

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

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

**FRUITVALE AVENUE PHARMACY INC.,  
Original Permit No. PHY 53737; and**

**SHARON PARK,  
Pharmacist License No. RPH 67769; and**

**TIEN MINH VO,  
Pharmacist License No. RPH 59546; and**

**KALPESH PATEL,  
Pharmacist License No. RPH 49167**

**Respondents**

**Agency Case No. 6243**

**OAH No. 2019120191**

## DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Repeval 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 December 9, 2020.

It is so ORDERED on November 9, 2020.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

Greg Lippe  
Board President

1 XAVIER BECERRA  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 LAURA PEDICINI  
Deputy Attorney General  
4 State Bar No. 200934  
1515 Clay Street, 20th Floor  
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*Attorneys for Complainant*  
8

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

13 In the Matter of the Accusation Against:

Case No. 6243

14 **FRUITVALE AVENUE PHARMACY INC.**  
15 2693 Fruitvale Avenue  
Oakland, CA 94601-2034

OAH No. 2019120191

16 Original Permit No. PHY 53737,

**STIPULATED SETTLEMENT AND  
PUBLIC REPROVAL AS TO  
RESPONDENT TIEN MINH VO  
ONLY**

17 **SHARON PARK**  
18 11962 Stoney Peak Drive, #1235  
San Diego, CA 92128

19 Pharmacist License No. RPH 67769,

20 **TIEN MINH VO**  
21 10 Amber  
Aliso Viejo, CA 92656

22 Pharmacist License No. RPH 59546,

23 **and**

24 **KALPESH PATEL**  
25 82 Calle Viajera  
Guaynabo, PR 99969

26 Pharmacist License No. RPH 49167

27 Respondents.  
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 Xavier Becerra, Attorney General of the State of California, by Laura Pedicini, Deputy Attorney  
7 General.

8 2. On or about May 11, 2007, the Board issued Pharmacist License Number RPH 59546  
9 to Tien Minh Vo (Respondent Vo). The Pharmacist License will expire on August 31, 2020,  
10 unless renewed.

11 3. Respondent is represented in this proceeding by attorney Natalia Mazina, whose  
12 address is: 100 Pine Street, Suite 1250, San Francisco, CA 94111-5235.

13 **JURISDICTION**

14 4. Accusation No. 6243 was filed before the Board, and is currently pending against  
15 Respondent. The Accusation and all other statutorily required documents were properly served  
16 on Respondent on May 23, 2019. Respondent timely filed his Notice of Defense contesting the  
17 Accusation.

18 5. A copy of Accusation No. 6243 is attached as exhibit A and incorporated by  
19 reference.

20 **ADVISEMENT AND WAIVERS**

21 6. Respondent has carefully read, fully discussed with counsel, and understands the  
22 charges and allegations in Accusation No. 6243. Respondent has also carefully read, fully  
23 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
24 Order.

25 7. Respondent is fully aware of his legal rights in this matter, including the right to a  
26 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine  
27 the witnesses against him; the right to present evidence and to testify on his own behalf; the right  
28 to the issuance of subpoenas to compel the attendance of witnesses and the production of

1 documents; the right to reconsideration and court review of an adverse decision; and all other  
2 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

5 **CULPABILITY**

6 9. Respondent understands and agrees that the charges and allegations in Accusation  
7 No. 6243, if proven at a hearing, constitute cause for imposing discipline on his license.

8 10. For the purpose of resolving the Accusation without the expense and uncertainty of  
9 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual  
10 basis for the charges in the Accusation, and Respondent gives up her right to contest those  
11 charges.

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

14 **CONTINGENCY**

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

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

27 ///

28 ///

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

7           15. In consideration of the foregoing admissions and stipulations, the parties agree that  
8 the Board may, without further notice or formal proceeding, issue and enter the following  
9 Disciplinary Order:

10   **DISCIPLINARY ORDER**

11           IT IS HEREBY ORDERED that Pharmacist License No. RPH 59546 issued to Respondent  
12 Tien Minh Vo, shall be publicly reprovved by the Board of Pharmacy under Business and  
13 Professions Code section 495 based on the allegations set forth in Accusation No. 6243.

14           IT IS FURTHER ORDERED that this decision constitutes a record of discipline and shall  
15 become a part of Respondent Vo's license history with the Board.

16           IT IS FURTHER ORDERED that Respondent Vo shall pay the Board a total of \$500.00 for  
17 its costs associated with the investigation and prosecution of this matter. Respondent Vo shall be  
18 permitted to pay these costs in a payment plan approved by the Board or its designee. If  
19 Respondent Vo fails to reimburse the costs as ordered and/or fails to comply with the terms of the  
20 payment plan, Respondent Vo shall not be allowed to renew his Pharmacist license until the  
21 Board is paid in full.

22   **ACCEPTANCE**

23           I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
24 discussed it with my attorney, Natalia Mazina. I understand the stipulation and the effect it will  
25 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order  
26 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
27 Board of Pharmacy.

1 DATED: \_\_\_\_\_ TIEN MINH VO  
2 Respondent

3 I have read and fully discussed with Respondent Tien Minh Vo the terms and conditions and  
4 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its  
5 form and content.

6 DATED: \_\_\_\_\_ NATALIA MAZINA  
7 Attorney for Respondent

8  
9 **ENDORSEMENT**

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

12  
13 DATED: \_\_\_\_\_

Respectfully submitted,  
XAVIER BECERRA  
Attorney General of California  
DIANN SOKOLOFF  
Supervising Deputy Attorney General

14  
15  
16  
17 LAURA PEDICINI  
18 Deputy Attorney General  
Attorneys for Complainant

19 OK2017901569  
20 91260787.docx

1 DATED:

6/30/2020

TIEN MINH VO  
Respondent



2  
3 I have read and fully discussed with Respondent Tien Minh Vo the terms and conditions and  
4 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its  
5 form and content.

6 DATED: June 30, 2020

NATALIA MAZINA  
Attorney for Respondent



7  
8  
9 **ENDORSEMENT**

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

12 DATED: July 1, 2020

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
DIANN SOKOLOFF  
Supervising Deputy Attorney General



LAURA PEDICINI  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. 6243**

1 XAVIER BECERRA  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 LAURA PEDICINI  
Deputy Attorney General  
4 State Bar No. 200934  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 879-0269  
Facsimile: (510) 622-2270  
7 E-mail: Laura.Pedicini@doj.ca.gov  
*Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 6243

12 **FRUITVALE AVENUE PHARMACY INC.**  
13 **KALPESH PATEL, OWNER**  
14 **2693 Fruitvale Avenue**  
**Oakland, CA 94601-2034**

**A C C U S A T I O N**

15 **Original Permit No. PHY 53737,**

16 **KALPESH PATEL**  
17 **5 Calle Castana**  
18 **Guaynabo, PR 00968**

19 **Pharmacist No. RPH 49167,**

20 **TIEN VO**  
21 **10 Amber**  
22 **Aliso Viejo, CA 92656**

23 **Pharmacist No. RPH 59546,**

24 **SHARON PARK**  
25 **3025 W. Christofferson Pkwy D-205**  
**Turlock, CA 95832**

26 **Pharmacist No. RPH 67769,**

27 **Respondents.**  
28

1 Complainant Anne Sodergren alleges:

2 **PARTIES**

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

5 2. On or about July 8, 2015, the Board of Pharmacy issued Original Permit Number  
6 PHY 53737 to Fruitvale Avenue Pharmacy Inc. (Respondent Fruitvale). Kalpesh Patel was  
7 designated owner of Fruitvale Pharmacy with 100 percent ownership shares. The Original Permit  
8 was in full force and effect at all times relevant to the charges brought within this Accusation; it  
9 expired on July 1, 2018 and was cancelled on August 9, 2018.

10 3. On or about May 11, 2007, the Board of Pharmacy issued Pharmacist License  
11 Number RPH 59546 to Tien Vo (Respondent Vo). The Pharmacist License was in full force and  
12 effect at all times relevant to the charges brought in this Accusation and will expire on August 31,  
13 2020, unless renewed.

14 4. On or about August 23, 2012, the Board of Pharmacy issued Pharmacist License  
15 Number RPH 67769 to Sharon Park (Respondent Park). The Pharmacist License was in full force  
16 and effect at all times relevant to the charges brought in this Accusation and will expire on August  
17 31, 2020, unless renewed.

18 5. On or about September 25, 1996, the Board of Pharmacy issued Pharmacist License  
19 Number RPH 49167 to Kalpesh Patel (Respondent Patel). The Pharmacist License was in full  
20 force and effect at all times relevant to the charges brought in this Accusation and will expire on  
21 May 31, 2020, unless renewed.

22 **JURISDICTION**

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

26 7. Section 4011 of the Business and Professions Code (Code) states, in pertinent part:  
27 "The board shall administer and enforce this chapter and the Uniform Controlled  
28 Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code)."

1           8.     Section 4300 of the Code states:

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

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

6           “(1) Suspending judgment.

7           “(2) Placing him or her upon probation.

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

9           “(4) Revoking his or her license.

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

12          “(7) Compliance with laws and regulations governing the practice of pharmacy.

13          . . .

14          “(e) The proceedings under this article shall be conducted in accordance with Chapter 5  
15 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board  
16 shall have all the powers granted therein. The action shall be final, except that the propriety of the  
17 action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil  
18 Procedure.”

19          9.     Section 4300.1 of the Code provides that “[t]he expiration, cancellation, forfeiture, or  
20 suspension of a board-issued license by operation of law or by order or decision of the board or a  
21 court of law, the placement of a license on a retired status, or the voluntary surrender of a license  
22 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any  
23 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision  
24 suspending or revoking the license.”

25          12. Section 4307(a) of the Code states that:

26                 Any person who has been denied a license or whose license has been  
27 revoked or is under suspension, or who has failed to renew his or her license while it  
28 was under suspension, or who has been a manager, administrator, owner member,  
officer, director, associate, or partner of any partnership, corporation, firm, or  
association whose application for a license has been denied or revoked, is under

1 suspension or has been placed on probation, and while acting as the manger,  
2 administrator, owner, member, officer, director, associate, or partner had knowledge  
3 or knowingly participated in any conduct for which the license was denied, revoked,  
4 suspended, or placed on probation, shall be prohibited from serving as a manger,  
5 administrator, owner, member, officer, director, associate, or partner of a licensee as  
6 follows:

7 (1) Where a probationary license is issued or where an existing license is  
8 placed on probation, this prohibition shall remain in effect for a period not to exceed  
9 fiveyears.

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

12 ....

### 13 STATUTORY PROVISIONS

14 10. Section 4022 of the Code states

15 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in  
16 humans or animals, and includes the following:

17 "(a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without  
18 prescription," "Rx only," or words of similar import.

19 "(b) Any device that bears the statement: "Caution: federal law restricts this device to sale  
20 by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank to be filled  
21 in with the designation of the practitioner licensed to use or order use of the device.

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

24 11. Section 4063 of the Code states:

25 "No prescription for any dangerous drug or dangerous device may be refilled except upon  
26 authorization of the prescriber. The authorization may be given orally or at the time of giving the  
27 original prescription. No prescription for any dangerous drug that is a controlled substance may be  
28 designated refillable as needed."

12. Section 4081 of the Code states, relevant part:

"(a) All records of manufacture and of sale, acquisition, receipt, shipment, or disposition of  
dangerous drugs or dangerous devices shall be at all times during business hours open to

1 inspection by authorized officers of the law, and shall be preserved for at least three years from  
2 the date of making. A current inventory shall be kept by every manufacturer, wholesaler, third-  
3 party logistics provider, pharmacy, veterinary food-animal drug retailer, outsourcing facility,  
4 physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment  
5 holding a currently valid and unrevoked certificate, license, permit, registration, or exemption  
6 under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4  
7 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who  
8 maintains a stock of dangerous drugs or dangerous devices.”

9 13. Section 4301 of the Code states:

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

13 . . .

14 “(c) Gross negligence.

15 “(d) The clearly excessive furnishing of controlled substances in violation of subdivision (a)  
16 of Section 11153 of the Health and Safety Code.

17 . . .

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

21 14. Health and Safety Code section 11153, subdivision (a), states:

22 “A prescription for a controlled substance shall only be issued for a legitimate medical  
23 purpose by an individual practitioner acting in the usual course of his or her professional practice.  
24 The responsibility for the proper prescribing and dispensing of controlled substances is upon the  
25 prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the  
26 prescription. Except as authorized by this division, the following are not legal prescriptions: (1)  
27 an order purporting to be a prescription which is issued not in the usual course of professional  
28 treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of

1 controlled substances, which is issued not in the course of professional treatment or as part of an  
2 authorized narcotic treatment program, for the purpose of providing the user with controlled  
3 substances, sufficient to keep him or her comfortable by maintaining customary use.”

4 15. Health and Safety Code section 11162.1 states, in relevant part:

5 “(a) The prescription forms for controlled substances shall be printed with the following features:

6 . .

7 (2) A watermark shall be printed on the backside of the prescription blank; the watermark  
8 shall consist of the words “California Security Prescription.”

9 . . .

10 (4) A feature printed in thermochromic ink.

11 . . .

12 (8) Prescription blanks shall contain a statement printed on the bottom of the prescription  
13 blank that the ‘Prescription is void if the number of drugs prescribed is not noted.’”

14 16. Health and Safety Code section 11164 states, in relevant part:

15 “Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall  
16 any person fill, compound, or dispense a prescription for a controlled substance, unless it  
17 complies with the requirements of this section.”

18 “(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V,  
19 except as authorized by subdivision (b), shall be made on a controlled substance prescription form  
20 as specified in Section 11162.1 . . .”

21 **REGULATORY PROVISIONS**

22 17. California Code of Regulations, title 16, section 1718, states:

23 ““Current Inventory”” as used in Sections 4081 and 4332 of the Business and Professions  
24 Code shall be considered to include complete accountability for all dangerous drugs handled by  
25 every licensee enumerated in Sections 4081 and 4332.”

26 18. California Code of Regulations, title 16, section 1761, states:

27 “(a) No pharmacist shall compound or dispense any prescription which contains any  
28 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any

1 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to  
2 validate the prescription.

3 “(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense  
4 a controlled substance prescription where the pharmacist knows or has objective reason to know  
5 that said prescription was not issued for a legitimate medical purpose.”

6 19. California Code of Regulations, title 16, section 1793.1, subdivision (a), states:

7 “Only a pharmacist, or an intern pharmacist acting under the supervision of a pharmacist,  
8 may:

9 “(a) Receive a new prescription order orally from a prescriber or other person authorized by  
10 law.”

### 11 DRUGS

12 20. Hydrocodone/Ataminophen (APAP), also known by the brand name Norco, is a  
13 Schedule II controlled substance under Health and Safety Code, section 11055, subdivision  
14 (b)(1)(I) and a dangerous drug under Business and Professions Code section 4022. It is used for  
15 pain.

16 21. Fentanyl is a Schedule II controlled substance under Health and Safety Code,  
17 section 11055, subdivision (c)(8) and a dangerous drug under Business and Professions Code  
18 section 4022. It is a synthetic opioid used to treat pain.

19 22. Methadone is a Schedule II controlled substance under Health and Safety Code,  
20 section 11055, subdivision (c)(14) and a dangerous drug under Business and Professions Code  
21 section 4022. It is a narcotic used to treat pain.

22 23. Oxycodone is a Schedule II controlled substance under Health and Safety Code,  
23 section 11055, subdivision (b)(1)(M) and a dangerous drug under Business and Professions Code  
24 section 4022. It is used to treat pain.

25 24. Promethazine with codeine, also known by the brand name Phenergan with  
26 codeine, is a Schedule V controlled substance under Health and Safety Code, section 11055 and a  
27 dangerous drug under Business and Professions Code, section 4022. It is used to treat coughs.

28 25. Efavirenz/emtricitabine/tenofovir, also known by the brand name Atripla, is a



1 dangerous drug under Business and Professions, section 4022. It is an anti-retroviral combination  
2 drug which can be used to treat HIV infections.

3 26. Abacavir/dolutegravir/lamivudine, also known by the brand name Triumeq, is a  
4 dangerous drug under Business and Professions Code, section 4022. It is an anti-retroviral  
5 combination drug which can be used to treat HIV infections.

6 27. Ritonavir, also known by the brand name Norvir, is a dangerous drug under  
7 Business and Professions Code, section 4022. It is an anti-retroviral drug which can be used to  
8 treat HIV infections.

9 28. Darunavir, also known by brand name Prezista, is a dangerous drug under Business  
10 and Professions Code, section 4022. It is an anti-retroviral drug and is often used to treat HIV  
11 infections.

12 29. Sulfamethoxazole and trimethoprim, also known by brand name Bactrim DS, is a  
13 dangerous drug under Business and Professions Code, section 4022. It is an antibiotic that can be  
14 used to treat or prevent infections.

15 30. Etravirine, also known by the brand name Intelence, is a dangerous drug under  
16 Business and Professions Code, section 4022. It is an anti-retroviral drug and is often used to  
17 treat HIV infections.

18 31. Elvitegravir/cobicistat/emtricitabine/tenofovir, also known by the brand name  
19 Stribild, is a dangerous drug under Business and Professions Code, section 4022. It is an anti-  
20 retroviral drug and is often used to treat HIV infections.

21 32. Rilprvirine, also known by the brand name Edurant, is a dangerous drug under  
22 Business and Professions Code, section 4022. It is an anti-retroviral drug and is often used to  
23 treat HIV infections.

24 33. Dolutegravir, also known by the brand name Tivicay, is a dangerous drug under  
25 Business and Professions Code, section 4022. It is an anti-retroviral drug and is often used to  
26 treat HIV infections.

27 34. Emtricitabine/tenovir, also known by the brand name Truvada, is a dangerous drug  
28 under Business and Professions Code, section 4022. It is an anti-retroviral drug and is often used

1 to treat HIV infections.

2 35. Atazanavir, also known by the brand name Reyataz, is a dangerous drug under  
3 Business and Professions Code, section 4022. It is an anti-retroviral drug and is often used to  
4 treat HIV infections.

5 36. Abacavir/lamivudine, also known by the brand name Epzicom, is a dangerous drug  
6 under Business and Professions Code, section 4022. It is an anti-retroviral drug and is often used  
7 to treat HIV infections.

8 37. Lamivudine/zidovudine, also known by the brand name Combivir, is a dangerous  
9 drug under Business and Professions Code, section 4022. It is an anti-retroviral drug and is often  
10 used to treat HIV infections.

11 38. Abacavir, also known by the brand name Ziagen, is a dangerous drug under  
12 Business and Professions Code, section 4022. It is an anti-retroviral drug and is often used to  
13 treat HIV infections.

14 39. Rilpivirine/tenofovir disoproxil fumarate/emtricitabine also known by the brand  
15 name Complera or Eviplera, is a dangerous drug under Business and Professions Code, section  
16 4022. It is an anti-retroviral drug and is often used to treat HIV infections.

17 40. Dapsone, also known by the brand name Aczone, is a dangerous drug under  
18 Business and Professions Code, section 4022. It is used to treat skin disorders.

19 41. Lamivudine, also known by the brand name Epivir, is a dangerous drug under  
20 Business and Professions Code, section 4022. It is an anti-retroviral drug and is often used to  
21 treat HIV infections.

22 42. Lopinavir/ritonavir, also known by the brand name Kaletra, is a dangerous drug  
23 under Business and Professions Code, section 4022. It is an anti-retroviral drug and is often used  
24 to treat HIV infections.

25 43. Insulin glargine, also known by the brand name Lantus, is a dangerous drug under  
26 Business and Professions Code, section 4022. It is an insulin drug used to treat diabetes.

27 44. Leucovorin is a dangerous drug under Business and Professions Code, section  
28 4022. It is folic acid and is used as a chemotherapy protective drug.

1 45. Fosamprenavir, also known by the brand name Lexiva, is a dangerous drug under  
2 Business and Professions Code section 4022. It is often used to treat HIV infections.

3 46. Novolog is a dangerous drug under Business and Professions Code, section 4022.  
4 It is an insulin drug used to treat diabetes.

5 47. Prochlorperazine, also known by the brand name Compro, is a dangerous drug  
6 under Business and Professions Code, section 4022. It is an antipsychotic medication.

7 48. Sevelamer, also known by the brand name as Renvela or Renagel, is a dangerous  
8 drug under Business and Professions Code, section 4022. It is used to control phosphorus levels  
9 in patients receiving kidney dialysis.

10 49. Efavirenz, also known by the brand name Sustiva, is a dangerous drug under  
11 Business and Professions Code, section 4022. It is often used to treat HIV infections.

12 50. Abacavir/Dolutegravir/Lamivudine, also known by the brand name Triumeq, is a  
13 dangerous drug under Business and Professions Code, section 4022. It is an anti-retroviral drug  
14 and is often used to treat HIV infections.

### 15 COST RECOVERY

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

### 22 FACTUAL BACKGROUND

23 52. On or about July 8, 2015, Respondent Fruitvale's current pharmacy permit became  
24 effective.<sup>1</sup> Respondent Patel acted as Fruitvale Pharmacy's pharmacist-in-charge (PIC) from

25 <sup>1</sup> On May 6, 2015, in case number 4579, the Board filed Second Amended Accusation  
26 against Fruitvale Avenue Pharmacy Inc. and Iroegbu Clifford Esomonu, a pharmacist working at  
27 Fruitvale Pharmacy. At the time of the prior action, Fruitvale Pharmacy was operating under  
28 Pharmacy License number 50064. The Second Amended Accusation alleged 22 causes for  
discipline against Fruitvale Pharmacy and Esomonu arising from Fruitvale Pharmacy's failure to  
transmit Controlled Substances Utilization Review and Evaluation System data to the Department  
(continued...)

1 approximately July 8, 2015 to October 4, 2015. Respondent Vo acted as the PIC from  
2 approximately October 5, 2015 to December 20, 2015. Respondent Park acted as the PIC from  
3 approximately December 21, 2015 to March 25, 2016.

4 53. Alameda Health System (AHS) is a public health care system with several hospitals  
5 and wellness centers in Alameda County. Many of AHS's patients filled their prescriptions at  
6 Fruitvale Pharmacy until October 2015, when AHS added a special HIV prescription service. At  
7 that point, many AHS patients who had previously used Fruitvale Pharmacy transferred their  
8 prescriptions to AHS.

9 54. Between November 2015 and February 2016, AHS personnel, including Dr. AS, filed  
10 complaints with the Board against Respondent Fruitvale. AHS personnel noticed that Fruitvale  
11 Pharmacy had been refilling prescriptions from AHS without authorization from AHS physicians,  
12 that Fruitvale Pharmacy was refusing to fill prescriptions for patients if they did not have all of  
13 their prescriptions filled at Fruitvale Pharmacy, that Fruitvale Pharmacy was continuing to fill  
14 prescriptions after discontinuation notices had been sent to the pharmacy, that an individual from  
15 Fruitvale Pharmacy was contacting patients who decided to switch pharmacies and asking them  
16 why, and that Fruitvale Pharmacy was continuing to fill prescriptions for patients who had  
17 informed Fruitvale Pharmacy that they wished to use a different pharmacy.

18 55. After receiving these complaints, the Board inspected Fruitvale Pharmacy twice on  
19 March 22, 2016, and February 15, 2017. The Board's inspectors spoke with the pharmacists,  
20 collected documents, reviewed Respondent Fruitvale's policies and procedures, and spoke with  
21 other personnel.

22 56. During the course of their inspections, the inspectors discovered that between  
23 approximately July 8, 2015, and February 15, 2017, Dr. AS and her agents had sent orders to

24 \_\_\_\_\_  
25 (...continued)

26 of Justice and Esomonu's filling of approximately 350 fraudulent prescriptions, many of which  
27 were for large quantities of controlled substances. As a result of this action, Fruitvale Pharmacy  
28 surrendered its pharmacy permit and Esomonu surrendered his pharmacist license. The  
surrenders became effective on July 8, 2015. Respondent Patel purchased Fruitvale Pharmacy's  
business and he obtained a new pharmacy permit. Fruitvale Pharmacy operated during the time  
relevant to the charges brought in this Accusation.

1 Respondent Fruitvale to discontinue medications and that some of these patients also submitted  
2 consent forms to Respondent Fruitvale indicating that they wished to fulfill their prescriptions at  
3 other pharmacies. Despite receiving these notifications, Respondent Fruitvale continued to fill  
4 and dispense prescriptions for approximately 14 patients.

5 57. The inspectors discovered that between January 1, 2015, and December 31, 2016,  
6 Respondent Fruitvale refilled prescriptions early for approximately 48 patients by refilling the  
7 prescriptions every 24 days instead of on a monthly basis of 30-31 days. This resulted in patients  
8 receiving 14 or 15 refills per year, an excessive amount of refills beyond the standard 12 monthly  
9 refills per year. These prescriptions were for Arithromycin, Atripla, Combivir, Complera,  
10 Dapsone, Edurant, Epivir, Epzicom, Intelence, Kaletra, Lantus, Leucovorin, Lexiva, Norvir,  
11 Novolog, Prezista, Prochlorperazine, Renagel, Reyataz, Simvastatin, Bactrim DS, Staudine,  
12 Stribild, Sustiva, Tivicay, Triumeq, Truvada, and Ziagen.

13 58. The inspectors discovered that between July 8, 2015, and February 15, 2017,  
14 Respondent Fruitvale refilled 629 prescriptions from AHS for dangerous drugs even though the  
15 refills had not been authorized by the prescriber at AHS.

16 59. The inspectors discovered that between July 8, 2015, and February 15, 2017,  
17 Respondent Fruitvale had allowed C.E., a previously licensed pharmacist who surrendered his  
18 license after an accusation was filed against him, to work as a pharmacy clerk and to orally take  
19 approximately 33 new prescriptions over the phone. C.E. had previously worked as a licensed  
20 pharmacist at Fruitvale Pharmacy and after he surrendered his license in July 2015, C.E.  
21 continued to work at Fruitvale Pharmacy until some point in 2016.

22 60. The inspectors discovered that on January 4, 2017; February 2, 2017; and February 4,  
23 2017, Respondent Fruitvale filled three prescriptions for controlled substances even though the  
24 prescriptions did not have the required watermark, the thermochromic ink feature, and a statement  
25 that the prescription would be void if the number of drugs prescribed was not noted. Two  
26 prescriptions were for Norco and methadone, and the third prescription was for fentanyl and  
27 oxycodone.  
28

1           61. The inspectors discovered that between July 8, 2015 and February 15, 2017,  
2 Respondent Fruitvale dispensed controlled substances where the underlying prescriptions had  
3 multiple cues of irregularity and uncertainty related the patients and prescriber. Respondent  
4 Fruitvale dispensed approximately 1,425 controlled substance prescriptions written by Dr. Hai  
5 Van Nguyen,<sup>2</sup> even though the prescriptions had similar prescribing patterns, the prescriptions  
6 were filled in groups, and Dr. Nguyen had been disciplined by the California Medical Board. 498  
7 of these prescriptions were for promethazine with codeine syrup and 927 of these prescriptions  
8 were for hydrocodone/acetaminophen.

9           62. The inspectors discovered that Respondent Fruitvale could not account for 124 bottles  
10 of Atripla, 27 bottles of Truvada, 10 bottles of Norvir, 13 bottles of Prezista, and 34 bottles of  
11 Reyataz.

## 12                           **CAUSES OF DISCIPLINE AGAINST RESPONDENT FRUITVALE**

### 13   **FIRST CAUSE FOR DISCIPLINE** 14   **(Unprofessional Conduct: Moral, Turpitude, Dishonesty, Deceit, or Corruption)** 15   **(Bus. & Prof. Code, § 4301, subd. (a))**

16           63. Respondent Fruitvale’s Pharmacy License is subject to disciplinary action because it  
17 engaged in unprofessional conduct by committing acts involving moral turpitude, dishonesty,  
18 fraud, deceit, or corruption. (Bus. & Prof. Code, § 4301, subd. (a).) Respondent Fruitvale filled  
19 discontinued prescriptions, prescriptions for customers who indicated that they no longer wished  
20 to use Respondent Fruitvale’s services, and prescriptions for 48 patients on an early basis. The  
21 circumstances are explained in paragraphs 53 to 58, above.

### 22   **SECOND CAUSE FOR DISCIPLINE** 23   **(Unprofessional Conduct: Refilled Prescription for Dangerous Drug or Device, Prescriber)** 24   **(Bus. & Prof. Code, §§ 4301, subd. (j), 4063)**

25           64. Respondent Fruitvale’s Pharmacy License is subject to disciplinary action because it  
26 engaged in unprofessional conduct by refilling prescriptions for dangerous drugs without  
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28           <sup>2</sup> On March 20, 2014, the Medical Board of California filed Accusation No. 12 2011  
216564 against Dr. Nguyen’s medical license. The Accusation alleged numerous causes for  
discipline including several causes for discipline for prescribing dangerous drugs without  
appropriate prior examination and indication. The Medical Board placed Dr. Nguyen’s license  
and placed restrictions on his ability to prescribe controlled substances.

1 prescriber authorization. (Bus. & Prof. Code, §§ 4301, subd. (j), 4063.) The circumstances are  
2 explained in paragraphs 53 to 56 and paragraph 59, above.

3 **THIRD CAUSE FOR DISCIPLINE**  
4 **(Unprofessional Conduct: Prescriptions Taken by an Unlicensed Pharmacist)**  
5 **(Bus. & Prof. Code, § 4301, subd. (j); Cal. Code Regs., tit. 16, § 1793.1, subd. (a))**

6 65. Respondent Fruitvale’s Pharmacy License is subject to disciplinary action because it  
7 engaged in unprofessional conduct by allowing an unlicensed individual to orally receive 33 new  
8 prescription orders. (Bus. & Prof. Code, § 4301, subd. (j); Cal. Code Regs., tit. 16, § 1793.1,  
9 subd. (a).) The circumstances are explained in paragraphs 53 to 56 and paragraph 60, above.

10 **FOURTH CAUSE FOR DISCIPLINE**  
11 **(Unprofessional Conduct: Dispensing Controlled Substances on Prescriptions Lacking**  
12 **Required Features)**  
13 **(Bus. & Prof. Code, § 4301, subd. (j); Health & Saf. Code, § 11162.1, subd. (a)(2)(4)(8))**

14 66. Respondent Fruitvale’s Pharmacy License is subject to disciplinary action because it  
15 engaged in unprofessional conduct by filling three prescriptions for controlled substances that  
16 were missing certain required features. (Bus. & Prof. Code, § 4301, subd. (j); Health & Saf.  
17 Code, § 11162.1, subd. (a)(2)(4)(8).) Specifically, the prescriptions were missing a required  
18 watermark, a feature in thermochromic ink, and a required statement. The circumstances are  
19 explained in paragraphs 53 to 56 and paragraph 61, above.

20 **FIFTH CAUSE FOR DISCIPLINE**  
21 **(Unprofessional Conduct: Failure to Verify Legitimacy of Prescriptions for Controlled**  
22 **Substances)**  
23 **(Bus. & Prof. Code, § 4301, subd. (d); Health & Saf. Code, § 11153, subd. (a))**

24 67. Respondent Fruitvale’s Pharmacy License is subject to disciplinary action because it  
25 engaged in unprofessional conduct by excessively furnishing controlled substances. (Bus. & Prof.  
26 Code, § 4301, subd. (d); Health & Saf. Code, § 11153, subd. (a).) Between July 8, 2015, and  
27 February 15, 2017, Respondent Fruitvale dispensed 1,425 controlled substances for a doctor who  
28 had similar prescribing patterns for individual patients, filled the prescriptions for controlled  
substances in groups, and filled prescriptions issued by a doctor who had been subject to  
discipline. The circumstances are further explained in paragraphs 53 to 56 and paragraph 62,  
above.

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1 **SIXTH CAUSE FOR DISCIPLINE**  
2 **(Unprofessional Conduct: Failure to Maintain Records of Disposition)**  
3 **(Bus. & Prof. Code, §§ 4081, subd. (a), 4301, subd. (j); Cal. Code Regs., tit. 16, § 1718)**

4 68. Respondent Fruitvale's Pharmacy License is subject to disciplinary action because it  
5 engaged in unprofessional conduct by failing to maintain records of the sale, acquisition, receipt,  
6 shipment, or disposition of dangerous drugs. (Bus. & Prof. Code, §§ 4081, subd. (a), 4301, subd.  
7 (j); Cal. Code Regs., tit. 16, § 1718.) Respondent Fruitvale could not account for 124 bottles of  
8 Atripla, 27 bottles of Truvada, 10 bottles of Norvir, 13 bottles of Prezista, and 34 bottles of  
9 Reyataz. The circumstances are further explained in paragraphs 53 to 56 and paragraph 63,  
10 above.

11 **CAUSES OF DISCIPLINE AGAINST RESPONDENT VO**

12 **SEVENTH CAUSE FOR DISCIPLINE**  
13 **(Unprofessional Conduct: Moral, Turpitude, Dishonesty, Deceit, or Corruption)**  
14 **(Bus. & Prof. Code, § 4301, subd. (a))**

15 69. Respondent Vo's Pharmacist License is subject to disciplinary action because while  
16 acting as the PIC of Respondent Fruitvale, he engaged in unprofessional conduct by committing  
17 acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. (Bus. & Prof. Code, §  
18 4301, subd. (a).) Respondent Vo filled discontinued prescriptions, prescriptions for customers  
19 who indicated that they no longer wished to use Respondent Fruitvale's services and prescriptions  
20 for patients on an early basis. The circumstances are explained in paragraphs 53 to 58, above.

21 **EIGHTH CAUSE FOR DISCIPLINE**  
22 **(Unprofessional Conduct: Refilled Prescription for Dangerous Drug or Device, Prescriber)**  
23 **(Bus. & Prof. Code, §§ 4301, subd. (j), 4063)**

24 70. Respondent Vo's Pharmacist License is subject to disciplinary action because while  
25 acting as the PIC of Respondent Fruitvale, he engaged in unprofessional conduct by refilling  
26 prescriptions for dangerous drugs without prescriber authorization. (Bus. & Prof. Code, §§ 4301,  
27 subd. (j), 4063.) While Respondent Vo was PIC, Respondent Fruitvale dispensed approximately  
28 235 prescription refills without prescriber authorization. The circumstances are explained in  
paragraphs 53 to 56 and paragraph 59, above.

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**NINTH CAUSE FOR DISCIPLINE**  
**(Unprofessional Conduct: Prescriptions Taken by an Unlicensed Pharmacist)**  
**(Bus. & Prof. Code, § 4301, subd. (j); Cal. Code Regs., tit. 16, § 1793.1, subd. (a))**

71. Respondent Vo’s Pharmacist License is subject to disciplinary action because while acting as the PIC of Respondent Fruitvale, he engaged in unprofessional conduct by allowing an unlicensed individual to orally receive approximately 10 new prescription orders. (Bus. & Prof. Code, § 4301, subd. (j); Cal. Code Regs., tit. 16, § 1793.1, subd. (a).) The circumstances are explained in paragraphs 53 to 56 and paragraph 60, above.

**TENTH CAUSE FOR DISCIPLINE**  
**(Unprofessional Conduct: Failure to Verify Legitimacy of Prescriptions for Controlled Substances)**  
**(Bus. & Prof. Code, § 4301, subd. (d); Health & Saf. Code, § 11153, subd. (a))**

72. Respondent Vo’s Pharmacist License is subject to disciplinary action because while acting as the PIC of Respondent, he engaged in unprofessional conduct by excessively furnishing controlled substances. (Bus. & Prof. Code, § 4301, subd. (d); Health & Saf. Code, § 11153, subd. (a).) While Respondent Vo was PIC, Respondent Fruitvale dispensed controlled substances for a doctor who had similar prescribing patterns for individual patients, filled the prescriptions for controlled substances in groups, and filled prescriptions issued by a doctor who had been subject to discipline. The circumstances are further explained in paragraphs 53 to 56 and paragraph 62, above.

**CAUSES OF DISCIPLINE AGAINST RESPONDENT PARK**

**ELEVENTH CAUSE FOR DISCIPLINE**  
**(Unprofessional Conduct: Moral, Turpitude, Dishonesty, Deceit, or Corruption)**  
**(Bus. & Prof. Code, § 4301, subd. (a))**

73. Respondent Park’s Pharmacist License is subject to disciplinary action because while acting as the PIC of Respondent Fruitvale, she engaged in unprofessional conduct by committing acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. (Bus. & Prof. Code, § 4301, subd. (a).) Respondent Park filled discontinued prescriptions, prescriptions for customers who indicated that they no longer wished to use Respondent Fruitvale’s services, and prescriptions for patients on an early basis. The circumstances are explained in paragraphs 53 to 58, above.

1 **TWELFTH CAUSE FOR DISCIPLINE**  
2 **(Unprofessional Conduct: Refilled Prescription for Dangerous Drug or Device, Prescriber)**  
3 **(Bus. & Prof. Code, §§ 4301, subd. (j), 4063)**

4 74. Respondent Park's Pharmacist License is subject to disciplinary action because while  
5 acting as the PIC of Respondent Fruitvale, she engaged in unprofessional conduct by refilling  
6 prescriptions for dangerous drugs without prescriber authorization. (Bus. & Prof. Code, §§ 4301,  
7 subd. (j), 4063.) While Respondent Park was PIC, Respondent Fruitvale dispensed approximately  
8 215 prescription refills without prescriber authorization. The circumstances are explained in  
9 paragraphs 53 to 56 and paragraph 59, above.

10 **THIRTEENTH CAUSE FOR DISCIPLINE**  
11 **(Unprofessional Conduct: Prescriptions Taken by an Unlicensed Pharmacist)**  
12 **(Bus. & Prof. Code, § 4301, subd. (j); Cal. Code Regs., tit. 16, § 1793.1, subd. (a))**

13 75. Respondent Park's Pharmacist License is subject to disciplinary action because while  
14 acting as the PIC of Respondent Fruitvale, she engaged in unprofessional conduct by allowing an  
15 unlicensed individual to orally receive approximately 11 new prescription orders. (Bus. & Prof.  
16 Code, § 4301, subd. (j); Cal. Code Regs., tit. 16, § 1793.1, subd. (a).) The circumstances are  
17 explained in paragraphs 53 to 56 and paragraph 60, above.

18 **FOURTEENTH CAUSE FOR DISCIPLINE**  
19 **(Unprofessional Conduct: Failure to Verify Legitimacy of Prescriptions for Controlled**  
20 **Substances)**  
21 **(Bus. & Prof. Code, § 4301, subd. (d); Health & Saf. Code, § 11153, subd. (a))**

22 76. Respondent Park's Pharmacist License is subject to disciplinary action because while  
23 acting as the PIC of Respondent, she engaged in unprofessional conduct by excessively furnishing  
24 controlled substances. (Bus. & Prof. Code, § 4301, subd. (d); Health & Saf. Code, § 11153, subd.  
25 (a).) While Respondent Park was PIC, Respondent Fruitvale dispensed controlled substances for  
26 a doctor who had similar prescribing patterns for individual patients, filled the prescriptions for  
27 controlled substances in groups, and filled prescriptions issued by a doctor who had been subject  
28 to discipline. The circumstances are further explained in paragraphs 53 to 56 and paragraph 62,  
above.

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1 **CAUSES OF DISCIPLINE AGAINST RESPONDENT PATEL**

2 **FIFTEENTH CAUSE FOR DISCIPLINE**  
3 **(Unprofessional Conduct: Moral, Turpitude, Dishonesty, Deceit, or Corruption)**  
4 **(Bus. & Prof. Code, § 4301, subd. (a))**

5 77. Respondent Patel’s Pharmacist License is subject to disciplinary action because while  
6 acting as the PIC of Respondent Fruitvale, he engaged in unprofessional conduct by committing  
7 acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. (Bus. & Prof. Code, §  
8 4301, subd. (a).) Respondent Patel filled discontinued prescriptions and prescriptions for  
9 customers who indicated that they no longer wished to use Respondent Fruitvale’s services. The  
10 circumstances are explained in paragraphs 53 to 58, above.

11 **SIXTEENTH CAUSE FOR DISCIPLINE**  
12 **(Unprofessional Conduct: Refilled Prescription for Dangerous Drug or Device, Prescriber)**  
13 **(Bus. & Prof. Code, §§ 4301, subd. (j), 4063)**

14 78. Respondent Patel’s Pharmacist License is subject to disciplinary action because while  
15 acting as the PIC of Respondent Fruitvale, he engaged in unprofessional conduct by refilling  
16 prescriptions for dangerous drugs without prescriber authorization. (Bus. & Prof. Code, §§ 4301,  
17 subd. (j), 4063.) While Respondent Patel was PIC, Respondent Fruitvale dispensed  
18 approximately 157 prescription refills without prescriber authorization. The circumstances are  
19 explained in paragraphs 53 to 56 and paragraph 59, above.

20 **SEVENTEENTH CAUSE FOR DISCIPLINE**  
21 **(Unprofessional Conduct: Prescriptions Taken by an Unlicensed Pharmacist)**  
22 **(Bus. & Prof. Code, § 4301, subd. (j); Cal. Code Regs., tit. 16, § 1793.1, subd. (a))**

23 79. Respondent Patel’s Pharmacist License is subject to disciplinary action because while  
24 acting as the PIC of Respondent Fruitvale, he engaged in unprofessional conduct by allowing an  
25 unlicensed individual to orally receive approximately 12 new prescription orders. (Bus. & Prof.  
26 Code, § 4301, subd. (j); Cal. Code Regs., tit. 16, § 1793.1, subd. (a).) The circumstances are  
27 explained in paragraphs 53 to 56 and paragraph 60, above.

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1 **EIGHTEENTH CAUSE FOR DISCIPLINE**  
2 **(Unprofessional Conduct: Failure to Verify Legitimacy of Prescriptions for Controlled**  
3 **Substances)**  
4 **(Bus. & Prof. Code, § 4301, subd. (d); Health & Saf. Code, § 11153, subd. (a))**

5 80. Respondent Patel's Pharmacist License is subject to disciplinary action because while  
6 acting as the PIC of Respondent Fruitvale, he engaged in unprofessional conduct by excessively  
7 furnishing controlled substances. (Bus. & Prof. Code, § 4301, subd. (d); Health & Saf. Code, §  
8 11153, subd. (a).) While Respondent Patel was PIC, Respondent Fruitvale dispensed controlled  
9 substances for a doctor who had similar prescribing patterns for individual patients, filled the  
10 prescriptions for controlled substances in groups, and filled prescriptions issued by a doctor who  
11 had been subject to discipline. The circumstances are further explained in paragraphs 53 to 56  
12 and paragraph 62, above.

13 **NINETEENTH CAUSE FOR DISCIPLINE**  
14 **(Unprofessional Conduct: Failure to Maintain Records of Disposition)**  
15 **(Bus. & Prof. Code, §§ 4081, subd. (a), 4301, subd. (j); Cal. Code Regs., tit. 16, § 1718)**

16 81. Respondent Patel's Pharmacist License is subject to disciplinary action because while  
17 acting as the PIC of Respondent Fruitvale, he engaged in unprofessional conduct by failing to  
18 maintain records of the sale, acquisition, receipt, shipment, or disposition of dangerous drugs.  
19 (Bus. & Prof. Code, §§ 4081, subd. (a), 4301, subd. (j); Cal. Code Regs., tit. 16, § 1718.)  
20 Respondent Fruitvale could not account for 124 bottles of Atripla, 27 bottles of Truvada, 10  
21 bottles of Norvir, 13 bottles of Prezista, and 34 bottles of Reyataz. The circumstances are further  
22 explained in paragraphs 53 to 56 and paragraph 63, above.

23 **OTHER MATTERS**

24 82. Pursuant to Code section 4307, if discipline is imposed on Original Permit No. PHY  
25 53737 issued to Fruitvale Avenue Pharmacy Inc., Fruitvale Avenue Pharmacy Inc. shall be  
26 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,  
27 or partner of a licensee for five years if Pharmacy Permit Number 53737 is placed on probation or  
28 until Pharmacy Permit Number PHY 53737 is reinstated if it is revoked.

83. Pursuant to Code section 4307, if discipline is imposed on Original Permit No. PHY  
53737 issued to Fruitvale Avenue Pharmacy Inc. while Kalpesh Patel was an owner and had  
knowledge of or knowingly participated in any conduct for which the license was disciplined,

1 Kalpesh Patel shall be prohibited from serving as a manager, administrator, owner, member,  
2 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number  
3 53737 is placed on probation or until Pharmacy Permit Number PHY 53737 is reinstated if it is  
4 revoked.

5 PRAYER

6 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
7 Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

8 1. Revoking or suspending Original Permit Number PHY 53737, issued to Fruitvale  
9 Avenue Pharmacy Inc.;

10 2. Revoking or suspending Pharmacist Number RPH 59546, issued to Tien Vo.;

11 3. Revoking or suspending Pharmacist Number RPH 67769, issued to Sharon Park.;

12 4. Revoking or suspending Pharmacist Number RPH 49167, issued to Kalpesh Patel.;

13 5. Prohibiting Fruitvale Avenue Pharmacy Inc. from serving as a manager,  
14 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if  
15 Pharmacy Permit Number 53737 is placed on probation or until Pharmacy Permit Number PHY  
16 53737 is reinstated if Pharmacy Permit Number PHY 53737 is revoked;

17 6. Prohibiting Kalpesh Patel from serving as a manager, administrator, owner, member,  
18 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number  
19 53737 is placed on probation or until Pharmacy Permit Number PHY 53737 is reinstated if  
20 Pharmacy Permit Number PHY 53737 is revoked;

21 8. Ordering Fruitvale Avenue Pharmacy Inc., Tien Vo, Sharon Park, and Kalpesh Patel  
22 to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this  
23 case, pursuant to Business and Professions Code section 125.3; and

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

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DATED: May 10, 2019 \_\_\_\_\_

*Anne Sodergren*

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Anne Sodergren  
Interim Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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