

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

In the Matter of the Accusation Against:

**DR. N. VAHEDI PHARMACY, INC., DBA FUSION RX COMPOUNDING
PHARMACY, NAVID VAHEDI,**

Pharmacy Permit No. PHY 49937;

NAVID VAHEDI,

Pharmacist License No. RPH 59537;

and

RIKESH A. PATEL,

Pharmacist License No. RPH 76644;

Respondents

Agency Case No. 6811; OAH No. 2019110940

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Reproval is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on March 26, 2021.

It is so ORDERED on February 24, 2021.

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

XAVIER BECERRA
Attorney General of California
MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General
GILLIAN E. FRIEDMAN
Deputy Attorney General
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Attorneys for Complainant

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

In the Matter of the First Amended
Accusation/Petition to Revoke Probation
Against:

**DR. N. VAHEDI PHARMACY, INC., DBA
FUSION RX COMPOUNDING
PHARMACY, NAVID VAHEDI
2001 Westwood Blvd. Ste. A
Los Angeles, CA 90025**

Pharmacy Permit No. PHY 49937,

**NAVID VAHEDI
2001 Westwood Blvd., Ste. A
Los Angeles, CA 90025**

Pharmacist License No. RPH 59537

and

**RIKESH PATEL, PIC
3640 South Sepulveda Street #350,
Los Angeles, CA 90034**

Pharmacist License No. RPH 76644

Respondents.

Case No. 6811

OAH No. 2019110940

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL AS TO RIKESH PATEL
ONLY**

[Bus. & Prof. Code § 495]

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

3 **PARTIES**

4 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
5 (Board). She brought this action solely in her official capacity and is represented in this matter by
6 Xavier Becerra, Attorney General of the State of California, by Gillian E. Friedman, Deputy
7 Attorney General.

8 2. Respondent Rikesh Patel (Respondent) is represented in this proceeding by attorney
9 Ivan Petrzelka, Pharm.D., J.D., M.B.A., whose address is: 55 Cetus, 1st Floor, Irvine, CA 92618

10 **JURISDICTION**

11 3. On or about August 2, 2017, the Board issued Pharmacist License No. RPH 76644 to
12 Rikesh Patel (Respondent). The Pharmacist License was in full force and effect at all times
13 relevant to the charges brought in First Amended Accusation/Petition to Revoke Probation No.
14 6811, and will expire on July 31, 2021, unless renewed.

15 4. First Amended Accusation/Petition to Revoke Probation No. 6811 was filed before
16 the Board, and is currently pending against Respondent. The First Amended Accusation/Petition
17 to Revoke Probation and all other statutorily required documents were properly served on
18 Respondent on October 31, 2019. Respondent timely filed his Notice of Defense contesting the
19 First Amended Accusation/Petition to Revoke Probation. A copy of First Amended
20 Accusation/Petition to Revoke Probation No. 6811 is attached as exhibit A and incorporated
21 herein by reference.

22 **ADVISEMENT AND WAIVERS**

23 5. Respondent has carefully read, fully discussed with counsel, and understands the
24 charges and allegations in Accusation/Petition to Revoke Probation No. 6811. Respondent has
25 also carefully read, fully discussed with counsel, and understands the effects of this Stipulated
26 Settlement and Disciplinary Order for Public Repeval.

27 6. Respondent is fully aware of his legal rights in this matter, including the right to a
28 hearing on the charges and allegations in the Accusation/Petition to Revoke Probation; the right

1 to be represented by counsel at his own expense; the right to confront and cross-examine the
2 witnesses against him; the right to present evidence and to testify on his own behalf; the right to
3 the issuance of subpoenas to compel the attendance of witnesses and the production of
4 documents; the right to reconsideration and court review of an adverse decision; and all other
5 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

8 **CULPABILITY**

9 1. Respondent understands and agrees that the charges and allegations in First
10 Amended Accusation/Petition to Revoke Probation No. 6811, if proven at a hearing, constitute
11 cause for imposing discipline upon his Pharmacist License

12 2. For the purpose of resolving the First Amended Accusation/Petition to Revoke
13 Probation without the expense and uncertainty of further proceedings, Respondent agrees that, at
14 a hearing, Complainant could establish a factual basis for the charges in the First Amended
15 Accusation/Petition to Revoke Probation, and that Respondent hereby gives up his right to contest
16 those charges.

17 3. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
18 to be bound by the Disciplinary Order below.

19 **CONTINGENCY**

20 8. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
21 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
22 communicate directly with the Board regarding this stipulation and settlement, without notice to
23 or participation by Respondent or his counsel. By signing the stipulation, Respondent
24 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
25 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
26 as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Repeval
27 shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
28

1 between the parties, and the Board shall not be disqualified from further action by having
2 considered this matter.

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

6 10. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by
7 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
8 of their agreement. It supersedes any and all prior or contemporaneous agreements,
9 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
10 Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified,
11 supplemented, or otherwise changed except by a writing executed by an authorized representative
12 of each of the parties.

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

16 **DISCIPLINARY ORDER**

17 IT IS HEREBY ORDERED that Pharmacist License No. RPH 76644 issued to Respondent
18 Rikesh Patel (Respondent) shall be publicly reproved by the Board of Pharmacy under Business
19 and Professions Code section 495 in resolution of First Amended Accusation/Petition to Revoke
20 Probation No. 6811, attached as exhibit A.

21 **1. Coursework.** No later than two years from the effective date of the public reproval,
22 Respondent, at his own expense, approved in advance by the board or its designee, shall enroll,
23 successfully complete and submit verification of thirty (30) hours of remedial education in both
24 sterile and regular compounding. At least 50% of those hours must be via live webinar/in-person
25 training. All remedial education shall be in addition to, and shall not be credited toward,
26 continuing education (CE) courses used for license renewal purposes for pharmacists.
27 Respondent shall submit to the Board the original transcripts or certificates of completion for the
28 above-required course(s).

1 **2. Ethics Course.** No later than two years from the effective date of the public
2 reproof, Respondent, at his own expense, shall enroll, successfully complete and submit
3 verification of a course in ethics, at respondent's expense, approved in advance by the board or
4 its designee that complies with Title 16 California Code of Regulations section 1773.5.

5 Respondent shall provide proof of enrollment upon request. Respondent shall submit to the
6 Board the original transcripts or certificates of completion for the above-required course(s).

7 **3. Cost Recovery.** No later than one (1) year from the effective date of the Decision,
8 Respondent shall pay \$1,500 to the Board for its costs associated with the investigation and
9 enforcement of this matter pursuant to Business and Professions Code Section 125.3. If
10 Respondent fails to pay the Board costs as ordered, Respondent shall not be allowed to renew his
11 Pharmacist License until Respondent pays costs in full. In addition, the Board may enforce this
12 order for payment of its costs in any appropriate court, in addition to any other rights the Board
13 may have.

14 **4. No Ownership or Management of Licensed Premises.** For the period of three (3)
15 years from the effective date of the public reproof, Respondent shall not own, have any legal or
16 beneficial interest in, nor serve as a manager, administrator, member, officer, director, trustee,
17 associate, or partner of any business, firm, partnership, or corporation currently or hereinafter
18 licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any
19 entity licensed by the board within ninety (90) days following the effective date of this decision
20 and shall immediately thereafter provide written proof thereof to the board. Failure to timely
21 divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a
22 violation of this agreement.

23 **5. Full Compliance.** As a resolution of the charges in the First Amended
24 Accusation/Petition to Revoke Probation No. 6811, this stipulated settlement is contingent upon
25 Respondent's full compliance with all conditions of this Order. If Respondent fails to satisfy any
26 of these conditions, such failure to comply constitutes cause for discipline, including outright
27 revocation, of Respondent's Pharmacist License No. RPH 76644.

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DATED: _____

RIKESH PATEL
Respondent

DATED: _____

IVAN PETRZELKA, ESQ.
Attorney for Respondent

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

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General

GILLIAN E. FRIEDMAN
Deputy Attorney General
Attorneys for Complainant

1 ACCEPTANCE


2 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
3 Reprimand and have fully discussed it with my attorney, Ivan Petrzeka, Esq.. I understand the
4 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated
5 Settlement and Disciplinary Order for Public Reprimand voluntarily, knowingly, and intelligently,
6 and agree to be bound by the Decision and Order of the Board of Pharmacy.

7
8 DATED: 1/4/2021


9 RIKESH PATEL
Respondent

10 I have read and fully discussed with Respondent Rikesh Patel the terms and conditions and
11 other matters contained in the above Stipulated Settlement and Disciplinary Order for Public
12 Reprimand. I approve its form and content.

13
14 DATED: 1/7/2021


15 IVAN PETRZELKA, ESQ.
Attorney for Respondent

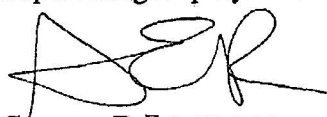
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17 ENDORSEMENT

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

21 DATED: January 8, 2021

Respectfully submitted,

22 XAVIER BECERRA
23 Attorney General of California
24 MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General


25
26 GILLIAN E. FRIEDMAN
27 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation/Petition to Revoke Probation No. 6811

1 XAVIER BECERRA
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
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4 State Bar No. 169207
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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 First Amended
Accusation/Petition to Revoke Probation
13 Against:

14 **DR. N. VAHEDI PHARMACY, INC., DBA**
15 **FUSION RX COMPOUNDING**
16 **PHARMACY, NAVID VAHEDI**
2001 Westwood Blvd. Ste. A
Los Angeles, CA 90025

17 **Pharmacy Permit No. PHY 49937,**

18 **NAVID VAHEDI**
19 **2001 Westwood Blvd., Ste. A**
Los Angeles, CA 90025

20 **Pharmacist License No. RPH 59537**

21 **and**

22 **RIKESH PATEL, PIC**
23 **3640 South Sepulveda Street #350,**
24 **Los Angeles, CA 90034**

25 **Pharmacist License No. RPH 76644**

26 Respondents.
27
28

Case No. 6811

**FIRST AMENDED ACCUSATION/
PETITION TO REVOKE PROBATION**

1 **PARTIES**

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

4 **Respondent Fusion Rx Pharmacy**

5 2. On or about June 9, 2009, the Board of Pharmacy issued Pharmacy Permit Number
6 PHY 49937 to Dr. N. Vahedi Pharmacy, Inc., dba Fusion Rx Compounding Pharmacy, Navid
7 Vahedi with Navid Vahedi as the President and Pharmacist in Charge (Respondent Fusion Rx
8 Pharmacy). The Pharmacy Permit was in full force and effect at all times relevant to the charges
9 brought herein and will expire on June 1, 2020, unless renewed.

10 **Respondent Vahedi**

11 3. On or about May 3, 2007, the Board of Pharmacy issued Pharmacist License Number
12 RPH 59537 to Navid Vahedi (Respondent Vahedi). The Pharmacist License was in full force and
13 effect at all times relevant to the charges brought herein and will expire on May 31, 2021¹, unless
14 renewed.

15 **Respondent Patel**

16 4. On or about August 2, 2017, the Board of Pharmacy issued Pharmacist License
17 Number RPH 76644 to Rikesh Patel (Respondent PIC Patel). On January 30, 2019, Respondent
18 Patel became Pharmacist in Charge of Respondent Fusion Rx Pharmacy. The Pharmacist License
19 was in full force and effect at all times relevant to the charges brought herein and will expire on
20 July 31, 2021, unless renewed.

21 **Unlicensed Entity Fusion IV Pharmaceuticals DBA Axia Pharmaceutical**

22 5. On or about October 15, 2015, the Board of Pharmacy issued a pharmacy permit to
23 the predecessor entity for Fusion IV Pharmaceuticals DBA Axia Pharmaceutical (Fusion IV) with
24 Navid Vahedi as the CEO, 100% shareholder. Fusion IV was also issued a Sterile Compounding
25 License on February 4, 2016. Pharmacy Permit No. PHY 53726 and Sterile Compounding

26 _____
27 ¹ By the Decision *In the Matter of the Accusation Against: Fusion IV Pharmaceuticals,*
28 *Inc. dba Axia Pharmaceutical and Navid Vahedi*, Case No. 6371 OAH No. 2018101123, effective
October 25, 2019, Pharmacist License No. RPH 59537 issued to Navid Vahedi is revoked.

License No. LSC 100855 were canceled at Fusion IV's request on April 1, 2018². On August 9, 2017 the Board received an application from Fusion IV for an instate outsourcing facility license listing Respondent Vahedi as its president, director and 100 percent owner. The instate outsourcing facility license was denied. Respondent Vahedi appealed the denial and, following an administrative hearing, the denial was upheld³.

PRIOR DISCIPLINE

Probation of Fusion Rx Pharmacy and Vahedi

6. In a prior disciplinary action entitled *In the Matter of the Accusation against Dr. N. Vahedi Pharmacy Inc. dba Fusion Rx Compounding Pharmacy and Navid Vahdi*, Case No. 5899 and OAH No. 2017040451, the Board of Pharmacy issued a Decision and Order effective on or about January 2, 2018 wherein the permit and license of Respondents Fusion Rx Pharmacy and Vahedi, were each placed on a four (4) year probation, with terms and conditions which included a thirty (30) day suspension. A copy of that decision is attached as Exhibit A and is incorporated by reference.

JURISDICTION

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

8. Section 4073 of the Code states in pertinent part:

“(a) A pharmacist filling a prescription order for a drug product prescribed by its trade or brand name may select another drug product with the same active chemical ingredients of the same strength, quantity, and dosage form, and of the same generic drug name as determined by

² On or about September 25, 2019, *In the Matter of the Accusation Against: Fusion IV Pharmaceuticals, Inc. dba Axia Pharmaceutical and Navid Vahedi*, Case No. 6371 and OAH No. 2018101123, the Board issued a Decision and Order adopting the Proposed Decision wherein Permit No. PHY 53726 and Sterile Compounding License No. LSC 100855 issued to Fusion IV Pharmaceuticals, Inc. dba Axia Pharmaceutical was revoked effective October 25, 2019.

³ In the action entitled *In the Matter of the Statement of Issues Against: Fusion IV Pharmaceuticals Inc. Db a Axia Pharmaceuticals, Navid Vahedi, Owner*, Case No. 6270 OAH No. 2018060309, the Board issued a Decision and Order effective on or about February 14, 2019, wherein the denial of Fusion IV's application for licensure as an instate outsourcing facility was upheld and affirmed by the Decision and Order, following an administrative hearing. Fusion IV is not currently licensed by the Board.

1 the United States Adopted Names (USAN) and accepted by the federal Food and Drug
2 Administration (FDA), of those drug products having the same active chemical ingredients.

3

4 9. Section 4169 of the Code states in pertinent part:

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

6 “(1) Purchase, trade, sell, warehouse, distribute, or transfer dangerous drugs or dangerous
7 devices at wholesale with a person or entity that is not licensed with the board as a wholesaler,
8 third-party logistics provider, or pharmacy.

9

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

13

14 10. Section 4301 of the Code states:

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

18

19 “(c) Gross Negligence.

20

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

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

26

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

1 ...

2 **HEALTH AND SAFETY CODE**

3 11. Section 11162.1 of the Health and Safety Code states in pertinent part:

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

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

9 ...

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

13 12. Section 11164 of the Health and Safety Code states in pertinent part:

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

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

20 (1) The prescription shall be signed and dated by the prescriber in ink and shall contain the
21 prescriber's address and telephone number; the name of the ultimate user or research subject, or
22 contact information as determined by the Secretary of the United States Department of Health and
23 Human Services; refill information, such as the number of refills ordered and whether the
24 prescription is a first-time request or a refill; and the name, quantity, strength, and directions for
25 use of the controlled substance prescribed.

26

27 (b) (1) Notwithstanding paragraph (1) of subdivision (a) of Section 11162.1, any controlled
28 substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically

1 transmitted prescription, which shall be produced in hard copy form and signed and dated by the
2 pharmacist filling the prescription or by any other person expressly authorized by provisions of
3 the Business and Professions Code. Any person who transmits, maintains, or receives any
4 electronically transmitted prescription shall ensure the security, integrity, authority, and
5 confidentiality of the prescription.

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

11 13. Section 11167 of the Health and Safety Code states:

12 Notwithstanding subdivision (a) of Section 11164, in an emergency where failure to issue a
13 prescription may result in loss of life or intense suffering, an order for a controlled substance may
14 be dispensed on an oral order, an electronic data transmission order, or a written order not made
15 on a controlled substance form as specified in Section 11162.1, subject to all of the following
16 requirements:

17 (a) The order contains all information required by subdivision (a) of Section 11164.

18 (b) Any written order is signed and dated by the prescriber in ink, and the pharmacy
19 reduces any oral or electronic data transmission order to hard copy form prior to dispensing the
20 controlled substance.

21 (c) The prescriber provides a written prescription on a controlled substance prescription
22 form that meets the requirements of Section 11162.1, by the seventh day following the
23 transmission of the initial order; a postmark by the seventh day following transmission of the
24 initial order shall constitute compliance.

25 (d) If the prescriber fails to comply with subdivision (c), the pharmacy shall so notify the
26 Department of Justice in writing within 144 hours of the prescriber's failure to do so and shall
27 make and retain a hard copy, readily retrievable record of the prescription, including the date and
28 method of notification of the Department of Justice.

(e) This section shall become operative on January 1, 2005.

14. Section 111425 of the Health and Safety Code states:

“A drug or device is misbranded if it was manufactured in this state in an establishment not duly licensed as provided in this part.”

15. Section 111440 of the Health and Safety Code states:

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

REGULATIONS

16. 16 California Code of Regulations Section 1707.5 states:

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

(1) Each of the following items, and only these four items, shall be clustered into one area of the label that comprises at least 50 percent of the label. Each item shall be printed in at least a 12-point sans serif typeface, and listed in the following order:

(A) Name of the patient

(B) Name of the drug and strength of the drug. For the purposes of this section, "name of the drug" means either the manufacturer's trade name of the drug, or the generic name and the statement "generic for _____" where the brand name is inserted and the name of the manufacturer. In the professional judgment of the pharmacist:

(i) If the brand name is no longer widely used, the label may list only the generic name of the drug, and

(ii) The manufacturer's name may be listed outside of the patient-centered area.

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

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

(2) For added emphasis, the label shall also highlight in bold typeface or color, or use blank space to set off the items listed in subdivision (a)(1).

1 (3) The remaining required elements for the label specified in section 4076 of the Business
2 and Professions Code, as well as any other items of information appearing on the label or the
3 container, shall be printed so as not to interfere with the legibility or emphasis of the primary
4 elements specified in paragraph (1) of subdivision (a). These additional elements may appear in
5 any style, font, and size typeface.

6 (4) When applicable, directions for use shall use one of the following phrases:

7 (A) Take 1 [insert appropriate dosage form] at bedtime

8 (B) Take 2 [insert appropriate dosage form] at bedtime

9 (C) Take 3 [insert appropriate dosage form] at bedtime

10 (D) Take 1 [insert appropriate dosage form] in the morning

11 (E) Take 2 [insert appropriate dosage form] in the morning

12 (F) Take 3 [insert appropriate dosage form] in the morning

13 (G) Take 1 [insert appropriate dosage form] in the morning, and

14 Take 1 [insert appropriate dosage form] at bedtime

15 (H) Take 2 [insert appropriate dosage form] in the morning, and

16 Take 2 [insert appropriate dosage form] at bedtime

17 (I) Take 3 [insert appropriate dosage form] in the morning, and

18 Take 3 [insert appropriate dosage form] at bedtime

19 (J) Take 1 [insert appropriate dosage form] in the morning, 1 [insert appropriate dosage
20 form] at noon, and 1 [insert appropriate dosage form] in the evening

21 (K) Take 2 [insert appropriate dosage form] in the morning, 2 [insert appropriate dosage
22 form] at noon, and 2 [insert appropriate dosage form] in the evening

23 (L) Take 3 [insert appropriate dosage form] in the morning, 3 [insert appropriate dosage
24 form] at noon, and 3 [insert appropriate dosage form] in the evening

25 (M) Take 1 [insert appropriate dosage form] in the morning, 1 [insert appropriate dosage
26 form] at noon, 1 [insert appropriate dosage form] in the evening, and 1 [insert appropriate dosage
27 form] at bedtime

1 (N) Take 2 [insert appropriate dosage form] in the morning, 2 [insert appropriate dosage
2 form] at noon, 2 [insert appropriate dosage form] in the evening, and 2 [insert appropriate dosage
3 form] at bedtime

4 (O) Take 3 [insert appropriate dosage form] in the morning, 3 [insert appropriate dosage
5 form] at noon, 3 [insert appropriate dosage form] in the evening, and 3 [insert appropriate dosage
6 form] at bedtime

7 (P) If you have pain, take ____ [insert appropriate dosage form] at a time. Wait at least ____
8 hours before taking again. Do not take more than ____ [appropriate dosage form] in one day

9 (b) By October 2011, and updated as necessary, the board shall publish on its Web site
10 translation of the directions for use listed in subdivision (a)(4) into at least five languages other
11 than English, to facilitate the use thereof by California pharmacies.

12 (c) The board shall collect and publish on its Web site examples of labels conforming to
13 these requirements, to aid pharmacies in label design and compliance.

14 (d) The pharmacy shall have policies and procedures in place to help patients with limited
15 or no English proficiency understand the information on the label as specified in subdivision (a)
16 in the patient's language. The pharmacy's policies and procedures shall be specified in writing and
17 shall include, at minimum, the selected means to identify the patient's language and to provide
18 interpretive services and translation services in the patient's language. The pharmacy shall, at
19 minimum, provide interpretive services in the patient's language, if interpretive services in such
20 language are available, during all hours that the pharmacy is open, either in person by pharmacy
21 staff or by use of a third-party interpretive service available by telephone at or adjacent to the
22 pharmacy counter.

23 (e) As used in this section, "appropriate dosage form" includes pill, caplet, capsule or
24 tablet."

25 17. 16 California Code of Regulations Section 1714 states in pertinent part:

26

27 "(d) Each pharmacist while on duty shall be responsible for the security of the prescription
28 department, including provisions for effective control against theft or diversion of dangerous

1 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy
2 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.”

3

4 18. 16 California Code of Regulations Section 1716 states:

5 Pharmacists shall not deviate from the requirements of a prescription except upon the prior
6 consent of the prescriber or to select the drug product in accordance with Section 4073 of the
7 Business and Professions Code.

8 Nothing in this regulation is intended to prohibit a pharmacist from exercising commonly-
9 accepted pharmaceutical practice in the compounding or dispensing of a prescription.

10 19. 16 California Code of Regulations Section 1761 states:

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

15 (b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense
16 a controlled substance prescription where the pharmacist knows or has objective reason to know
17 that said prescription was not issued for a legitimate medical purpose.

18 20. 16 California Code of Regulations Section 1774 states in pertinent part:

19 “(a) Unless otherwise directed by the Board, any pharmacy permit which is on probation to
20 the Board shall be subject to the following conditions:

21 (1) Obey all laws and regulations substantially related to the practice of pharmacy;”

22

23 21. 16 California Code of Regulations Section 1717.3 states:

24 “(a) No person shall dispense a controlled substance pursuant to a preprinted multiple
25 check-off prescription blank.

26 (b) A person may dispense a dangerous drug, that is not a controlled substance, pursuant to
27 a preprinted multiple checkoff prescription blank and may dispense more than one dangerous
28

1 drug, that is not a controlled substance, pursuant to such a blank if the prescriber has indicated on
2 the blank the number of dangerous drugs he or she has prescribed.

3 (c) "Preprinted multiple checkoff prescription blank," as used in this section means any
4 form listing more than one dangerous drug where the intent is that a mark next to the name of a
5 drug i.e., a "checkoff," indicates a prescription order for that drug."

6 **COST RECOVERY**

7 22. Section 125.3 of the Code states, in pertinent part, that the Board may request the
8 administrative law judge to direct a licensee found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case.

11 **DRUGS**

12 23. Alprost/Papa/atropi is the generic name and is a dangerous drug pursuant to Business
13 and Professions Code section 4022. It does not have FDA approval. Its indication for use is for
14 erectile dysfunction.

15 24. Ascorbix (ascorbic acid) Vitamin-C is the generic name and is a dangerous drug
16 pursuant to Business and Professions Code section 4022. It does not have FDA approval.

17 25. B-Complex is the generic name and is a dangerous drug pursuant to Business and
18 Professions Code section 4022. It does not have FDA approval.

19 26. Calcium Chloride is the generic name and is a dangerous drug pursuant to Business
20 and Professions Code section 4022. It does not have FDA approval.

21 27. Folic Acid is the generic name and is a dangerous drug pursuant to Business and
22 Professions Code section 4022. It does not have FDA approval.

23 28. Glutathione is the generic name and is a dangerous drug pursuant to Business and
24 Professions Code section 4022. It does not have FDA approval.

25 29. Human chorionic gonadotropin (hCG) is the generic name and is a dangerous drug
26 pursuant to Business and Professions Code section 4022. It is a Schedule III controlled substance
27 pursuant to Health and Safety Code section 11056(f)(32). It does not have FDA approval. Its
28 indication for use is in pregnancy.

1 30. Hyaluronidase is the generic name and is a dangerous drug pursuant to Business and
2 Professions Code section 4022. It does not have FDA approval. Its indication for use as
3 compounded is for joint lubrication.

4 31. Hydroxyprogesterone is the generic name and is a dangerous drug pursuant to
5 Business and Professions Code section 4022. It does not have FDA approval. Its indication for
6 use is in pregnancy.

7 32. Methylcobalamin is the generic name and is a dangerous drug pursuant to Business
8 and Professions Code section 4022. It does not have FDA approval.

9 33. MIC- B12 is the generic name and is a dangerous drug pursuant to Business and
10 Professions Code section 4022. It does not have FDA approval.

11 34. MIC-Combo is the generic name and is a dangerous drug pursuant to Business and
12 Professions Code section 4022. It does not have FDA approval. Its indication for use is unclear
13 as its contents are not disclosed.

14 35. Nicotinamide is the generic name and is a dangerous drug pursuant to Business and
15 Professions Code section 4022. It does not have FDA approval.

16 36. Pyridoxine is the generic name and is a dangerous drug pursuant to Business and
17 Professions Code section 4022. It does not have FDA approval.

18 37. Super MIC is the generic name and is a dangerous drug pursuant to Business and
19 Professions Code section 4022. It does not have FDA approval. Its indication for use is unclear
20 as its contents are not disclosed.

21 38. Testosterone is the generic name and is a dangerous drug pursuant to Business and
22 Professions Code section 4022. It is a Schedule III controlled substance pursuant to Health and
23 Safety Code section 11056(f)(30). It does not have FDA approval. Its indication for use is as a
24 testosterone replacement.

25 39. Vitamin D 100,000 is the generic name and is a dangerous drug pursuant to Business
26 and Professions Code section 4022. It does not have FDA approval.

27 ///

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Prohibited Acts: Purchase, Trade, Sell, or Transfer of Misbranded Drugs)

3 40. Respondent Vahedi is subject to disciplinary action under Code section 4169
4 subdivision (a)(3) and Health and Safety Code section 111440 in that from at least June 28, 2019
5 to July 23, 2019, Fusion IV, an unlicensed entity owned by Respondent Vahedi, traded, sold, or
6 transferred at least 580 misbranded dangerous drugs to Respondent Fusion Rx Pharmacy.

7 41. The subject drugs included the following:

- 8 a. Methylcobalamin (2 orders for a total of 90 mls) ,
9 b. hCG (3 orders for a total of 400 mls) ,
10 c. Glutathione (2 orders for a total of 60 mls),
11 d. Hyaluronidase (1 order for 15 mls),
12 e. Super MIC (3 orders for a total of 90 mls),
13 f. Testosterone (4 orders for a total of 6,554 mls),
14 g. Alprost/Papa/atropi (2 orders for a total of 10 mls)
15 h. Hydroxyprogesterone, (2 orders for a total of 36 mls)
16 i. Nicotinamide (1 order for 20 mls)

17 **SECOND CAUSE FOR DISCIPLINE**

18 (Unprofessional Conduct: Knowingly Making or Signing any Certificate or Other Document that
19 Falsely Represents the Existence or Nonexistence of a State of Facts)

20 42. Respondent Vahedi is subject to disciplinary action under section 4301 subdivision
21 (g) in that Respondent knowingly made or signed false documents. The circumstances are that
22 between July 1, 2019 and July 23, 2019, Respondent Vahedi allowed Respondent Fusion Rx
23 Pharmacy to dispense the drugs manufactured by Fusion IV, an unlicensed entity owned by
24 Respondent Vahedi. Respondent Vahedi falsely represented that the drugs were FDA approved
25 when they were not.

26 43. The subject drugs included the following:

- 27 a. Glutathione (2 prescriptions for a total of 60 mls),
28 b. hCG (34 prescriptions for a total of 390 mls,

- c. Hydroxyprogesterone caproate (11 prescriptions for a total of 44 mls)
- d. Methylcobalamin 1mg/ml (2 prescriptions for a total of 60 mls),
- e. Methylcobalamin 10mg/m (3 prescriptions for a total of 120 mls),
- f. Nicotinamide adenine dinucleotide (NAD) (1 prescription for a total of 20 mls),
- g. Quad 40 (2 prescriptions for a total of 22.5 mls),
- h. Super MIC (4 prescriptions for a total of 120 mls),
- i. Testosterone cypionate 200mg/ml (1ml) (10 prescription for a total of 24 mls),
- j. Testosterone cypionate 200mg/ml (10ml) (129 prescriptions for a total of 1,150 mls)
- k. Trimix 10 (20 prescriptions for a total of 117.5 mls).

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Violation of Other States' Regulations)

44. Respondent Vahedi is subject to disciplinary action under Code section 4301 (j) in that he violated the regulations of other states by failing to obtain a license prior to shipping products into their state. These states include, but are not limited to the following:

- a. Alabama (Violation of the Alabama Practice of Pharmacy Act 205 Title 34 Chapter 23 Article 2 Division 1 Section 34-23-32(f)),
- b. Arizona (Violation of Arizona Administrative Code (A.A.C) R4-23-607(A)(1)),
- c. Colorado (Violation of Colorado Rule: 3 CCR 719-13 CCR 719-1 section 15.01.00(1)(b)),
- d. Georgia (Violation of Georgia Rules Chapter 480-7 Rule 480-7-.01(1)),
- e. Florida (Violation of Florida Statute 465.0158(1)),
- f. Illinois (Violation of 225 ILCS 120/Sec. 25),
- g. Louisiana (Violation of Louisiana Revised Code (LRC) 37:3461(B)),
- h. Massachusetts (Violation of M.G.L. C. 112, Section 39J(d)),
- i. Minnesota (Violation of Minnesota Administrative Rules Chapter 6800 Part 6800.1400 Subpart 1),
- j. Nevada (Violation of Nevada Administrative Code (NAC) section 639.6916(2)),

- 1 k. New York (Violation of New York Education Law, Article 137, section 6808-b(1)),
2 l. Oklahoma (Violation of Oklahoma Administrative Code (OAC) Title 535. Chapter 20
3 Subchapter 6. Section 535:20 - 6 - 3(a)),
4 m. Texas (Violation of Texas Administrative Code Title 25 part 1 section 229.424(a))

5 **FOURTH CAUSE FOR DISCIPLINE**

6 (Unlawful Drug Substitution)

7 45. Respondents Fusion Rx Pharmacy, Vahedi as 100% owner and PIC Patel are subject
8 to disciplinary action under Code section 4073 subdivision (a) in that from at least June 22, 2019
9 to July 23, 2019, Respondent Fusion Rx Pharmacy dispensed unapproved new drugs,
10 manufactured by Fusion IV, an unlicensed entity, as generic drug. These drugs included, but are
11 not limited to the following: hCG (34 prescriptions for a total of 390 mls), Hydroxyprogesterone
12 caproate (11 prescriptions for a total of 44 mls, Testosterone cypionate 200mg/ml (1ml) (10
13 prescription for a total of 24 mls) and Testosterone cypionate 200mg/ml (10ml) (78 prescriptions
14 for a total of at least 780 mls).

15 **FIFTH CAUSE FOR DISCIPLINE**

16 (Variation from Prescription)

17 46. Respondents Fusion Rx Pharmacy, Vahedi as 100% owner and PIC Patel are subject
18 to disciplinary action under 16 California Code of Regulations section 1761 subdivision (a) in
19 that on June 28, 2019, prescription number 197036 was written for a Vitamin B-12⁴, injection.
20 Respondents varied from the prescriptions when they dispensed the prescription with misbranded
21 compounded methylcobalamin B12 10mg/ml. There was no documented contact with the
22 prescriber to obtain the information needed to validate the prescription where the prescribed drug
23 varied from the dispensed drug.

24 **SIXTH CAUSE FOR DISCIPLINE**

25 (Failure to Have Compliant Controlled Substances Prescription)

26 47. Respondents Fusion Rx Pharmacy, Vahedi as 100% owner and PIC Patel are subject
27 to disciplinary action under Code section 4301, subdivisions (j) and (o), for dispensing

28 ⁴ Vitamin B-12 is commonly known as cyanocobalamin and is a FDA approved drug.

prescriptions for controlled substances that lacked statutorily required features described in Health and Safety Code Sections 11162.1, 11164, and 11167. The circumstances are as follows:

48. From at least June 22, 2019 to July 23, 2019, Respondent Fusion Rx Pharmacy dispensed 171 prescriptions for controlled substances that were not written on compliant prescriptions. The prescriptions are summarized as follows: hCG (34 prescriptions for a total of 390 mls), Testosterone cypionate 200mg/ml (1ml) (10 prescriptions for a total of 24 mls), and Testosterone cypionate 200mg/ml (10ml) (127 prescriptions for a total of 1,130 mls).

SEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dishonest, Fraudulent and Corrupt Acts)

49. Respondents Fusion Rx Pharmacy, Vahedi as 100% owner and PIC Patel are subject to disciplinary action under section 4301 subdivision (f) in that from at least June 22, 2019 to July 23, 2019, Respondents dispensed at least 218 prescriptions containing unapproved new drugs, manufactured by Fusion IV, an unlicensed entity owned by Respondent Vahedi. The act of dispensing the unapproved drugs was dishonest, fraudulent and corrupt in that prescribers and patients had no means of knowing the products dispensed were not FDA approved and were prepared in an unlicensed facility.

50. The subject drugs are summarized as follows:

- a. Glutathione (2 prescriptions for a total of 60 mls),
- b. hCG (34 prescriptions for a total of 390 mls),
- c. Hydroxyprogesterone caproate (11 prescriptions for a total of 44 mls)
- d. Methylcobalamin 1mg/ml (2 prescriptions for a total of 60 mls),
- e. Methylcobalamin 10mg/m (3 prescriptions for a total of 120 mls),
- f. Nicotinamide adenine dinucleotide (NAD) (1 prescription for a total of 20 mls),
- g. Quad 40 (2 prescriptions for a total of 22.5 mls),
- h. Super MIC (4 prescriptions for a total of 120 mls),
- i. Testosterone cypionate 200mg/ml (1ml) (10 prescription for a total of 24 mls),
- j. Testosterone cypionate 200mg/ml (10ml) (129 prescriptions for a total of 1,150 mls)
- k. Trimix 10 (20 prescriptions for a total of 117.5 mls).

51. As to the prescriptions for hCG and Trimix, Respondents provided patients with patient information handouts that falsely stated “this medication was compounded specifically for you in our pharmacy to fill the prescription your prescriber wrote for you.” However, the statement is dishonest and untrue. Instead, each of the dispensed drugs was compounded by Fusion IV, an unlicensed entity owned by Respondent Vahedi and sold to Respondent Fusion Rx Pharmacy not pursuant to any specific patient prescription.

EIGHTH CAUSE FOR DISCIPLINE

(Prohibited Acts: Purchase or Sale of Drugs from Unlicensed Entity)

52. Respondents Fusion Rx Pharmacy, Vahedi as 100% owner and PIC Patel are subject to disciplinary action under Code section 4169 subdivision (a) in that from June 28, 2019 to July 23, 2019, Respondent Fusion Rx Pharmacy received at least 580 misbranded dangerous drugs from Fusion IV, an unlicensed entity owned by Respondent Vahedi.

53. The subject drugs included the following:

- Methylcobalamin (2 orders for a total of 90 mls),
- hCG (3 orders for a total of 400 mls),
- Glutathione (2 orders for a total of 60 mls),
- Hyaluronidase (1 order for 15 mls),
- Super MIC (3 orders for a total of 90 mls),
- Testosterone (4 orders for a total of 6,554 mls),
- Alprost/Papa/atropi (2 orders for a total of 10 mls)
- Hydroxyprogesterone, (2 orders for a total of 36 mls)
- Nicotinamide (1 order for 20 mls)

NINTH CAUSE FOR DISCIPLINE

(Prohibited Acts: Purchase, Trade, Sell, Transfer of Misbranded Dangerous Drugs)

54. Respondents Fusion Rx Pharmacy, Vahedi as 100% owner and PIC Patel are subject to disciplinary action under Code section 4169 subdivision (a)(3) and Health and Safety Code section 111335 as related to 111440 and 111425 in that from at least June 22, 2019 through July 23, 2019 Respondents engaged in the acts of purchasing, trading, selling, or transferring

misbranded dangerous drugs. Respondents knew or reasonably should have known the following drug were misbranded when Respondent Fusion Rx Pharmacy obtained the drugs from Fusion IV, an unlicensed entity owned by Respondent Vahedi. The dangerous drugs are summarized as follows:

- a. Glutathione (2 prescriptions for a total of 60 mls),
- b. hCG (34 prescriptions for a total of 390 mls),
- c. Hydroxyprogesterone caproate (11 prescriptions for a total of 44 mls)
- d. Methylcobalamin 1mg/ml (2 prescriptions for a total of 60 mls),
- e. Methylcobalamin 10mg/m (3 prescriptions for a total of 120 mls),
- f. Nicotinamide adenine dinucleotide (NAD) (1 prescription for a total of 20 mls),
- g. Quad 40 (2 prescriptions for a total of 22.5 mls),
- h. Super MIC (4 prescriptions for a total of 120 mls),
- i. Testosterone cypionate 200mg/ml (1ml) (10 prescription for a total of 24 mls),
- j. Testosterone cypionate 200mg/ml (10ml) (129 prescriptions for a total of 1,150 mls)
- k. Trimix 10 (20 prescriptions for a total of 117.5 mls).

TENTH CAUSE FOR DISCIPLINE

(Failure to Comply with Labeling Requirement)

55. Respondents Fusion Rx Pharmacy, Vahedi as 100% owner and PIC Patel are subject to disciplinary action under 16 California Code of Regulations section 1707.5 in that Respondent PIC using his professional judgment and Respondent Vahedi, as owner, violated the labeling requirement where Respondent Fusion Rx dispensed drugs where the label did not describe a recognized drug. Specifically, on June 26, 2019, July 9, 2019, July 15, 2019, and July 16, 2019 prescription numbers 1995645, 9003487, 199250, and 199496 (respectively) were dispensed and labeled as "SUPER MIC." The label did not contain a recognized manufacturer's trade name of the drug, nor the generic name and the statement "generic for ____". The label of "Super MIC," is not an FDA approved brand name.

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1 **ELEVENTH CAUSE FOR DISCIPLINE**

2 (Unlawful Dispensing of Controlled Substances:

3 Preprinted Multiple Check-Off Prescription Blank)

4 56. Respondents Fusion Rx Pharmacy, Vahedi as 100% owner and PIC Patel are subject
5 to disciplinary action under 16 California Code of Regulations section 1717.3 subdivision (a) and
6 (c) in that they unlawfully dispensed controlled substances pursuant to a preprinted multiple
7 checkoff prescription blank. The circumstances are as follows:

8 a. Respondent dispensed testosterone cypionate 200mg/ml (1ml), a controlled substance
9 using preprinted multiple checkoff prescription blanks. These multiple check off prescriptions
10 resulted in the following prescription numbers: 199158, 199345, and 199593.

11 b. Respondent dispensed testosterone cypionate 200mg/ml (10ml), a controlled
12 substance using preprinted multiple checkoff prescription blanks. These multiple check off
13 prescriptions resulted in the following prescription numbers: 199172, 199169, 199268, 199281,
14 197469, 199258, 196530, 199647, 199749, 199766, 199822, and 199843.

15 **TWELFTH CAUSE FOR DISCIPLINE**

16 (Ambiguous Prescription)

17 57. Respondents Fusion Rx Pharmacy, Vahedi as 100% owner and PIC Patel are subject
18 to disciplinary action under 16 California Code of Regulations section 1716 in that on June 28,
19 2019, prescription number 197036 was written for B-12 injection, but was dispensed with
20 misbranded compounded methylcobalamin B12 10mg/ml. There was no contact with the
21 prescriber to obtain the information needed to validate the prescription.

22 **THIRTEENTH CAUSE FOR DISCIPLINE**

23 (Operational Standards and Security)

24 58. Respondents Fusion Rx Pharmacy, Vahedi as 100% owner and PIC Patel are subject
25 to disciplinary action under 16 California Code of Regulations section 1714 subdivision (d) in
26 that on September 16, 2019, Respondents failed to comply with operational standards and
27 security for Fusion Rx Pharmacy in that unlicensed employee PR arrived at the pharmacy with a
28 key to the pharmacy on his personal keyring and had knowledge of the security code to unarm the

1 alarm system so that he had full access to the pharmacy, drugs and records. Additionally,
2 Pharmacist Intern GL also had a key to the pharmacy that he kept on his lanyard.

3 **FOURTEENTH CAUSE FOR DISCIPLINE**

4 (Unprofessional Conduct- Gross Negligence)

5 59. Respondent PIC Patel is subject to disciplinary action under Business and Professions
6 Code section 4301 subdivision (c) in that on September 16, 2019, while acting as the PIC for
7 Fusion Rx, Respondent Patel allowed the pharmacy to dispense prescriptions filled with products
8 manufactured by AXIA Pharmaceuticals, which is not licensed as an outsourcing facility by the
9 California State Board of Pharmacy or in any other capacity. PIC Patel allowed prescriptions to
10 be dispensed with products manufactured by AXIA from January 30, 2019 through September 16,
11 2019.

12 **JURISDICTION FOR PETITION TO REVOKE PROBATION**
13 **AGAINST RESPONDENT VAHEDI AND RESPONDENT FUSION RX PHARMACY**

14 60. Code section 4300(d) states:

15 The board may initiate disciplinary proceedings to revoke or suspend any probationary
16 certificate of licensure for any violation of the terms and conditions of probation.

17
18 61. 16 California Code of Regulations Section 1773 states in pertinent part:

19 “(a) Unless otherwise directed by the Board in its sole discretion, any pharmacist who is
20 serving a period of probation shall comply with the following conditions:

21 (1) Obey all laws and regulations substantially related to the practice of Pharmacy;

22 (2) Report to the Board or its designee quarterly either in person or in writing as directed;
23 the report shall include the name and address of the probationer's employer. If the final probation
24 report is not made as directed, the period of probation shall be extended until such time as the
25 final report is made;

26 (3) Submit to peer review if deemed necessary by the Board;

27 (4) Provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed
28 by the Board;

(5) Inform all present and prospective employers of license restrictions and terms of probation. Probationers employed by placement agencies must inform all permittees in whose premises they work of license restrictions and terms of probation.

(6) Not supervise any registered interns nor perform any of the duties of a preceptor;

(7) The period of probation shall not run during such time that the probationer is engaged in the practice of pharmacy in a jurisdiction other than California.”

.....

62. Grounds exist for revoking the probation and reimposing the order of revocation of granted by the Board of Pharmacy in Case No. 5899 as to Pharmacist License Number RPH 59537, issued to Respondent Navid Vahedi and Pharmacy Permit Number PHY 49937 issued to Respondent Fusion Rx Pharmacy. The Board’s disciplinary order effective on February 11, 2018, and July 2, 2018, respectively, contained Probation Conditions 12 and 14, Violation of Probation, which provides as follows:

If respondent [owner] has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation and to impose the penalty that was stayed.

If Respondent [owner] violates probation in any respect, the board, after giving Respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against Respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

63. Respondents have violated the conditions of his/its probation as set forth in the following paragraphs.

FIRST CAUSE TO REVOKE PROBATION

(Failure to Obey All Laws)

64. The Board’s disciplinary order which became effective as to the pharmacist license issued to RPH Vahedi, corporate owner of Fusion Rx Pharmacy on February 11, 2018 and Fusion

Rx Pharmacy on July 2, 2018 contained Probation Condition 1, Obey All Laws, which required Respondents to do the following:

Respondent [owner] shall obey all state and federal laws and regulations.

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

-an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws

-a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment

-a conviction of any crime

-discipline, citation, or other administrative action filed by any state and federal agency which involves Respondent's Pharmacist License or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distribution, billing, or charging for any drug, device or controlled substance.

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

65. Respondents Vahedi and Fusion Rx Pharmacy's probation are subject to revocation because Respondent Vahedi, individually and as owner of Fusion Rx Pharmacy failed to comply with Probation Condition 1, referenced above where he failed to timely notify the Board within seventy-two (72) hours following the September 16, 2019 service of the September 12, 2019 federal criminal indictment.

66. Respondents Vahedi and Fusion Rx Pharmacy's probation are further subject to revocation because Respondent Vahedi, individually and as owner of Fusion Rx Pharmacy failed to obey all laws when he furnished pharmacy keys to unlicensed pharmacy employee PR and pharmacy intern G.L., neither of whom were licensed pharmacists. On or before September 16, 2019, employee PR used the keys to open Fusion Rx Pharmacy. Pharmacy intern G.L. was in possession of pharmacy keys and also had keys to open a cabinet used to store schedule II and schedule III drugs at Fusion Rx Pharmacy.

67. Respondents Vahedi and Fusion Rx Pharmacy's probation are further subject to revocation because Respondent Vahedi, individually and as owner of Fusion Rx Pharmacy and Fusion Rx Pharmacy violated California Code of Regulations section 1774 section (a)(1) where it

engaged in conduct that violated multiple Pharmacy Laws as set forth in the First through Twelfth causes for discipline set forth above. Paragraphs 38-55 are incorporated herein by this reference as through set forth fully herein.

SECOND CAUSE TO REVOKE PROBATION

(Owners and Officers: Knowledge of the Law)

68. The Board's disciplinary order effective on February 11, 2018, as to Respondent Vahedi contained Probation Condition 10: Owners and Officers: Knowledge of the Law, which required Respondent to do the following:

Respondent shall provide, within thirty (30) days after the effective date of this decision, signed and dated statements from its owners, including any owner or holder of ten percent (10%) or more of the interest in respondent or respondent's stock, and any officer, stating under penalty of perjury that said individuals have read and are familiar with state and federal laws and regulations governing the practice of pharmacy. The failure to timely provide said statements to the board shall be considered a violation of probation.

69. Respondent Vahedi's probation is further subject to probation as he failed to fulfill this term.

THIRD CAUSE TO REVOKE PROBATION

(Remedial Education)

70. The Board's disciplinary order effective on February 11, 2018, as to Respondent Vahedi contained Probation Condition 16: Remedial Education, which required Respondent Vahedi to do the following:

Within ninety (90) days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, an appropriate program of remedial education related to prescriptions, licensing, policies, and ethics. The program of remedial education shall consist of at least twenty (20) hours, which shall be completed within one year at respondent's own expense. All remedial education shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes.

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

Following the completion of each course, the board or its designee may require the respondent, at his own expense, to take an approved examination to test the respondent's knowledge of the course. If the respondent does not achieve a passing score on the examination, this failure shall be considered a violation of probation.

Any such examination failure shall require respondent to take another course approved by the board in the same subject area.

71. Respondent Vahedi's probation is subject to revocation because the fulfillment of this term was required to be completed no later than February 10, 2019. However, Respondent produced certificates of Remedial Education that were dated September 23, 2019, over seven (7) months late.

FOURTH CAUSE TO REVOKE PROBATION

(Supervised Practice)

72. The Board's disciplinary order effective on February 11, 2018, as to Respondent Vahedi contained Probation Condition 17: Supervised Practice, which required Respondent Vahedi to do the following:

During the period of probation, respondent shall practice only under the supervision of a licensed pharmacist not on probation with the board. Upon and after the effective date of this decision, respondent shall not practice pharmacy and his or her license shall be automatically suspended until a supervisor is approved by the board or its designee. The supervision shall be, as required by the board or its designee, either:

Continuous- At least 75% of a work week Substantial - At least 50% of a work week Partial- At least 25% of a work week

Daily Review- Supervisor's review of probationer's daily activities within 24 hours

Within thirty (30) days of the effective date of this decision, respondent shall have his supervisor submit notification to the board in writing stating that the supervisor has read the decision in case number 5899 and is familiar with the required level of supervision as determined by the board or its designee. It shall be the respondent's responsibility to ensure that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Failure to cause the direct supervisor and the pharmacist- in-charge to submit timely acknowledgements to the board shall be considered a violation of probation.

If respondent changes employment, it shall be the respondent's responsibility to ensure that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Respondent shall have his new supervisor, within fifteen (15) days after employment commences, submit notification to the board in

writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number 5899 and is familiar with the level of supervision as determined by the board. Respondent shall not practice pharmacy and his or her license shall be automatically suspended until the board or its designee approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the board shall be considered a violation of probation.

Within ten (10) days of leaving employment, respondent shall notify the board in writing.

73. As a term of probation, Respondent Vahedi was required to have a Board approved licensed pharmacist supervise his work as a pharmacist for 50% of his work week. The Board had approved pharmacist Leslie Shaffer to supervise, whoever she left employment with Fusion Rx January 19, 2019. After this date, the board did not receive an approval request from RPH Vahedi for a new individual to provide this requirement.

DISCIPLINE CONSIDERATIONS

74. To determine the degree of discipline, if any, to be imposed on Respondent Vahedi and Respondent Fusion Rx Pharmacy, Complainant alleges as follows:

a. On or about September 25, 2019, *In the Matter of the Accusation Against: Fusion IV Pharmaceuticals, Inc. dba Axia Pharmaceutical and Navid Vahedi*, Case No. 6371 and OAH No. 2018101123, the Board of Pharmacy issued a Decision and Order adopting the Proposed Decision by the Administrative Law Judge wherein Pharmacist License No. RPH 59537 issued to Navid Vahedi is revoked effective October 25, 2019. Additionally, Pharmacy Permit No. PHY 53726 and Sterile Compounding License No. LSC 100855 issued to Fusion IV Pharmaceuticals, Inc. dba Axia Pharmaceutical are also revoked effective October 25, 2019.

b. On or about January 2, 2018, *In the Matter of the Accusation against Dr. N. Vahedi Pharmacy Inc. dba Fusion Rx Compounding Pharmacy and Navid Vahdi*, Case No. 5899 and OAH No. 2017040451, the Board of Pharmacy issued a Decision and Order adopting the Proposed Decision by the Administrative Law Judge Pharmacist License No. RPH 59537 issued to Respondent Vahedi, was placed on a four (4) year probation, which included a thirty (30) day suspension and terms and conditions. While on probation, Respondent Vahedi was required to complete remedial education, and comply with other reporting, monitoring, and supervision requirements.

c. On or about October 27, 2016, in a prior action, the Board of Pharmacy issued Citation Number CI 2015 67663 based on violations of CCR, Title 16, § 1751.4 subdivision (a) [Respondent served as PIC where Fusion RX Pharmacy, owned by Respondent, did not maintain the compounding environment in accordance to criteria specified in the pharmacy's written

1 policies and procedures for the safe compounding of sterile injectable drug product] Respondent
2 was required to pay \$1,500.00. That Citation is now final and is incorporated by reference as if
3 fully set forth.

4 d. On or about October 27, 2015, in a prior action, the Board of Pharmacy issued
5 Citation Number CI 2015 67653 based on violations of CCR, Title 16, § 1713 [Participating In
6 An Arrangement Where Prescriptions Or Prescription Medications Is Left At, Picked Up From,
7 Accepted By, Or Delivered To Any Place Not Licensed As A Retail Pharmacy] and Bus. & Prof.
8 Code § 4052(a) and CCR, Title 16, § 1735.2 [Compounded medications not for office use and in
9 quantity for advanced medical in excess of 72-hour supply of compounded medications.]
10 Respondent to pay \$2,000.00. That Citation is now final and is incorporated by reference as if
11 fully set forth.

12 e. On or about September 10, 2015, in a prior action, the Board of Pharmacy issued
13 Citation Number CI 2015 66976 based on violations of Health & Safety Code § 111397 (a)
14 [Compounding with an Unapproved Foreign Drug], Bus. & Prof. Code § 4169(a) and CCR, Title
15 16, § 1735.3(c) [Prohibited Act/Obtaining Compounding Chemicals from Unreliable Source] ,
16 1735(d) [Compounding Commercially Available Drugs/Patent Infringement] and ordered
17 Respondent to pay \$3,000.00. That Citation is now final and is incorporated by reference as if
18 fully set forth.

19 f. On or about September 27, 2012, in a prior action, the Board of Pharmacy issued
20 Citation Number CI 2012 53992 based on violations of Bus. & Prof. Code § 4076(a)(9)
21 [Prescription label date beyond manufacturing date], Health & Safety Code § 11165(d) [Failure to
22 Report to Cures], and Title 21 CFR § 1304.11 [Failure to take DEA Inventory] and ordered
23 Respondent to pay \$1250.00. That Citation is now final and is incorporated by reference as if
24 fully set forth.

25 **OTHER CONSIDERATIONS**

26 75. On August 19, 2019, In the Matter of the Cease and Desist Order Issued Against:
27 Fusion IV Pharmaceuticals, Inc. dba Axia Pharmaceutical (Case No. CI 2018 81562), a Cease
28 and Desist order was affirmed after hearing. The order provided that provided that Fusion IV

1 Pharmaceuticals, Inc. dba Axia Pharmaceutical must not compound or furnish any sterile or non-
2 sterile nonpatient-specific medication for distribution into or within California.

3 76. In a prior action entitled *In the Matter of the Statement of Issues Against: Fusion IV*
4 *Pharmaceuticals Inc. dba Axia Pharmaceuticals, Navid Vahedi, Owner*, Case No. 6270 OAH No.
5 2018060309, the Board of Pharmacy issued a Decision and Order effective on or about February
6 14, 2019, wherein the denial of Fusion IV's application for licensure as an instate outsourcing
7 facility was affirmed by the Decision and Order, following an administrative hearing.

8 **OTHER MATTERS**

9 77. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit
10 Number PHY 49937 issued to Fusion Rx Compounding Pharmacy while Navid Vahedi had been
11 an officer and owner and had knowledge of or knowingly participated in any conduct for which
12 the licensee was disciplined, Navid Vahedi shall be prohibited from serving as a manager,
13 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
14 Pharmacy Permit Number PHY 49937 is placed on probation or until Pharmacy Permit Number
15 PHY 49937 is reinstated if it is revoked.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacy Permit Number PHY 49937, issued to Fusion Rx
20 Compounding Pharmacy, with Navid Vahedi as the President, Pharmacist in Charge and 100%
21 owner;

22 2. Revoking or suspending Pharmacist License Number RPH 59537, issued to Navid
23 Vahedi;

24 3. Revoking or suspending Pharmacist License Number RPH 76644, issued to Rikesh
25 Patel;

26 4. Prohibiting Navid Vahedi from serving as a manager, administrator, owner, member,
27 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number
28

PHY 49937 is placed on probation or until Pharmacy Permit Number PHY 49937 is reinstated if it is revoked;

5. Revoking the probation that was granted by the Board of Pharmacy in Case No. 5899 and imposing the disciplinary order that was stayed thereby revoking Pharmacy Permit Number PHY 49937 issued to Fusion Rx Compounding Pharmacy, with Navid Vahedi as the President, Pharmacist in Charge and owner;

6. Revoking the probation that was granted by the Board of Pharmacy in Case No. 5899 and imposing the disciplinary order that was stayed thereby revoking Pharmacist License Number RPH 59537, issued to Navid Vahedi;

7. Ordering Fusion Rx Compounding Pharmacy, Navid Vahedi and Rikesh Patel jointly and severally, to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: March 4, 2020



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

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