

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

In the Matter of the Accusation Against:

Case No. AC 2012 4451

**NEW ENGLAND COMPOUNDING CENTER
697 Waverly Street
Framingham, MA 01702**

**Non-Resident Pharmacy License No. NRP 586
Non-Resident Sterile Compounding Pharmacy
License No. NSC 99216**

Respondent.

DECISION AND ORDER

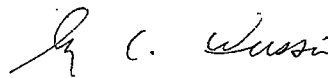
The attached Stipulated Surrender Licenses and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on September 16, 2013.

It is so ORDERED on August 15, 2013.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Supervising Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
Attorneys for Complainant

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

10 In the Matter of the Accusation Against:
11
12 **NEW ENGLAND COMPOUNDING CENTER**
697 Waverly Street
13 Framingham, MA 01702
14 **Non-Resident Pharmacy License No. NRP 586**
Non-Resident Sterile Compounding Pharmacy
15 **License No. NSC 99216**
16 Respondent.

Case No. AC 2012 4451

**STIPULATED SURRENDER OF
LICENSES AND ORDER**

17 In the interest of a prompt and speedy resolution of this matter, consistent with the public
18 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
19 the parties hereby agree to the following Stipulated Surrender of Licenses and Order which will
20 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

21 PARTIES

22 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought
23 this action solely in her official capacity and is represented herein by Kamala D. Harris, Attorney
24 General of the State of California, by Joshua A. Room, Supervising Deputy Attorney General.

25 2. New England Compounding Pharmacy dba New England Compounding Center,
26 Carla Conigliaro, President, Barry Cadden, Pharmacist in Charge (Respondent) is represented in
27 this proceeding by Paul Cirel, of COLLORA LLP, 100 High Street, Boston, MA 02110-2321.

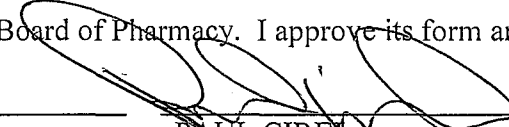
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1 7. If Respondent should ever apply or reapply for a new license or certification, or
2 petition for reinstatement of a license, by any other health care licensing agency in the State of
3 California, all of the charges and allegations contained in Accusation No. AC 2012 4451 shall be
4 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
5 Issues or any other proceeding seeking to deny or restrict licensure.

6
7 ACCEPTANCE

8 I have read and fully discussed with Respondent the terms and conditions and other matters
9 contained in this Stipulated Surrender of Licenses and Order. Respondent understands the
10 stipulation and the effect it will have on Respondent's Non-Resident Pharmacy License, and its
11 Non-Resident Sterile Compounding Pharmacy License. Respondent enters into this Stipulated
12 Surrender of Licenses and Order voluntarily, knowingly, and intelligently, and agrees to be bound
13 by the Decision and Order of the Board of Pharmacy. I approve its form and content.

14 DATED: 3/11/13


15 PAUL CIREL
16 COLLORA LLP
17 Attorneys for Respondent

18 ENDORSEMENT

19 The foregoing Stipulated Surrender of Licenses and Order is hereby respectfully submitted
20 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

21 Dated: 3/18/2013

22 Respectfully submitted,

23 KAMALA D. HARRIS
24 Attorney General of California
25 FRANK H. PACOE
26 Supervising Deputy Attorney General


27 JOSHUA A. ROOM
28 Supervising Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. AC 2012 4451

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1299
6 Facsimile: (415) 703-5480
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8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. AC 2012 4451

11 **NEW ENGLAND COMPOUNDING CENTER**
12 **697 Waverly Street**
13 **Framingham, MA 01702**

A C C U S A T I O N

14 **Non-Resident Pharmacy License No. NRP 586**
15 **Non-Resident Sterile Compounding Pharmacy**
16 **License No. NSC 99216**

Respondent.

17 Complainant alleges:

18
19 PARTIES

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

22 2. On or about April 28, 2004, the Board issued Non-Resident Pharmacy License No.
23 NRP 586 to New England Compounding Pharmacy dba New England Compounding Center,
24 Carla Conigliaro, President, Barry Cadden, Pharmacist in Charge (Respondent). The License was
25 in force and effect at all times relevant herein, and will expire on April 1, 2013, unless renewed.

26 3. On or about June 1, 2004, the Board issued Non-Resident Sterile Compounding
27 License No. NSC 99216 to Respondent. The License was in force and effect at all times relevant
28 herein, and will expire on April 1, 2013, unless renewed.

JURISDICTION

1
2 4. This Accusation is brought before the Board of Pharmacy (Board), Department of
3 Consumer Affairs, under the authority of the following laws. All section references are to the
4 Business and Professions Code (Code) unless otherwise indicated.

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

8 6. Section 4300(a) of the Code provides that every license issued by the Board may be
9 suspended or revoked.

10 7. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,
11 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
12 disciplinary action during the period within which the license may be renewed, restored, reissued
13 or reinstated. Section 4402(e) of the Code provides that any non-pharmacist license issued by the
14 Board may be canceled by the Board if not renewed within 60 days after its expiration, and any
15 license canceled in this fashion may not be reissued but will instead require a new application.

STATUTORY AND REGULATORY PROVISIONS

16
17 8. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
18 against any holder of a license who is guilty of "unprofessional conduct," defined to include, but
19 not be limited to, any of the following:

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

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

26 9. Health and Safety Code section 109970, in pertinent part, defines "manufacture" to
27 mean "the preparation, compounding, propagation, processing, or fabrication of any food, drug,
28 device, or cosmetic."

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 Non-Resident Pharmacy License No. NRP 586, issued to New England Compounding Pharmacy dba New England Compounding Center, Carla Conigliaro, President, Barry Cadden, Pharmacist in Charge (Respondent);

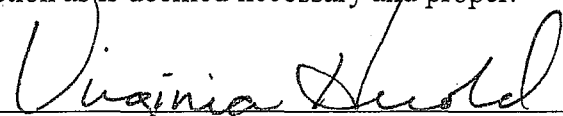
2. Revoking or suspending Non-Resident Sterile Compounding License No. NSC 99216, issued to Respondent;

3. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

4. Taking such other and further action as is deemed necessary and proper.

DATED: _____

1/7/13



VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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