, Noah E. Jussim, Esq. I understand the stipulation and the effect it
4 will have on my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 Board of Pharmacy.

7
8 DATED: 11/19/2020


9 MONTEBELLO PHARMACY INC., LEN SHLAIN
Respondent

10
11 I have read and fully discussed with Respondent Montebello Pharmacy Inc., Len Shlain the
12 terms and conditions and other matters contained in the above Stipulated Surrender of License
13 and Order. I approve its form and content.

14
15 DATED: 11/19/2020


16 NOAH E. JUSSIM, ESQ.
Attorney for Respondent

17
18 ENDORSEMENT

19 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
20 for consideration by the Board of Pharmacy.

21 DATED: November 16, 2020

Respectfully submitted,

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

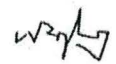
25 
26 KEVIN J. RIGLEY
27 Deputy Attorney General
28 Attorneys for Complainant

Exhibit A

Accusation No. 6692

1 XAVIER BECERRA
Attorney General of California
2 DAVID BRICE
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

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

12
13 In the Matter of the Accusation Against:

Case No. 6692

14 **MONTEBELLO PHARMACY INC.,**
LEN SHLAIN
15 **CEO AND PRESIDENT**
16 **MIKHAIL GOLDENSHTEIN,**
TREASURER AND CFO
17 **DMITRY NABEDRIK**
50 PERCENT SHAREHOLDER
18 **ALEILI BANTEGUI CENTENO, PIC**
817 W. Whittier Boulevard
19 **Montebello, CA 90640**

A C C U S A T I O N

20 **Pharmacy Permit No. PHY 41430,**

21 **and**

22 **ALEILI BANTEGUI CENTENO**
23 **817 W. Whittier Boulevard**
24 **Montebello, CA 90640**

25 **Pharmacist License No. RPH 48641**

26 Respondents.

27 Complainant alleges:
28

1 **PARTIES**

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

5 **Pharmacy Permit**

6 2. On or about November 26, 1996, the Board issued Pharmacy Permit Number PHY
7 41430 to Montebello Pharmacy Inc., with Len Shlain, as its President and CEO, Mikhail
8 Goldenshtein as its Treasurer and CFO and Dmitry Nabedrick as a 50 percent shareholder. On or
9 about September 14, 2018, Aleili Bantegui Centeno was the Pharmacist-in-Charge. On or about
10 September 17, 2018, Christine N. Eskandar became the Pharmacist-in-Charge. The Pharmacy
11 Permit was in full force and effect at all times relevant to the charges brought herein and will
12 expire on November 1, 2019, unless renewed.

13 **Pharmacist License**

14 3. On or about March 20, 1996, the Board issued Pharmacist License Number RPH
15 48641 to Aleili Bantegui Centeno (Respondent Centeno). The Pharmacist License was in full
16 force and effect at all times relevant to the charges brought herein and will expire on April 30,
17 2020, unless renewed.

18 **JURISDICTION**

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

21 5. Section 4300 of the Code states, in pertinent part:

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

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

25 (1) Suspending judgment.

26 (2) Placing him or her upon probation.

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

28 (4) Revoking his or her license.

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

6. Section 4300.1 of the Code states:

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

STATUTORY PROVISIONS

7. 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 or whose license has been issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

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

(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.

(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

(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 regulatory agency.

8. Section 4022 of the Code states, in pertinent part:

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

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

...

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

9. Section 4076 of the Code states:

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

(1) Except when the prescriber or the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1 4052.2, or 4052.6 orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

(2) The directions for the use of the drug.

(3) The name of the patient or patients.

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3052.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(5) The date of issue.

(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

(7) The strength of the drug or drugs dispensed.

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

(9) The expiration date of the effectiveness of the drug dispensed.

(10) The condition or purpose for which the drug was prescribed if the condition or purpose is indicated on the prescription.

(11)(A) Commencing January 1, 2006, the physical description of the dispensed medication, including its color, shape, and any identification code that appears on the tablets or capsules, except as follows:

(i) Prescriptions dispensed by a veterinarian.

(ii) An exemption from the requirements of this paragraph shall be granted to a new drug for the first 120 days that the drug is on the market and for the 90 days during which the national reference file has no description on file.

(iii) Dispensed medications for which no physical description exists in any commercially available database.

(B) This paragraph applies to outpatient pharmacies only.

(C) The information required by this paragraph may be printed on an auxiliary label

that is affixed to the prescription container.

(D) This paragraph shall not become operative if the board, prior to January 1, 2006, adopt regulations that mandate the same labeling requirements set forth in this paragraph.

(b) If a pharmacist dispenses a prescribed drug by means of a unit dose medication system, as defined by administrative regulation, for a patient in a skilled nursing, intermediate care, or other health care facility, the requirements of this section will be satisfied if the unit dose medication system contains the aforementioned information or the information is otherwise readily available at the time of drug administration.

(c) If a pharmacist dispenses a dangerous drug or device in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include on individual unit dose containers for a specific patient, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(d) If a pharmacist dispenses a prescription drug for use in a facility licensed pursuant to Section 1250 of the Health and Safety Code, it is not necessary to include the information required in paragraph (11) of subdivision (a) when the prescription drug is administered to a patient by a person licensed under the Medical Practice Act (Chapter 5 (commencing with Section 2000)), the Nursing Practice Act (Chapter 6 (commencing with Section 2700)), or the Vocational Nursing Practice Act (Chapter 6.5 (commencing with Section 2840)), who is acting within his or her scope of practice.

(e) A pharmacist shall use professional judgement to provide a patient with directions for use that enhance the patients understanding of those directions, consistent with the prescribers instruction

10. 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 manufacturer, wholesaler, pharmacy,...who maintains a stock of dangerous drugs or dangerous devices.

(b) The owner, officer, and partner of any pharmacy...shall be jointly responsible, with the pharmacist-in-charge or representative-in-charge, for maintaining the records and inventory described in this section.

11. Section 4113 states, in pertinent part:

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

...

(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.

...

12. Section 4342 states:

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

(b) Any knowing or willful violation of any regulation adopted pursuant to Section 4006 shall be subject to punishment in the same manner as is provided in Section 4321 and 4336.

13. Section 4169 states in pertinent part:

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

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

14. Section 111335 of the Health and Safety Code states:

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

REGULATORY PROVISIONS

15. California Code of Regulations Section 1718 provides:

"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 4332.

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

16. California Code of Regulations Section 1776 provides:

Pharmacies, hospitals/clinics with onsite pharmacies, distributors and reverse distributors licensed by the board may offer, under the requirements in this article, specified prescription drug take-back services through collection receptacles and/or mail back envelopes or packages to provide options for the public to discard unwanted, unused or outdated prescription drugs. Each entity must comply with regulations of the federal Drug Enforcement Administration (DEA) and this article. Only California-licensed pharmacies, hospitals/clinics with onsite pharmacies, and

drug distributors (licensed wholesalers and third-party logistics providers) who are

1 registered with the DEA as collectors and licensed in good standing with the board
2 may host a pharmaceutical take-back receptacle as authorized under this article.

3 17. California Code of Regulations Section 1793.7 (c) provides:

4 (c) A pharmacy technician must wear identification clearly identifying him or her as a
5 pharmacy technician.

6 **DRUGS**

7 18. “Abilify” is a brand name for Aripiprazole and is a dangerous drug within the
8 meaning of Business and Professions Code section 4022.

9 19. “Latuda” is a brand name for Lurasidone and is a dangerous drug within the meaning
10 of Business and Professions Code section 4022.

11 20. “Risperdal” is a brand name for Risperidone and is a dangerous drug within the
12 meaning of Business and Professions Code section 4022.

13 21. “Zyprexa” is a brand name for Olanzapine and is a dangerous drug within the
14 meaning of Business and Professions Code section 4022.

15 22. “Pepcid” is a brand name for Famotidine and is a dangerous drug within the meaning
16 of Business and Professions Code section 4022.

17 23. “Vistaril” is a brand name for Hydroxyzine and is a dangerous drug within the
18 meaning of Business and Professions Code section 4022.

19 24. “Zestril” is a brand name for Lisinopril and is a dangerous drug within the meaning of
20 Business and Professions Code section 4022.

21 25. “TriCor” is a brand name for Fenofibrate and is a dangerous drug within the meaning
22 of Business and Professions Code section 4022.

23 **COST RECOVERY**

24 26. Section 125.3 of the Code states, in pertinent part, that the Board may request the
25 administrative law judge to direct a licensee found to have committed a violation or violations of
26
27
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1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **BACKGROUND**

4 27. On or about January 9, 2018, Board Inspector K. conducted a routine on-site
5 inspection at Montebello Pharmacy located at 817 W. Whittier Boulevard, Montebello,
6 California. The inspection was conducted in conjunction with the Department of Health Care
7 Services Investigation Unit. Montebello Pharmacy services approximately 30-35 board care
8 facilities with about 300 to 350 total beds. The pharmacy is not open to the public. The staff at
9 Montebello Pharmacy uses stock bottles to fill bubble cards with the patient prescriptions.

10 During the inspection, Inspector K. and Y. discovered stock bottles which were overfilled
11 and unlabeled amber vials. The staff at Montebello pharmacy reported that when a patient's
12 prescription orders were changed or discontinued they were returned to the pharmacy. The full
13 bubble cards were punched out and placed back into the manufacturer's stock bottle, and the
14 partial bubble cards that were returned were punched out and placed in a bag for destruction.
15 Following the inspection, Inspector K. performed an audit of the following four drugs: Abilify 15
16 mg, Abilify 30 mg, Latuda 80 mg, and Olanzapine ODT 10 mg.

17 **RESPONDENT MONTEBELLO PHARMACY**

18 **FIRST CAUSE FOR DISCIPLINE** 19 **(Records Maintenance)**

20 28. Respondent Montebello Pharmacy is subject to disciplinary action under Code section
21 4081 (a) and (b), in conjunction with title 16, California Code of Regulations, section 1718, by
22 and through 4301 (o), for failure to maintain accurate records of acquisition and disposition for
23 the period of January 1, 2017 to January 9, 2018. The circumstances are as follows:

24 29. Inspector K. performed an audit of acquisition and disposition for the period of
25 January 1, 2017 to January 9, 2018, and discovered that there was an inventory overage for
26 Abilify 15 mg and Abilify 30 mg. The audit also uncovered a shortage of Latuda 80 mg and
27 Olanzapine ODT 10 mg.

**SECOND CAUSE FOR DISCIPLINE
(Misbranded drugs)**

30. Respondent Montebello Pharmacy is subject to disciplinary action under Code section 4342 in conjunction with Code section 4169(a)(3) , by and through 4301 (o), for misbranded drugs in that they maintained drugs in the pharmacy stock which were misbranded. The circumstances are as follows:

31. On or about January 9, 2018, Inspector K. and Y. discovered six amber vials in the stock shelf which contained prescription medications and which were not labelled with an expiration date.

32. The pharmacy staff punched out returned bubble cards for re-dispensing resulting in misbranded drugs. The following medication stock bottles were overfilled and therefore did not properly identify the prescription medication expiration dates:

Drug	Manufacturer's bottle count	Actual count in stock bottle
Olanzapine 2.5 mg	30	180
Olanzapine 5 mg	30	55
Olanzapine 10 mg	30	232
Olanzapine 15 mg	30	131
Olanzapine 20 mg	30	283
Risperidone	500	524

**THIRD CAUSE FOR DISCIPLINE
(Improper Labelling-Expiration Date)**

33. Respondent Montebello Pharmacy is subject to disciplinary action under section 4076 (a) , by and through Code section 4301 (o), of the Code in that during the inspection on January 9, 2018, Inspector Y. found bubble cards labelled with expiration dates beyond the actual expiration dose of the medication. The following bubble cards were found with improperly labeled expiration dates:

RX Number	Drug name	Date filled	Exp. Date on the label	Stock bottle Exp. Date
328518	Hydroxyzine 25 mg	01/08/2018	Jan 2019	05/2018
329267	Olanzapine 20 mg	01/08/2018	Jan 2019	12/2018
328509	Famotidine 20 mg	01/08/2018	Jan 2019	04/2018
328506	Lisinopril 10 mg	01/08/2018	Jan 2019	05/2018
329190	Fenofibrate 54 mg	01/04/2018	Jan 2019	10/2018

FOURTH CAUSE FOR DISCIPLINE
(Failure to Meet Take Back Services Regulations)

34. Respondent Montebello Pharmacy is subject to disciplinary action pursuant to title 16, California Code of Regulations, section 1776, , by and through Code section 4301 (o), in that Montebello Pharmacy accepted returned dispensed prescription bubble cards from the board and care facilities they serviced without meeting the requirements for take back services. Specifically Respondent Montebello was not registered with the DEA and did not have an appropriate receptacle for the returned medications.

FIFTH CAUSE FOR DISCIPLINE
(Name Tag Missing on the Pharmacy Technician)

35. Respondent Montebello Pharmacy is subject to disciplinary action pursuant to section 1793.7, subdivision (c) of the California Code of Regulations, , by and through Code section 4301 (o), in that during the inspection on January 2018, the Board Inspector found a technician working at the pharmacy who did not have a name tag identifying herself as a pharmacy technician in violation of section 1793.7, subdivision (c) of the California Code of Regulations.

RESPONDENT CENTENO

SIXTH CAUSE FOR DISCIPLINE
(Records Maintenance)

36. Under Code section 4113, the pharmacist-in-charge is responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy. Respondent Centeno, the Pharmacist-in-Charge of Respondent Montebello Pharmacy, is subject to disciplinary action under Code section 4081 (a) and (b), in conjunction with title 16 , California Code of Regulations, section 1718, , by and through Code section 4301 (o), for the failure to maintain accurate records of acquisition and disposition for the period of January 1, 2017 to January 9, 2018, as set forth more specifically above in paragraphs 25 and 26, and incorporated herein by reference.

**SEVENTH CAUSE FOR DISCIPLINE
(Misbranded drugs)**

37. Respondent Centeno is subject to disciplinary action under Code section 4342 in conjunction with Code section 4169(a)(3) , by and through Code section 4301 (o), for misbranded drugs in that they maintained drugs in the pharmacy stock which were misbranded, as set forth in paragraphs 28 and 29 above, and which is incorporated herein by reference.

**EIGHTH CAUSE FOR DISCIPLINE
(Improper Labelling-Expiration Date)**

38. Respondent Centeno is subject to disciplinary action under section 4076 (a) , by and through 4301 (o), of the Code in that during the inspection on January 9, 2018, Inspector Y. found bubble cards labelled with expiration dates beyond the actual expiration dose of the medication, as set forth in paragraph 30 above, and which is incorporated herein by reference.

**NINTH CAUSE FOR DISCIPLINE
(Failure to Meet Take Back Services Regulations)**

39. Respondent Centeno is subject to disciplinary action pursuant to title 16, California Code of Regulations, section 1776, , by and through code section 4301 (o), in that during the time Respondent Centeno was the Pharmacist in Charge, Montebello Pharmacy accepted returned dispensed prescription bubble cards from the board and care facilities they serviced without meeting the requirements for take back services. Specifically Respondent Montebello Pharmacy was not registered with the DEA and did not have an appropriate receptacle for the returned medications.

**TENTH CAUSE FOR DISCIPLINE
(Name Tag Missing on the Pharmacy Technician)**

40. Respondent Centeno is subject to disciplinary action pursuant to section 1793.7, subdivision (c) of the California Code of Regulations, by and through Code section 4301 (o), in that when Centeno was the Pharmacist in Charge and during the inspection on January 2018, the

1 Board Inspector found a technician working at the pharmacy who did not have a name tag
2 identifying herself as a pharmacy technician in violation of section 1793.7, subdivision (c) of the
3 California Code of Regulations.

4 **PRAYER**

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

- 7 1. Revoking or suspending Pharmacy Permit Number PHY 41430, issued to Montebello
8 Pharmacy Inc., Len Shlain, Mikhail Goldenshtein, and Dmitry Nabedrick;
9 2. Revoking or suspending Pharmacist License Number RPH 48641, issued to Aleili
10 Bantegui Centeno;
11 3. Ordering Montebello Pharmacy and Aleili Bantegui Centeno to pay the Board of
12 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
13 Business and Professions Code section 125.3; and,
14 4. Taking such other and further action as deemed necessary and proper.
15

16
17
18 DATED: August 1, 2019



19 ANNE SODERGREN
20 Interim Executive Officer
21 Board of Pharmacy
22 Department of Consumer Affairs
23 State of California
24 Complainant

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