

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

In the Matter of the Accusation Against:

**DEL SUR PHARMACY, A CALIFORNIA CORPORATION, dba
FAIRBANKS PHARMACY;
BERNARD J. GRAMLICH, CEO/PRES,
SECRETARY AND TREASURER/CFO;
CHARLES ADAM COVELLO, OFFICER,
Original Pharmacy Permit No. PHY 55594;**

and

**BERNARD GRAMLICH,
Pharmacist License No. RPH 53112,**

Respondents.

Agency Case No. 7183

OAH No. 2022030854

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 February 8, 2023.

It is so ORDERED on January 9, 2023.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

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" clearly visible.

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 ERIN M. SUNSERI
Supervising Deputy Attorney General
3 AMIE J. FLYNN
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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. 7183

14 **DEL SUR PHARMACY, A CALIFORNIA**
15 **CORPORATION, DBA FAIRBANKS**
16 **PHARMACY; BERNARD J. GRAMLICH,**
17 **CEO/PRES, SECRETARY AND**
18 **TREASURER/CFO; CHARLES ADAM**
19 **COVELLO, OFFICER**
16089 San Dieguito Road # H102
P. O. Box 9227
Rancho Santa Fe, CA 92067

OAH No. 2022030854

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT BERNARD GRAMLICH
ONLY**

20 **Original Permit No. PHY 55594,**

21 **and**

22 **BERNARD GRAMLICH**
23 **PO Box 9227**
24 **Rancho Santa Fe, CA 92067**

25 **Pharmacist License No. RPH 53112**

26 Respondents.
27
28

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 Rob Bonta, Attorney General of the State of California, by Amie J. Flynn, Deputy Attorney
7 General.

8 2. Bernard Gramlich (Respondent) is represented in this proceeding by attorney Edward
9 Idell, Esq., whose address is: 355 South Grand Avenue, Suite 1750, Los Angeles, California
10 90071.

11 3. On or about September 26, 2001, the Board issued Pharmacist License No. RPH
12 53112 to Bernard J. Gramlich (Respondent). The Pharmacist License was in full force and effect
13 at all times relevant to the charges brought in Accusation No. 7183, and will expire on August 31,
14 2023, unless renewed.

15 **JURISDICTION**

16 4. Accusation No. 7183 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 January 12, 2022. Respondent timely filed his Notice of Defense contesting
19 the Accusation.

20 5. A copy of Accusation No. 7183 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. 7183. 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 his 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 him; the right to present evidence and to testify on his own behalf; the right
2 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 him 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 admits the truth of each and every charge and allegation in Accusation
9 No. 7183.

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

12 **CONTINGENCY**

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

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

25 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
28 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.

14. 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 53112 issued to Respondent Bernard J. Gramlich is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5 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

1 requirements, Respondent shall state in each report under penalty of perjury whether there has
2 been compliance with all the terms and conditions of probation.

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

8 **3. Interview with the Board**

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

14 **4. Cooperate with Board Staff**

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

21 **5. Continuing Education**

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

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

25 During the period of probation, Respondent shall notify all present and prospective
26 employers of the decision in case number 7183 and the terms, conditions and restrictions imposed
27 on Respondent by the decision, as follows:

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

12 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
13 Respondent undertaking any new employment, Respondent shall cause (a) his direct supervisor,
14 (b) his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
15 compliance supervisor, and (c) the owner or owner representative of his employer, to report to the
16 board in writing acknowledging that the listed individual(s) has/have read the decision in case
17 number 7183, and terms and conditions imposed thereby. If one person serves in more than one
18 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the Respondent's
19 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
20 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
21 of probation, Respondent shall cause the person(s) taking over the role(s) to report to the board in
22 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
23 in case number 7183, and the terms and conditions imposed thereby.

24 If Respondent works for or is employed by or through an employment service, Respondent
25 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
26 of the decision in case number 7183, and the terms and conditions imposed thereby in advance of
27 Respondent commencing work at such licensed entity. A record of this notification must be
28 provided to the board upon request.

1 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
2 (15) days of Respondent undertaking any new employment by or through an employment service,
3 Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment
4 service to report to the board in writing acknowledging that he or she has read the decision in case
5 number 7183, and the terms and conditions imposed thereby. It shall be Respondent's
6 responsibility to ensure that these acknowledgment(s) are timely submitted to the board.

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

10 "Employment" within the meaning of this provision includes any full-time, part-time,
11 temporary, relief, or employment/management service position as a pharmacist, or any position
12 for which a pharmacist is a requirement or criterion for employment, whether the Respondent is
13 an employee, independent contractor or volunteer.

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

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

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

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

20 During the period of probation, Respondent shall not supervise any intern pharmacist or
21 serve as a consultant to any entity licensed by the board. Respondent may be a pharmacist-in-
22 charge, designated representative-in-charge, responsible manager or other compliance supervisor
23 at Respondent Del Sur Pharmacy's location only, but only if Respondent or Respondent Del Sur
24 Pharmacy's retains, at Respondent Del Sur Pharmacy's expense, an independent consultant who
25 shall be responsible for reviewing the operations of the Respondent Del Sur Pharmacy on a
26 quarterly basis for compliance by Respondent and Respondent Del Sur Pharmacy's with state and
27 federal laws and regulations governing the practice of Respondent Del Sur Pharmacy, and
28 compliance by Respondent with the obligations of Respondent Del Sur Pharmacy supervisory

1 position. Respondent may serve in such a position at only one entity licensed by the board, only
2 upon approval by the board or its designee. Any such approval shall be site specific. The
3 consultant shall be a pharmacist licensed by and not on probation with the board, who has been
4 approved by the board or its designee to serve in this position. Respondent shall submit the name
5 of the proposed consultant to the board or its designee for approval within thirty (30) days of the
6 effective date of the decision or prior to assumption of duties allowed in this term. Assumption of
7 any unauthorized supervision responsibilities shall be considered a violation of probation. In
8 addition, failure to timely seek approval for, timely retain, or ensure timely reporting by the
9 consultant shall be considered a violation of probation.

10 **9. Reimbursement of Board Costs**

11 As a condition precedent to successful completion of probation, Respondent shall pay to the
12 board its costs of investigation and prosecution in the amount of \$24,049.75. Respondent shall be
13 jointly and severally liable with Respondent Del Sur Pharmacy, a California Corporation, dba
14 Fairbanks Pharmacy; Bernard J. Gramlich, CEO/PRES, Secretary and Treasurer/CFO; and
15 Charles Adam Covello, Officer.

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

19 **10. Probation Monitoring Costs**

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

24 **11. Status of License**

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

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

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

6 Following the effective date of this decision, should Respondent cease practice due to
7 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
8 Respondent may relinquish his license, including any indicia of licensure issued by the board,
9 along with a request to surrender the license. The board or its designee shall have the discretion
10 whether to accept the surrender or take any other action it deems appropriate and reasonable.
11 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to
12 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
13 become a part of the Respondent's license history with the board.

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

21 **13. Practice Requirement – Extension of Probation**

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

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

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

14 **14. Violation of Probation**

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

21 If Respondent violates probation in any respect, the board, after giving Respondent notice
22 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
23 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
24 probation, or the preparation of an accusation or petition to revoke probation is requested from
25 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
26 probation shall be automatically extended until the petition to revoke probation or accusation is
27 heard and decided.

28 ///

15. **Completion of Probation**

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

16. **Remedial Education**

Within sixty (60) 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 the duties of a Pharmacist in Charge, pharmacy operations and pharmacy law and shall consist of at least 10 hours, which shall be completed within the first three (3) years of Respondent's probation at Respondent's own expense. The remedial education must be 50% in person or live webinar. All remedial education shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes for pharmacists.

Failure to timely submit for approval 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 that course shall not count towards satisfaction of this term. Respondent shall take another course approved by the board in the same subject area.

17. **No New Ownership or Management of Licensed Premises**

Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If Respondent currently owns or has any legal or beneficial interest in, or serves 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 may continue to serve in such capacity or hold

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1 that interest, but only to the extent of that position or interest as of the effective date of this
2 decision. Violation of this restriction shall be considered a violation of probation.

3 **ACCEPTANCE**

4 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
5 discussed it with my attorney, Edward Idell, Esq. 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: _____
11 BERNARD J. GRAMLICH
12 *Respondent*

13 I have read and fully discussed with Respondent Bernard J. Gramlich the terms and
14 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
15 I approve its form and content.

16
17 DATED: _____
18 EDWARD IDELL, ESQ.
19 *Attorney for Respondent*
20
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1 that interest, but only to the extent of that position or interest as of the effective date of this
2 decision. Violation of this restriction shall be considered a violation of probation.

3 **ACCEPTANCE**

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5 discussed it with my attorney, Edward Idell, Esq. 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:

11 11-5-22



12
13 BERNARD J. GRAMLICH
14 Respondent

15 I have read and fully discussed with Respondent Bernard J. Gramlich the terms and
16 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
17 I approve its form and content.

18 DATED:

19 11-5-22



20 EDWARD IDELL, ESQ.
21 Attorney for Respondent
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ENDORSEMENT

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

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
ERIN M. SUNSERI
Supervising Deputy Attorney General

AMIE J. FLYNN
Deputy Attorney General
Attorneys for Complainant

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ENDORSEMENT

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

DATED: November 7, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
ERIN M. SUNSERI
Supervising Deputy Attorney General



AMIE J. FLYNN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 7183

1 ROB BONTA
Attorney General of California
2 MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General
3 AMIE J. FLYNN
Deputy Attorney General
4 State Bar No. 149600
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

9 **BEFORE THE**
10 **BOARD OF PHARMACY**
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12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

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14 **DEL SUR PHARMACY, A CALIFORNIA**
15 **CORPORATION,**
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18 **SECRETARY AND TREASURER/CFO**
19 **CHARLES ADAM COVELLO, OFFICER**
20 **16089 San Dieguito Road # H102**
21 **P. O. Box 9227**
22 **Rancho Santa Fe, CA 92067**

ACCUSATION

23 **Original Permit No. PHY 55594,**

24 **and**

25 **BERNARD GRAMLICH**
26 **P O Box 9227**
27 **Rancho Santa Fe, CA 92067**

28 **Pharmacist License No. RPH 53112**

Respondents.

PARTIES

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

2. On or about May 25, 2017, the Board issued Original Permit Number PHY 55594 to Del Sur Pharmacy, a California Corporation, dba Fairbanks Pharmacy (Respondent Pharmacy). The Original Permit was in full force and effect at all times relevant to the charges brought herein and will expire on May 1, 2022, unless renewed.

3. On or about May 25, 2017, the Board issued Original Permit Number PHY 55594 to Del Sur Pharmacy, a California Corporation, dba Fairbanks Pharmacy (Respondent Pharmacy). Bernard J. Gramlich, 50% shareholder, is and has been Chief Executive Officer, President, Secretary and Treasurer/Chief Financial Officer since May 25, 2017. Charles Adam Covello, 50% shareholder, is and has been Vice-President since May 1, 2017.

4. On or about September 26, 2001, the Board issued Pharmacist License Number RPH 53112 to Bernard Gramlich (Respondent Gramlich). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2023, unless renewed. Bernard Gramlich is and has been the Pharmacist-in-Charge of Respondent Pharmacy since May 25, 2017.

JURISDICTION

5. Business and Professions Code (Code) section 4300 states, in pertinent part:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

...

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The

1 action shall be final, except that the propriety of the action is subject to review
2 by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

3 6. Code section 4300.1 states:

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

10 **STATUTORY AND REGULATORY PROVISIONS**

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

13 8. Section 4035 of the Code states:

14 "Person" includes, but is not limited to, firm, association, partnership,
15 corporation, limited liability company, state governmental agency, trust, or
16 political subdivision.

17 9. Code section 4052.2 states, in pertinent part:

18 (a) Notwithstanding any other law, a pharmacist may perform the following
19 procedures or functions as part of the care provided by a health care facility, a
20 licensed home health agency, licensed correctional clinic, a licensed clinic in which
21 there is a physician oversight, a provider who contracts with a licensed health care
22 service plan with regard to the care or services provided to the enrollees of that health
23 care service plan, or a physician, in accordance with the policies, procedures, or
24 protocols of that facility, home health agency, licensed correctional clinic, licensed
25 clinic, health care service plan, or physician, and in accordance with subdivision (c):

26 . . .

27 (c) The policies, procedures, or protocols referred to in this subdivision shall be
28 developed by health care professionals, including physicians, pharmacists, and
registered nurses, and shall, at a minimum, do all of the following:

(1) Require that the pharmacist function as part of a multidisciplinary group
that includes physicians and direct care registered nurses. The multidisciplinary
group shall determine the appropriate participation of the pharmacist and the direct
care registered nurse.

(2) Require that the medical records of the patient be available to both the
patient's treating prescriber and the pharmacist.

(3) Require that the procedures to be performed by the pharmacist relate to a
condition for which the patient has first been seen by a physician.

(4) Except for procedures or functions provided by a health care facility, a
licensed correctional clinic, as defined in Section 4187, a licensed clinic in which
there is physician oversight, or a provider who contracts with a licensed health care

1 plan with regard to the care or services provided to the enrollees of that health care
2 service plan, require the procedures to be performed in accordance with a written,
3 patient-specific protocol approved by the treating or supervising physician. Any
4 change, adjustment, or modification of an approved preexisting treatment or drug
5 therapy shall be provided in writing to the treating or supervising physician within 24
6 hours.

7 (d) Prior to performing any procedure authorized by this section, a pharmacist
8 shall have done either of the following:

9 (1) Successfully completed clinical residency training.

10 (2) Demonstrated clinical experience in direct patient care delivery.

11 10. Code section 4059, states, in pertinent part:

12 (a) A person may not furnish any dangerous drug, except upon the prescription
13 of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
14 doctor pursuant to Section 3640.7. A person may not furnish any dangerous
15 device, except upon the prescription of a physician, dentist, podiatrist,
16 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

17

18 11. Code section 4076 states, in pertinent part:

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

22 ...

23 (4) The name of the prescriber or, if applicable, the name of certified
24 nurse-midwife who functions pursuant to a standardized procedure or protocol
25 described in Section 2746.51, the nurse practitioner who functions pursuant to a
26 standardized procedure described in Section 2836.1, or protocol, the physician
27 assistant who functions pursuant to Section 3502.1., the naturopathic doctor who
28 functions pursuant to a standardized procedure or protocol described in Section
3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol
pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of
subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

...

12. Section 4113 of the Code states in relevant part:

...

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

....

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1 13. Code section 4301 states in pertinent part:

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

5 ...

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

8 ...

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

14 ...

15 14. Section 4307 of the Code states:

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

27 (1) Where a probationary license is issued or where an existing license is
28 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.

 (b) "Manager, administrator, owner, member, officer, director, associate, or
 partner," as used in this section and Section 4308, may refer to a pharmacist or
 to any other person who serves in that capacity in or for a licensee.

 (c) The provisions of subdivision (a) may be alleged in any pleading filed
 pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3
 of the Government Code. However, no order may be issued in that case except
 as to a person who is named in the caption, as to whom the pleading alleges the
 applicability of this section, and where the person has been given notice of the
 proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1
 of Division 3 of the Government Code. The authority to proceed as provided by
 this subdivision shall be in addition to the board's authority to proceed under
 Section 4339 or any other provision of law.

1 15. Section 4210 of the Code states:

2 (a) A person who seeks recognition as an advanced practice pharmacist shall meet all
3 of the following requirements:

4 (1) Hold an active license to practice pharmacy issued pursuant to this chapter that is
5 in good standing.

6 (2) Satisfy any two of the following criteria:

7 (A) Earn certification in a relevant area of practice, including, but not limited to,
8 ambulatory care, critical care, geriatric pharmacy, nuclear pharmacy, nutrition support
9 pharmacy, oncology pharmacy, pediatric pharmacy, pharmacotherapy, or psychiatric
10 pharmacy, from an organization recognized by the Accreditation Council for Pharmacy
11 Education or another entity recognized by the board.

12 (B) Complete a postgraduate residency through an accredited postgraduate
13 institution where at least 50 percent of the experience includes the provision of direct
14 patient care services with interdisciplinary teams.

15 (C) Have provided clinical services to patients for at least one year under a
16 collaborative practice agreement or protocol with a physician, advanced practice
17 pharmacist, pharmacist practicing collaborative drug therapy management, or health
18 system.

19 16. Health and Safety (H&S) Code section 11165 states, in pertinent part:

20 ...

21 (d) For each prescription for a Schedule II, Schedule III, Schedule IV, or
22 Schedule V controlled substance, as defined in the controlled substances schedules in
23 federal law and regulations, specifically Sections 1308.12, 1308.13, 1308.14, and
24 1308.15, respectively, of Title 21 of the Code of Federal Regulations, the dispensing
25 pharmacy, clinic, or other dispenser shall report the following information to the
26 department or contracted prescription data processing vendor as soon as reasonably
27 possible, but not more than one working day after the date a controlled substance is
28 released to the patient or patient's representative, in a format specified by the
department:

(1) Full name, address, and, if available, telephone number of the ultimate user
or research subject, or contact information as determined by the Secretary of the
United States Department of Health and Human Services, and the gender, and date of
birth of the ultimate user.

(2) The prescriber's category of licensure, license number, national provider
identifier (NPI) number, if applicable, the federal controlled substance registration
number, and the state medical license number of a prescriber using the federal
controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, NPI number, and federal controlled substance registration number.

(4) National Drug Code (NDC) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) The International Statistical Classification of Diseases (ICD) Code contained in the most current ICD revision, or any revision deemed sufficient by the State Board of Pharmacy, if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Prescribing date of the prescription.

(10) Date of dispensing of the prescription.

...

17. California Code of Regulations (CCR), title 16, section 1707.2, subdivision (b)(1)(A), states that a pharmacist shall provide oral consultation to his or her patient or the patient's agent in any care setting which the patient or agent is present whenever the prescription drug has not been dispensed to a patient.

18. CCR, title 16, section 1707.3 states that prior to consultation as set forth in section 1707.2, a pharmacist shall review a patient's drug therapy and medication record before each prescription drug is delivered. The review shall include screening for severe potential drug therapy problems.

19. CCR, title 16, section 1761, subdivision (a), states that no pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.

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DEFINITIONS

20. **Selective Serotonin Reuptake Inhibitors (SSRIs)** are a type of antidepressant that work by increasing levels of serotonin within the brain. Serotonin is a neurotransmitter that is often referred to as the “feel good hormone.” SSRIs are typically used for the treatment of major depressive disorder, anxiety disorders, and other psychological conditions. Escitalopram and Fluoxetine are both SSRIs.

BRAND NAME	GENERIC NAME	DANGEROUS DRUG PER B & PC 4022	CONTROLLED SUBSTANCE PER H & SC	INDICATIONS FOR USE
Lexapro	Escitalopram	Yes	No	SSRI antidepressant, anxiolytic
Prozac	Fluoxetine	Yes	No	SSRI antidepressant, anxiolytic
Zestril	Lisinopril	Yes	No	Hypertension

COST RECOVERY

21. 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FACTUAL ALLEGATIONS

22. Respondent Fairbanks Pharmacy is a pharmacy located in Rancho Santa Fe, California. During the relevant time, Respondent Gramlich was employed at Fairbanks Pharmacy as the Pharmacist-In-Charge.

Fluoxetine 20 mg and Escitalopram 10 mg Dispensed to Patient TG

23. TG is a patient who had Down Syndrome and resided at a senior living facility in the San Diego area. The facility required all residents to use the services of Respondent Pharmacy during the spring of 2018. Due to this agreement, Respondent Pharmacy would routinely fill and deliver prescriptions to patients at the facility.

1 24. On June 10, 2018, the Board received a complaint alleging that on May 3, 2018,
2 Respondent Fairbanks Pharmacy dispensed two SSRIs, fluoxetine and escitalopram, together in
3 the same bubble pill pack (also called a blister pack), to TG. The medication list from the facility
4 did not show the date and physician who issued the prescription, the quantity to dispense, or
5 initials of the pharmacist who received the approval for the prescription. Respondent Gramlich
6 was listed as the prescriber; however, he was not authorized to write or issue prescriptions.

7 25. Respondent Gramlich failed to review TG's prescription profile when the prescription
8 for escitalopram 10 mg and fluoxetine 20 mg were filled on or about June 2, 2018. TG's
9 prescription for 20 mg of fluoxetine was discontinued by Dr. Y on December 20, 2017. TG's
10 prescription for 10 mg of escitalopram was supposed to replace the previous fluoxetine
11 prescription. Had Respondent Gramlich reviewed TG's prescription profile, he would have
12 discovered that prescriptions for 20 mg of fluoxetine were filled on May 3, 2018 and May 22,
13 2018 based on prescriptions issued by Dr. H. Respondent Gramlich should have questioned the
14 prescriptions for two different SSRIs by two doctors. Instead, Respondent Gramlich filled TG's
15 fluoxetine prescription in addition to escitalopram, even though the medications were duplicative
16 and prescribed by two different physicians.

17 26. Respondent Gramlich did not caution TG about the potential risks of taking two
18 SSRIs at once. Because of the combination of these two drugs, which TG took for two months,
19 TG suffered from stomach cramps and headaches and became irritable, anxious, angry and
20 confused. When questioned about why both SSRIs were dispensed to TG, Respondent Gramlich
21 responded that the pharmacy did not have the prescribing doctor's name at the time both
22 medications were ordered by the facility. However, this statement was false because the name of
23 the prescribing physicians was printed on top of the bubble pill pack.

24 27. On or about March 25, 2018, Dr. H prescribed 10 mg escitalopram to TG, which was
25 subsequently dispensed at a different pharmacy on March 29, 2018. On or about May 25, 2018,
26 this prescription was transferred to Respondent Fairbanks Pharmacy. On June 22, 2018, Dr. H
27 called in an additional prescription for 20 mg escitalopram, which was processed on June 28,
28 2018 by Respondent Fairbanks Pharmacy.

1 28. The prescribing doctor, Dr. H, intended for the prescription for 10 mg escitalopram to
2 be discontinued when TG received the prescription for 20 mg escitalopram, but the prescription
3 was ambiguous. Respondent Gramlich failed to clarify this ambiguity with Dr. H, or to notify TG
4 to stop taking the 10 mg escitalopram that was dispensed on June 22, 2018. Consequently, TG
5 took 30 mg of escitalopram instead of the intended dose of 20 mg.

6 **Other Prescriptions Dispensed to TB**

7 29. Respondent Pharmacy filled several other prescriptions for TG. On or about April 30,
8 2018, Respondent Fairbanks Pharmacy filled prescriptions for clotrimazole cream; 20 mg of
9 fluoxetine; 100 mg of allopurinol; 5 mg of lisinopril; and 20 mg of simvastatin. On or about May
10 3, 2018, Respondent Fairbanks Pharmacy filled a prescription for 5 mg of lisinopril. On or about
11 May 17, 2018, Respondent Fairbanks Pharmacy filled a prescription for 100 mg of allopurinol.
12 On or about June 5, 2018, Respondent Fairbanks Pharmacy filled a prescription for 20 mg of
13 simvastatin. For each of these prescriptions, Respondent Gramlich was listed as the prescriber;
14 however, he was not authorized to write or issue prescriptions. Additionally, for each of the
15 prescriptions that were filled on April 30, 2018, the medication list from the facility did not have
16 annotations which showed the date and physician who issued the prescription, the quantity to
17 dispense, or the initials of pharmacist who received the approval for the prescription, as required.
18 Additionally, Respondent Gramlich failed to request the prescriptions from the physician.

19 **Other Prescriptions Dispensed**

20 30. On or about February 28, 2019, the Board conducted an inspection of Respondent
21 Fairbanks Pharmacy. Following the Board's inspection, the Board investigator reviewed a
22 CURES Report of the prescriptions prescribed between June 30, 2017 and December 30, 2018.
23 The review of CURES showed that most of the prescriptions were for the administration of
24 vaccines. However, the following prescriptions, which were not for vaccines, were processed,
25 filled, and dispensed with Respondent Gramlich identified as the prescriber:

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28 ///

Patient	Drug	Rx #	Initial Fill	Refill	Refill
MS	Bi-est 80/20 5mg/ml	100702	11/3/2017	1/29/2018	6/27/2018
KD	Dextroamphetamine 10 mg	100948	12/4/2017		
CS	Gentamicin 0.03% ophthalmic drops	103870	6/19/2018		
HL	Amlodipine- denazepiril 5/20 mg	103581	6/25/2018		
HL	Omeprazole 20 mg	103582	6/25/2018		
CA	Cyanocobalamin 1,000 mcg	100376	9/28/2017		

31. On or about November 3, 2017, Respondent Fairbanks Pharmacy filled a prescription for 30 mg of Bi-Est 80/20. The prescription was prescribed by Dr. G for patient MS. However, the prescription was processed under the name of Respondent Gramlich instead of the actual prescriber.

32. On or about December 1, 2017, Respondent Fairbanks Pharmacy filled a prescription for 10 mg of dextroamphetamine. The prescription was prescribed by Dr. M for patient KD. However, the prescription was processed under the name of Respondent Gramlich instead of the actual prescriber.

33. On or about June 19, 2018, Respondent Fairbanks Pharmacy filled a prescription for 5 ml of gentamicin 0.3% ophthalmic drops for patient CS. Respondent Gramlich was listed as the prescriber; however, he was not authorized to write or issue prescriptions.

34. On or about May 31, 2018, Respondent Fairbanks Pharmacy filled prescriptions for 5/20 mg of benazepril, as well as 20 mg of omeprazole, for Patient HL. The prescription was processed under the name of Respondent Gramlich instead of the actual prescriber, and Respondent Gramlich failed to confirm the identity of HL's current physician. On or about June 25, 2018, Respondent Fairbanks Pharmacy filled a prescription for 5/20 mg of benazepril. This prescription was prescribed by Dr. M for patient HL. For each of these prescriptions, the medication list from the facility did not have annotations which showed the date and physician who approved the prescription, the quantity to dispense, and the initials of pharmacist who received the approval for the prescription, as required.

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1 **Qualifications of Respondent Gramlich**

2 35. On or about September 28, 2017, Respondent Gramlich prescribed and administered
3 1000 mcg of Vitamin B-12 to a patient, pursuant to Respondent Fairbanks Pharmacy's
4 Collaborative Practice Agreement, which provides in part that a pharmacist "[u]nder protocol and
5 professional judgment may perform the injection."

6 36. During its investigation, the Board determined that Respondent Gramlich did not
7 complete a clinical residency training, and was unable to provide proof that he previously worked
8 as a paramedic. Respondent Gramlich also stated that he did not pursue a postgraduate residency
9 program, but instead received clinical experience in direct patient care training. The doctor who
10 provided clinical training, Dr. L, is a naturopathic doctor, not a physician.

11 37. Pursuant to Code section 4210, subdivision (a)(2)(C), clinical training can only be
12 provided by a physician, advanced practice pharmacist, pharmacist practicing collaborative drug
13 therapy management, or health system. Consequently, the training received by Respondent
14 Gramlich from Dr. L was not valid, and did not qualify Respondent Gramlich for the issuance of
15 an Advance Practice Pharmacist license.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Failure to Transmit CURES Data as Required)**

18 38. Respondents are subject to discipline under Health & Safety Code section 11165,
19 subdivision (d), and Code section 4113, in that they failed to submit CURES data of controlled
20 substance prescriptions filed at Fairbanks Pharmacy within the required reporting parameter. The
21 circumstances are as follows:

22 39. On March 4, 2019, the Board obtained a CURES report from May 25, 2017 to March
23 4, 2019, which showed that a total of 998 prescriptions for controlled substances were
24 transmitted. The CURES report of Respondent Pharmacy for the controlled substances dispensed
25 from January 1, 2018 to December 31, 2018, were reported to the Department of Justice after the
26 Board's inspection on December 7, 2018, and not within the required reporting parameter.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Violating State Laws and Regulations Governing Pharmacy)**

3 40. Respondents are subject to discipline under Code section 4301, subdivisions (j) and
4 (o), in conjunction with Code sections 4052.2(a), 4059(a), 4076(a)(4), and 4210(a)(2)(C); Health
5 & Safety Code section 11165(d); and, CCR, title 16, sections 1707.2, 1707.3 and 1761(a); in that
6 Respondent Gramlich acted with unprofessional conduct, in that he violated state laws and
7 regulations governing pharmacy when he prescribed prescriptions in an unauthorized manner, as
8 set forth in paragraphs 22 through 34, above.

9 **THIRD CAUSE FOR DISCIPLINE**

10 **(Erroneous or Uncertain Prescriptions)**

11 41. Respondents are subject to discipline under Code sections 4301, subdivision (o), and
12 CCR, title 16, section 1761, subdivision (a), in that Respondent Gramlich dispensed multiple
13 prescriptions which contained omissions and ambiguity, and failed to clarify ambiguities on
14 multiple prescriptions, as set forth in paragraphs 22 through 34, above.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 **(Unauthorized Furnishing of Dangerous Drugs)**

17 42. Respondents are subject to discipline under Code sections 4301, subdivision (j) and
18 (o), and 4059, subdivision (a), in that Respondent Gramlich dispensed numerous prescriptions
19 when he was not authorized to do so, as set forth in paragraphs 22 through 34, above.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 **(Failure to Review Drug Therapy and Patient Medication Record)**

22 43. Respondents are subject to discipline under Code sections 4301, subdivision (o), and
23 CCR, sections 1707.2 and 1707.3, in that Respondent Gramlich failed to review patient TG's
24 Prescription Profile before delivering prescription drugs resulting in the dispensing of
25 discontinued medications, as set forth in paragraphs 22 through 34, above.

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1 **SIXTH CAUSE FOR DISCIPLINE**

2 **(Failure to Provide Consultation)**

3 44. Respondents are subject to discipline under Code section 4301, subdivision (o), and
4 CCR, section 1707.2, subdivision (b)(1)(A), in that Respondent Gramlich failed to provide
5 consultation to patient TG on June 22, 2018, which resulted in TG taking both escitalopram and
6 fluoxetine, as set forth in paragraphs 22 through 34, above.

7 **SEVENTH CAUSE FOR DISCIPLINE**

8 **(Dispensing of Prescription Label with the Wrong Prescriber)**

9 45. Respondents are subject to discipline under Code section 4301, subdivision (o), and
10 4076, subdivision (a)(4), in that Respondent Gramlich dispensed prescriptions with labels bearing
11 the wrong prescriber on two separate occasions, as set forth in paragraphs 31 through 32, above.

12 **EIGHTH CAUSE FOR DISCIPLINE**

13 **(Failure of the Pharmacist to Adhere to Approved Protocol)**

14 46. Respondents are subject to discipline under Code sections 4301, subdivision (o), and
15 4052.2, subdivision (a), in that Pharmacist Gramlich prescribed and administered Vitamin B-12
16 shots under a Collaborative Practice Agreement that was inadequate for the following reasons, as
17 set forth below and in paragraphs 35 through 37, above:

18 a. The Collaborative Practice Agreement did not indicate the requirement that the
19 supervising physician or primary physician be notified in writing within 24 hours of any
20 initiation, change, adjustment, or discontinuation of therapy.

21 b. The Collaborative Practice Agreement did not indicate the requirement that the
22 procedures to be performed by the pharmacist is related to a condition for which the patient has
23 been seen by a physician.

24 c. Respondent Gramlich completed his training in providing clinical services to patients
25 under the supervision of Dr. L, who is a naturopathic doctor.

26 d. Respondent Gramlich has not completed a clinical residency training or other
27 program which demonstrated clinical experience in direct patient care delivery. Therefore, he
28 was not qualified to administer vitamin B-12 injections.

OTHER MATTERS

75. Pursuant to Section 4307, if Pharmacy Permit Number PHY 55594 issued to Del Sur Pharmacy, a California Corporation, dba Fairbanks Pharmacy is suspended, revoked or placed on probation, Respondent Pharmacy shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board.

76. Pursuant to Section 4307, if Pharmacy Permit Number PHY 55594 issued to Del Sur Pharmacy, a California Corporation, dba Fairbanks Pharmacy is suspended, revoked or placed on probation, and Respondent Gramlich, while acting as the manager, administrator, owner, member, officer, director, associate, or partner, had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY 55594 was revoked, suspended, or placed on probation, Respondent Gramlich shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board.

77. Pursuant to Section 4307, if Pharmacy Permit Number PHY 55594 issued to Del Sur Pharmacy, a California Corporation, dba Fairbanks Pharmacy is suspended, revoked or placed on probation, and Charles Adam Covello, while acting as the manager, administrator, owner, member, officer, director, associate, or partner, had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY 55594 was revoked, suspended, or placed on probation, Charles Adam Covello shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board.

78. Pursuant to Section 4307, if Pharmacist License Number RPH 53112 issued to Bernard J. Gramlich is suspended or revoked, Respondent Gramlich shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

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PRAYER

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

1. Revoking or suspending Original Permit Number PHY 55594, issued to Del Sur Pharmacy, a California Corporation, dba Fairbanks Pharmacy;

2. Revoking or suspending Pharmacist License Number RPH 53112, issued to Bernard Gramlich;

3. Ordering Del Sur Pharmacy, a California Corporation, dba Fairbanks Pharmacy and Bernard Gramlich 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;

4. Ordering that Respondent Bernard Gramlich is prohibited from serving as an officer, director, associate, partner, manager, qualifying individual or member of the personnel of record of a licensee pursuant to Code section 4307;

5. Ordering that Respondent Charles Adam Covello is prohibited from serving as an officer, director, associate, partner, manager, qualifying individual or member of the personnel of record of a licensee pursuant to Code section 4307; and,

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

DATED: 12/27/2021

Signature on File

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

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