

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

In the Matter of the Accusation Against:

**VENTURA COUNTY MEDICAL CENTER, DBA VENTURA COUNTY
MEDICAL CENTER, KIMBERLY MILSTIEN, FORMER CEO (8/17/2017
TO 6/19/2019), JOHN FANKHAUSER, CEO**

Hospital Pharmacy Permit Number HPE 55601;

Respondent.

Agency Case No. 7020

OAH No. 2021090876

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Repeval 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 April 27, 2022.

It is so ORDERED on March 28, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is written in a cursive style with a large initial "S" and "O".

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 KEVIN J. SCHETTIG
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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 In the Matter of the Accusation Against:

13 **VENTURA COUNTY MEDICAL**
14 **CENTER, DBA VENTURA COUNTY**
15 **MEDICAL CENTER, KIMBERLY**
16 **MILSTIEN, FORMER CEO (8/17/2017 to**
17 **6/19/2019), JOHN FANKHOUSER, CEO**
18 **300 Hillmont Ave.**
19 **Ventura, CA 93003**

20 **Hospital Pharmacy Permit No. HPE 55601**

21 Respondent.

Case No. 7020

OAH No. 2021090876

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL

[Bus. & Prof. Code § 495]

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

24 **PARTIES**

25 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
26 (Board). She brought this action solely in her official capacity and is represented in this matter by
27 Rob Bonta, Attorney General of the State of California, by Kevin J. Schettig, Deputy Attorney
28 General.

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

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

8 **DISCIPLINARY ORDER**

9 IT IS HEREBY ORDERED that Hospital Pharmacy Permit No. HPE 55601 issued to
10 Respondent Ventura County Medical Center, dba Ventura County Medical Center, shall be
11 publicly reprovod by the Board of Pharmacy under Business and Professions Code section 495 in
12 resolution of Accusation No. 7020, attached as Exhibit A. Respondent is required to report this
13 reprovod as a disciplinary action.

14 **Cost Recovery.** No later than two years from the effective date of the Decision,
15 Respondent shall pay \$13,299 to the Board for its costs associated with the investigation and
16 enforcement of this matter pursuant to Business and Professions Code Section 125.3. Respondent
17 shall be permitted to pay these costs in a payment plan approved by the Board. If Respondent
18 fails to pay the Board costs as ordered, Respondent shall not be allowed to renew their Hospital
19 Pharmacy Permit until Respondent pays costs in full. In addition, the Board may enforce this
20 order for payment of its costs in any appropriate court, in addition to any other rights the Board
21 may have.

22 **Full Compliance.** As a resolution of the charges in Accusation No. 7020, this stipulated
23 settlement is contingent upon Respondent's full compliance with all conditions of this Order. If
24 Respondent fails to satisfy any of these conditions, such failure to comply constitutes cause for
25 discipline, including outright revocation, of Respondent's Hospital Pharmacy Permit No. HPE
26 55601.

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ENDORSEMENT

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

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General

KEVIN J. SCHETTIG
Deputy Attorney General
Attorneys for Complainant

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ENDORSEMENT

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

DATED: February 22, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



KEVIN J. SCHETTIG
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 7020

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2 ARMANDO ZAMBRANO
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3 KEVIN J. SCHETTIG
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14 **VENTURA COUNTY MEDICAL**
15 **CENTER, DBA VENTURA COUNTY**
16 **MEDICAL CENTER, KIMBERLY**
17 **MILSTIEN, FORMER CEO (8/17/2017 to**
18 **6/19/2019), JOHN FANKHOUSER, CEO**
19 **300 Hillmont Ave.**
20 **Ventura, CA 93003**

ACCUSATION

21 **Hospital Pharmacy Permit No. HPE 55601**

22 Respondent.

23 **PARTIES**

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

25 2. On or about August 17, 2017, the Board of Pharmacy issued Hospital Pharmacy
26 Permit Number HPE 55601 to Ventura County Medical Center, dba Ventura County Medical
27 Center (Respondent). Kimberly Milstien was the CEO from August 17, 2017 to June 19, 2019.
28 John Fankhouser has been CEO from June 19, 2019 to present. The Hospital Pharmacy Permit

1 was in full force and effect at all times relevant to the charges brought herein and will expire on
2 August 1, 2021, unless renewed.

3 **JURISDICTION**

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

7 4. Section 4300 provides, in pertinent part, that every license issued by the Board is
8 subject to discipline, including suspension or revocation.

9 5. Section 4300.1 of the Code states, “The expiration, cancellation, forfeiture, or
10 suspension of a board-issued license by operation of law or by order or decision of the board or a
11 court of law, the placement of a license on a retired status, or the voluntary surrender of a license
12 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any
13 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision
14 suspending or revoking the license.”

15 **STATUTORY PROVISIONS**

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

17 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
18 except veterinary drugs that are labeled as such, and includes the following:

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

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

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

26 7. Section 4169, provides, in pertinent part:

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

28 ...

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

3 8. Section 4301, states:

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

7 ...

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

12 9. Section 4307 states, in pertinent part:

13 “(a) Any person who has been denied a license or whose license has been revoked or is
14 under suspension, or who has failed to renew his or her license while it was under suspension, or
15 who has been a manager, administrator, owner, member, officer, director, associate, or partner of
16 any partnership, corporation, firm, or association whose application for a license has been denied
17 or revoked, is under suspension or has been placed on probation, and while acting as the manager,
18 administrator, owner, member, officer, director, associate, or partner had knowledge of or
19 knowingly participated in any conduct for which the license was denied, revoked, suspended, or
20 placed on probation, shall be prohibited from serving as a manager, administrator, owner,
21 member, officer, director, associate, or partner of a licensee as follows:

22 (1) Where a probationary license is issued or where an existing license is placed on
23 probation, this prohibition shall remain in effect for a period not to exceed five years.

24 (2) Where the license is denied or revoked, the prohibition shall continue until the license is
25 issued or reinstated.”

26 **COST RECOVERY**

27 10. Section 125.3 states, in pertinent part, that the Board may request the administrative
28 law judge to direct a licentiate found to have committed a violation or violations of the licensing

1 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
2 case.

3 **DANGEROUS DRUG**

4 11. Palivizumab, brand name Synagis, is a dangerous drug pursuant to Business and
5 Professions Code Section 4022. It is used in the prevention of lung disease in infants caused by
6 Respiratory Syncytial Virus (RSV).

7 **FACTUAL ALLEGATIONS**

8 12. On May 7, 2019, the Board received a letter from Pharmacy Director and Pharmacist-
9 in-Charge Jason Arimura (PIC Arimura) at Respondent pharmacy. In the letter, PIC Arimura
10 self-reported that a clinic that operates under the hospital license administered twelve (12) doses
11 of the dangerous drug Synagis that expired on February 28, 2019. The doses were administered
12 to eleven (11) clinic patients on March 7, 2019, March 14, 2019, March 21, 2019, March 28,
13 2019, March 29, 2019, April 1, 2019, and April 11, 2019.

14 13. On or about February 11, 2020, the Board inspector reviewed a package insert for
15 Synagis injections. The package insert indicated Synagis is used for at risk pediatric population
16 24 months or younger. The package insert also indicated: “DO NOT use beyond the expiration
17 date.”

18 14. On or about February 11, 2020, the Board inspector conducted an inspection and an
19 investigation of Respondent pharmacy. PIC Arimura was present and assisted with the inspection
20 and investigation. The Board inspector’s inspection and investigation substantiated that
21 Respondent pharmacy administered the expired doses of Synagis as identified in PIC Arimura’s
22 letter.

23 15. The Board inspector reviewed a medication administration report for patient M.P.,
24 which indicated that on March 14, 2019, patient M.P. received a dose of Synagis that had an
25 expiration date of 02/2019 and lot number HK0062.

26 16. The Board inspector reviewed Respondent’s “Drop Charges Report” for Synagis that
27 listed the billing information along with the medication name, medication expiration date, lot
28 number, and clinical display line. The report provided the following information:

Drug Name	Clinic Name	Number of vials used per dose	Date Administered	Expiration Date	Lot Number
Synagis 50mg/0.5ml	Pediatric Hematology/Oncology	3	03/07/2019	02/19	HK0062
Synagis 50mg/0.5ml	Pediatric Hematology/Oncology	3	03/07/2019	02/19 / 09/20	HK0062 / JT0068
Synagis 50mg/0.5ml	Pediatric Hematology/Oncology	3	03/14/2019	02/19	HK0062
Synagis 50mg/0.5ml	Pediatric Hematology/Oncology	2	03/14/2019	02/19	HK0062
Synagis 50mg/0.5ml	Pediatric Hematology/Oncology	2	03/21/2019	02/19	HK0062
Synagis 50mg/0.5ml	Pediatric Hematology/Oncology	2	03/21/2019	02/19	HK0062
Synagis 50mg/0.5ml	Pediatric Hematology/Oncology	2	03/28/2019	02/19	HK0062
Synagis 50mg/0.5ml	Pediatric Hematology/Oncology	2	03/28/2019	02/19	HK0062
Synagis 50mg/0.5ml	Pediatric Hematology/Oncology	2	03/29/2019	02/19	HK0062
Synagis 50mg/0.5ml	Pediatric Hematology/Oncology	2	04/01/2019	02/19	HK0062
Synagis 50mg/0.5ml	Pediatric Hematology/Oncology	2	04/11/2019	02/19	HK0062
Synagis 50mg/0.5ml	Pediatric Hematology/Oncology	2	04/11/2019	02/19	HK0062

CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Dispensing Expired Drug)

17. Respondent is subject to disciplinary action under Section 4301, subsection (o), in that Respondent violated Section 4169, subdivision (a)(4). Specifically, in March and April of 2019, Respondent provided Synagis 50mg/0.5ml to Pediatric Hematology-Oncology Clinic under the hospital license that resulted in the dispensing and administration of twelve (12) doses (approximately twenty-seven (27) vials) of expired Synagis 50mg/0.5ml to eleven (11) patients. Paragraphs 12 to 16 are re-alleged as if fully set forth herein.

OTHER MATTERS

18. Pursuant to Code section 4307, if discipline is imposed on Hospital Pharmacy Permit Number HPE 55601 issued to Ventura County Medical Center, Ventura County Medical Center

1 shall be prohibited from serving as a manager, administrator, owner, member, officer, director,
2 associate, or partner of a licensee for five years if Hospital Pharmacy Permit Number HPE 55601
3 is placed on probation or until Hospital Pharmacy Permit Number HPE 55601 is reinstated if it is
4 revoked.

5 19. Pursuant to Code section 4307, if discipline is imposed on Hospital Pharmacy Permit
6 Number HPE 55601 issued to Ventura County Medical Center while Kimberly Milstien has been
7 an officer and owner and had knowledge of or knowingly participated in any conduct for which
8 the licensee was disciplined, Kimberly Milstien shall be prohibited from serving as a manager,
9 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
10 Hospital Pharmacy Permit Number HPE 55601 is placed on probation or until Hospital Pharmacy
11 Permit Number HPE 55601 is reinstated if it is revoked.

12 20. Pursuant to Code section 4307, if discipline is imposed on Hospital Pharmacy Permit
13 Number HPE 55601 issued to Ventura County Medical Center while John Fankhouser has been
14 an officer and owner and had knowledge of or knowingly participated in any conduct for which
15 the licensee was disciplined, John Fankhouser shall be prohibited from serving as a manager,
16 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
17 Hospital Pharmacy Permit Number HPE 55601 is placed on probation or until Hospital Pharmacy
18 Permit Number HPE 55601 is reinstated if it is revoked.

19 **PRAYER**

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

22 1. Revoking or suspending Hospital Pharmacy Permit Number HPE 55601, issued to
23 Ventura County Medical Center, dba Ventura County Medical Center, Kimberly Milstien, former
24 CEO (8/17/2017 to 6/19/2019), John Fankhouser CEO;

25 2. Prohibiting Ventura County Medical Center from serving as a manager,
26 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
27 Hospital Pharmacy Permit Number HPE 55601 is placed on probation or until Hospital Pharmacy
28 Permit Number HPE 55601 is reinstated if Hospital Pharmacy Permit Number HPE 55601 issued

1 to Ventura County Medical Center is revoked;

2 3. Prohibiting Kimberly Milstien from serving as a manager, administrator, owner,
3 member, officer, director, associate, or partner of a licensee for five years if Hospital Pharmacy
4 Permit Number HPE 55601 is placed on probation or until Hospital Pharmacy Permit Number
5 HPE 55601 is reinstated if Hospital Pharmacy Permit Number HPE 55601 issued to Ventura
6 County Medical Center is revoked;

7 4. Prohibiting John Fankhouser from serving as a manager, administrator, owner,
8 member, officer, director, associate, or partner of a licensee for five years if Hospital Pharmacy
9 Permit Number HPE 55601 is placed on probation or until Hospital Pharmacy Permit Number
10 HPE 55601 is reinstated if Hospital Pharmacy Permit Number HPE 55601 issued to Ventura
11 County Medical Center is revoked;

12 5. Ordering Ventura County Medical Center to pay the Board of Pharmacy the
13 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
14 Professions Code section 125.3; and,

15 6. Taking such other and further action as deemed necessary and proper.

16
17 DATED: 6/2/2021

Signature on File

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

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