

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

In the Matter of the Accusation Against:

**SHIV CORPORATION INC. dba
MEDCARE LTC PHARMACY,
BHUPESH D. PATEL, SHAREHOLDER AND OFFICER,
Pharmacy Permit No. PHY 51633;**

**JIGNASA NIMESH PATEL,
Pharmacist License No. RPH 70082;**

and

**BHUPESH D. PATEL,
Pharmacist License No. RPH 46189,**

Respondents.

Agency Case No. 7140

OAH No. 2021100502

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on June 1, 2022.

It is so ORDERED on May 2, 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 fluid and cursive, with the first name "Seung" and last name "Oh" being clearly legible, and "W." in the middle.

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9429
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 7140

14 **SHIV CORPORATION INC., DBA**
15 **MEDCARE LTC PHARMACY,**
16 **BHUPESH D. PATEL, SHAREHOLDER**
17 **AND OFFICER**
18 **1223 N. Euclid Street**
19 **Anaheim, CA 92801**

OAH No. 2021100502

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
JIGNASA NIMESH PATEL ONLY

20 **Pharmacy Permit No. PHY 51633,**

21 **JIGNASA NIMESH PATEL**
22 **1330 East Corbett Drive**
23 **Placentia, CA 92870**

24 **Pharmacist License No. RPH 70082,**

25 **and**

26 **BHUPESH D. PATEL**
27 **8422 Country Club Drive**
28 **Buena Park, CA 90621**

Pharmacist License No. RPH 46189

Respondents.

1 IT IS HEREBY STIPULATED AND AGREED by and between Respondent Jignasa
2 Nimesh Patel and Complainant Anne Sodergren, parties to the above-entitled proceedings that the
3 following matters are true:

4 **PARTIES**

5 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
6 (Board). She brought this action solely in her official capacity and is represented in this matter by
7 Rob Bonta, Attorney General of the State of California, by Desiree I. Kellogg, Deputy Attorney
8 General.

9 2. Respondent Jignasa Nimesh Patel (Respondent) is represented in this proceeding by
10 attorney Herbert L. Weinberg of Fenton Law Group, LLP, whose address is: 1990 South Bundy
11 Drive, Suite 777, Los Angeles, CA 90025.

12 3. On or about October 16, 2013, the Board issued Pharmacist License No. RPH 70082
13 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the
14 charges brought in Accusation No. 7140, and will expire on November 30, 2022, unless renewed.

15 **JURISDICTION**

16 4. Accusation No. 7140 was filed before the Board, and is currently pending against
17 Respondent. The Accusation and all other statutorily required documents were properly served
18 on Respondent on June 9, 2021. Respondent filed her Notice of Defense contesting the
19 Accusation after the Board issued an Order Vacating Default Decision on September 23, 2021.

20 5. A copy of Accusation No. 7140 is attached as Exhibit A and incorporated herein by
21 reference.

22 **ADVISEMENT AND WAIVERS**

23 6. Respondent has carefully read, fully discussed with counsel, and understands the
24 charges and allegations in Accusation No. 7140. Respondent has also carefully read, fully
25 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
26 Order.

27 7. Respondent is fully aware of her legal rights in this matter, including the right to a
28 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine

1 the witnesses against them; the right to present evidence and to testify on her own behalf; the
2 right to the issuance of subpoenas to compel the attendance of witnesses and the production of
3 documents; the right to reconsideration and court review of an adverse decision; and all other
4 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

7 **CULPABILITY**

8 9. Respondent understands and agrees that the charges and allegations in Accusation
9 No. 7140, if proven at a hearing, constitute cause for imposing discipline upon her Pharmacist
10 License.

11 10. For the purpose of resolving the Accusation without the expense and uncertainty of
12 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
13 basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest
14 those charges.

15 11. Respondent agrees that her Pharmacist License is subject to discipline and she agrees
16 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

17 **CONTINGENCY**

18 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
19 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
20 communicate directly with the Board regarding this stipulation and settlement, without notice to
21 or participation by Respondent or its counsel. By signing the stipulation, Respondent understands
22 and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the
23 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its
24 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
25 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
26 and the Board shall not be disqualified from further action by having considered this matter.

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 70082 issued to Respondent Jignasa Nimesh Patel is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

Respondent 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, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves

respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

2. Report to the Board

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

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

3. Interview with the Board

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

4. Cooperate with Board Staff

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

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1 **5. Continuing Education**

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

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

5 During the period of probation, respondent shall notify all present and prospective
6 employers of the decision in case number 7140 and the terms, conditions and restrictions imposed
7 on respondent by the decision, as follows:

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

19 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
20 respondent undertaking any new employment, respondent shall cause (a) her direct supervisor, (b)
21 her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
22 compliance supervisor, and (c) the owner or owner representative of her employer, to report to the
23 board in writing acknowledging that the listed individual(s) has/have read the decision in case
24 number 7140, and terms and conditions imposed thereby. If one person serves in more than one
25 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's
26 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
27 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
28 of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in

1 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
2 in case number 7140, and the terms and conditions imposed thereby.

3 If respondent works for or is employed by or through an employment service, respondent
4 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
5 of the decision in case number 7140, and the terms and conditions imposed thereby in advance of
6 respondent commencing work at such licensed entity. A record of this notification must be
7 provided to the board upon request.

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

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

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

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

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

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

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

27 During the period of probation, respondent shall not supervise any intern pharmacist, be the
28 pharmacist-in-charge, designated representative-in-charge, responsible manager or other

1 compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption
2 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

3 **9. Probation Monitoring Costs**

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

8 **10. Status of License**

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

13 If respondent's Pharmacist License expires or is cancelled by operation of law or otherwise
14 at any time during the period of probation, including any extensions thereof due to tolling or
15 otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and
16 conditions of this probation not previously satisfied.

17 **11. License Surrender While on Probation/Suspension**

18 Following the effective date of this decision, should respondent cease practice due to
19 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
20 respondent may relinquish her license, including any indicia of licensure issued by the board,
21 along with a request to surrender the license. The board or its designee shall have the discretion
22 whether to accept the surrender or take any other action it deems appropriate and reasonable.
23 Upon formal acceptance of the surrender of the license, respondent will no longer be subject to
24 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
25 become a part of the respondent's license history with the board.

26 Upon acceptance of the surrender, respondent shall relinquish her pocket and/or wall
27 license, including any indicia of licensure not previously provided to the board within ten (10)
28 days of notification by the board that the surrender is accepted if not already provided.

Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

12. Practice Requirement – Extension of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 120 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the board or its designee.

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

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

13. Violation of Probation

If respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and the board shall provide notice to respondent that probation shall automatically be extended, until all terms and conditions have been satisfied

1 or the board has taken other action as deemed appropriate to treat the failure to comply as a
2 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
3 board or its designee may post a notice of the extended probation period on its website.

4 If respondent violates probation in any respect, the board, after giving respondent notice
5 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
6 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
7 probation, or the preparation of an accusation or petition to revoke probation is requested from
8 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
9 probation shall be automatically extended until the petition to revoke probation or accusation is
10 heard and decided, and the charges and allegations in the Accusation shall be deemed true and
11 correct.

12 14. **Completion of Probation**

13 Upon written notice by the board or its designee indicating successful completion of
14 probation, respondent's license will be fully restored.

15 15. **Remedial Education**

16 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
17 board or its designee, for prior approval, an appropriate program of remedial education related to
18 Pharmacy Law and operations. The program of remedial education shall consist of at least 6
19 hours per year of the probation period which shall be completed at respondent's own expense.
20 Respondent shall complete at least half of every year's required amount of hours of remedial
21 education in person or live webinar. All remedial education shall be in addition to, and shall not
22 be credited toward, continuing education (CE) courses used for license renewal purposes for
23 pharmacists.

24 Failure to timely submit for approval or complete the approved remedial education shall be
25 considered a violation of probation. The period of probation will be automatically extended until
26 such remedial education is successfully completed and written proof, in a form acceptable to the
27 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 her 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 that course shall not count towards satisfaction of this term. Respondent shall take another course approved by the board in the same subject area.

16. Ethics Course

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

17. No Ownership or Management of Licensed Premises

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

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3 **ACCEPTANCE**

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

9
10 DATED: _____

JIGNASA NIMESH PATEL
Respondent

12 I have read and fully discussed with Respondent Jignasa Nimesh Patel the terms and
13 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
14 I approve its form and content.

15
16 DATED: _____

HERBERT L. WEINBERG
Attorney for Respondent

18
19 **ENDORSEMENT**

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

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ACCEPTANCE

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

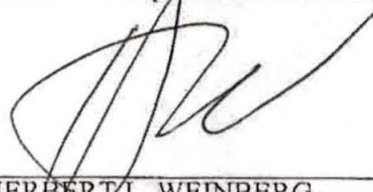
DATED: 3/3/22

J. N. Patel

JIGNASA NIMESH PATEL
Respondent

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

DATED: 3/4/2022



HERBERT L. WEINBERG
Attorney for Respondent

ENDORSEMENT

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

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DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

DESIREE I. KELLOGG
Deputy Attorney General
Attorneys for Complainant

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1 DATED: 3/4/22

Respectfully submitted,

2 ROB BONTA
3 Attorney General of California
4 GREGORY J. SALUTE
5 Supervising Deputy Attorney General

6 DESIREE I. KELLOGG
7 Deputy Attorney General
8 *Attorneys for Complainant*

9 DIK:sdg
10 SD2021800821
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Exhibit A

Accusation No. 7140

1 ROB BONTA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9429
7 Facsimile: (619) 645-2061
Attorneys for Complainant

9 **BEFORE THE**
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17 **AND OFFICER**
18 **1223 N. Euclid Street**
19 **Anaheim, CA 92801**

ACCUSATION

20 **Pharmacy Permit No. PHY 51633,**

21 **JIGNASA NIMESH PATEL**
22 **1330 East Corbett Drive**
23 **Placentia, CA 92870**

24 **Pharmacist License No. RPH 70082,**

25 **and**

26 **BHUPESH D. PATEL**
27 **5252 Marview Drive**
28 **La Palma, CA 90623**

Pharmacist License No. RPH 46189

Respondents.

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 (Board).

4 2. On or about October 23, 2013, the Board issued Pharmacy Permit Number PHY
5 51633 to Shiv Corporation, Inc., dba Medcare LTC Pharmacy. (Medcare LTC Pharmacy).
6 Bhupesh D. Patel is the pharmacist-in-charge of Medcare LTC Pharmacy and the majority
7 shareholder and an officer of Shiv Corporation, Inc. Renuka Patel is also a shareholder of Shiv
8 Corporation, Inc. The Pharmacy License was in full force and effect at all times relevant to the
9 charges brought herein and will expire on October 1, 2021, unless renewed.

10 3. On or about October 16, 2013, the Board of Pharmacy issued Pharmacist License
11 Number RPH 70082 to Jignasa Nimesh Patel (Jignasa Patel). The Pharmacist License was in full
12 force and effect at all times relevant to the charges brought herein and will expire on November
13 30, 2022, unless renewed.

14 4. On or about May 7, 1993, the Board of Pharmacy issued Pharmacist License Number
15 RPH 46189 to Bhupesh D. Patel (Bhupesh Patel). The Pharmacist License was in full force and
16 effect at all times relevant to the charges brought herein and will expire on May 31, 2022, unless
17 renewed.

18 **JURISDICTION**

19 5. 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 (Code) unless otherwise
21 indicated.

22 6. Code Section 4011 provides that the Board shall administer and enforce both the
23 Pharmacy Law (Code, § 4000 *et seq.*) and the Uniform Controlled Substances Act (Health &
24 Safety Code, § 11000 *et seq.*).

25 7. Code section 4300, subdivision (a) provides that every license issued by the Board
26 may be suspended or revoked.

27 8. Code section 4300.1 states:

28 The expiration, cancellation, forfeiture, or suspension of a board-issued license

1 by operation of law or by order or decision of the board or a court of law, the
2 placement of a license on a retired status, or the voluntary surrender of a license by a
3 licensee shall not deprive the board of jurisdiction to commence or proceed with any
4 investigation of, or action or disciplinary proceeding against, the licensee or to render
5 a decision suspending or revoking the license.

6 **STATUTORY PROVISIONS**

7 9. Code section 4113, subdivision (c) states:

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

10 10. Code section 4301 states in pertinent part:

11 The board shall take action against any holder of a license who is guilty of
12 unprofessional conduct or whose license has been procured by fraud or
13 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
14 not limited to, any of the following:

15 ...

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

19 ...

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

22 ...

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

28 ...

11. Code section 4307, subdivision (a) states:

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

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

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

REGULATORY PROVISIONS

12. Section 1714, subdivisions (b) and (d) of title 16, California Code of Regulations state:

(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice of pharmacy.

...

(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of dangerous drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.

13. Section 1715 of title 16, California Code of Regulations states:

(a) The pharmacist-in-charge of each pharmacy as defined under section 4029 or section 4037 of the Business and Professions Code shall complete a self-assessment of the pharmacy's compliance with federal and state pharmacy law. The assessment shall be performed before July 1 of every odd-numbered year. The primary purpose of the self-assessment is to promote compliance through self-examination and education.

(b) In addition to the self-assessment required in subdivision (a) of this section, the pharmacist-in-charge shall complete a self-assessment within 30 days whenever:

(1) A new pharmacy permit has been issued, or

(2) There is a change in the pharmacist-in-charge, and he or she becomes the new pharmacist-in-charge of a pharmacy.

(3) There is a change in the licensed location of a pharmacy to a new address.

(c) The components of this assessment shall be on Form 17M-13 (Rev. 10/14) entitled "Community Pharmacy Self-Assessment Hospital Outpatient Pharmacy Self-Assessment" or and on Form 17M-14 (Rev. 10/14) entitled "Hospital Pharmacy Self-Assessment" which are hereby incorporated by reference to evaluate compliance with federal and state laws and regulations.

(d) Each self-assessment shall be kept on file in the pharmacy for three years after it is performed.

14. Section 1793.7, subdivision (b) of title 16, California Code of Regulations states:

Pharmacy technicians must work under the direct supervision of a pharmacist and in such a relationship that the supervising pharmacist is fully aware of all activities involved in the preparation and dispensing of medications, including the maintenance of appropriate records.

15. Section 1301.75, subdivision (b) of title 21, Code of Federal Regulations states:

Controlled substances listed in Schedules II, III, IV, and V shall be stored in a securely locked, substantially constructed cabinet. However, pharmacies and institutional practitioners may disperse such substances throughout the stock of noncontrolled substances in such a manner as to obstruct the theft or diversion of the controlled substances.

COST RECOVERY

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

FACTUAL ALLEGATIONS

17. At all relevant times herein, Medcare LTC Pharmacy was a closed door pharmacy dispensing medications to patients in assisted living, hospice and board and care facilities. Medcare Pharmacy was a community pharmacy located next door to Medcare LTC Pharmacy. There were no interior doors, windows or other openings between the pharmacies. Jignasa Patel was a staff pharmacist at both Medcare Pharmacy and Medcare LTC Pharmacy while Bhupesh Patel was the pharmacist-in-charge and owner.

18. While physically working in Medcare Pharmacy, Jignasa Patel gave pharmacy technicians and clerks the keys to Medcare LTC Pharmacy to enter and work in the pharmacy without supervision by a pharmacist.

19. At Medcare LTC Pharmacy, pharmacy technicians filled prescriptions without supervision by a pharmacist.

20. Medcare LTC Pharmacy maintained its inventory of dangerous drugs on open shelving and its inventory of controlled substances in an unlocked cabinet adjacent to a pharmacy clerk's desk, thereby allowing unfettered access to dangerous drugs and controlled substances.

1 Controlled substances were not stored in a securely locked, substantially constructed cabinet nor
2 were they “dispersed throughout the stock of non-controlled substances in such a manner as to
3 obstruct the theft or diversion of the controlled substances.”

4 21. Medcare LTC Pharmacy’s wholesaler delivered dangerous drugs when no pharmacist
5 was present. Pharmacist Jignasa Patel accepted, signed for and permitted these deliveries while
6 she was physically present at Medcare Pharmacy.

7 22. When the Board’s inspectors discovered a pharmacy technician and clerk alone in
8 Medcare LTC Pharmacy, Jagnasa Patel and Bhupesh Patel falsely told the inspectors that
9 Bhupesh Patel opened the pharmacy and just left it briefly to run an errand.

10 23. At the time of the inspection in September 2020, Medcare LTC Pharmacy had not
11 completed a pharmacy self-assessment since July 1, 2017.

12 **FIRST CAUSE FOR DISCIPLINE**

13 **(Commission of Acts Involving Dishonesty or Deceit**

14 **Against Bhupesh Patel and Jagnasa Patel)**

15 24. Bhupesh Patel and Jagnasa Patel are subject to disciplinary action under Code section
16 4301, subdivision (f), for committing acts involving dishonesty or deceit, as described above.

17 **SECOND CAUSE FOR DISCIPLINE**

18 **(Failure to Maintain Security of Drugs against Respondents)**

19 25. Respondents are subject to disciplinary action under Code section 4301, subdivision
20 (o), for violating title 16, California Code of Regulations, section 1714, subdivision (b) and title
21 21, Code of Federal Regulations, section 1301.75, subdivision (b), because, as described above,
22 they failed to maintain the security of dangerous drugs and to maintain controlled substances in a
23 securely locked and substantially constructed cabinet.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **(Failure to Complete Pharmacy Self-Assessment Against Medcare LTC Pharmacy and** 26 **Bhupesh Patel)**

27 26. Respondents Medcare LTC Pharmacy and Bhupesh Patel are subject to disciplinary
28 action under Code section 4301, subdivision (o), for violating California Code of Regulations,

1 title 16, section 1715, in that they failed to complete a pharmacy self-assessment, as described
2 above.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Possession of Pharmacy Keys by Pharmacy Technicians Against**
5 **Respondents)**

6 27. Respondents are subject to disciplinary action under Code section 4301, subdivision
7 (o), for violating California Code of Regulations, title 16, section 1714, subdivision (d) for
8 allowing pharmacy technicians and clerks to possess keys to the pharmacy where dangerous
9 drugs and controlled substances are stored, as described above.

10 **FIFTH CAUSE FOR DISCIPLINE**

11 **(Failure to Provide Direct Supervision of Pharmacy Technicians Against**
12 **Respondents)**

13 28. Respondents are subject to disciplinary action under Code section 4301, subdivision
14 (o), for violating California Code of Regulations, title 16, sections 1793.7, subdivision (b) for
15 failing to supervise pharmacy technicians, as described above.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct against Respondents)**

18 29. Respondents are subject to disciplinary action under Code section 4301 for
19 unprofessional conduct because they engaged in the activities described above.

20 **OTHER MATTERS**

21 30. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
22 51633 issued to Shiv Corporation Inc., dba Medcare LTC Pharmacy, it shall be prohibited from
23 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
24 licensee for five years if Pharmacy Permit Number PHY 51633 is placed on probation or until the
25 Pharmacy Permit is reinstated if it is revoked.

26 31. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
27 51633 issued to Shiv Corporation Inc., dba Medcare LTC Pharmacy, while Bhupesh D. Patel has
28 been an owner or manager and had knowledge of or knowingly participated in any conduct for

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

5 32. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No.
6 RPH 46189 issued to Bhupesh D. Patel, he shall be prohibited from serving as a manager,
7 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
8 the Pharmacist License is placed on probation or until the Pharmacist License is reinstated, if it is
9 revoked.

10 33. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No.
11 RPH 70082 issued to Jignasa Nimesh Patel, she shall be prohibited from serving as a manager,
12 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
13 the Pharmacist License is placed on probation or until the Pharmacist License is reinstated, if it is
14 revoked.

15 **PRAYER**

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

18 1. Revoking or suspending Pharmacy Permit Number PHY 51633, issued to Shiv
19 Corporation Inc., dba Medcare LTC Pharmacy;

20 2. Revoking or suspending Pharmacist License Number RPH 70082, issued to Jignasa
21 Nimesh Patel;

22 3. Revoking or suspending Pharmacist License Number RPH 46189, issued to Bhupesh
23 D. Patel;

24 4. Prohibiting Shiv Corporation Inc., dba Medcare LTC Pharmacy from serving as a
25 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
26 five years if Pharmacy Permit Number PHY 51633 is placed on probation or until the Pharmacy
27 Permit is reinstated, if it is revoked;

1 5. Prohibiting Bhupesh D. Patel from serving as a manager, administrator, owner,
2 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
3 Number PHY 51633 is placed on probation or until the Pharmacy Permit is reinstated, if it is
4 revoked;

5 6. Prohibiting Bhupesh D. Patel from serving as a manager, administrator, owner,
6 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
7 Number RPH 46189 is placed on probation or until the Pharmacist License is reinstated, if it is
8 revoked;

9 7. Prohibiting Jignasa Nimesh Patel from serving as a manager, administrator, owner,
10 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
11 Number RPH 70082 is placed on probation or until the Pharmacist License is reinstated, if it is
12 revoked;

13 8. Ordering Shiv Corporation Inc., dba Medcare LTC Pharmacy, Jignasa Nimesh Patel,
14 and Bhupesh D. Patel to pay the Board of Pharmacy the reasonable costs of the investigation and
15 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

16 9. Taking such other and further action as deemed necessary and proper.

17
18 DATED: 6/6/2021

Signature on File

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

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