

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

In the Matter of the Accusation Against:

**AVANIR PHARMACEUTICALS, INC., dba
AVANIR PHARMACEUTICALS INC.,
Original Wholesale Permit No. WLS 5558;**

**AVANIR PHARMACEUTICALS, INC., dba
AVANIR PHARMACEUTICALS INC.,
Original Wholesale Permit No. WLS 6793;**

and

**AVANIR PHARMACEUTICALS, INC., dba
AVANIR PHARMACEUTICALS INC.,
Original Wholesale Permit No. WLS 7732,**

Respondents.

Agency Case No. 7598

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 July 18, 2024.

It is so ORDERED on June 18, 2024.

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 distinguishable.

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General
3 DIONNE MOCHON
Deputy Attorney General
4 State Bar No. 203092
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9012
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:

Case No. 7598

13 **AVANIR PHARMACEUTICALS, INC.**
14 **DBA AVANIR PHARMACEUTICALS**
INC.

STIPULATED SURRENDER OF
LICENSE AND ORDER

15 **Original Wholesale Permit No. WLS 5558**

16 **30 Enterprise, Suite 400**
Aliso Viejo, CA 92656

17 **AVANIR PHARMACEUTICALS, INC.**
18 **DBA AVANIR PHARMACEUTICALS**
19 **INC.**

20 **Original Wholesale Permit No. WLS 6793**

21 **30 Enterprise, Suite 400**
Aliso Viejo, CA 92656

22 **AVANIR PHARMACEUTICALS, INC.**
23 **DBA AVANIR PHARMACEUTICALS**
24 **INC.**

25 **Original Wholesale Permit No. WLS 7732**

26 **30 Enterprise, Suite 200**
Aliso Viejo, CA 92656

27 Respondent.
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 Dionne Mochon, Deputy Attorney
7 General.

8 2. Respondent Avanir Pharmaceuticals Inc. (Respondent) dba Avanir Pharmaceuticals,
9 Inc. is represented in this proceeding by attorney Daniel Guggenheim, whose address is Quarles
10 and Bardy, LLP, 101 W. Broadway, Ninth Floor, San Diego, California, 92101.

11 3. On or about April 21, 2010, the Board issued Original Wholesale Permit Number
12 WLS 5558 to Respondent to do business as Avanir Pharmaceuticals, Inc. The Original
13 Wholesale Permit expired on May 24, 2016 pursuant to a change of ownership.

14 4. On or about May 23, 2016, the Board issued Original Wholesale Permit Number
15 WLS 6793 to Respondent to do business as Avanir Pharmaceuticals, Inc. The Original Wholesale
16 Permit expired on March 30, 2020 pursuant to a change in location, as reflected in paragraph 4,
17 below.

18 5. On or about March 30, 2020, the Board issued Original Wholesale Permit Number
19 WLS 7732 to Respondent to do business as Avanir Pharmaceuticals, Inc. located at 30 Enterprise,
20 Suite 200, Aliso Viejo, CA 92656. The Wholesale Permit expired on January 1, 2023 pursuant to
21 Discontinuance of Business.

22 **JURISDICTION**

23 6. Accusation No. 7598 was filed before the Board, and is currently pending against
24 Respondent. The Accusation and all other statutorily required documents were properly served
25 on Respondent on December 8, 2023. Respondent timely filed its Notice of Defense contesting
26 the Accusation. A copy of Accusation No. 7598 is attached as Exhibit A and incorporated by
27 reference.

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1 with the Board regarding this stipulation and surrender, without notice to or participation by
2 Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that it
3 may not withdraw its agreement or seek to rescind the stipulation prior to the time the Board
4 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
5 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
6 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
7 be disqualified from further action by having considered this matter.

8 15. The parties understand and agree that Portable Document Format (PDF) and facsimile
9 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
10 thereto, shall have the same force and effect as the originals.

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

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

19 **DISCIPLINARY ORDER**

20 IT IS HEREBY ORDERED that Original Wholesale Permit No. WLS 5558, Original
21 Wholesale Permit No. WLS 6793, and Original Wholesale Permit No. WLS 7732 issued to
22 Respondent Avanir Pharmaceuticals, Inc., are surrendered and accepted by the Board.

23 1. The surrender of Respondent's Original Wholesale Permit 5558, Original Wholesale
24 Permit 6793, and Original Wholesale Permit 7732 and the acceptance of the surrendered licenses
25 by the Board shall constitute the imposition of discipline against Respondent. This stipulation
26 constitutes a record of the discipline and shall become a part of Respondent's license history with
27 the Board. Respondent understands and agrees that for purposes of Business and Professions
28 Code section 4307, the surrender shall be construed the same as revocation.

2. Respondent shall lose all rights and privileges as a wholesaler in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board its pocket licenses and, if one was issued, its wall certificates on or before the effective date of the Decision and Order.

4. Respondent may not apply for any license, permit, or registration from the Board for three years from the effective date of this decision. If Respondent ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 7598 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$5,543.75 prior to issuance of a new or reinstated license.

///

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Doug Ottenwess, Esq. I understand the stipulation and the effect it will have on my Original Wholesale Permits. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

LOUIS ALLESANDRINE, as President
and an authorized agent on behalf of
AVANIR PHARMACEUTICALS, INC.
Respondent

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3. Respondent shall cause to be delivered to the Board its pocket licenses and, if one was issued, its wall certificates on or before the effective date of the Decision and Order.

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///

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Doug Ottenwess, Esq. I understand the stipulation and the effect it will have on my Original Wholesale Permits. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 25-Apr-2024 | 13:31 PDT

DocuSigned by:

Louis Allesandrine

46EBAA6C93BF40A

LOUIS ALLESANDRINE, as President
and an authorized agent on behalf of
AVANIR PHARMACEUTICALS, INC.
Respondent

1 I have read and fully discussed with Respondent Avanir Pharmaceuticals, Inc. the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4 DATED: _____ DANIEL GUGGENHEIM, ESQ.
5 *Attorney for Respondent*

6
7 **ENDORSEMENT**

8 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
9 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

10 DATED: _____ Respectfully submitted,
11 ROB BONTA
12 Attorney General of California
13 MARICHELLE S. TAHIMIC
14 Supervising Deputy Attorney General

15 DIONNE MOCHON
16 Deputy Attorney General
17 *Attorneys for Complainant*

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1 I have read and fully discussed with Respondent Avanir Pharmaceuticals, Inc. the terms and
2 conditions and other matters contained in this Stipulated Surrender of License and Order. I
3 approve its form and content.

4 DATED: _____

4/29/2024



DANIEL GUGGENHEIM, ESQ.
Attorney for Respondent

6
7 **ENDORSEMENT**

8 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
9 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

10 DATED: 04/30/2024 _____

Respectfully submitted,

11 ROB BONTA
12 Attorney General of California
13 MARICHELLE S. TAHIMIC
14 Supervising Deputy Attorney General

15 DIONNE MOCHON
16 Deputy Attorney General
17 *Attorneys for Complainant*

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Exhibit A

Accusation No. 7598

1 ROB BONTA
Attorney General of California
2 MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General
3 DIONNE MOCHON
Deputy Attorney General
4 State Bar No. 203092
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9012
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:

Case No. 7598

13 **AVANIR PHARMACEUTICALS, INC.**
DBA AVANIR PHARMACEUTICALS INC.

ACCUSATION

14 **Original Wholesale Permit No. WLS 5558**

15 **30 Enterprise, Suite 400**
16 **Aliso Viejo, CA 92656**

17 **AVANIR PHARMACEUTICALS, INC.**
DBA AVANIR PHARMACEUTICALS INC.

18 **Original Wholesale Permit No. WLS 6793**

19 **30 Enterprise, Suite 400**
20 **Aliso Viejo, CA 92656**

21 **AVANIR PHARMACEUTICALS, INC.**
22 **DBA AVANIR PHARMACEUTICALS INC.**

23 **Original Wholesale Permit No. WLS 7732**

24 **30 Enterprise, Suite 200**
25 **Aliso Viejo, CA 92656**

26 Respondent.
27
28

1 **PARTIES**

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

4 2. On or about April 21, 2010, the Board issued Original Wholesale Permit Number
5 WLS 5558 to Avanir Pharmaceuticals Inc. (Respondent) to do business as Avanir
6 Pharmaceuticals, Inc. The Original Wholesale Permit expired on May 24, 2016 pursuant to a
7 change of ownership.

8 3. On or about May 23, 2016, the Board issued Original Wholesale Permit Number
9 WLS 6793 to Respondent to do business as Avanir Pharmaceuticals, Inc. The Original Wholesale
10 Permit expired on March 30, 2020 pursuant to a change in location, as reflected in paragraph 4,
11 below.

12 4. On or about March 30, 2020, the Board issued Original Wholesale Permit Number
13 WLS 7732 to Respondent to do business as Avanir Pharmaceuticals, Inc. located at 30 Enterprise,
14 Suite 200, Aliso Viejo, CA 92656. The Wholesale Permit expired on January 1, 2023 pursuant to
15 Discontinuance of Business.

16 **JURISDICTION AND STATUTORY PROVISIONS**

17 5. This Accusation is brought before the Board under the authority of the following
18 laws. All section references are to the Business and Professions Code (Code) unless otherwise
19 indicated.

20 6. Section 118, subdivision (b) of the Code, provides that the suspension, expiration,
21 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
22 disciplinary action during the period within which the license may be renewed, restored, reissued
23 or reinstated.

24 7. Section 493 of the Code states:

25 Notwithstanding any other provision of law, in a proceeding conducted by a
26 board within the department pursuant to law to deny an application for a license or to
27 suspend or revoke a license or otherwise take disciplinary action against a person who
28 holds a license, upon the ground that the applicant or the licensee has been convicted
of a crime substantially related to the qualifications, functions, and duties of the
licensee in question, the record of conviction of the crime shall be conclusive
evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order
2 to fix the degree of discipline or to determine if the conviction is substantially related
3 to the qualifications, functions, and duties of the licensee in question.

4 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and
5 'registration.'

6 8. Section 4011 of the Code provides that the Board shall administer and enforce both
7 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
8 Act [Health & Safety Code, § 11000 et seq.].

9 9. Section 4022.5 of the Code states:

10 (a) "Designated representative" means an individual to whom a license has
11 been granted pursuant to Section 4053. A pharmacist fulfilling the duties of Section
12 4053 shall not be required to obtain a license as a designated representative.

13

14 10. Section 4053 of the Code states:

15 (a) Notwithstanding Section 4051, the board may issue a license as a designated
16 representative to provide sufficient and qualified supervision in a wholesaler or
17 veterinary food-animal drug retailer. The designated representative shall protect the
18 public health and safety in the handling, storage, and shipment of dangerous drugs
19 and dangerous devices in the wholesaler or veterinary food-animal drug retailer.

20

21 11. Section 4300 of the Code states in pertinent part:

22 (a) of the Code provides that every license issued by the Board may be
23 suspended or revoked.

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

27 (1) Suspending judgment.

28 (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 by the
2 superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

3 12. Section 4300.1 of the Code 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 by a
7 licensee shall not deprive the board of jurisdiction to commence or proceed with any
8 investigation of, or action or disciplinary proceeding against, the licensee or to render
9 a decision suspending or revoking the license.

10 13. Section 4301 of the Code states in pertinent part:

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

14

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

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

20

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

23

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

14. Section 4307 of the Code states in pertinent part:

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

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

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

6 (b) Manager, administrator, owner, member, officer, director, associate, partner,
7 or any other person with management or control of a license' as used in this section
8 and Section 4308, may refer to a pharmacist or to any other person who serves in
9 such capacity in or for a licensee.

10

11 **COSTS**

12 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
13 administrative law judge to direct a licentiate found to have committed a violation or violations of
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
15 enforcement of the case with failure of the licentiate to comply subjecting the license to not being
16 renewed or reinstated. If the case settles, recovery of investigation and enforcement costs may be
17 included in a stipulated settlement.

18 **FACTUAL ALLEGATIONS**

19 **Federal Lawsuit Under False Claims Act**

20 16. On or around April 17, 2015, two former employees filed a lawsuit against
21 Respondent on behalf of the United States and twenty-eight states in the United States District
22 Court, Northern District of Georgia, Case No. 1:15-CV-1250-SCJ. The lawsuit was brought
23 under the federal False Claims Act and sought to recover damages and civil monetary penalties.
24 It alleged Respondent used false and fraudulent information, such as diagnosis codes and
25 statements about patient conditions, on claim forms, prior authorization forms, letters of medical
26 necessity, and related documents between October 29, 2010 and December 31, 2016 about
27 Respondent's prescription drug Nuedexta®¹.

28 17. On or about September 26, 2019, Respondent agreed to pay \$95,972.17 as part of a
settlement to resolve allegations brought under the False Claims Act related to Respondent's

¹ Nuedexta® (dextromethorphan HBr and quinidine sulfate) is approved for treatment of
Pseudobulbar Affect in people with certain neurological disorders, including multiple sclerosis and
amyotrophic lateral sclerosis (ALS, or Lou Gehrig's disease).

1 marketing of Nuedexta®. As part of the settlement, Respondent entered into a Corporate
2 Integrity Agreement with the Department of Health and Human Services Office of Inspector
3 General for five years. On December 25, 2019, the court filed a Joint Stipulation of Dismissal
4 based upon the executed settlement.

5 **Criminal Charges Filed Alleging Payment of Kickbacks**

6 18. On or about September 26, 2019, the United States Attorney's Office filed a criminal
7 information in the U.S. District Court, Northern District of Georgia, Case No. 1:19-CR-22369,
8 charging Respondent with paying kickbacks to a physician to prescribe Nuedexta® to federal
9 healthcare program beneficiaries and to recommend that other physicians prescribe the drug as
10 well.

11 19. The criminal information alleged that between at least November 2011 through
12 February 2016, Respondent paid a physician more than \$330,000.00 in speaker fees and
13 honoraria. Federal programs such as Medicare and Medicaid paid over \$5,000,000.00 for
14 prescriptions obtained as part of the kickback scheme. Members of Respondent's sales and
15 marketing management concealed communications about the kickback scheme, including
16 detection by the company's compliance department, by using encrypted and anonymous
17 messaging applications and encouraging deletion of incriminating texts and emails.

18 20. On September 26, 2019, Respondent entered into a three year deferred prosecution
19 agreement and agreed to pay \$12,874,895.00 in criminal penalties and forfeitures. On November
20 30, 2022, the court dismissed the criminal information with prejudice based on the expiration of
21 the deferred prosecution agreement.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct: Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit)**

24 21. Respondent is subject to disciplinary action pursuant to Code section 4301,
25 subdivision (f), in that between at least October 29, 2010 through December 31, 2016,
26 Respondent provided illegal kickbacks to physicians and health care professionals to induce
27 physicians to prescribe Nuedexta®, as more fully alleged and set forth in paragraphs 16 through
28 20 and incorporated herein by reference.

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Falsifying Documents)**

3 22. Respondent is subject to disciplinary action pursuant to Code section 4301,
4 subdivisions (f) and (g), in that between at least October 29, 2010 through December 31, 2016,
5 Respondent knowingly made or signed documents that falsely represented the existence or
6 nonexistence of a state of facts by submitting kickbacks to a physician in exchange for increased
7 prescriptions to enrollees in federal programs such as Medicare and Medicaid, and by agreeing to
8 a separate civil resolution with the Department of Justice to resolve allegations under the False
9 Claims Act, as more fully alleged and set forth in paragraphs 16 through 20 and incorporated
10 herein by reference.

11 **THIRD CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct: Violation of Statutes Regulating Controlled Substances)**

13 23. Respondent is subject to disciplinary action pursuant to Code section 4301,
14 subdivision (j), in that between at least October 29, 2010 through December 31, 2016,
15 Respondent violated California statutes and/or federal state laws regulating controlled substances
16 and dangerous drugs, as more fully alleged and set forth in paragraphs 16 through 20 and
17 incorporated herein by reference.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct: Violating California Statutes Applicable to Pharmacy)**

20 24. Respondent is subject to disciplinary action pursuant to Code section 4301,
21 subdivision (o), in that between at least October 29, 2010 through December 31, 2016,
22 Respondent violated California statutes and regulations, and/or federal laws governing pharmacy,
23 as more fully alleged and set forth in paragraphs 16 through 20 and incorporated herein by
24 reference.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct: Acts Warranting Denial of Licensure)**

27 25. Respondent is subject to disciplinary action pursuant to section 4301, subdivisions
28 (p), on the grounds of unprofessional conduct in that Respondent committed acts violating

1 Pharmacy Law and/or federal and state laws governing pharmacy that would have warranted
2 denial of a license, as more fully alleged and set forth in paragraphs 16 through 20 and
3 incorporated herein by reference.

4 **DISCIPLINE CONSIDERATIONS**

5 26. To determine the degree of discipline, if any, to be imposed on Respondent,
6 Complainant alleges that on or about September 3, 2019, in a prior action, the Board of Pharmacy
7 issued Citation Number CI 2019 85221 to Respondent against Pharmacy Permit Number WLS
8 6793. The Citation was issued to Respondent for violation of Code section 4305.5, subdivision
9 (a), for failure to notify the Board within thirty days of the termination of employment of the
10 designated representative in charge. The Board issued a fine of \$1,000.00. That Citation is now
11 final.

12 **OTHER MATTERS**

13 27. Pursuant to Code section 4307, if discipline is imposed on Original Wholesale Permit
14 Numbers WLS 5558, WLS 6793, or WLS 7732, issued to Avanir Pharmaceuticals Inc. doing
15 business as Avanir Pharmaceuticals, Inc. then Avanir Pharmaceuticals Inc., shall be prohibited
16 from serving as manager, administrator, owner, member, officer, director, associate, or partner of
17 a licensee for five years, if Original Wholesale Permit Numbers WLS 5558, WLS 6793, or WLS
18 7732 is placed on probation, or if it is revoked, until Original Wholesale Permit Numbers WLS
19 5558, WLS 6793, or WLS 7732 is reinstated.

20 **PRAYER**

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

23 1. Revoking or suspending Original Wholesale Permit Number WLS 5558, issued to
24 Avanir Pharmaceuticals, Inc.;

25 2. Revoking or suspending Original Wholesale Permit Number WLS 6793, issued to
26 Avanir Pharmaceuticals, Inc.;

27 3. Revoking or suspending Original Wholesale Permit Number WLS 7732, issued to
28 Avanir Pharmaceuticals, Inc.;

1 4. Prohibiting Avanir Pharmaceuticals, Inc. from serving as a manager, administrator,
2 owner, member, officer, director, associate, or partner of a licensee for five years if Original
3 Wholesale Permit Numbers, WLS 5558, WLS 6793, or WLS 7732 are placed on probation or
4 until Original Wholesale Permit Numbers WLS 5558, WLS 6793, or WLS 7732 are reinstated if
5 Wholesale Permit Number WLS 5558, WLS 6793, or WLS 7732 are revoked;

6 5. Ordering Avanir Pharmaceuticals, Inc. to pay the Board of Pharmacy the reasonable
7 costs of the investigation and enforcement of this case, pursuant to Business and Professions
8 Code section 125.3; and,

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

10
11
12 DATED: 12/4/2023

Sodergren,
Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2023.12.04 13:40:30 -08'00'

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

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18 SD2023802126
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