

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

In the Matter of the Accusation Against:

ALAMO PHARMACY, INC., dba TMC #4, WASSIM ALBER ARMANIOUS;

Pharmacy Permit No. PHY 54527

and

WASSIM ALBER ARMANIOUS

Pharmacist License No. RPH 59305

Respondents

Agency Case No. 6670

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 September 10, 2020.

It is so ORDERED on August 11, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe".

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 KEVIN J. RIGLEY
Deputy Attorney General
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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 **ALAMO PHARMACY, INC., DBA TMC**
14 **#4, WASSIM ALBER ARMANIOUS**
15 **4476 Tweedy Blvd.**
16 **South Gate, CA 90280**

17 **Pharmacy Permit No. PHY 54527,**

18 **and**

19 **WASSIM ALBER ARMANIOUS**
20 **135 W. Del Mar Blvd. #3117**
21 **Pasadena, CA 91105**

22 **Pharmacist License No. RPH 59305**

23 Respondents.

Case No. 6670

OAH No. 2020020654

**STIPULATED SURRENDER OF
LICENSE AND ORDER AS TO
PHARMACY PERMIT NO. PHY 54527**

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

26 **PARTIES**

27 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
28 (Board). She brought this action solely in her official capacity and is represented in this matter by

1 Xavier Becerra, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
2 General.

3 2. Alamo Pharmacy, Inc., dba TMC #4, Wassim Alber Armanious (Respondent) is
4 represented in this proceeding by attorney Herbert L. Weinberg, whose address is: 1990 South
5 Bundy Drive, Suite 777, Los Angeles, CA 90025.

6 3. On or about September 5, 2016, the Board issued Pharmacy Permit No. PHY 54527
7 to Alamo Pharmacy, Inc., dba TMC #4, Wassim Alber Armanious (Respondent). The Pharmacy
8 Permit expired on May 24, 2018, has not been renewed, and is now canceled.

9 **JURISDICTION**

10 4. Accusation No. 6670 was filed before the Board, and is currently pending against
11 Respondent. The Accusation and all other statutorily required documents were properly served
12 on Respondent on October 8, 2019. Respondent timely filed its Notice of Defense contesting the
13 Accusation. A copy of Accusation No. 6670 is attached as Exhibit A and incorporated by
14 reference.

15 **ADVISEMENT AND WAIVERS**

16 5. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 6670. Respondent also has carefully read, fully
18 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
19 Order.

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

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

28 ///

1 **CULPABILITY**

2 8. Respondent understands that the charges and allegations in Accusation No. 6670, if
3 proven at a hearing, constitute cause for imposing discipline upon its Pharmacy Permit.

4 9. For the purpose of resolving the Accusation without the expense and uncertainty of
5 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
6 basis for the charges in the Accusation and that those charges constitute cause for discipline.
7 Respondent hereby gives up its right to contest that cause for discipline exists based on those
8 charges.

9 10. Respondent understands that by signing this stipulation it enables the Board to issue
10 an order accepting the surrender of its Pharmacy Permit without further process.

11 **CONTINGENCY**

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

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

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

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

5 **ORDER**

6 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 54527, issued to Respondent
7 Alamo Pharmacy, Inc., dba TMC #4, Wassim Alber Armanious, is surrendered and accepted by
8 the Board.

9 1. The surrender of Respondent's Pharmacy Permit and the acceptance of the
10 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
11 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
12 license history with the Board.

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

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

17 4. If Respondent ever applies for licensure or petitions for reinstatement in the State of
18 California, the Board shall treat it as a new application for licensure. Respondent must comply
19 with all the laws, regulations and procedures for licensure in effect at the time the application or
20 petition is filed, and all of the charges and allegations contained in Accusation No. 6670 shall be
21 deemed to be true, correct and admitted by Respondent when the Board determines whether to
22 grant or deny the application or petition.

23 5. If Respondent should ever apply or reapply for a new license or certification, or
24 petition for reinstatement of a license, by any other health care licensing agency in the State of
25 California, all of the charges and allegations contained in Accusation, No. 6670 shall be deemed
26 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
27 other proceeding seeking to deny or restrict licensure.

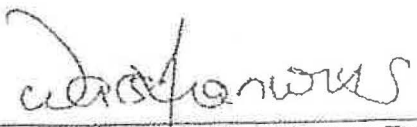
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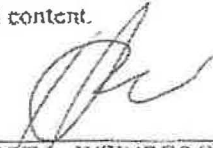
6. Respondent shall not apply for licensure or petition for reinstatement for three (3) years from the effective date of the Board's Decision and Order.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it will have on my Pharmacy Permit. 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: 6/25/2020 
ALAMO PHARMACY, INC., DBA TMC #4,
WASSIM ALBER ARMANIOUS
Respondent

I have read and fully discussed with Respondent Alamo Pharmacy, Inc., dba TMC #4, Wassim Alber Armanious the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 6/25/2020 
HERBERT L. WEINBERG
Attorney for Respondent

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ENDORSEMENT

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

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General

KEVIN J. RIGLEY
Deputy Attorney General
Attorneys for Complainant

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ENDORSEMENT

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

DATED: 6/25/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
LINDA L. SUN
Supervising Deputy Attorney General

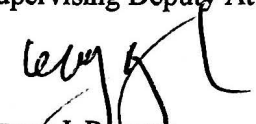

KEVIN J. ROGLEY
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 6670

1 XAVIER BECERRA
Attorney General of California
2 KENT D. HARRIS
Supervising Deputy Attorney General
3 MABEL LEW
Deputy Attorney General
4 State Bar No. 158042
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6 Telephone: (916) 210-6104
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

12
13 In the Matter of the Accusation Against:

Case No. 6670

14 **ALAMO PHARMACY, INC., DBA TMC #4;**
15 **WASSIM ALBER ARMANIOUS, Chief**
16 **Executive Officer, President, Secretary, and**
17 **Treasurer/Chief Financial Officer**
4476 Tweedy Blvd.
South Gate, CA 90280

A C C U S A T I O N

18 **Original Permit No. PHY 54527,**

19 **WASSIM ALBER ARMANIOUS**
20 **135 W. Del Mar Blvd. #3117**
Pasadena, CA 91105
21 **Pharmacist-In-Charge**

22 **Pharmacist License No. RPH 59305**

23 Respondents.
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1 Complainant alleges:

2 **PARTIES**

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

6 2. On or about January 23, 2007, the Board of Pharmacy issued Pharmacist License
7 Number RPH 59305 to Wassim Alber Armanious. The Pharmacist License was in full force and
8 effect at all times relevant to the charges brought herein and will expire on April 30, 2020, unless
9 renewed.

10 3. On or about September 5, 2016, the Board of Pharmacy issued Original Permit
11 Number PHY 54527 to Alamo Pharmacy Inc., dba TMC #4 (Respondent Pharmacy). The Permit
12 was in full force and effect at all times relevant to the charges brought herein. The Permit expired
13 on May 24, 2018 due to discontinuance of business.

14 4. From September 5, 2016 to May 24, 2018, Wassim Alber Armanious (Respondent
15 PIC) was the Chief Executive Officer, President, Secretary, Treasurer/Chief Financial Officer,
16 and pharmacist-in-charge of Respondent Pharmacy.

17 5. Respondent Pharmacy and Respondent PIC will be collectively referred to as
18 "Respondents."

19 **JURISDICTION**

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

22 7. Section 4300 of the Code states in pertinent part:

23 (a) Every license issued may be 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
guilty, by any of the following methods:

26 (1) Suspending judgment.

27 (2) Placing him or her upon probation.

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

1 year.

2 (4) Revoking his or her license.

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

4

5 8. Section 4300.1 of the Code states:

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

10 **STATUTORY AND REGULATORY PROVISIONS**

11 9. Section 4006 of the Code states in pertinent part:

12 The board may adopt regulations . . . limiting or restricting the furnishing of a
13 particular drug upon a finding that the otherwise unrestricted retail sale of the drug...
14 is dangerous to the public health or safety.

15 10. Section 4021 of the Code provides that a “controlled substance” means any substance
16 listed in Schedules I through V, contained in Health and Safety Code section 11053 *et seq.*

17 11. Section 4022 of the Code states in pertinent part:

18 “Dangerous drug” or “dangerous device” means any drug or device unsafe
19 for self-use in humans or animals, and includes the following:

20

21 (c) Any other drug or device that by federal or state law can be lawfully
22 dispensed only on prescription or furnished pursuant to Section 4006.

23 12. Section 4059 of the Code states in pertinent part:

24 (a) A person may not furnish any dangerous drug, except upon the
25 prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
26 naturopathic doctor . . .

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13. Section 4081 of the Code states in pertinent part:

(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every . . . pharmacy . . . or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption . . . who maintains a stock of dangerous drugs or dangerous devices.

. . . .

14. Section 4105 of the Code provides in pertinent part:

(a) All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form.

. . . .

(c) The records required by this section shall be retained on the licensed premises for a period of three years from the date of making.

. . . .

15. Section 4113 of the Code provides in pertinent 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.

. . . .

16. Section 4301 of the Code states, in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct . . . Unprofessional conduct shall include, but is not limited to, any of the following:

. . . .

(b) Incompetence;

(c) Gross Negligence;

. . . .

(f) The commission of any act involving moral turpitude, dishonesty, fraud,

1 deceit, or corruption, whether the act is committed in the course of relations as a
licensee or otherwise, and whether the act is a felony or misdemeanor or not.

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

4

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

6

7 (o) Violating or attempting to violate, directly or indirectly, or assisting in
8 or abetting the violation of or conspiring to violate any provision or term of this
chapter or of the applicable federal and state laws and regulations governing pharmacy,
9 including regulations established by the board or by any other state or federal regulator
agency;

10

11 (q) Engaging in any conduct that subverts or attempts to subvert an
12 investigation of the board.

13

14 17. California Code of Regulations, Title 16, section 1718 states:

15 “Current inventory” as used in Sections 4081 and 4332 of the Business and
16 Professions Code shall be considered to include complete accountability for all
dangerous drugs handled by every licensee enumerated in Sections 4081 and 4331.
17 The controlled substances inventories required by Title 21, CFR, Section 1304 shall
be available for inspection upon request for at least 3 years after the date of the
18 inventory.

19 18. Code of Federal Regulations, title 21, section 1317.40, subdivision (a), provides in
20 pertinent part:

21 “(R)etail pharmacies that desire to be collectors shall modify their registration
22 to obtain authorization to be a collector in accordance with Section 1301.52(f)....”

23 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

24 19. *Lorazepam* is a Schedule IV controlled substance as designated by Health & Safety
25 Code section 11057(d)(16) and a dangerous drug as designated by section 4022 of the Code. It is
26 indicated for the treatment of anxiety disorders, alcohol withdrawal, and chemotherapy-induced
27 nausea and vomiting. “Ativan” is a brand name for Lorazepam.

28 ///

20. *Lidocaine* 5% ointment is a dangerous drug pursuant to Code section 4022 and is indicated as an anesthetic that works to decrease pain by temporarily numbing the area. “Xylocaine” is a brand name for Lidocaine.

21. *Naproxen* 550mg is a dangerous drug pursuant to Code section 4022 and is indicated for the relief of pain. “Naprosyn” is a brand name for Naproxen.

22. *Diclofenac* 3% gel is a dangerous drug pursuant to Code section 4022 and is indicated for the relief of pain. “Solaraze” is a brand name for Diclofenac.

23. *Omeprazole* and sodium bicarbonate 40-1,100 is a dangerous drug pursuant to Code section 4022 and is indicated for the treatment of gastric ulcers, gastroesophageal reflux disease (GERD), and other conditions involving excessive stomach acid production. “Zegerid” is a brand name for Omeprazole and sodium bicarbonate 40-1,100.

24. Under Section 4059 of the Code, each of the drugs listed in Paragraphs 19-23 require a physician’s prescription.

COST RECOVERY

25. Section 125.3 of the Code provides, in pertinent part, that a board may request the administrative law judge to direct a licentiate 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.

BACKGROUND

26. At all times relevant to the charges brought herein, Respondent PIC worked as an employee and/or agent of Respondent Pharmacy, an independent pharmacy located inside the Pioneer Medical Building Clinic (Pioneer Clinic), located at 4476 Tweedy Blvd., South Gate, CA 90280, which primarily dispensed prescriptions to Pioneer Clinic’s patients.

27. All drugs relevant to the charges brought and cited herein are dangerous drugs as defined under Business and Professions Code, section 4022, or controlled substances pursuant to Health & Safety Code section 11057(d)(16).

28. On or about September 5, 2017, the Board received an anonymous complaint alleging Respondent Pharmacy had billed unauthorized prescriptions (prescriptions not approved by the

1 physician) to patients' insurance without dispensing the medication. The complaint stated the
2 following medications were processed through the insurance, but were never prescribed nor
3 dispensed and "never reversed if not picked up": lidocaine 5%, diclofenac 3% gel, econazole 85
4 gm, Zegerid (Omeprazole and sodium bicarbonate), naproxen 550mg, and Fortamet (metformin
5 HCL).

6 29. On January 9, 2018, Board Inspector ED conducted an investigation inspection at
7 Respondent Pharmacy. Respondent PIC was present and assisted with the inspection.
8 Respondent PIC directed Inspector ED to Respondent Pharmacy's two waiting bins¹ area. An
9 inspection of those areas and the pharmacy's filling counter resulted in a finding of more than 100
10 unfilled paper prescription labels located inside several baskets, which had dates they were
11 processed through the insurance, ranging from 11/22/2017 to 12/14/2017².

12 30. Also in the waiting bins area were weekly baskets that had duplicate prescription
13 labels. Although these prescriptions had a pickup date, it is unclear whether the patient actually
14 received the medications.

15 31. The "Patient Will Call Back" box in the waiting bins area contained delivery
16 prescriptions which were billed through the insurance, but had not been filled or delivered.

17 32. The "PU" waiting bin contained 20 unfilled prescription labels³ which had been
18 processed through the insurance.

19 33. Inspector ED also found in the waiting bins area unfilled prescription labels stapled to
20 empty paper bags which had also been processed through the insurance.

21 34. On top of the pharmacy's filling counter, Inspector ED located two baskets
22 containing "queue unfilled prescription labels" (prescription labels with no tags) which were

23 _____
24 ¹ The waiting bins area was a location for the prescriptions which were processed and
25 verified by the pharmacist, and which were ready to be dispensed to patients. These prescriptions
26 were never filled.

26 ² There were many unfilled prescriptions labels. The inspector took photographs of some
27 of the unfilled prescription labels which were identified.

27 ³ There were many unfilled prescriptions labels. The inspector took photographs of some
28 of the unfilled prescription labels which were identified.

1 never filled, yet they had also been processed through the insurance. Inspector ED collected
2 information on prescription 540022 in that area, documenting that the prescription was
3 processed/billed through the insurance twice (12/22/2017 and 1/03/2018), never dispensed both
4 times, and the insurance claim was not reversed after 14 days had passed. Inspector ED noted
5 that this was contrary to the common industry practice of filling the prescription, and within 14
6 days of the patient not picking up the medication, reversing the prescription through the
7 insurance, and returning the medication to stock (Return to Stock (RTS) prescriptions⁴).

8 35. While inspecting the pharmacy's drawers, Inspector ED found a folder containing
9 several copies of blank prescription forms ("New Prescription Request Form") which bore the
10 physician's name written on the top of the form and the physician's signature on the bottom.
11 Inspector ED collected a sample of the pre-signed prescription request forms which contained the
12 DEA numbers and phone numbers of the following physicians: David Abiva, P. Eunice, and
13 Joseph Echeverrn. There was also a form that did not have a name; only a signature. She also
14 found a folder containing several copies of a "New Prescription Request Form" which contained
15 the patient's name, medication, and prescriber's signature.

16 36. During the inspection, Inspector ED requested from Respondent PIC the Respondent
17 Pharmacy's opening inventory dated 9/05/2016, which was a part of Respondent Pharmacy's
18 record of acquisition that needed to be maintained for three years, but Respondent PIC did not
19 provide it.

20 37. During the inspection, Inspector ED received Respondent Pharmacy's Drug
21 Utilization Report ("DUR")⁵ for the period of 09/05/2016 and 01/09/2018. However, Inspector
22 ED could not rely on it since Respondent PIC later informed him that it was incorrect.

23
24 _____
25 ⁴ Return to Stock (RTS) prescriptions are any filled prescriptions which have neither been
26 picked up by patients nor left the pharmacy premises and were returned by pharmacy staff to the
27 active inventory stock of the pharmacy. Common industry practice is to fill the prescription and,
28 within 14 days of the patient not picking up the medication, the prescription is reversed through
the insurance and medication is returned to stock.

⁵ A Drug Utilization Report ("DUR") is a computer generated report of the pharmacy's
dispensing records. It contains the following data elements: date prescription was dispensed,
prescription number, drug name, drug strength, quantity dispensed and national drug code (NDC)
and some additional information.

1 38. During her inspection, Inspector ED located on a wooden box of prescriptions with
2 Respondent Pharmacy's label or other pharmacies' label (e.g. CVS Pharmacy and Walmart
3 Pharmacy), which Respondent PIC acknowledged as returned prescriptions for destruction.
4 Included in the returned prescriptions was a controlled substance medication (Lorazepam 1mg)
5 from a patient. However, Respondent Pharmacy was not registered as a collector site.

6 39. At the conclusion of the inspection, Inspector ED requested that Respondent PIC
7 send: proof of all expired medications being returned for destruction, or returning them to a Board
8 certified reverse distributor and submit an invoice; Proof and Respondent PIC's confirmatory
9 statement that there was a reversal of all the prescriptions that were billed past the 14 days period;
10 and Respondent Pharmacy's records of acquisition and disposition between 9/05/2016 and
11 01/09/2018 for the following medications:

- 12 • Lidocaine 5% ointment;
- 13 • Diclofenac 3% gel;
- 14 • Econazole 85gm cream;
- 15 • Zegerid 40mg,
- 16 • Naproxen 550mg tablets, and
- 17 • Fortamet 1gram.

18 40. In response, Respondent PIC only provided Inspector ED with prescription labels and
19 a note that "All Rx Past 14 days were reversed + Returned to Stock" (a total of 17 prescriptions),
20 Respondent Pharmacy's wholesaler invoices (acquisition records), a statement about the accuracy
21 of the DUR which conflicted with DigitalRx, Respondent Pharmacy's dispensing software⁶.

22 41. On June 4, 2018, Inspector ED called Respondent Pharmacy ((323) 249-0360) and
23 was redirected to RITE AID 5484 pharmacy (PHY42364). He spoke to the pharmacist and
24 pharmacy technician there. Each of them informed him that Respondent Pharmacy closed on
25 May 25, 2018, and the prescriptions were transferred on May 25, 2018 to RITE AID 5484.

26
27
28 ⁶ Statement from DigitalRx explained the different fields in the DUR provided it did not
conflict with PIC's statement.

1 42. On June 5, 2018, Inspector ED received a call from Respondent PIC, who informed
2 him that he had sold Respondent Pharmacy because his father was very ill and had open heart
3 surgery, and because OptumRx and HealthNet had contacted his patients and performed many
4 audits, which consumed a lot of his time.

5 43. Throughout the course of the investigation, Inspector ED exchanged emails with
6 Respondents' wholesalers⁷, requesting their records of purchases, credits and dispositions for
7 Respondent Pharmacy as to the following medications ("Dangerous Drugs") between 09/05/2016
8 and 01/09/2018:

- 9 • Lidocaine 5% ointment (35.44 grams per tube);
- 10 • Diclofenac (100 grams per tube);
- 11 • Omeprazole and sodium bicarbonate 40-1,100 (capsules);
- 12 • Naproxen 550mg (tablets).

13 44. Some of the wholesalers⁸ provided certification letters or emails stating that they did
14 not have any records on these medications for that period.

15 45. As a result of the statement from DigitalRx (Respondent Pharmacy's dispensing
16 software company), Inspector ED's conversation with Digital Rx on October 15, 2018, and the
17 evidence collected from the investigation, Inspector ED performed two types of audits⁹ for the
18 period between 09/05/2016 and 01/09/2018 on the Dangerous Drugs. Both audits indicated
19 negative variances, which meant Respondents did not dispense all of the Dangerous Drugs they
20 billed for. Both audits revealed overages of the following Dangerous Drugs: Lidocaine 5%

21 ⁷ H&H Wholesale Group, Masters Pharmaceutical, LLC, Wasatch Rx, Paragon
22 Enterprises Inc, Valley Wholesaler (subsidiary of AmerisourceBergen), Dynasty Pharmaceuticals
23 Inc (Dynasty), Bonita Pharmaceuticals (Bonita), ParMed Pharmaceuticals, TopRx, Republic
24 Pharmaceuticals LLC (Republic), Northeast Medical, Bellco Drug (subsidiary of
25 AmerisourceBergen), Trucare Pharmacy, Mercer Medical and Harvard Drug Group.

26 ⁸ Mercer Medical LLC, Wasatch Rx, TopRx, Northeast Medical, Bellco Drug, Paragon
27 Enterprises Inc, Valley Wholesaler and AmerisourceBergen, Mercer Medical and Harvard Drug
28 Group.

⁹ In the first audit, using the DigitalRx DUR, Inspector ED only accounted for the
Dangerous Drugs for which the "RxStatusFin", meaning the prescription was processed through
the insurance and the "RxSatutswf" field was either "TYPED" or "RE-NEWED".

 In the second audit, using the DigitalRx DUR, Inspector ED only accounted for the
Dangerous Drugs for which the "RxStatusFin" field was "BILLED", "RxSatutswf" field was either
"TYPED" or "RENEWED" and "RxDelivered" field was not "Null", meaning allegedly the
patients signed for the receipt of their prescriptions.

1 ointment; Diclofenac 3% gel; Omeprazole and sodium bicarbonate 40-1,100; and Naproxen
2 550mg.

3 46. Inspector ED contacted 29 patients via mail, focusing on patients Respondent
4 Pharmacy allegedly dispensed the Dangerous Drugs to. Out of the 10 responses received, one
5 patient (“GE”), who signed her survey under penalty of perjury, claimed she did not receive the
6 following prescriptions which where billed to her insurance:

Alleged Delivery Date / Time (Dispensed date)	Rx Number	Rx	Total amount reimbursed by insurance	Quantity (grams/capsule)	Prescriber
1/25/2017 18:30	510367	Diclofenac Sodium 3% gel	\$1,232.91	200	RJ
9/02/2017 17:58	521235	Diclofenac Sodium 3% gel	\$3,698.88	600	RJ
11/08/2017 17:42	521235	Diclofenac Sodium 3% gel	\$3,402.96	600	RJ
2/14/2017 11:32	512705	Lidocaine 5% ointment	\$288.37	106.32	RJ
4/07/2017 16:42	512705	Lidocaine 5% ointment	\$288.37	106.32	RJ
5/02/2017 13:53	512705	Lidocaine 5% ointment	\$288.37	106.32	RJ
9/13/2017 11:39	512705	Lidocaine 5% ointment	\$288.37	106.32	RJ
12/13/2017 15:11	548674	Lidocaine 5% ointment	\$266.17	106.32	RJ

1	1/04/2018 13:09	548674	Lidocaine 5% ointment	\$286.72	106.32	RJ
2						
3	10/11/2017 16:23	540330	Lidocaine 5% ointment	\$288.37	106.32	MM
4						
5	4/20/2017 13:29	513113	Omeprazole Bicarb 40-1,100 capsules	\$3,476.97	90	RJ
6						
7	8/28/2017 16:34	513113	Omeprazole Bicarb 40-1,100 capsules	\$3,476.97	90	RJ
8						
9	1/04/2018 13:09	513113	Omeprazole Bicarb 40-1,100 capsules	\$3,198.82	90	RJ
10						

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12 47. Using the DigitalRx DUR, Inspector ED found that in 2016, there were a total of 91

13 prescriptions which were billed through insurance without ever having been dispensed.

14 48. Using the DigitalRx DUR, Inspector ED found that in 2017, there were a total of 194

15 prescriptions which were billed through insurance without ever having been dispensed.

16 49. Throughout the course of the investigation, Inspector ED contacted (via telephone,

17 facsimile, and letter) a random sample of 6 physicians using the DigitalRx DUR. She received 3

18 statements from the following prescribers who stated that they did not authorize the prescriptions

19 which were documented as dispensed in Respondent Pharmacy's DigitalRx DUR:

20

21	Prescriber Name	Rx Date Written	Rx Number	Drug Name	Qty	Patient Initials
22	MB	12/28/2017	555067	Naproxen Sodium 550mg tab	60	CR
23	MB	12/02/2017	550539	60 Naproxen Sodium 550mg tab	60	CR
24	MB	9/07/2017 13:58	538909	Naproxen Sodium 550mg tab	60	CR
25	RJ	1/25/2017 5:38 PM	510367	Diclofenac Sodium 3% gel	200	GE
26	RJ	4.24/2017 12:00 AM	521235	Diclofenac Sodium 3% gel	600	GE
27						
28						

RJ	2/13/2017 6:12 PM	512705	Lidocaine 5% ointment	106.32	GE
RJ	11/15/2017 12:00 AM	548674	Lidocaine 5% ointment	106.32	GE
RJ	2/16/2017 5:03 AM	513113	Omeprazole-Bicarb 40-1,100 cap	90	GE
CK	3/20/2017 14:31	516724	Omeprazole-Bicarb 40-1,100 cap	180	GA

50. In furtherance of his investigation, Inspector ED contacted KM, Director, Human Resources of Pioneer Medical Group, and provided her with an Excel spreadsheet of a list of prescriptions which were dispensed under Pioneer's prescribers per Respondents' records. On January 4, 2019, Inspector ED received a statement from KM stating that the following 37 prescriptions, which were documented as dispensed in Respondent Pharmacy's DigitalRx DUR, were not authorized by Dr. RJ nor Physician Assistant DA¹⁰:

Prescriber Name	Rx Date Written	Rx Number	Drug Name	Total Qty Including Refills	Patient Initials
DA	6/04/2017	526443	Diclonfenac Sodium 3% gel	600	RM
DA	10/07/2017	543372	Diclonfenac Sodium 3% gel	800	RM
DA	6/04/2017	526444	Lidocaine 5% ointment	425	RM
DA	7/12/2017	531250	Diclonfenac Sodium 3% gel	1,200	EF
DA	10/14/2016	501891	Diclonfenac Sodium 3% gel	500	AR
DA	4/07/2017	518938	Diclonfenac Sodium 3% gel	400	AR
DA	10/14/2016	501892	Lidocaine 5% ointment	319	AR
DA	12/09/2016	505901	Lidocaine 5% ointment	106	AR
DA	4/07/2017	518939	Lidocaine 5% ointment	213	AR
DA	10/14/2016	501884	Naproxen Sodim 500mg tab	30	AR
DA	10/27/2016	502613	Omeprazole-Bicarb 20mg-1,100 cap	60	AR

¹⁰ A total of 37 prescriptions were dispensed without prescribers' authorization based on the table on page 12, line 18-28, and the table on page 13 and 14.

1	DA	9/14/2017	540012	Diclonfenac Sodium 3% gel	1,200	CS
2	DA	10/13/2016	501817	Diclonfenac Sodium 3% gel	400	JV
3	RJ	9/23/2016	500740	Diclonfenac Sodium 3% gel	800	PC
4	RJ	9/23/2016	500742	Lidocaine 5% ointment	425	PC
5	RJ	2/28/2017	514403	Metformin ER 1,000mg OSM-tab	720	PC
6	RJ	1/25/2017	510367	Diclonfenac Sodium 3% gel	800	EG
7	RJ	4/24/2017	521235	Lidocaine 5% ointment	3,000	EG
8	RJ	2/13/2017	512705	Lidocaine 5% ointment	851	EG
9	RJ	11/15/2017	548674	Lidocaine 5% ointment	319	EG
10	RJ	2/16/2017	513113	Omeprazole-Bicarb 40mg-1,100 cap	540	EG
11	RJ	11/15/2016	503689	Diclonfenac Sodium 3% gel	200	NB (Deceased 2/07/2018)
12	RJ	11/16/2016	503810	Diclonfenac Sodium 3% gel	200	NB (Deceased 2/07/2018)
13	RJ	12/15/2016	506425	Lidocaine 5% ointment	600	NB (Deceased 2/07/2018)
14	RJ	11/06/2017	547343	Lidocaine 5% ointment	319	NB (Deceased 2/07/2018)
15	RJ	12/30/2016	507634	Naproxen Sodium 550mg tab	720	NB (Deceased 2/07/2018)
16	RJ	12/03/2016	550561	Omeprazole-Bicarb 40mg-1,100 cap	180	NB (Deceased 2/07/2018)
17	RJ	8/17/2017	536030	Omeprazole-Bicarb 40mg-1,100 cap	270	NB (Deceased 2/07/2018)

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1 **RESPONDENT PHARMACY**

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Respondent Pharmacy - Received Return of Controlled Substance**
4 **Without Proper Registration)**

5 51. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
6 subdivision (j), for violating Code of Federal Regulations, title 21, section 1317.40, subdivision
7 (a), in that Respondent Pharmacy accepted the return of a controlled substance (Lorezapam 1mg)
8 without Respondent Pharmacy being registered as a collector with the Drug Enforcement
9 Administration, as set forth in Paragraph 38, which is incorporated herein by reference.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Respondent Pharmacy - Failure to Maintain Accurate Records of Acquisition and**
12 **Disposition)**

13 52. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
14 subsections (j) and (o), and, by reference to sections 4081, subsection (a), 4105, subsections (a)
15 and (c), 4332, and California Code of Regulations, title 16, section 1718, for violating statutes
16 regulating controlled substances or dangerous drugs, and/or indirectly violating, attempting to
17 violate, or assisting in or abetting a violation of laws or regulations governing the practice of
18 pharmacy, in that Respondent Pharmacy failed to maintain accurate records or documentation of
19 the acquisition and disposition of all dangerous drugs in a readily retrievable form on the licensed
20 premises for at least 3 years from the date of making. Specifically, an audit for the period
21 between 09/05/2016 and 01/09/2018 of Respondent Pharmacy revealed overages of Dangerous
22 Drugs, as set forth above in Paragraphs 43-45.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Respondent Pharmacy - Failure to Maintain Current Inventory)**

25 53. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
26 subsections (j) and (o), and, by reference to sections 4081, subsection (a), 4105, subsections (a)
27 and (c), 4332, and California Code of Regulations, title 16, section 1718, for violating statutes
28 regulating controlled substances or dangerous drugs, and/or indirectly violating, attempting to
violate, or assisting in or abetting a violation of laws or regulations governing the practice of

1 pharmacy, in that Respondents failed to keep a current inventory of all Dangerous Drugs on the
2 licensed premises for at least 3 years from the making, as set forth above in Paragraph 36.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Respondent Pharmacy - Unprofessional Conduct Involving Moral Turpitude,
5 Dishonesty, Fraud, Deceit, or Corruption – Billing Fraud)**

6 54. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
7 subdivisions (f) and (g), in that Respondent Pharmacy engaged in unprofessional conduct that
8 involved moral turpitude, dishonesty, fraud, deceit, or corruption by knowingly processing
9 prescriptions through insurance for unauthorized prescriptions or for prescriptions the patient(s)
10 did not receive for the period between 09/05/2016 and 01/09/2018, as set forth above in
11 Paragraphs 46-48.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 **(Respondent Pharmacy - Furnishing Dangerous Drugs Without a Prescription)**

14 55. Respondent Pharmacy is subject to disciplinary action under section 4059,
15 subdivision (a), in that during the course of an investigation, it was determined that Respondent
16 Pharmacy, as set forth above in Paragraphs 49-50, had documented in its records as dispensing
17 dangerous drugs multiple times without a prescriber's authorization.

18 **RESPONDENT PIC**

19 **SIXTH CAUSE FOR DISCIPLINE**

20 **(Respondent PIC - Received Return of Controlled Substance
21 Without Proper Registration)**

22 56. Respondent PIC is subject to disciplinary action under Code section 4301,
23 subdivision (j), for violating Code of Federal Regulations, title 21, section 1317.40, subdivision
24 (a), in that Respondent Pharmacy accepted the return of a controlled substance (Lorezapam 1mg)
25 without Respondent Pharmacy being registered as a collector with the Drug Enforcement
26 Administration, as set forth in Paragraph 38.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Respondent PIC - Failure to Maintain Accurate Records of Acquisition and Disposition)**

3 57. Respondent PIC is subject to disciplinary action under Code sections 4113(c), 4301,
4 subsections (j) and (o), and, by reference to sections 4081, subsection (a), 4105, subsections (a)
5 and (c), 4332, and California Code of Regulations, title 16, section 1718, for violating statutes
6 regulating controlled substances or dangerous drugs, and/or indirectly violating, attempting to
7 violate, or assisting in or abetting a violation of laws or regulations governing the practice of
8 pharmacy, in that, as set forth above in Paragraphs 43-45, Respondent Pharmacy failed to
9 maintain accurate, complete, and readily retrievable records of acquisition and disposition of all
10 dangerous drugs on the licensed premises for at least 3 years from the date of making. Two
11 audits of these records and other evidence regarding the period between 09/05/2016 and
12 01/09/2018 revealed that during that time period, Respondents' records of acquisition and
13 disposition could not account for the overages of the following Dangerous Drugs:

- 14 • Over 132,000 grams of Lidocaine 5% ointment;
- 15 • Over 270,000 grams of Diclofenac 3% gel;
- 16 • Over 34,000 capsules of Omeprazole and sodium bicarbonate 40-1,100;

17 Over 214,000 tablets of Naproxen 550mg.

18 **EIGHTH CAUSE FOR DISCIPLINE**

19 **(Respondent PIC - Failure to Maintain Current Inventory)**

20 58. Respondent PIC is subject to disciplinary action under Code sections 4113(c), 4301,
21 subsections (j) and (o), and, by reference to sections 4081, subsection (a), 4105, subsections (a)
22 and (c), 4332, and California Code of Regulations, title 16, section 1718, for violating statutes
23 regulating controlled substances or dangerous drugs, and/or indirectly violating, attempting to
24 violate, or assisting in or abetting a violation of laws or regulations governing the practice of
25 pharmacy, in that, as set forth above in Paragraph 36, Respondents failed to keep a current
26 inventory of all dangerous drugs in the pharmacy.

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NINTH CAUSE FOR DISCIPLINE
(Respondent PIC - Unprofessional Conduct Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption – Billing Fraud)

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3 59. Respondent PIC is subject to disciplinary action under Code section 4301,
4 subdivisions (f) and (g), in that Respondent PIC engaged in unprofessional conduct that involved
5 moral turpitude, dishonesty, fraud, deceit, or corruption by knowingly providing to the Board
6 fraudulent dispensing records for the period between 09/05/2016 and 01/09/2018, and had
7 knowingly billed patient(s) insurance for unauthorized prescriptions or for prescriptions the
8 patient(s) did not receive, as set forth above in Paragraphs 46-48.

TENTH CAUSE FOR DISCIPLINE
(Respondent PIC - Furnishing Dangerous Drugs Without a Prescription)

9
10 60. Respondent PIC is subject to disciplinary action under section 4059, subdivision (a),
11 in that during the course of an investigation, it was determined that Respondent PIC, as set forth
12 above in Paragraphs 49-50, had documented in Respondent Pharmacy's records as dispensed
13 dangerous drugs multiple times without a prescriber's authorization.

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MATTERS IN AGGRAVATION

61. To determine the degree of discipline, if any, to be imposed on Respondents,
Complainant alleges:

a. On or about April 10, 2014, the Board issued Citation Number CI 2013 60773 to Respondent PIC for a violation of CCR, Title 16, section 1711 subdivision (d)¹¹ (\$850.00 fine);

b. On or about March 23, 2015, the Board issued Citation Number CI 2014 64176 to Respondent PIC for a violation of Health & Safety Code section 11165 subdivision (d)¹² (\$500.00 fine);

c. On or about June 16, 2015, the Board issued Citation Number CI 2014 65749 to Respondent PIC for the following violations: Business & Professions Code section 4301 subdivision (g)¹³ (\$500.00 fine); Business & Professions Code section 4231 subdivision (d)¹⁴ / CCR, Title 16, section 1732.5 (\$500.00 fine).

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¹¹ CCR 1711 subdivision (d) provides in part: "... An investigation of each medication error shall commence as soon as is reasonable possible, but no later than 2 business days from the date the medication error is discovered. All medication errors discovered shall be subject to a quality assurance review."

¹² Health & Safety Code section 11165 subdivision (d) provides in part: "For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report (the patient's information, the pharmacy's dispensing information, and the prescriber's information) to the Department of Justice as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed, in a format specified by the Department of Justice...."

¹³ Business & Professions Code section 4301 states in pertinent part: "The board shall take action against any holder of a licensee who is guilty of unprofessional conduct.... Unprofessional conduct shall include, but is not limited to ... (g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts."

¹⁴ Business & Professions Code section 4231(d) – Failure to provide documentation substantiating the completion of continuing education as part of an investigation or audit by the Board.

1 **OTHER MATTERS**

2 62. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
3 54527 issued to Alamo Pharmacy, Inc., doing business as TMC #4, Respondent Pharmacy shall
4 be prohibited from serving as a manager, administrator, owner, member, officer, director,
5 associate, or partner of a licensee for five years if Pharmacy Permit No. PHY 54527 is placed on
6 probation or until Pharmacy Permit Number PHY 54527 is reinstated if it is revoked.

7 63. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No.
8 RPH 59305 issued to Wassim Armanious, Respondent PIC shall be prohibited from serving as a
9 manager, administrator, owner, member , officer, director, associate, or partner of a licensee for
10 five years if Pharmacist License No. RPH 59305 is placed on probation or until Pharmacist
11 License No. RPH 59305 is reinstated if it is revoked.

12 **PRAYER**

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

15 1. Revoking or suspending Permit Number PHY 54527, issued to Alamo Pharmacy, Inc.
16 dba TMC #4;

17 2. Revoking or suspending Pharmacist License Number RPH 59305, issued to Wassim
18 Armanious;

19 3. Prohibiting Respondent Alamo Pharmacy Inc., doing business as TMC #4, from
20 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
21 licensee for five years if Pharmacy Permit No. PHY 54527 is placed on probation or until
22 Pharmacy Permit No. PHY 54527 is reinstated if Pharmacy Permit No. PHY 54527 issued to
23 Alamo Pharmacy Inc., doing business as TMC #4 is revoked;

24 4. Prohibiting Respondent Wassim Alber Armanious from serving as a manager,
25 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
26 Pharmacist License No. RPH 59305 is placed on probation or until Pharmacist License No. RPH
27 59305 is reinstated if Pharmacist License No. RPH 59305 issued to Respondent Wassim Alber
28 Armanious is revoked;

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5. Ordering Respondents to wholly and separately 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; and,

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

DATED: October 8, 2019



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