

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

**In the Matter of the Accusation Against:**

**MARZIEH ESMAEILI  
Pharmacist License No. RPH 67584**

**Respondent.**

**Agency Case No. 7405**

**OAH No. 2023090082**

**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 August 1, 2024.

It is so ORDERED on July 2, 2024.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.  
Board President

1 ROB BONTA  
Attorney General of California  
2 SHAWN P. COOK  
Supervising Deputy Attorney General  
3 VINODHINI RAMAGOPAL  
Deputy Attorney General  
4 State Bar No. 240534  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
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*Attorneys for Complainant*  
7

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

12 In the Matter of the Accusation Against:

13 **MARZIEH ESMAEILI**  
14 **P.O. Box 8461**  
15 **Northridge, CA 91327**

16 **Registered Pharmacist License No. RPH**  
**67584**

17 Respondent.

Case No. 7405

OAH No. 2023090082

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy  
23 (Board). She brought this action solely in her official capacity and is represented in this matter by  
24 Rob Bonta, Attorney General of the State of California, by Vinodhini Ramagopal, Deputy  
25 Attorney General.

26 2. Respondent Marzieh Esmacili is represented in this proceeding by attorney Herbert L.  
27 Weinberg, Esq., whose address is: 1990 South Bundy Drive, Suite 777  
28 Los Angeles, CA 90025.

3. On or about August 16, 2012, the Board issued Registered Pharmacist License No. RPH 67584 to Marzieh Esmaeili (Respondent). The Registered Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 7405, and will expire on September 30, 2025, unless renewed.

## JURISDICTION

4. Accusation No. 7405 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on April 15, 2023. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 7405 is attached as exhibit A and incorporated herein by reference.

## **ADVISEMENT AND WAIVERS**

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 7405. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

## CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 7405.

///

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

## CONTINGENCY

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

12. 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.

13. 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.

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 Registered Pharmacist License No. RPH 67584 issued to Respondent Marzieh Esmaeili 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.

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1                   **3. Interview with the Board**

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

7                   **4. Cooperate with Board Staff**

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

14                   **5. Continuing Education**

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

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

18                   During the period of probation, respondent shall notify all present and prospective  
19 employers of the decision in case number 7405 and the terms, conditions and restrictions imposed  
20 on respondent by the decision, as follows:

21                   Within thirty (30) days of the effective date of this decision, and within ten (10) days of  
22 undertaking any new employment, respondent shall report to the board in writing the name,  
23 physical address, and mailing address of each of her employer(s), and the name(s) and telephone  
24 number(s) of all of her direct supervisor(s), as well as any pharmacist(s)-in-charge, designated  
25 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work  
26 schedule, if known. Respondent shall also include the reason(s) for leaving the prior  
27 employment. Respondent shall sign and return to the board a written consent authorizing the  
28 board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and  
authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,

1 concerning respondent's work status, performance, and monitoring. Failure to comply with the  
2 requirements or deadlines of this condition shall be considered a violation of probation.

3 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
4 respondent undertaking any new employment, respondent shall cause (a) her direct supervisor, (b)  
5 her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other  
6 compliance supervisor, and (c) the owner or owner representative of her employer, to report to the  
7 board in writing acknowledging that the listed individual(s) has/have read the decision in case  
8 number 7405, and terms and conditions imposed thereby. If one person serves in more than one  
9 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's  
10 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the  
11 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term  
12 of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in  
13 writing within fifteen (15) days of the change acknowledging that he or she has read the decision  
14 in case number 7405, and the terms and conditions imposed thereby.

15 If respondent works for or is employed by or through an employment service, respondent  
16 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board  
17 of the decision in case number 7405, and the terms and conditions imposed thereby in advance of  
18 respondent commencing work at such licensed entity. A record of this notification must be  
19 provided to the board upon request.

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

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

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

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

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

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

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

During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge, designated representative-in-charge, responsible manager or other compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

**9. Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, respondent shall pay to the board its costs of investigation and prosecution in the amount of \$15,588.50. Respondent shall make said payments as follows:

There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

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

**10. Probation Monitoring Costs**

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

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11. **Status of License**

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

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

12. **License Surrender While on Probation**

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

Upon acceptance of the surrender, respondent shall relinquish her pocket and/or wall license, including any indicia of licensure not previously provided to the board within ten (10) 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.

13. **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 100 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month.

1 During any such period of insufficient employment, respondent must nonetheless comply with all  
2 terms and conditions of probation, unless respondent receives a waiver in writing from the board  
3 or its designee.

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

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

17 **14. Violation of Probation**

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

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

1 probation shall be automatically extended until the petition to revoke probation or accusation is  
2 heard and decided.

3 **15. Completion of Probation**

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

6 **16. Remedial Education**

7 Within sixty (60) days of the effective date of this decision, respondent shall submit to the  
8 board or its designee, for prior approval, an appropriate program of remedial education related to  
9 USP 795 compounding. The program of remedial education shall consist of at least four (4) hours  
10 the first year of probation; and three (3) hours each during the second and third years of  
11 probation, for a total of ten (10) hours, at respondent's own expense. All remedial education shall  
12 be in addition to, and shall not be credited toward, continuing education (CE) courses used for  
13 license renewal purposes for pharmacists.

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

18 Following the completion of each course, the board or its designee may require the  
19 respondent, at her own expense, to take an approved examination to test the respondent's  
20 knowledge of the course. If the respondent does not achieve a passing score on the examination  
21 that course shall not count towards satisfaction of this term. Respondent shall take another course  
22 approved by the board in the same subject area.

23 **17. Ethics Course**

24 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll  
25 in a course in ethics, at respondent's expense, approved in advance by the board or its designee  
26 that complies with Title 16 California Code of Regulations section 1773.5. Respondent shall  
27 provide proof of enrollment upon request. Within five (5) days of completion, respondent shall  
28 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

1 successfully complete it before the end of the second year of probation, or to timely submit proof  
2 of completion to the board or its designee, shall be considered a violation of probation.

3 **18. No Ownership or Management of Licensed Premises**

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

11 **ACCEPTANCE**

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

17 DATED: \_\_\_\_\_

18 MARZIEH ESMAEILI  
19 *Respondent*

20 I have read and fully discussed with Respondent Marzieh Esmaeili the terms and conditions  
21 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve  
22 its form and content.

23 DATED: \_\_\_\_\_

24 HERBERT L. WEINBERG, ESQ.  
25 *Attorney for Respondent*

1 successfully complete it before the end of the second year of probation, or to timely submit proof  
2 of completion to the board or its designee, shall be considered a violation of probation.

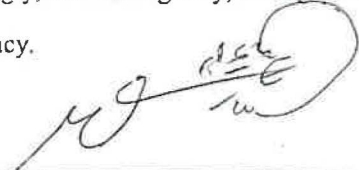
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4 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,  
5 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
6 partnership, or corporation currently or hereinafter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

11 **ACCEPTANCE**

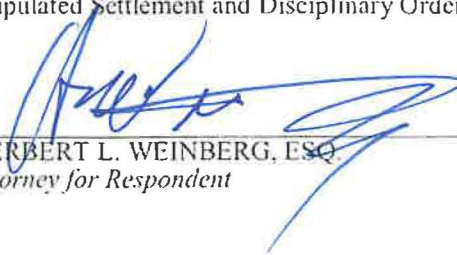
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13 discussed it with my attorney, Herbert L. Weinberg, Esq. I understand the stipulation and the  
14 effect it will have on my Registered Pharmacist License. I enter into this Stipulated Settlement  
15 and Disciplinary Order voluntarily, knowingly,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

17 DATED: APR 19 / 24

18   
MARZIEH ESMAEILI  
Respondent

19 I have read and fully discussed with Respondent Marzieh Esmacili the terms and conditions  
20 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve  
21 its form and content.

22 DATED: 4/19/2024

23   
HERBERT L. WEINBERG, ESQ.  
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  
SHAWN P. COOK  
Supervising Deputy Attorney General

VINODHINI RAMAGOPAL  
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: 4/19/24

Respectfully submitted,

ROB BONTA  
Attorney General of California  
SHAWN P. COOK  
Supervising Deputy Attorney General



VINODHINI RAMAGOPAL  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 7405**



1 ROB BONTA  
Attorney General of California  
2 SHAWN P. COOK  
Supervising Deputy Attorney General  
3 VINODHINI RAMAGOPAL  
Deputy Attorney General  
4 State Bar No. 240534  
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*Attorneys for Complainant*  
7

8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 7405

13 **MARZIEH ESMAEILI**  
**P.O. Box 8461**  
**Northridge, CA 91327**

**ACCUSATION**

14 **Registered Pharmacist License No. RPH**  
15 **67584**

16 Respondent.

17  
18 **PARTIES**

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

21 2. On or about August 16, 2012, the Board of Pharmacy issued Registered Pharmacist  
22 License Number RPH 67584 to Marzieh Esmaeili (Respondent). The Registered Pharmacist  
23 License was in full force and effect at all times relevant to the charges brought herein and will  
24 expire on September 30, 2023, unless renewed.

25 **JURISDICTION**

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



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

3 7. Section 4301 of the Code states in relevant part:

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

7 ...

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

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

13 ...

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

16 ...

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

### 21 **REGULATORY PROVISIONS**

22 8. California Code of Regulations, title 16, section 1716 states:

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

26 Nothing in this regulation is intended to prohibit a pharmacist from exercising commonly-  
27 accepted pharmaceutical practice in the compounding or dispensing of a prescription.  
28

1 **COST RECOVERY**

2 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licensee found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case, with failure of the licensee to comply subjecting the license to not being  
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
7 included in a stipulated settlement.

8 **FACTUAL ALLEGATIONS**

9 10. On or about November 18, 2021, the Board received a complaint from the owner of  
10 Exigency Compounding Pharmacy ("Pharmacy") regarding work done by Respondent who was  
11 the pharmacist-in-charge ("PIC") at the Pharmacy.

12 11. On or about October 6, 2021, the pharmacy technician, M. O. compounded a  
13 prescription for a Magic Mouthwash (RX #143003) under the supervision of Respondent.  
14 Respondent deviated from the written prescription for the Magic Mouthwash compound (RX #  
15 143003) when she incorrectly verified and dispensed it to patient, C.O. with approximately 240  
16 times too much of the active ingredient, hydrocortisone. According to the prescription, the correct  
17 quantity of hydrocortisone powder was 0.06gm or 60mg of hydrocortisone in the final 240ml  
18 volume. Therefore, the 14.4gm that was actually used was approximately 240 times too much  
19 hydrocortisone.

20 12. On or about October 11, 2021, M.O. under the orders of Respondent edited the  
21 compounding log for the Magic Mouthwash (RX # 143003) to indicate the correct amount of  
22 hydrocortisone that should have been used. On or about October 11, 2021, Respondent initialed,  
23 signed, and backdated the edited compounding log to October 6, 2021. However, a new version  
24 of the Magic Mouthwash was not compounded as a replacement for the incorrectly dispensed  
25 prescription to patient C.O. The edited compounding log for the Magic Mouthwash (RX #  
26 143003) had the same date made, lot number, and beyond use date as the original compounding  
27 log.

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Deviation from Written Prescription)**

3 13. Respondent is subject to disciplinary action pursuant to Code sections 4301,  
4 subdivision (j) and/or (o), and section 4113, subdivision (c) in conjunction with California Code  
5 of Regulations, title 16, section 1716 in that Respondent, as the PIC of the Pharmacy deviated  
6 from the written prescription for the Magic Mouthwash compound (RX # 143003) when she  
7 incorrectly verified and dispensed it to patient, C.O. with approximately 240 times too much of  
8 the active ingredient, hydrocortisone. The allegations of paragraphs 10 through 11 above are  
9 realleged as though fully set forth.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct – Dishonesty, Deceit, and Knowingly Making or Signing Any**  
12 **Document that Falsely Represents the Existence or Non-Existence of a State of Facts)**

13 14. Respondent is subject to disciplinary action pursuant to Code sections 4301,  
14 subdivisions (f), (g), (j) and/or (o), and section 4113, subdivision (c) in that on or about October  
15 11, 2021, Respondent initialed, signed, and backdated the edited compounding log records for the  
16 Magic Mouthwash compound (RX # 143003) to October 6, 2021, to correct the amount of the  
17 active ingredient, hydrocortisone, but it was not compounded as a replacement for the incorrectly  
18 dispensed prescription to the patient. The allegations of paragraphs 10 through 12 above are  
19 realleged as though fully set forth.

20 **DISCIPLINE CONSIDERATIONS**

21 15. To determine the degree of discipline, if any, to be imposed on Respondent,  
22 Complainant alleges that on or about June 10, 2022, in a prior action, the Board of Pharmacy  
23 issued Citation Number CI 2021 94779 and ordered Respondent to pay a fine of \$750.00 for  
24 violating title 16, California Code of Regulations, sections 1735.2, subdivision (i)(1)(A) and  
25 1735.2, subdivision (a)(c). That Citation is now final.

26 16. To determine the degree of discipline, if any, to be imposed on Respondent,  
27 Complainant alleges that on or about December 24, 2019, in a prior action, the Board of  
28 Pharmacy issued Citation Number CI 2019 86663 and ordered Respondent to pay a fine of

1 \$4,000.00 for violating title 16, California Code of Regulations, sections 1735.3, subdivision  
2 (a)(6). Respondent was also cited for violating section 4301, subdivision (o) and 4113 of the  
3 Code, and title 21, Code of Federal Regulations, section 1305.12, subdivision (a)(d), but no fine  
4 was issued. That Citation is now final.

5 17. To determine the degree of discipline, if any, to be imposed on Respondent,  
6 Complainant alleges that on or about March 17, 2014, in a prior action, the Board of Pharmacy  
7 issued Citation Number CI 2013 60378 and ordered Respondent to pay a fine of \$500.00 for  
8 violating section 4115, subdivision (f)(1), of the Code. That Citation is now final.

9 **PRAYER**

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

12 1. Revoking or suspending Registered Pharmacist License Number RPH 67584, issued  
13 to Marzieh Esmaeili;

14 2. Ordering Marzieh Esmaeili to pay the Board of Pharmacy the reasonable costs of the  
15 investigation and enforcement of this case, pursuant to Business and Professions Code section  
16 125.3; and,

17 3. Taking such other and further action as deemed necessary and proper.  
18

19  
20 DATED: 4/15/2023

Sodergren,  
Anne@DCA

Digitally signed by  
Sodergren, Anne@DCA  
Date: 2023.04.15 06:17:47  
-07'00'

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

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