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

In the Matter of the First Amended Accusation Against:

ALLIED HEALTH PARTNER, INC. DBA ALLIED HEALTH

PHARMACY, KORUSH JALALI FARAHANI

Permit No. PHY 52501;

and

KORUSH JALALI FARAHANI

Pharmacist License No. RPH 70445;

Respondents.

Agency Case No. 6715

OAH No. 2020021173

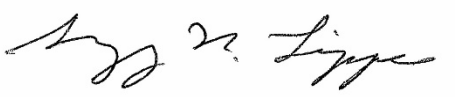
DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge 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 May 12, 2021.

It is so ORDERED on April 12, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Greg Lippe
Board President

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PROPOSED DECISION

Ji-Lan Zang, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on February 8 and 9, 2021, in Los Angeles, California.

Diana Petikyan, Deputy Attorney General, represented Anne Sodergren (complainant), Executive Officer, Board of Pharmacy (Board), Department of Consumer Affairs.

Herbert L. Weinberg, Attorney at Law, represented Allied Health Partner, Inc. doing business as Allied Health Pharmacy (AHP) and Korush Jalali Farahani (respondent), Chief Executive Officer (CEO), 100 percent shareholder, Director, Treasurer/Chief Financial Officer (CFO), and Pharmacist-In-Charge (PIC) of AHP, who appeared.

At the hearing, the parties stiplulated to issuance of a protective order to seal Exhibits 4, 7, 8, 10-11, 14-15, 17-18, 20-22, 24-25, 27-28, 36, 41, 63-66, 69, 71, and 76, as these documents contained confidential patient names.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on February 9, 2021.

FACTUAL FINDINGS

Jurisdictional Matters

1. On March 12, 2014, the Board issued Pharmacist License Number RPH 70445 to respondent. This pharmacist license was in full force and effect at all times relevant to this matter and will expire on August 31, 2021, unless renewed.

2. On or about April 9, 2015, the Board issued Pharmacy Permit Number PHY 52501 to AHP. This pharmacy permit was in full force and effect at all times relevant to this matter and will expire on April 1, 2021, unless renewed. Respondent

has been the CEO, 100 percent shareholder, Director, Treasurer/CFO, and PIC of AHP since April 9, 2015.

3. Neither AHP nor respondent has a prior history of discipline with the Board.

4. On October 22, 2019, complainant filed the Accusation in her official capacity.

5. On August 20, 2020, an Interim Suspension Order (ISO) was granted against AHP. The ISO suspended the operation of AHP pending the final decision issued by the Board on an accusation, which is required to be filed under Business and Professions Code section 494, subdivision (f).

6. On September 3, 2020, complainant, in lieu of filing an accusation following an ISO, filed the First Amended Accusation in her official capacity. Pursuant to a stipulation dated the same date, the parties waived the statutory time period within which the First Amended Accusation must be heard following the ISO. Respondent timely filed a Notice of Defense and a Request for Hearing. This hearing ensued.

Background

7. On August 16, 2018, the Board received an anonymous complaint alleging several physicians were prescribing narcotics in large quantities to patients with identical medical diagnoses. An examination of these physicians' prescribing practices led to an investigation of AHP, and Board Inspector Irina Top was assigned to the case.

8. Inspector Top obtained her Doctor of Pharmacy degree, with an emphasis in Pharmaceutical Health Policy and Management, from the University of California, San Francisco, in 2009. On August 6, 2009, she became licensed as a pharmacist in California. From October 2009 to December 2014, Inspector Top practiced as a retail and a hospital pharmacist. She began working as an inspector for the Board in December 2014. Inspector Top has conducted or participated in over 100 investigations involving all manner of pharmacy law violations, including those pertaining to compounding, labeling, dispensing, recordkeeping, quality assurance programs, drug storage, security, and cleanliness.

The 2018 Inspection

9. On October 8, 2018, Inspector Top conducted an inspection of AHP and audited the pharmacy's records. Inspector Top wrote an Investigation Report dated January 22, 2019, regarding the 2018 inspection. Inspector Top also testified at the hearing consistent with the contents of her Investigation Report.

SUSPECT PRESCRIPTIONS NOT WRITTEN FOR LEGITIMATE MEDICAL PURPOSES

10. Inspector Top found that during the audit period of October 1, 2015, to October 9, 2018 (Audit Period), AHP filled 42,315 prescriptions.[1] Drs. Richard Goldstein, Chadwick Smith, Edwin Mirzabeigi, Merlyn Asuncion, Jeko Behfarin, Bhasker

[1] As discussed in Legal Conclusions 1 and 2, two different standards of proof apply in this case. A finding will note if neither standard has been met. If a finding does not otherwise specify, both standards have been met.

Venkateswaralu, Donald Ware, John Prosser, and Jared Piety wrote 3,694 of these prescriptions. As set forth below, the prescriptions written by these doctors contained multiple factors of irregularity, or red flags, which should have alerted AHP and respondent to to the prescriptions' possible illegitimacy. Nonetheless, AHP filled the suspect prescriptions, and a vast majority were reviewed and filled by Respondent. Neither AHP nor respondent questioned the prescriptions despite the red flags. Thus, AHP and respondent failed to exercise their corresponding responsibility, i.e., the responsibility of pharmacists, to ensure that prescriptions are written for legitimate medical purposes.

Irregular Dispensing Patterns

11. The first red flag that should have alerted AHP and respondent to possible malfeasance is that the nine physicians prescribed an unusually large percentage of controlled substance medications, as compared to non-controlled substance medications.

12. Of the 42,315 prescriptions filled by AHP during the Audit Period, 11,328 (27 percent) were for controlled substances and 30,987 (73 percent) were for non-controlled substances. According to Inspector Top, the number of commercially available non-controlled substances is greater than the number of commercially available controlled substances. Therefore, these percentages are not unusual for a retail pharmacy. However, the ratio of controlled to non-controlled substances prescribed by the nine physicians was inconsistent with Allied Health's overall pattern, as follows:

- 57 out of 63, or 91 percent, of the prescriptions written by Dr. Goldstein and filled by AHP, were for controlled substances;

- 83 out of 86, or 97 percent, of the prescriptions written by Dr. Smith and filled by AHP, were for controlled substances;

- 83 out of 115, or 72 percent, of the prescriptions written by Dr. Mirzabeigi and filled by AHP, were for two commonly abused controlled substances, oxycodone 30 mg[2] and alprazolam 2 mg[3];

- 64 out of 100, or 64 percent, of the prescriptions written by Dr. Asuncion and filled by AHP, were for controlled substances.;

- 14 out of 14, or 100 percent, of the prescriptions written by Dr. Behfarin and filled by AHP were for controlled substances;

- 310 out of 506, or 61 percent, of the prescriptions written by Dr. Venkateswaralu and filled by AHP, were for controlled substances;

- 476 out of 987, or 48 percent, of the prescriptions written by Dr. Ware and filled by AHP, were for controlled substances;

[2] Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug pursuant to Business and Professions Code section 4022. It is commonly prescribed for pain.

[3] Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(1), and a dangerous drug pursuant to Business and Professions Code section 4022. It is commonly prescribed for anxiety.

- 334 out of 540, or 62 percent, of the prescriptions written by Dr. Prosser and filled by AHP, were for controlled substances;

- 752 out of 1,263, or 60 percent, of the prescriptions written by Dr. Piety and filled by AHP, were for controlled substances.

13. A majority of the prescriptions written by these nine physicians were for highly abused controlled substances, including alprazolam, carisoprodol,[4] dextroamphetamine/amphetamine,[5] promethazine/codeine,[6] Hydrocodone/acetaminophen (H/APAP),[7] and oxycodone.

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[4] Carisoprodol is a Schedule IV controlled substance pursuant to Code of Federal Regulations, title 21, section 1308.21, subdivision (c)(6), and is a dangerous drug pursuant to Business and Professions Code section 4022. It is commonly prescribed as a muscle relaxant.

[5] Dextroamphetamine/amphetamine is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d)(1), and is a dangerous drug pursuant to Business and Professions Code section 4022. It is commonly prescribed as a stimulant or diet suppressant.

[6] Promethazine/codeine is a Schedule V controlled substance pursuant to Health and Safety Code section 11058, subdivision (c)(1), and a dangerous drug pursuant to Business and Professions Code section 4022. It is commonly prescribed for cough.

[7] H/APAP is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e)(5), a Schedule II controlled substance

Prescribing Pattern Incongruent with Physicians' Areas of Practice

14. The second red flag that should have alerted AHP and respondent is that the nine physicians' prescribing patterns were incongruent with their self-reported and board-certified areas of practice.

15. For example, in Dr. Goldstein's case, his primary area of practice is family medicine and his secondary areas of practice are geriatric medicine and pain managment. Nonetheless, Dr. Goldstein's prescriptions at AHP did not include any medication a family medicine practioner uses to treat common conditions such as hypertension, diabetes, hypercholesterolemia, depression, asthma, allergies, and insomnia.. The pain medication prescribed by Dr. Goldstein consisted almost exclusively of one opioid medication, oxycodone 30 mg. According to Inspector Top, patients usually present a variety of symptoms and pain, and physicians typically prescribe medications with different mechanisms for specific purposes, such as ibuprofen for anti-inflammation, and gabapentin for neuropathic pain. It is unusual for all of Dr. Goldstein's patients to have ailments requiring treatment with the same opioid pain reliever, oxycodone.

16. The same pattern of incongruity was evidenced in the prescriptions by the eight other physicians. For instance, Dr. Asuncion's primary area of practice is

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pursuant to Code of Federal Regulations, title 21, section 1308.12, subdivision (b)(1)(vi), and a dangerous drug pursuant to Business and Professions Code section 4022. It is commonly prescribed for pain.

internal medicine and her secondary area of practice is geriatric medicine, yet Dr. Asuncion mainly prescribed two pain medications, H/APAP 10/325 mg and oxycodone 30 mg. Similarly, Dr. Prosser is a psychiatrist/neurologist, but he prescribed very few medications for the treatment of psychiatric and neurological disorders. He mainly treated his patients' pain with oxycodone 30 mg. Inspector Top opined that for all nine physicians, given their individual practice areas, she would have expected each of them to have prescribed a greater variety of medications.

Cash Payment for Controlled Substance Prescriptions

17. The third red flag that should have placed AHP and respondent on notice is that a majority of the prescriptions written by the nine physicians were paid for by cash, without the aid of insurance.

18. Of the 11,328 controlled substance prescriptions dispensed by AHP during the Audit Period, approximately 57 percent were paid for with cash and 43 percent were paid for with the aid of insurance. However, a higher percentage of the prescriptions written by the nine physicians were paid for with cash, without the aid of insurance. For example, 100 percent of the prescriptions for controlled substances written by Dr. Goldstein and filled by AHP were paid for by cash, and 77 percent of the prescriptions for controlled substances written by Dr. Ware and filled by AHP were paid for by cash.

19. In addition, the patients of these nine physicians paid AHP exceptionally high prices for their oxycodone 30 mg prescriptions. According to Inspector Top, a typical oxycodone 30 mg prescriptions costs $120 to $180. However, patients of the nine physicians paid AHP anywhere from $320 to $1,530 for a prescription of oxycodone 30 mg.

Prescriptions to Multiple Patients at the Same Address

20. The fourth red flag is that several of the nine physicians, including Drs. Smith, Asuncion, Venkateswaralu, and Ware, wrote prescriptions for multiple patients residing at the same address.

21. Specifically, respondent and AHP filled 1,663 prescriptions for 232 patients living at the same address in Los Angeles, which is associated with a purported homeless shelter called Creative Blessings. Most of these prescriptions were brought to AHP by "Patient Brown," also known as Mrs. Brown. Of the 1,663 prescriptions written for patients residing at Creative Blessings, 999, or 60 percent, were for commonly abused controlled substances including oxycodone, H/APAP, carisoprodol, promethazine/codeine, and benzodiazepines. Patients at Creative Blessings also paid as much as $1,530 in cash for a prescription of oxycodone 30 mg. Multiple patients at the same address, combined with an unusually high percentage of prescriptions for controlled substances and the exceptionally high prices paid by some of the patients, should have alerted AHP pharmacy staff that these prescriptions may be inappropriate.

Lack of Titration

22. The fifth red flag is that eight of the physicians, all except Dr. Smith, prescribed only the highest strength of oxycodone (30 mg) for treatment of pain and alprazolam (2 mg) for treatment of anxiety.

23. Inspector Top opined that physicians typically titrate pain medication, meaning that they adjust the doses of a medication to obtain maximum benefit without adverse effects. Oxycodone is available in varying strengths of 5 mg, 7.5 mg, 10 mg, 15 mg, 20 mg, and 30 mg tablets, whereas alprazolam is available in varying

strengths of 0.25 mg, 0.5 mg, 1 mg, and 2 mg tablets. Physicians often initiate therapy at the lowest effective dosage and adjust the dosage upwards or downwards depending on patient reaction. In addition, different patients experience variations in the level of pain or symptoms, a principle known as interpatient variability. According to Inspector Top, AHP and respondent should have noticed that all patients of these physicians received the same maximum dosage of oxycodone and or/alprazolam, without regard to interpatient variability.

24. The prescriptions for unusually large amounts of oxycodone and alprazolam should have alerted AHP and respondent that the prescriptions may not be for legitimate medical purposes. However, there were no notes in AHP's records indicating that pharmacy staff contacted any of the prescribers to verify the need to treat patients at the highest dosage.

Excessive Distance Between Prescriber and AHP

25. The sixth red flag is that many of the patients of these nine physicians traveled excessive distances from their physician's medical offices to AHP's location at Van Nuys to fill prescriptions for controlled substances.

26. For instance, Dr. Goldstein's patients traveled 65 miles, Dr. Ware's patients traveled 25 miles, Dr. Prosser's patients traveled 40 miles, and Dr. Piety's patients traveled 40 miles to fill their prescriptions. Inspector Top explained that the greater Los Angeles area is well served by pharmacies and physicians. It is unusual for patients to travel such long distances to their preferred pharmacy, and this issue should have alerted AHP pharmacy staff that the prescriptions for controlled substances may not be appropriate.

Consecutive or Nearly Consecutive Processing of Suspect Prescriptions

27. The sixth red flag is that AHP filled the same or similar prescriptions (same drugs, strength, and directions for use) for patients of Drs. Smith, Prosser, and Piety in groups of consecutive or nearly consecutive prescription numbers.

28. Inspector Top explained that the consecutive numbering of prescriptions indicates any or all of the following scenarios: (1) patients may have been coming to AHP in small groups to drop off their controlled substance prescriptions; (2) one patient may have come to AHP to drop off multiple controlled substance prescriptions; and (3) multiple patients may have trickled into AHP over a period of time, dropped off their controlled substance prescriptions, and AHP staff typed the prescriptions one after another. Regardless, the processing of these prescriptions in sequential order should have made the irregular prescribing pattern more apparent to AHP staff members.

Noncompliant Prescription Documents

29. The seventh red flag is that patients of Drs. Goldstein, Asuncion, Behfarin, Venkateswaralu, Prosser, and Piety presented AHP with prescriptions for controlled substances written on prescription documents lacking multiple security features required under Health and Safety Code section 11162.1.

30. For example, a prescription is required to contain a watermark printed on the backside consisting of the words "California Security Prescription." (Health & Saf. Code, § 11162.1, subd. (a)(2).) However, the backsides of severalprescriptions written by Dr. Goldstein contained a watermark with the word “DocuGard,” and others contained a watermark with the words “Kan’t Kopy.” A prescription is also required to

have six quantity check-off boxes so the prescriber may indicate the quantity by checking the applicable box of either 1-24, 25-49, 50-74, 75-100, 101-150, or 151 and over. (*Id.*, subd. (a)(7).) The quantity boxes on some of the prescriptions written by Dr. Goldstein were incorrect, listing the quantity boxes as "1-24, **25-50, 51-74**, 75-100, 101-150 and 151 and over." (Ex. 8, p. 226, 228, 230, emphasis added.) A latent, repetitive "void" pattern also must be printed across the entire front of a prescription. (Health & Saf. Code, § 11162.1, subd. (a)(1).) On some prescriptions written by Dr. Goldstein, the words "Rx INVALID" were printed across the prescription. (Ex. 8, p. 234.)

31. In total, AHP filled 700 prescriptions written by Drs. Goldstein, Asuncion, Behfarin, Venkateswaralu, Prosser, and Piety that lacked statutorily-required security features. In addition, AHP filled 24 prescriptions for controlled substances, written by other physicians, which also lacked multiple security features and failed to comply with Health and Safety Code Section 11162.1. Thus, AHP filled 724 noncompliant prescriptions for controlled substances, which resulted in the dispensation of 52,295 tablets and 59,206 mls of controlled substances during the Audit Period. Most of these prescriptions were reviewed by respondent.

OTHER FINDINGS FROM THE 2018 INSPECTION

32. In addition to the errors described above, AHP dispensed medication that listed the incorrect prescriber name on the patient-centered label[8] and in the electronic computer records for 90 prescriptions. For example, on prescription #108438 for oxycodone 30 mg, the actual prescriber was Dr. Gary Baker, but the

[8] Patient-centered label are labels affixed to drug containers dispensed to patients.

patient-centered label for the medication and AHP's electronic records listed Dr. Goldstein as the prescriber. (Ex. 27, p. 801-802.)

33. Of these 90 prescriptions, 87 were filled by respondent, and the remaining three prescriptions were filled by AHP staff pharmacist Sun Young Yun. Inspector Top opined that listing the incorrect prescriber demonstrates a lack of attention to detail that could confuse patients and result in error when making reports to the Controlled Substance Utilization Review and Evaluation System (CURES).[9]

AFTERMATH OF THE 2018 INSPECTION

34. On October 8, 2018, after her inspection of AHP, Inspector Top issued an Inspection Report, Order of Correction, and Written Notice for the violations she found. Respondent signed the Inspection Report, Order of Correction, and Written Notice indicating that he had reviewed, discussed, and understood the contents of these documents. Inspector Top testified credibly that she educated respondent in depth regarding the red flags for suspect prescriptions. She discussed with him in detail a pharmacist's corresponding responsibility. She also recommended that respondent use a coin to scratch the watermark on a prescription form or purchase black light, a tool that helps pharmacy staff to easily identify watermarks on prescription forms. Respondent told Inspector Top at that time that he would purchase

[9] CURES is a database that allows pre-registered users, including licensed healthcare prescribers eligible to prescribe controlled substances, pharmacists authorized to dispense controlled substances, law enforcement, and regulatory boards, to access patient controlled substance history information.

a black light and train his pharmacy staff members on how to identify forged prescription documents.

35. On December 14, 2018, Inspector Top sent to AHP an additional written notice summarizing her findings from the 2018 inspection and setting forth in bullet points the red flags she found in her analysis of the suspect prescriptions. (Ex. 31.)

The 2020 Inspection

36. On January 14, 2020, Inspector Top conducted a second inspection of AHP and its pharmacy records. She performed an audit of AHP's inventory for oxycodone 30 mg for the period of May 29, 2018, to January 14, 2020; H/APAP 10/325 mg for the period of May 29, 2018, to January 14, 2020; and carisoprodol 350 mg and alprazolam 2 mg for the period of May 30, 2018, to January 23, 2020. After her investigation, Inspector Top issued a written report, dated February 26, 2020, detailing multiple violations of pharmacy law by respondent and AHP.

FAILURE TO EXERCISE CORRESPONDING RESPONSIBILITY

37. After reviewing AHP's dispensing records, Inspector Top found that AHP and respondent continued to dispense highly abused controlled substances without exercising their corresponding responsibility. Specifically, from October 8, 2018, to January 14, 2020, AHP filled 917 prescriptions written by Jennifer Edwards, P.A., despite the presence of the same red flags Inspector Top found in the 2018 inspection. Those red flags are as follows:

- A large percentage (61 percent) of the prescriptions written by PA Edwards and filled by AHP was for controlled substances, which is inconsistent with

AHP's overall dispensing ratio of 12 percent controlled substances to 88 percent non-controlled substances;

- A significant percentage (69 percent) of the total oxycodone 30 mg prescriptions filled by AHP were written by PA Edwards;

- The majority of the prescriptions (81 percent) written by PA Edwards were purchased with cash, without the aid of insurance, which is inconsistent with AHP's overall cash payment ratio of 42 percent;

- PA Edward's prescribing patterns were limited, with four commonly abused controlled substances (oxycodone 30 mg, promethazine/codeine, carisoprodol 350 mg, and H/APAP 10/325 mg) accounting for a significant percentage (59 percent) of her total prescriptions;

- The prescribing profile of PA Edwards was incongruent with her self-reported areas of practice of her supervising physicians (general practice, family medicine, and pain management). A physician's assistant working under general practice physicians and those specializing in family medicine would be expected to prescribe a significant percentage of non-controlled medications to treat a variety of medical conditions commonly treated in those practices such as hypertension, diabetes, depression, asthma, simple infections, and other common ailments;

- PA Edwards prescribed the highest strength of oxycodone (30 mg) to all patients receiving the medication without regard for upward titration or interpatient variability;

- PA Edwards' patients traveled a far distance (25 miles) between her medical office and AHP to fill prescriptions for controlled substances;

- At least half of PA Edwards' patients resided at the same address in Los Angeles, which is associated with Creative Blessings, the purported homeless shelter. Many of these prescriptions from Creative Blessing residents were brought to AHP by Mrs. Brown;

- PA Edwards' patients presented to AHP with prescriptions for controlled substances that were written on prescription documents lacking multiple security features; and

- In many instances, groups of prescriptions written by PA Edwards were presented to the pharmacy on the same day. These prescriptions were written on the same date for similar or identical medications and quantities, and contained similar or identical directions for use. These prescriptions also bore close or sequential in batch numbers, were assigned consecutive or nearly consecutive pharmacy prescription numbers, and were processed within minutes of each other. Because AHP frequently processed PA Edwards prescriptions for more than one patient consecutively, the irregular prescribing pattern should have been evident to the pharmacy staff.

38. After the 2018 inspection, even AHP's staff pharmacist became suspicious and refused to fill prescriptions brought in by Mrs. Brown and written by PA Edwards for patients residing at Creative Blessings. In a sworn statement dated February 14, 2020, Pharmacist Yun wrote:

> After the first inspection I learned that many of her [Mrs. Brown's] prescriptions did not have all the required features

> for controlled substances. Mrs. Brown continued to bring prescriptions which some looked the same as prescriptions that I filled and was fined. I brought it up to PIC [respondent][.] But he replied that prescriptions are valid and it's just printing companie's mistake. But I did not feel comfortable so I decided not to fill Mrs. Brown's prescriptions.

(Ex. 79, p. 1482.)

Although his own pharmacist brought her suspicion to his attention, respondent reviewed and dispensed 434 out of the 555, or 78 percent, of the controlled substances prescriptions written by PA Edwards.

OVERCHARGING FOR OXYCODONE 30 MG

39. Inspector Top also discovered in the course of her investigation that respondent continued to overcharge patients for oxycodone 30 mg. In a sworn statement dated February 28, 2020, AHP pharmacy technician Sussie Figueroa credibly recounted that in transactions involving Mrs. Brown from Creative Blessings, she entered the cash amount of $148 for prescriptions of oxycodone 30 mg at the cash register, but respondent charged Mrs. Brown an additional $1,000 at the point of sale. (Ex. 81, p. 1495.)

NONCOMPLIANT PRESCRIPTION DOCUMENTS

40. In her review of AHP's prescriptions during the 2020 inspection , Inspector Top found that AHP continued to dispense controlled substances written on prescription documents that were noncompliant with Health and Safety Code section

11162.1 and displayed irregularities on their face. Specifically, AHP dispensed 334 prescriptions for controlled substances written on prescription documents lacking the required security features. Respondent reviewed 290 of the invalid prescriptions. An unknown pharmacist verified 43 of the invalid prescriptions.

41. The 334 noncompliant prescriptions dispensed (1) 7,440 tablets of oxycodone 30 mg; (2) 17,520 mls of promethazine/codeine; (3) 8,490 tablets of carisoprodol; (4) 8,430 tablets of H/APAP 10/325 mg; (5) 990 tablets of alprazolam 2mg; and (6) 300 tablets of APAP/codeine. Thus, AHP dispensed a total of 25,650 tablets and 17,520 mls of controlled substances despite being written on noncompliant prescription documents.

42. Many of the noncompliant prescriptions showed the same deficiencies as those Inspector Top had identified during her 2018 inspection. For example, many of the noncompliant prescriptions contained the invalid "DocuGard" watermark, rather than the valid "California Security Prescription" watermark. Inspector Top opined that the "California Security Prescription" watermark is one of the hallmark features utilized to identify a valid prescription. Despite having purportedly purchased a black light to help respondent and AHP staff check prescription documents, respondent and AHP continued to dispense controlled substance prescriptions written on invalid prescription documents. Had AHP and respondent appropriately used the black light purportedly purchased, AHP pharmacy staff could have easily recognized the invalid prescriptions documents.

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BIENNIAL INVENTORY REPORTS

43. During her January 14, 2020 Inspection of AHP, Inspector Top requested a review of AHP's biennial inventory of controlled substances.[10] Pharmacist Yun could not locate a copy of the biennial inventory of controlled substances on file at AHP.

44. Inspector Top subsequently received two separate biennial inventories from AHP. On January 17, 2020, Inspector Top received the first biennial inventory (Biennial Inventory #1). However, Biennial Inventory #1 indicated it was completed over multiple dates: May 28, 2019, May 29, 2018, and May 29, 2019. Because federal regulation requires the biennial inventory to be completed in one day, Inspector Top found Biennial Inventory #1 to be deficient and requested another copy of the biennial inventory.

45. On January 27, 2020, Inspector Top received a second biennial inventory (Biennial Inventory #2) from AHP. The cover page of Biennial Inventory #2 indicated the inventory was completed on January 6, 2020. However, in a handwritten sticky note dated January 27, 2020, and attached to the cover page, Pharmacist Yun wrote, "I did the count on 1/14/2020 after closing of pharmacy." (Ex. 52, p. 973.) The remaining pages of Biennial Inventory #2 are dated January 6, 2020. However, a second handwritten note by an unknown author, inserted at the end of the Schedule II

[10] Code of Federal Regulations, title 21, section 1304.11, requires a pharmacy to take a new inventory of all stocks of controlled substances (Schedules II, III, IV, and V) on hand at least every two years. This biennial inventory must be available for inspection for three years and should be immediately retrievable. (21 C.F.R. § 1304.11.)

controlled substances inventory, states, "Date says 1/6/20. But [Pharmacy Technician] Claudia [Palacios] counted on 1/23/20." (*Id.* at p. 1000.)

46. These completion date discrepancies for Biennial Inventory #2 are explained through the credible sworn statements of Pharmacist Yun and Pharmacy Technician Palacios, which were admitted into evidence. According to those statements, Pharmacy Yun, working with Pharmacy Technician Palacios, completed an inventory of Schedule II controlled substances on January 14, 2020. (Ex. 79, p. 1480.) On January 15, 2020, respondent instructed Pharmacy Technician Palacios to backdate Biennial Inventory #2 to January 6, 2020, and had her sign the cover page. (Ex. 80, p. 1489.) Pharmacist Yun refused to sign the cover page of Biennial Inventory #2 because it was incorrectly dated. (Ex. 79, p. 1480.) Nevertheless, respondent hand-printed pharmacist Yun's name on the cover page. On January 23, 2020, Pharmacy Technician Palacios completed a separate inventory of Schedule III to Schedule V controlled substances during pharmacy business hours, rather than at the open or close of business. (Ex. 80, p. 1490.)

SCHEDULE II RECONCILIATION REPORTS

47. During her January 14, 2020 inspection, Inspector Top also requested quarterly reconciliation reports. Under California Code of Regulations,[11] title 16, section 1715.65, subdivision (c), a pharmacy must compile an inventory reconciliation report of all federal Schedule II controlled substances at least every three months. The quarterly reports must be dated and signed by the individuals performing the

[11] All further references to the California Code of Regulations shall be to title 16 and designated as "CCR," unless otherwise indicated.

inventory and countersigned by the PIC, who is responsible for reviewing and ensuring the accuracy of the report. (CCR, § 1715.65, subd. (e).)

48. On January 17, 2020, Inspector Top received four reconciliation reports from AHP for oxycodone 30 mg bearing National Drug Code (NDC)[12] numbers 00406-85300001, 65162-005150, and 10702-00901, and 48258-0005-07. AHP did not submit any quarterly reconciliation reports for the other federal Schedule II controlled substances it carried, and it did not submit quarterly reconciliation reports for its stock of oxycodone 30 mg, other than those bearing the four NDC numbers.

49. Three of the four reconciliation reports (NDC numbers 00406-85300001, 65162-005150, and 10702-00901) were incomplete, and none of the four reports were countersigned by respondent as the PIC.

REPORT OF DRUG LOSSES

50. AHP's quarterly Schedule II reconciliation report for oxycodone 30 mg bearing the NDC number 00406-8350001 showed an overage of five tablets between December 2019 and March 2019, and an additional overage of two tablets between June 8, 2019, and September 1, 2019. (Ex. 44, p. 956.) Neither of these overages was investigated by AHP staff members.

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[12] The National Drug Code is a unique 10-digit or 11-digit number that identifies drugs in the United States.

51. The same reconciliation report showed the following shortages:

- a loss of five tablets from June 2018 to August 2018, which according to respondent, occurred due to miscounting;
- a loss of 30 tablets from September 2018 to December 2018, which according to respondent, occurred because the tablets were dropped; and
- a loss of 208 tablets from March 1, 2019, to June 8, 2019, which according to respondent, occurred because the tablets fell in the sink. (*Ibid.*)

52. None of these losses were reported to the Board. Respondent's report that 208 tablets of oxycodone 30 mg were lost because they dropped into the sink is also implausible given the magnitude of the loss.

SHORTAGE OF OTHER SCHEDULE II CONTROLLED SUBSTANCE STOCK

53. To determine whether AHP's inventory of other Schedule II controlled substances was reconcilable, Inspector Top requested data from AHP's wholesalers regarding the pharmacy's purchases of controlled substance stock. She also requested data from AHP's reverse distributor[13] regarding the pharmacy's return of the same stock. Based on the data received from those entities and her audit of AHP's electronic records, Inspector Top found that AHP suffered significant shortages in its stock of

[13] A reverse distributor is a company that receives controlled substances from a pharmacy for the purpose of returning unwanted, unusable, or outdated controlled substances to the manufacturer or the manufacturer's agent, or, where necessary, processing such substances or arranging for processing such substances for disposal. (21 C.F.R. § 1300.01.)

oxycodone 30 mg, H/APAP 10/350 mg, carisoprodol 350 mg, and alprazolam 2 mg, as follows:

- a shortage of 10,821 tablets of oxycodone 30 mg, equivalent to 31 percent of the number of oxycodone 30 mg tablets dispensed by AHP, during the period of May 29, 2018, to January 14, 2020;

- a shortage of 18,985 tablets of H/APAP 10/325 mg, equivalent to 35 percent of the number of H/APAP 10/325 mg tablets dispensed by AHP, during the period of May 29, 2018, to January 14, 2020;

- a shortage of 739 tablets of carisoprodol 350 mg, equivalent to 4 percent of the number of carisoprodol 350 mg tablets dispensed by AHP, during the period of May 30, 2018, to January 23, 2020; and

- a shortage of 12,221 tablets of alprazolam 2 mg, equivalent to 98 percent of the number of alprazolam 2 mg tablets dispensed by AHP, during the period of May 30, 2018, to January 23, 2020.

SELF-ASSESSMENT

54. During the January 14, 2018 inspection, Inspector Top requested AHP's Community Pharmacy Self-Assessment (Self-Assessment), which is a self-assessment of the pharmacy's compliance with federal and state pharmacy law in certain specified areas. Under CCR section 1715, the PIC is required to complete a self-assessment certifying that the information provided is true and correct, and to keep the completed document on file in the pharmacy for three years. However, at the time of the January 14, 2018 inspection, AHP did not have its Self-Assessment on file available for Inspector Top's review.

55. On January 27, 2020, Inspector Top received by fax a copy of the AHP's Self-Assessment, dated June 26, 2019. (Ex. 61, p. 1043.) She noticed the following inconsistencies:

- AHP's pharmacy permit expiration date was listed as April 1, 2018, when the actual expiration date, as of the date of the Self-Assessment, was April 1, 2020;

- AHP's Drug Enforcement Agency (DEA) Registration number expiration date was listed as August 30, 2021, when the actual expiration date was June 30, 2021; and

- Respondent's pharmacist license expiration date was listed as August 31, 2021, when the actual expiration date, as of the date of the Self-Assessment, was August 13, 2019. (*Id.* at p. 1040.)

56. Respondent also indicated on the Self-Assessment that he was aware of his duty to exercise corresponding responsibility. (*Id.* at p. 1054.)

57. Complainant contends that respondent had knowingly represented false information on his Self-Assessment. Although AHP's Self-Assessment contained several errors, no evidence was presented to show whether the incorrect information was a result of respondent's carelessness or knowing misrepresentation. Complainant also asserts that respondent's statement on the Self-Assessment of his awareness of his duty to exercise corresponding responsibility is false because he continued to dispense suspect prescriptions written by PA Edwards. However, it is more reasonable to infer that respondent's statement on the Self-Assessment is an admission of his awareness of his corresponding responsibility, but he disregarded it when he continued to dispense PA Edwards' prescriptions despite multiple red flags. (See

Factual Findings 37 to 38, *infra*.) Therefore, complainant did not establish that respondent had knowingly provided false information on AHP's Self-Assessment.

INCORRECT PRESCRIBER LISTED ON LABEL

58. During the 2020 inspection, Inspector Top found that AHP continued to dispense medication listing the incorrect prescriber names on the patient-centered label and in the electronic computer records. Specifically, between October 2018 and January 2020, AHP dispensed medication for 17 prescriptions with an incorrect prescriber listed on the patient-centered label and in its electronic pharmacy record. (Ex. 69.) Medication dispensed for 15 of the 17 prescriptions listed "Jennifer Edwards" as the prescriber when, in fact, the medication was prescribed by Amir Friedman or Joseph Dinglasan. (*Ibid*.) Medication dispensed for two prescriptions listed "Irv Edwards" as the prescriber when, in fact, they were prescribed by Jennifer Edwards. (*Ibid*.) Twelve of the prescriptions were verified by respondent, and five were verified by an unknown pharmacist. (*Ibid*.)

DEVIATION FROM THE REQUIREMENTS OF A PRESCRIPTION

59. Inspector Top also found that between October 2018 and January 2020, AHP deviated from 15 prescriptions as written by the prescribing physician, and committed medication errors by dispensing a medication other than the one prescribed. Specifically, prescription documents written under the prescribing authority of PA Edwards prescribed oxycontin 30 mg and instructed patients to take one tablet every four to six hours as needed. (Ex. 63, p. 1143-1147, 1151-1152, 1155-1158, 1161-1162.) Oxycontin is an extended-release version of oxycodone, which is used for the management of pain severe enough to require daily around-the-clock dosing. Oxycontin is usually administered every 12 hours and not on an as-needed

basis. Without contacting PA Edwards for confirmation, AHP dispensed the 15 prescriptions for oxycontin 30 mg as oxycodone 30 mg immediate-release tablets. There were no records indicating that PA Edwards had authorized the change in medication. Thirteen of these prescriptions were verified by respondent. Two of the prescriptions were verified by an unknown pharmacist.

FAILURE TO IDENTIFY REVIEWING PHARMACIST

60. As described above, the identity of the verifying pharmacist for many of the prescriptions dispensed by AHP is unknown. When Inspector Top examined AHP's electronic dispensing records, she noticed multiple blank cells under a "Checked by" column for entering the verifying pharmacist's names. Inspector Top inquired respondent about these blank cells. On February 10, 2020, respondent replied in an email that some AHP pharmacists verified the prescription at the point of sale without inputting their credentials into the computer system. (Ex. 67, p. 1238.) This practice calls into question whether AHP verified these prescriptions at all and demonstrates a lack of accountability and transparency in its operation.

Respondent's Evidence

61. Respondent was born in Tehran, Iran. He received his doctor of pharmacy degree from the University of Uppsala in Sweden. Respondent immigrated to the United States in 2010. He subsequently passed the Foreign Pharmacy Graduate Equivalency Exam and became licensed in California in 2015.

62. Respondent's testimony at the hearing was self-serving, disingenuous, and riddled with implausible explanations and contradictions. Initially, respondent claimed ignorance as an excuse for his violations, asserting that in Sweden, he was not taught about the distinction between controlled and non-controlled substances. Under

cross-examination, however, respondent admitted that as a Board licensee, he is charged with knowledge of the relevant pharmacy laws and regulations.

63. Respondent claimed that chain pharmacies often refuse to fill prescriptions even when they are legitimate, leaving their patients helpless. He contended that AHP is one of the few pharmacies willing to help those underserved patients, which is why the pharmacy served multiple patients at the same address. With respect to Creative Blessings, respondent reported that he went to great lengths to confirm the legitimacy of the prescriptions brought by Mrs. Brown, including personally inspecting the shelter, speaking to the on-duty doctors, and obtaining a copy of Creative Blessing's Department of Social Services license to operate as a group home. However, respondent did not explain why he would charge as much as $1,530 in cash for a prescription of oxycodone 30 mg to patients at Creative Blessings, who are purportedly residents of a homeless shelter. Nor did respondent provide an explanation for why he continued to fill prescriptions for Mrs. Brown from Creative Blessings after the 2018 inspection, when Inspector Top had put him on notice that the prescriptions from Creative Blessings are suspect, and even after his own pharmacist, Pharmacist Yun, refused to fill their prescriptions.

64. Respondent claimed he attempted to deter patients from seeking out controlled substances by posting a sign in AHP that falsely stated that the pharmacy does not carry any controlled substances. Inspector Top refuted this testimony and testified credibly that she did not see any such sign at AHP during her 2018 and 2020 inspections. Respondent also claimed that he charged some patients over $1,000 for oxycodone 30 mg to deter them from seeking out more oxycodone. Respondent later changed his story and asserted that he has never charged any patient over $1,000 for oxycodone 30 mg. This testimony is controverted by receipts showing that AHP

charged patients over $1,000 for oxycodone 30 mg (Ex. 10, p. 276; Ex. 19, p. 695) and Pharmacy Technician Figueroa's credible sworn statement that respondent continued to charge patients over $1,000 for oxycodone 30 mg after the 2018 inspection. (Ex. 81, p. 1496.) Additionally, respondent's explanation that he was somehow trying to deter patients from seeking controlled substances by posting a false statement in his pharmacy and by charging patients an exorbitant price for oxycodone is nonsensical and implausible.

65. Respondent distanced himself from the falsified dates and signatures on Biennial Inventory #2 by claiming he was hospitalized at the time that Pharmacist Yun and Pharmacy Technician Palacios completed the form. However, respondent later contradicted himself and admitted that he had written in Pharmacist Yun's name on the cover page of Biennial Inventory #2 after she refused to sign the form. Nor did respondent present any evidence to refute Pharmacy Technician Palacio's credible sworn statement that respondent instructed her to backdate Biennial Inventory #2 to January 6, 2020, when in fact, this biennial inventory was completed on two separate dates, namely January 14, 2020, and January 23, 2020.

66. With respect to the oxycontin 30 mg prescriptions dispensed as oxycodone 30 mg, respondent claimed he had called the prescribing physician to confirm the prescriptions, but he offered no evidence in AHP's records to show that such confirmation took place. Respondent further claimed that he did not know some of the prescriptions he had dispensed were written on noncompliant forms. However, respondent had no explanation as to why he continued to dispense prescriptions bearing the noncompliant "Docugard" watermark in 2020, after Inspector Top had educated him about recognizing incorrect security features on noncompliant forms

during her 2018 inspection and after he purportedly purchased a black light to help him identify the correct "California Security Prescription" watermark.

67. Respondent submitted into evidence prognosis notes from Thomas J. O'Laughlin, M.D., to show that he now takes extra steps to verify prescriptions. (Ex. D, p. D-4.) However, Dr. O'Laughlin's office is located in Clovis, a city in Central California that is located more than 200 miles away from AHP's location in Van Nuys. Nevertheless, respondent filled at least two prescriptions for H/APAP 10/325 mg from Dr. O'Laughlin. (*Id.* at p. D-3, D-6.) Respondent also submitted another prescription of H/APAP 10/325 mg from Dr. Rostam Khoshsar, whose offices are located in Lawndale, a city that is located more than 20 miles away from AHP. (*Id.* at p. D-9.) Thus, AHP and respondent continue to fill prescriptions in total disregard of a red flag. When questioned about this issue during cross-examination, respondent offered no explanation for his continued ignorance.

68. Respondent presented eight reference letters from friends, acquaintances, and clients of AHP. (Ex. E.) In general, the letters attest to respondent's good character and professionalism as a pharmacist.

Costs

69. Complainant submitted evidence of the costs of investigation and enforcement of this matter, summarized as follows: 118.25 hours of legal services at rates ranging from $205 to $220 per hour for a subtotal of $25,996.25; and 503.5 hours of investigative services at rates ranging from $121 to $127 per hour for a subtotal of $60,994. The total costs of investigation and enforcement of this matter are $86,990.25. These costs are reasonable. AHP and respondent did not present any evidence regarding their ability to pay recovery costs.

LEGAL CONCLUSIONS

1. AHP's pharmacy permit is a nonprofessional license because it does not require the extensive educational, training, or testing requirements as does a professional license. (See *Mann v. Department of Motor Vehicles* (1999) 76 Cal.App.4th 312, 319; *San Benito Foods v. Veneman* (1996) 50 Cal.App.4th 1889, 1894.) An applicant for a pharmacy permit need not be a pharmacist; instead, the applicant must designate a PIC with the requisite education, training, and licensure. (Bus. & Prof. Code, §§ 4110, subd. (a), 4113, subd. (a).) To impose discipline on AHP's nonprofessional pharmacy permit, complainant must prove cause for discipline by a preponderance of the evidence, which is a lower standard of proof than clear and convincing evidence. (*Imports Performance v. Department of Consumer Affairs, Bureau of Automotive Repair* (2011) 201 Cal.App.4th 911, 916–917; Evid. Code, §115.) "'Preponderance of the evidence means evidence that has more convincing force than that opposed to it.' [citations omitted] .....The sole focus of the legal definition of 'preponderance' in the phrase 'preponderance of the evidence' is on the *quality* of the evidence. The *quantity* of evidence presented by each side is irrelevant." (*Glage v. Hawes Firearms Co.* (1990) 226 Cal.App.3d 314, 324–325, emphasis in original.)

2. However, respondent's pharmacist license is a professional license. (Bus. & Prof. Code § 4050; *Murphy v. E.R. Squibb & Sons, Inc.* (1985) 40 Cal.3d 672, 678-679.) To impose discipline on a professional license, complainant must prove cause for discipline by clear and convincing evidence to a reasonable certainty. (*Sternberg v. California State Board of Pharmacy* (2015) 239 Cal.App.4th 1159, 1171; *Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence requires proof that is so clear as to leave no substantial doubt

and that is sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re Marriage of Weaver* (1990) 224 Cal.App.3d 478, 487.)

First and Twentieth Causes for Discipline: Corresponding Responsibility

3. A. Business and Professions Code Section 4113, subdivision (c), provides that a PIC of a pharmacy "shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy." Business and Professions Code section 4036.5 defines a PIC as a pharmacist proposed by a pharmacy and approved by the Board as the supervisor or manager responsible for ensuring the pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

B. Business and Professions Code section 4301 defines unprofessional conduct to include the clearly excessive furnishing of controlled substances in violation of Health and Safety Code section 11153 (subd. (d)), violation of state or federal statutes regulating controlled substances and dangerous drugs (subd. (j)), and violating or attempting to violate state or federal law governing pharmacy (subd. (o)). Pursuant to Health and Safety Code section 11153, subdivision (a), a prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The statute also provides that, although the responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, "a corresponding responsibility rests with the pharmacist who fills the prescription." CCR section 1761, subdivision (a), provides that "[n]o pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the

pharmacist shall contact the prescriber to obtain the information needed to validate the prescription."

C. In *Vermont & 110th Medical Arts Pharmacy v. Board of Pharmacy* (1981) 125 Cal.App.3d 19, the court held that the statutory scheme in place, including some of the statutes discussed above, "plainly calls upon pharmacists to use their common sense and professional judgment. When their suspicions are aroused as reasonable professional persons by either ambiguities in the prescriptions, the sheer volume of controlled substances prescribed by a single practitioner for a small number of persons or, as in this case, when the control inherent in the prescription process is blatantly mocked by its obvious abuse as a means to dispense inordinate and incredible large amounts of drugs under the color and protection of law, pharmacists are called upon to obey the law and refuse to dispense." (*Id.* at p. 25.)

D. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code section 4301, subdivisions (d), (j), and (o), and 4306.5, subdivisions (a) through (c), in conjunction with section 4113, subdivision (c), on the grounds of unprofessional conduct. Between October 1, 2015, and October 9, 2018, AHP and respondent failed to exercise their corresponding responsibility to ensure that controlled substances were dispensed for a legitimate medical purpose. AHP and respondent dispensed 3,694 prescriptions written by nine physicians despite multiple irregularities suggesting the prescriptions were not written for legitimate medical purposes. In addition, between October 10, 2018, and January 14, 2020, AHP and respondent failed to exercise their corresponding responsibility and dispensed 917 prescriptions written by PA Edwards, despite red flags and irregularities suggesting they were not written for legitimate medical

purposes, in violation of Health and Safety Code section 11153 and CCR section 1761. (Factual Findings 10-31 and 37-38.)

Second and Sixth Causes for Discipline: Noncompliant Prescription Documents

4. A. Health and Safety Code section 11164, subdivision (a), requires each prescription for controlled substances classified in Schedule II, III, IV, or V to comply with Health and Safety Code section 11162.1, which in turn specifies several required security features.

B. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code section 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), on the grounds of unprofessional conduct. Between October 1, 2015, and October 9, 2018, AHP and respondent filled 724 prescriptions for controlled substances, which were written on deficient and noncompliant prescription forms. As a result, AHP and respondent dispensed a total of 52,295 tablets and 59,206 mls of controlled substances to patients without the required precautions. In addition, between October 10, 2018, and January 14, 2020, AHP and respondent filled 334 prescriptions for controlled substances written on deficient and noncompliant prescription forms that lacked multiple security features and failed to comply with Health and Safety Code sections 11164 and 11162.1. As a result, AHP and respondent dispensed a total of 25,650 tablets and 17,520 mls of controlled substances to patients without the required precautions. (Factual Findings 29-31 and 40-42.)

Third and Seventh Causes for Discipline: Incorrect Prescriber Listed on Prescriptions

5. A. Business and Professions Code section 4076, subdivision (a)(4), prohibits any pharmacist from dispensing a prescription except in a correctly labeled container with the name of the prescriber. CCR section 1707.1, subdivision (a)(1)(B), requires a pharmacy to maintain patient medication records with the correct prescriber's name.

B. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code section 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), on the grounds of unprofessional conduct. Between October 1, 2015, and October 9, 2018, AHP and respondent dispensed medication for 90 prescriptions with an incorrect prescriber listed on the patient-centered label and in the electronic pharmacy record. In addition, between October 10, 2018, and January 14, 2020, AHP and respondent dispensed medication for 17 prescriptions with an incorrect prescriber listed on the patient-centered label and in the electronic pharmacy record, in violation of Business and Professions Code section 4076, in conjunction with CCR section 1707.1. (Factual Findings 32-33 and 58.)

Fourth Cause for Discipline: Unprofessional Conduct

6. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code section 4301, in conjunction with sections 4113, subdivision (c), and 4306.5. Between October 1, 2015, and October 9, 2018, AHP and respondent committed acts of unprofessional conduct as described in Legal Conclusions 3 to 5. (Factual Findings 10-33.)

Fifth Cause for Discipline: Biennial Inventory

7. A. Code of Federal Regulations, title 21, section 1304.11, requires a pharmacy to take a new inventory of all stocks of controlled substances (Schedules II, III, IV, and V) on hand at least every two years. This biennial inventory must be conducted in a single day, at the beginning or the close of business, and it must be kept on file for three years. (21 C.F.R. § 1304.11.)

B. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct, in that AHP and respondent violated the requirements for completing the biennial inventory of controlled substances under Code of Federal Regulations, title 21, section 1304.11, subdivision (a) and (c), as follows:

- On January 14, 2020, AHP and respondent failed to maintain on file a biennial inventory of controlled substances available for Inspector Top's inspection;
- Biennial Inventories #1 and #2 were conducted over multiple days;
- Biennial Inventory #2 for Schedules III, IV, and V controlled substances was conducted during business hours on January 23, 2020, rather than at the open or close of business;
- Biennial Inventory #2 was backdated to January 6, 2020, when, in fact, it had been conducted on January 14, 2020, after the close of business, and on January 23, 2020, during business hours, and

- Biennial Inventory #2 was not signed by Pharmacist Yun, who performed the Schedule II controlled substances inventory on January 14, 2020.

(Factual Findings 43-46.)

Eighth Cause for Discipline: Failure to Maintain Operational Standards and Security

8. A. CCR section 1714, subdivision (b) requires each pharmacy licensed by the Board to maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. Business and Professions Code section 4081 requires each pharmacy to maintain a current inventory of dangerous drugs. CCR section 1718 defines "current inventory" as "complete accountability for all dangerous drugs handled by every licensee enumerated in sections 4081 and 4332."

B. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct. AHP and respondent failed to maintain AHP's facilities, space, fixtures, and equipment in a manner that would ensure that drugs are safely and properly prepared, maintained, secured, and distributed, which resulted in a significant shortage of controlled substances and a failure to maintain complete accountability for all dangerous drugs, in violation of CCR section 1714, subdivision (b), in conjunction with CCR section 1718 and Business and Professions Code sections 4081 and 4332. (Factual Findings 50-53.)

Ninth Cause for Discipline: No Self-Assessment on File

9. A. CCR section 1715, subdivision (d), requires a pharmacy to keep each self-assessment on file in the pharmacy for three years after it is performed.

B. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct. During the January 14, 2020 inspection, AHP's Self-Assessment was not on file, in violation of CCR section 1715, subdivision (d). (Factual Finding 54.)

Tenth Cause for Discipline: Inaccurate Self-Assessment

10. A. CCR section 1715, subdivision (a), requires the PIC of each pharmacy to complete a self-assessment of the pharmacy's compliance with federal and state pharmacy law before July 1 of every odd-numbered year.

B. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct. AHP's Self-Assessment was not properly and accurately completed, in violation of CCR section 1715, subdivision (a). (Factual Finding 55.)

Eleventh Cause for Discipline: Schedule II Reconciliation Reports

11. A. CCR section 1715.65, requires a pharmacy and its PIC to compile an inventory reconciliation report of all federal Schedule II controlled substances at least every three months.

B. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct. AHP and respondent failed to compile an inventory reconciliation report at least every three months for all federal Schedule II controlled substances, in violation of CCR section 1715.65, subdivisions (a) through (c). AHP and respondent only complied inventory conciliations for four NDC's of oxycodone 30 mg, even though the pharmacy carried federal Schedule II controlled substances other than oxycodone 30 mg. In addition, three reconciliation reports for oxycodone 30 mg, (NDC's 65162005150, 42858-0005-07, and 10702-00901) were not complete. (Factual Findings 47-49.)

Twelfth Cause for Discipline: Report of Loss of Controlled Substances

12. A. CCR section 1715.65, subdivision (d), requires a pharmacy to report in writing identified losses and known causes to the Board within 30 days of discovery, unless the cause of the loss is theft, diversion, or self-use in which case the report shall be made within 14 days of discovery.

B. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct. AHP and respondent failed to report in writing to the Board, within 30 days of the discovery, the loss of oxycodone 30 mg bearing NDC number 00406-8530001, in violation of CCR section 1715.65, subdivision (d). (Factual Finding 51-52.)

Thirteenth Cause for Discipline: No Countersignature on Reconciliation Reports

13. A. CCR section 1715.65, subdivision (e), requires the PIC of a pharmacy to countersign reconciliation reports.

B. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct. None of the four reconciliation reports for oxycodone 30 mg bearing NDC numbers 00406-8530001, 65162005150, 42858-0005-07, and 10702-00901, were countersigned by respondent, in violation of CCR section 1715.65, subdivision (e). (Factual Finding 49.)

Fourteenth Cause for Discipline: Variation from Prescriptions

14. A. CCR section 1716 prohibits a pharmacist from dispensing any prescription that contains any significant error, omission, irregularity, uncertainty, ambiguity, or alteration. Upon receipt of any such prescription, the pharmacist is required to contact the prescriber to obtain the information needed to validate the prescription.

B. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct. Between October 10, 2018, and January 14, 2020, AHP and respondent deviated from 15 prescriptions by erroneously dispensing oxycodone 30 mg immediate-release tablets instead of the prescribed oxycontin 30 mg, without the prior consent of the prescriber, in violation of CCR section 1716. (Factual Finding 59.)

Fifteenth Cause for Discipline: Identity of Dispensing Pharmacist

15. A. CCR section 1717, subdivision (b), requires a pharmacy to maintain on file, for each prescription, the name or the initials of the dispensing pharmacist.

B. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct. Between October 10, 2018, and January 14, 2020, AHP and respondent did not properly identify the dispensing pharmacist on the prescription documents or in AHP's electronic dispensing data, in violation of CCR section 1717, subdivision (b). (Factual Finding 60.)

Sixteenth Cause for Discipline: No Controlled Substance Inventory on File

16. A. CCR section 1718 requires a pharmacy to maintain its quarterly controlled substance inventory on file and be made available for inspection upon request for at least three years after the date of the inventory.

B. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct. During the January 14, 2020 inspection, AHP's quarterly controlled substances inventory was not on file and available for inspection by Inspector Top, in violation of CCR section 1718, subdivision (d). (Factual Finding 47.)

Seventeenth Cause for Discipline: Report of Loss to Board

17. A. CCR section 1718 requires the owner of a pharmacy to report to the Board any loss of the controlled substances, including their amounts and strengths, within 30 days of discovery.

B. Respondent's pharmacist license is subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct. Respondent, as the owner of AHP, failed to report to the Board the loss of oxycodone 30 mg bearing NDC number 00406-8530001, including their amounts and strengths, within 30 days of the discovery, in violation of CCR section 1715.6. (Factual Findings 51-52.)

Eighteenth Cause for Discipline: Knowingly and Falsely Representing Facts

18. A. Business and Professions Code section 4301, subdivision (g), provides that unprofessional conduct includes "knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts."

B. Cause does not exist to discipline AHP's pharmacy permit and respondent's pharmacist license pursuant to Business and Professions Code sections 4301, subdivision (g), in conjunction with section 4113, subdivision (c), for unprofessional conduct relating to AHP's Self-Assessment. It was not established that respondent had signed AHP's Self-Assessment knowing that it falsely represented facts. (Factual Findings 55-57.)

Nineteenth Cause for Discipline: Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption

19. A. Business and Professions Code section 4301, subdivision (f), provides that unprofessional conduct includes "the commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption....."

B. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code section 4301, subdivision (f), in conjunction with section 4113, subdivision (c), for unprofessional conduct. AHP and respondent committed the following acts involving moral turpitude, dishonesty, fraud, deceit, or corruption:

- knowingly falsified Biennial Inventory #2 by backdating it to January 6, 2020;
- wrote in the name of Pharmacist Yun as the person completing the incorrectly dated Biennial Inventory #2, after pharmacist Yun refused to sign the document;
- furnished to the Board a copy of AHP's oxycodone 30 mg reconciliation report, which listed a significant loss of 208 tablets due to the implausible explanation that the lost tablets fell into the sink;
- instructed Pharmacy Technician Figueroa to enter a $148 cash charge for oxycodone 30 mg prescriptions, when, in reality, patients were charged an additional $1,000 for each prescription.

(Factual Findings 45-46; 51-52; and 39.)

Twenty-First Cause for Discipline: Unprofessional Conduct

20. AHP's pharmacy permit and respondent's pharmacist license are subject to discipline pursuant to Business and Professions Code section 4301, in conjunction with sections 4113, subdivision (c), and 306.5. Between October 10, 2018, and January 14, 2020, AHP and respondent committed acts of unprofessional conduct as described in Legal Conclusions 5 to 20. (Factual Findings 36-60.)

Level of Discipline

21. The Board's Disciplinary Guidelines (Rev. 2/2017) (Guidelines) describe categories of violations and recommended penalties. Many of the violations involved in this case, such as failure to exercise corresponding responsibility, fraudulent acts committed by the licensees, and repeated violations of controlled substance secure prescription requirements, constitute Category III violations. (*Id.* at pp. 7-8.) For Category III violations, the minimum recommended penalty is revocation stayed, 90 days of actual suspension, and three to five years' probation. The maximum recommended penalty is revocation. (*Id.* at p. 7.)

22. The Guidelines specify that, in determining whether the minimum, maximum, or an intermediate penalty is to be imposed in a given case, the following factors should be considered: (1) actual or potential harm to the public; (2) actual or potential harm to any consumer; (3) prior disciplinary record; (4) prior warnings; (5) number and or variety of current violations; (6) the nature and severity of the act(s) or offense(s), or crime(s); (7) aggravating evidence; (8) mitigating evidence; (9) rehabilitation evidence; (10) compliance with terms of any criminal sentence, parole, or probation; (11) overall criminal record; (12) if applicable, evidence of dismissal proceedings pursuant to section 1203.4 of the Penal Code; (13) the time that has

elapsed since commission of the act(s) or offenses(s); (14) whether the conduct was intentional or negligent; (15) financial benefit to the respondent from the misconduct; (16) other licenses held by the respondent and license history of those licenses; and (17) Uniform Standards Regarding Substance-Abusing Healing Arts Licensees. (*Id.* at p. 3.)

23. Although there was no evidence of actual harm, the potential harm to the public from AHP and respondent's violations was immense. Inspector Top found that AHP and respondent filled 3,694 potentially illegitimate prescriptions during the 2018 inspection and 917 potentially illegitimate prescriptions during the 2020 inspection, despite several glaring red flags and irregularities. Most of these prescriptions were for highly abused controlled substances. During the 2020 inspection, Inspector Top also found that AHP suffered significant shortages in its stock of controlled substances, including 10,821 tablets of oxycodone 30 mg. These controlled substances could have been sold on the black market, likely contributing to the opioid abuse epidemic in this state and the nation. Additionally, although there was no evidence of actual harm to any specific consumer, the suspicious prescriptions dispensed by AHP and the controlled substances lost from its inventory are potentially harmful to consumers, as they could aid in an individual's addiction to those medications.

24. Neither AHP nor respondent has a prior record of discipline. However, AHP and respondent had several warnings about the deficiencies in their pharmacy practice after the 2018 inspection. On October 8, 2018, Inspector Top issued an Inspection Report, Order of Correction, and Written Notice for pharmacy law violations she found during her initial investigation. Respondent signed the Inspection Report, Order of Correction, and Written Notice indicating that he had reviewed, discussed,

and understood the contents of these documents. On December 14, 2018, Inspector Top sent to AHP an additional written notice summarizing her findings from the 2018 inspection. Therefore, after the 2018 inspection during which Inspector Top had put him on notice about the problems with his dispensing practices, respondent could no longer plead ignorance as an excuse for failing to recognize red flags and non-compliant prescriptions. Yet, Inspector Top's 2020 inspection uncovered some of the same violations she found in 2018. Based on respondent's repeated violations of the same pharmacy laws and regulations even after his receipt of warnings from the Board, respondent's flagrant disregard of the pharmacy laws and regulations can only be inferred as intentional.

25. In total, complainant established 20 separate causes for discipline, which varied widely in nature from failure to exercise corresponding responsibility, failure to account for the loss of controlled substances, erroneously dispensing medication other than the one prescribed, to acts involving moral turpitude, dishonesty, fraud, deceit, or corruption. While some of the violations, such as failure to maintain the Biennial Inventory and quarterly reconciliation reports on file can be viewed as relatively minor, other violations, such as failure to exercise corresponding responsibility, failure to account for the loss of controlled substances, and acts involving dishonesty, are extremely serious.

26. Additionally, AHP and respondent benefited financially from their wrongdoing. AHP and respondent filled suspect prescriptions and charged patients exorbitant prices, sometimes over $1,000, for oxycodone 30 mg, when a typical prescription costs between $120 to $180. AHP and respondent's misconduct also are not remote in time. The acts under review in the January 14, 2020 inspection occurred no earlier than May 2018.

27. Most significantly, respondent presented scant evidence of rehabilitation, other than several character reference letters. Specifically, there was no evidence that AHP and respondent have changed any of their practices in dispensing suspect prescriptions. On the contrary, respondent presented additional evidence at the hearing that he continues to ignore red flags and still fills prescriptions for controlled substances for patients of Drs. O'Laughlin and Khoshsar, even though those patients travel excessive distances to AHP. Respondent also failed to present evidence demonstrating that he has implemented any changes in security measures to prevent future drug loss, even after the 2020 inspection showed that AHP suffered significant shortages in its stock of controlled substances including oxycodone 30 mg and alprazolam 2 mg.

28. In aggravation, some of the violations committed by respondent and AHP display a blatant level of dishonesty, including knowingly falsifying Biennial Inventory #2 by backdating it to January 6, 2020, and writing in pharmacist Yun's name as the person completing Biennial Inventory #2 after she refused to sign the document. Moreover, at the hearing, respondent took no responsibility for his actions, admitted no wrongdoing, and was less than candid in his testimony.[14]

29. The Guidelines state, "[t]hese categories assume a single violation. For multiple violations, the appropriate penalty shall increase accordingly." (Guidelines, p. 5.) Given the multiple violations established in this case, respondent's repeated and deliberate violations of the pharmacy laws and regulations, the lack of evidence establishing any effort to change AHP's dispensing practices and security measures to

[14] Other factors under the Guidelines for determining the appropriate level of discipline are not applicable in this case and therefore are not discussed.

prevent drug loss, and respondent's propensity for dishonesty, AHP and respondent cannot be relied upon to comply with reasonable terms or conditions that would be imposed if it were allowed to operate under a probationary license. As a result, protection of the public health, safety, and welfare requires the revocation of AHP's pharmacy permit and respondent's pharmacist license.

30. Because the discipline imposed on AHP's pharmacy permit is revocation, pursuant to Business and Professions Code section 4307, respondent, as the manager of AHP who had knowledge of and knowingly participated in the conduct for which AHP is disciplined, shall be prohibited from serving as the manager, administrator, owner, member, officer, director, associate, or partner of a Board licensee, until the pharmacy permit is reinstated.

Costs

31. Under Business and Professions Code section 125.3, the Board may recover costs "not to exceed the reasonable costs of the investigation and enforcement" of this matter. As set forth in Factual Finding 69, the costs claimed are $86,990.25. These costs are reasonable. AHP and respondent did not present any evidence to warrant a reduction in costs.

32. Given the nature of the order below, it would be unnecessarily punitive to require AHP and respondent to pay the Board's costs at this time. However, it is reasonable to require AHP and respondent to pay the Board's costs upon the reinstatement of AHP's pharmacy permit and/or respondent's pharmacist license.

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ORDER

1. Pharmacy Permit Number PHY 52501, issued to Allied Health Partner, Inc. doing business as Allied Health Pharmacy, is revoked. Respondent Korush Jalali Farahani, CEO, 100 percent shareholder, Director, and Treasurer/CFO of Allied Health Pharmacy, shall, by the effective date of this decision, arrange for the destruction of, the transfer to, sale of, or storage in a facility licensed by the Board of all controlled substances and dangerous drugs and devices. Respondent Farahani shall provide written proof of such disposition, submit a completed Discontinuance of Business form, and return the wall and renewal licenses to the Board within five days of disposition.

2. Respondent Korush Jalali Farahani is prohibited from serving as the manager, administer, owner, member, officer, associate, or partner of a licensee until Pharmacy Permit Number PHY 52501 is reinstated.

3. Pharmacist License Number RPH 70445, issued to respondent Korush Jalali Farahani is revoked. Respondent Farahani shall relinquish his wall license and pocket renewal license to the Board within 10 days of the effective date of this decision. Respondent Farahani may not reapply or petition the Board for reinstatement of his revoked license for three years from the effective date of this decision.

4. As a condition precedent to reinstatement of Allied Health Pharmacy's pharmacy permit and/or respondent Korush Jalali Farahani's pharmacist license, respondents Allied Health Pharmacy and Farahani shall reimburse the Board for its costs of investigation and prosecution in the amount of $86,990.25. Said amount shall be paid in full prior to the reapplication or reinstatement of Allied Health Pharmacy's

pharmacy permit and/or respondent Farahani's pharmacist license, unless otherwise ordered by the Board.

DATE: 03/04/2021

Ji-Lan Zang

JI-LAN ZANG

Administrative Law Judge

Office of Administrative Hearings

XAVIER BECERRA
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General
VIVIAN CHO
Deputy Attorney General
State Bar No. 293773
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6603
Facsimile: (916) 731-2126
Attorneys for Complainant

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

In the Matter of the Accusation Against: **ALLIED HEALTH PARTNER, INC. DBA ALLIED HEALTH PHARMACY, KORUSH JALALI FARAHANI** 14659 Victory Blvd Van Nuys, CA 91411 **and** Permit No. PHY 52501; **KORUSH JALALI FARAHANI** 7926 Nita Ave Canoga Park, CA 91304 Pharmacist License No. RPH 70445; Respondents.	Case No. 6715 **FIRST AMENDED ACCUSATION**

PARTIES

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

2. On or about March 12, 2014, the Board issued Pharmacist License Number RPH 70445 to Respondent Pharmacist-in-Charge ("PIC") Korush Jalali Farahani ("Respondent PIC Farahani"). Pharmacist License Number RPH 70445 was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2021, unless renewed.

3. On or about April 9, 2015, the Board issued Pharmacy Permit Number PHY 52501 to Allied Health Partner, Inc. to do business as Allied Health Pharmacy ("Respondent Allied"). Pharmacy Permit Number PHY 52501 was in full force and effect at all times relevant to the charges brought herein and will expire on April 1, 2021, unless renewed. Respondent PIC Farahani is and has been the Chief Executive Officer, 100% shareholder, Director, and Treasurer/Chief Financial Officer of Respondent Allied since April 9, 2015. Respondent PIC Farahani has been the Pharmacist-in-Charge since April 9, 2015.[1]

JURISDICTION

4. This Accusation is brought before the Board of Pharmacy, Department of Consumer Affairs, under the authority of the following laws.

5. Business and Professions Code section 22 states:

> Board as used in any provisions of this code, refers to the board in which the administration of the provision is vested, and unless otherwise expressly provided, shall include bureau, commission, committee, department, division, examining committee, program, and agency.

6. Business and Professions Code section 118, subdivision (b), provides that the suspension, expiration, surrender, cancellation of a license shall not deprive the Board, Registrar, or Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

7. Business and Professions Code section 4300 states:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

[1] Pursuant to Business and Professions Code section 4036.5, a "Pharmacist-in-Charge" refers a pharmacist proposed by a pharmacy and approved by the Board as the supervisor or manager responsible for ensuring the pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

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

(4) Revoking his or her license.

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

8. Business and Professions Code section 4300.1 states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee 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.

STATUTORY PROVISIONS: BUSINESS AND PROFESSIONS CODE

9. Business and Professions Code section 4076 states, in pertinent part:

(a) A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

. . .

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician 65 assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

10. Business and Professions Code section 4113, subdivision (c), states, "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."

11. Business and Professions Code section 4301 states:

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

. . .

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

. . .

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

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

. . .

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

. . .

(o) Violating or attempting to violate, directly or indirectly, or assisting in 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, including regulations established by the board or by any other state or federal regulatory agency.

. . .

12. Business and Professions Code section 4306.5 states:

Unprofessional conduct for a pharmacist may include any of the following:

(a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.

(b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement his or her best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services.

(c) Acts or omissions that involve, in whole or in part, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function.

(d) Acts or omissions that involve, in whole or in part, the failure to fully maintain and retain appropriate patient-specific information pertaining to the performance of any pharmacy function.

/ / /

13. Business and Professions Code section 4307 states, in pertinent part:

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

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

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

STATUTORY PROVISIONS: HEALTH AND SAFETY CODE

14. Health and Safety Code section 11153 states, in pertinent part:

(a) A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions:

> (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or
>
> (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use. . . .

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

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

(1) A latent, repetitive "void" pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a pattern across the entire front of the prescription.

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

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermochromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form so that the prescriber may indicate the quantity by checking the applicable box where the following quantities shall appear:

1–24

25–49

50–74

75–100

101–150

151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

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

(9) The preprinted name, category of licensure, license number, federal controlled substance registration number, and address of the prescribing practitioner.

(10) Check boxes shall be printed on the form so that the prescriber may indicate the number of refills ordered.

(11) The date of origin of the prescription.

(12) A check box indicating the prescriber's order not to substitute.

(13) An identifying number assigned to the approved security printer by the Department of Justice.

(14) (A) A check box by the name of each prescriber when a prescription form lists multiple prescribers.

(B) Each prescriber who signs the prescription form shall identify themselves as the prescriber by checking the box by the prescriber's name.

. . .

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

16. Health and Safety Code Section 11164 states, in pertinent part:

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

(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 and shall meet the following requirements:

(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the prescriber's address and telephone number; the name of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services; refill information, such as the number of refills ordered and whether the prescription is a first-time request or a refill; and the name, quantity, strength, and directions for use of the controlled substance prescribed.

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the

prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

(b) (1) Notwithstanding paragraph (1) of subdivision (a) of Section 11162.1 , any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be produced in hard copy form and signed and dated by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code. Any person who transmits, maintains, or receives any electronically transmitted prescription shall ensure the security, integrity, authority, and confidentiality of the prescription.

(2) The date of issue of the prescription and all the information required for a written prescription by subdivision (a) shall be included in the written record of the prescription; the pharmacist need not include the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient on the hard copy, if that information is readily retrievable in the pharmacy.

STATE REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 1707.1, states:

(a) A pharmacy shall maintain medication profiles on all patients who have prescriptions filled in that pharmacy except when the pharmacist has reasonable belief that the patient will not continue to obtain prescription medications from that pharmacy.

(1) A patient medication record shall be maintained in an automated data processing or manual record mode such that the following information is readily retrievable during the pharmacy's normal operating hours.

. . .

(B) For each prescription dispensed by the pharmacy:

. . .

2. The prescriber's name and where appropriate, license number, DEA registration number or other unique identifier;

18. California Code of Regulations, title 16, section 1714 subdivision (b), states, "Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice of pharmacy."

19. California Code of Regulations, title 16, section 1715, states:

> (a) The pharmacist-in-charge of each pharmacy as defined under section 4029 or section 4037 of the Business and Professions Code shall complete a self-assessment of the pharmacy's compliance with federal and state pharmacy law. The assessment shall be performed before July 1 of every odd-numbered year. The primary purpose of the self-assessment is to promote compliance through self-examination and education.
>
> (b) In addition to the self-assessment required in subdivision (a) of this section, the pharmacist-in-charge shall complete a self-assessment within 30 days whenever:
>
> (1) A new pharmacy permit has been issued, or
>
> (2) There is a change in the pharmacist-in-charge, and he or she becomes the new pharmacist-in-charge of a pharmacy.
>
> (3) There is a change in the licensed location of a pharmacy to a new address.
>
> (c) The components of this assessment shall be on Form 17M-13 (Rev. 10/14) entitled "Community Pharmacy Self-Assessment Hospital Outpatient Pharmacy Self-Assessment" and on Form 17M-14 (Rev. 10/14) entitled "Hospital Pharmacy Self-Assessment" which are hereby incorporated by reference to evaluate compliance with federal and state laws and regulations.
>
> (d) Each self-assessment shall be kept on file in the pharmacy for three years after it is performed.

20. California Code of Regulations, title 16, section 1715.6, states, "The owner shall report to the Board within thirty (30) days of discovery of any loss of the controlled substances, including their amounts and strengths."

21. California Code of Regulations, title 16, section 1715.65, states:

> (a) Every pharmacy, and every clinic licensed under sections 4180 or 4190 of the Business and Professions Code, shall perform periodic inventory and inventory reconciliation functions to detect and prevent the loss of controlled substances.
>
> (b) The pharmacist-in-charge of a pharmacy or consultant pharmacist for a clinic shall review all inventory and inventory reconciliation reports taken, and establish and maintain secure methods to prevent losses of controlled drugs. Written policies and

procedures shall be developed for performing the inventory reconciliation reports required by this section.

(c) A pharmacy or clinic shall compile an inventory reconciliation report of all federal Schedule II controlled substances at least every three months. This compilation shall require:

(1) A physical count, not an estimate, of all quantities of federal Schedule II controlled substances. The biennial inventory of controlled substances required by federal law may serve as one of the mandated inventories under this section in the year where the federal biennial inventory is performed, provided the biennial inventory was taken no more than three months from the last inventory required by this section;

(2) A review of all acquisitions and dispositions of federal Schedule II controlled substances since the last inventory reconciliation report;

(3) A comparison of (1) and (2) to determine if there are any variances;

(4) All records used to compile each inventory reconciliation report shall be maintained in the pharmacy or clinic for at least three years in a readily retrievable form; and

(5) Possible causes of overages shall be identified in writing and incorporated into the inventory reconciliation report.

(d) A pharmacy or clinic shall report in writing identified losses and known causes to the board within 30 days of discovery unless the cause of the loss is theft, diversion, or self-use in which case the report shall be made within 14 days of discovery. If the pharmacy or clinic is unable to identify the cause of the loss, further investigation shall be undertaken to identify the cause and actions necessary to prevent additional losses of controlled substances.

(e) The inventory reconciliation report shall be dated and signed by the individual(s) performing the inventory, and countersigned by the pharmacist-in-charge or professional director (if a clinic) and be readily retrievable in the pharmacy or clinic for three years. A countersignature is not required if the pharmacist-in-charge or professional director personally completed the inventory reconciliation report.

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

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

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

23. California Code of Regulations, title 16, section 1717, subdivision (b), states, in pertinent part:

> (b) In addition to the requirements of Business and Professions Code section 4040, the following information shall be maintained for each prescription on file and shall be readily retrievable:
>
> > (1) The date dispensed, and the name or initials of the dispensing pharmacist. All prescriptions filled or refilled by an intern pharmacist must also be initialed by the supervising pharmacist before they are dispensed.

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

> "Current Inventory" as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.
>
> 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 inventory.

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

> (a) No pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.
>
> (b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense a controlled substance prescription where the pharmacist knows or has objective reason to know that said prescription was not issued for a legitimate medical purpose.

FEDERAL REGULATORY PROVISIONS

26. Code of Federal Regulations, title 21, section 1304.11, states, in pertinent part:

> (a) *General requirements.* Each inventory shall contain a complete and accurate record of all controlled substances on hand on the date the inventory is taken, and shall be maintained in written, typewritten, or printed form at the registered location. An inventory taken by use of an oral recording device must be promptly transcribed. Controlled substances shall be deemed to be "on hand" if they are in the possession of or under the control of the registrant, including substances returned by a customer, ordered by a customer but not yet invoiced, stored in a warehouse on behalf of the registrant, and substances in the possession of employees of the registrant and intended for distribution as complimentary samples. A separate inventory shall be

made for each registered location and each independent activity registered, except as provided in paragraph (e)(4) of this section. In the event controlled substances in the possession or under the control of the registrant are stored at a location for which he/she is not registered, the substances shall be included in the inventory of the registered location to which they are subject to control or to which the person possessing the substance is responsible. The inventory may be taken either as of opening of business or as of the close of business on the inventory date and it shall be indicated on the inventory.

(b) *Initial inventory date.* Every person required to keep records shall take an inventory of all stocks of controlled substances on hand on the date he/she first engages in the manufacture, distribution, or dispensing of controlled substances, in accordance with paragraph (e) of this section as applicable. In the event a person commences business with no controlled substances on hand, he/she shall record this fact as the initial inventory.

(c) *Biennial inventory date.* After the initial inventory is taken, the registrant shall take a new inventory of all stocks of controlled substances on hand at least every two years. The biennial inventory may be taken on any date which is within two years of the previous biennial inventory date.

. . .

COST RECOVERY

27. Business and Professions Code section 125.3 states, in pertinent part, that the 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.

DRUG CLASSIFICATIONS

28. Alprazolam, the generic name for Xanax, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(1), and a dangerous drug pursuant to Business and Professions Code section 4022. Alprazolam is commonly prescribed for anxiety.

29. Carisoprodol, the generic name for Soma, is a Schedule IV controlled substance pursuant to Code of Federal Regulations, title 21, section 1308.21, subdivision (c)(6), and is a dangerous drug pursuant to Business and Professions Code section 4022. Carisoprodol is commonly prescribed as a muscle relaxant.

/ / /

30. Dextroamphetamine/amphetamine, the generic name for Adderall, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d)(1), and is a dangerous drug pursuant to Business and Professions Code section 4022. Dextroamphetamine/ amphetamine is commonly prescribed as a stimulant or diet suppressant.

31. Hydrocodone/acetaminophen (also known as "H/APAP"), the generic name for Norco, is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e)(5), a Schedule II controlled substance pursuant to Code of Federal Regulations, title 21, section 1308.12, subdivision (b)(1)(vi), and a dangerous drug pursuant to Business and Professions Code section 4022. Hydrocodone/acetaminophen is commonly prescribed for pain.

32. Oxycodone, the generic name for Roxicodone, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug pursuant to Business and Professions Code section 4022. Oxycodone is commonly prescribed for pain.

33. Promethazine/codeine, the generic name for Phenergan/Codeine, is a Schedule V controlled substance pursuant to Health and Safety Code section 11058, subdivision (c)(1), and a dangerous drug pursuant to Business and Professions Code section 4022. Promethazine/codeine is commonly prescribed for cough.

34. Acetaminophen with codeine #3 ("APAP/codeine #3"), the generic name for "Tylenol #3," is a schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e)(2), and a dangerous drug pursuant to Business and Professions Code section 4022. APAP/codeine #3 is commonly prescribed for mild to moderately severe pain.

FACTUAL ALLEGATIONS

(OCTOBER 2018 INVESTIGATION)

35. On or around October 8, 2018, following an anonymous complaint regarding various physicians' prescribing practices, Board Inspector Irina Top conducted an inspection of Allied Health Pharmacy, located at 14659 Victory Boulevard in Van Nuys, California. Inspector Top also conducted an audit and investigation of Respondent Allied's pharmacy records. Inspector Top found that between October 1, 2015 and October 9, 2018, Respondents dispensed approximately 42,315 prescriptions. Approximately 3,694 of these prescriptions were written by Dr. Goldstein,

Dr. Smith, Dr. Mirzabeigi, Dr. Asuncion, Dr. Behfarin, Dr. Venkateswaralu, Dr. Ware[2], Dr. Prosser, and Dr. Piety. Respondents dispensed these prescriptions despite multiple irregularities suggesting they were not written for legitimate medical purposes, as follows:

(a) Of the 42,315 prescriptions dispensed by Respondents between October 1, 2015 and October 9, 2018, 11,328 (27%) were for controlled medications and 30,987 (73%) were for non-controlled medications. In contrast, the ratio of controlled to non-controlled medication prescribed by the above prescribers were inconsistent with Respondent Allied's overall dispensing pattern, as detailed below in Table 1. A majority, if not all of the prescriptions for controlled substances, written by each of the above prescribers, were for highly abused controlled substances, including alprazolam, carisoprodol, dextroamphetamine/amphetamine, promethazine/codeine, H/APAP, and oxycodone. Respondent PIC Farahani reviewed a majority of these prescriptions.

TABLE 1

Prescriber	Ratio of Controlled to Non-Controlled Medication
Dr. Goldstein	63 total Rx 57 (91%) controlled 6 (9%) non-controlled
Dr. Mirzabeigi	115 total Rx 83 (72%) controlled 32 (28%) non-controlled
Dr. Behfarin	14 total Rx 14 (100%) controlled 0 (0%) non-controlled
Dr. Ware	987 total Rx 476 (48%) controlled 511 (52%) non-controlled

[2] Effective May 24, 2019, Dr. Ware's Physician's and Surgeon's Certificate No. A 26209 was revoked. The revocation was stayed and Dr. Ware's certificate was placed on probation for three years on terms and conditions. The underlying Accusation was based on causes for discipline for gross negligence, repeated acts of negligence, and inadequate record keeping. The Accusation alleged, among other things, that Dr. Ware prescribed certain controlled substances without justification.

Prescriber	Ratio of Controlled to Non-Controlled Medication
Dr. Prosser	540 total Rx
Dr. Piety	1263 total Rx 752 (60%) controlled 511 (40%) non-controlled

(b) **Prescribing Patterns Incongruent with Physicians' Area(s) of Practice:** Prescribing patterns of the above prescribers were incongruent with their self-reported and board-certified areas of practice. Additionally, their prescribing patterns were unusually limited, with a small number of commonly abused controlled substances accounting for a large percentage of the total prescriptions.

(c) **Cash Payments for Controlled Substance Prescriptions:** Of the 11,328 controlled substance prescriptions dispensed by Respondents between October 1, 2015, and October 9, 2018, approximately 57% were paid for with cash and 43% were paid for with the aid of insurance. In contrast, a majority of the prescriptions written by the above prescribers were paid for with cash, without the aid of insurance, as detailed below in Table 2.

TABLE 2

Prescriber	Prescriptions for Controlled Medication Paid With Cash and Without Aid of Insurance	Comments
Dr. Goldstein	100% of Rx for controlled substances	Patients paid as much as $320 for oxycodone 30 mg prescriptions
Dr. Smith	52% of Rx for controlled substances	Patients paid as much as $1,200 for oxycodone 30 mg prescriptions
Dr. Mirzabeigi	51% of Rx for controlled substances	Patients paid as much as $480 for oxycodone 30 mg prescriptions
Dr. Asuncion	57% of Rx for controlled substances	Patients paid as much as $1,530 for oxycodone 30 mg prescriptions
Dr. Behfarin	100% of Rx for controlled substances	Patient paid as much as $385 for oxycodone 30 mg prescriptions
Dr. Venkateswaralu	85% of Rx for controlled substances	Patients paid as much as $1,200 for oxycodone 30 mg prescriptions
Dr. Ware	77% of Rx for controlled substances	Patients paid as much as $1,020 for oxycodone 30 mg prescriptions
Dr. Prosser	78% of Rx for controlled substances	Patients paid as much as $1,275 for oxycodone 30 mg prescriptions
Dr. Piety	81% of Rx for controlled substances	Patients paid as much as $1,070 for oxycodone 30 mg prescriptions

Furthermore, patients obtaining medical care from the above prescribers paid exceptionally high prices for their oxycodone 30 mg prescriptions. Patients residing at 1620 W. 57th St., a homeless shelter called "Creative Blessings," also paid as much as $1,530 for their oxycodone 30 mg prescriptions. Respondent PIC Farahani admitted that he would intentionally charge a higher price for oxycodone 30 mg to discourage patients from returning for them.

(d) **Creative Blessings:** Respondents dispensed approximately 1663 total prescriptions to 232 patients whose address of record was 1620 W. 57th Street.[3] Only 21 prescriptions (1.3%) were for HIV medications, three prescriptions (0.18%) were for psychiatric medications, 33 prescriptions (2%) were for anti-hypertension medications, nine prescriptions (0.5%) to treat diabetes, and seven prescriptions (0.4%) were for medications to treat gastrointestinal disease. In contrast, 999 prescriptions (60%) were for commonly abused controlled substances such as oxycodone, H/APAP, carisoprodol, promethazine/codeine and benzodiazepines, such as alprazolam. As Respondents frequently processed prescriptions for more than one patient residing at the Creative Blessings shelter consecutively, the irregular prescribing patterns should have been evident to the pharmacy staff.

(e) **Failure to Titrate:** Dr. Goldstein, Dr. Smith, Dr. Mirzabeigi, Dr. Asuncion, Dr. Venkateswaralu, Dr. Ware, Dr. Prosser, and Dr. Piety prescribed the highest strength of oxycodone (30 mg) and/or alprazolam (2 mg) to patients receiving the two medications without upward titration[4] or regard for interpatient variability. Oxycodone, an opioid, is available in 5 mg, 7.5 mg, 10 mg, 15 mg, 20 mg and 30 mg strength tablets. Alprazolam, a benzodiazepine, is available in in 0.25 mg, 0.5 mg, 1 and 2 mg tablets. These prescriptions were often prescribed with identical directions for use. Although CURES[5] reports obtained by Respondents indicated that these patients

[3] The exact number was difficult to calculate as the electronic pharmacy records contained a number of variations of this address, which Inspector Top suspects to be typographical errors.

[4] Titration is the process of adjusting the dose of a medication for the maximum benefit without adverse effects.

[5] The Controlled Substance Utilization Review and Evaluation System (CURES) program requires mandatory monthly pharmacy reporting of dispensed schedule II through IV medications. The data is collected statewide and its main goal is to improve healthcare providers' ability to combat prescription drug abuse.

were potentially benzodiazepine naive or opioid naive, Respondents still filled prescriptions for the highest strength oxycodone and alprazolam. There were no notes on the prescriptions document indicating that Respondents or pharmacy staff contacted the prescribers to verify the patients, prescriptions, diagnoses, or need to treat them with the highest dosage. Furthermore, in some instances, CURES reports indicated that patients were either doctor and/or pharmacy shopping. There were no notes found on the prescription document or in the electronic pharmacy records resolving the possible doctor/pharmacy shopping issues or indicating that a discussion took place with the prescriber regarding the patient or prescription.

(f) **Excessive Distance Between Prescriber and Allied Health Pharmacy:** Patients traveled excessive distances between their respective medical offices and Respondent Allied to fill prescriptions for controlled substances. Dr. Goldstein's patients traveled 65 miles, Dr. Ware's patients traveled 25 miles, Dr. Prosser's patients traveled 40 miles, and Dr. Piety's patients traveled 40 miles. As the greater Los Angeles area is well served by pharmacies and physicians, it was a factor of irregularity and "red flag" for patients of these physicians to travel such great distances to fill their controlled substance prescriptions.

(g) **Consecutive or Nearly Consecutive Processing of Suspect Prescriptions:** Respondent Allied frequently filled the same or similar prescriptions (same drug(s), strength, and directions for use) for patients of Dr. Smith, Dr. Prosser, and Dr. Piety in groups. These prescriptions were assigned consecutive or nearly consecutive pharmacy prescription numbers indicating they were processed sequentially. This would have made the irregular prescribing pattern more evident to pharmacy staff.

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The component of CURES that is accessible to pharmacists and prescribers is called the Prescription Drug Monitoring Program ("PDMP"). All practitioners licensed to prescribe or dispense scheduled medications were required by law to sign up by July 1, 2016. The data has been used by healthcare professionals such as pharmacists and prescribers to aid in determining whether patients are utilizing their controlled substances safely and appropriately, ensuring they are not obtaining medical care from multiple prescribers, frequenting multiple pharmacies, obtaining early refills of controlled substances, travelling far distances to prescribers or pharmacies or consistently paying cash for their controlled substance prescriptions.

(h) **Dispensing Prescriptions Written on Noncompliant Forms:** Patients of Dr. Goldstein, Dr. Asuncion, Dr. Behfarin, Dr. Venkateswaralu, Dr. Prosser, and Dr. Piety presented to Respondent Allied with 700 prescriptions for controlled substances written on prescription documents, which lacked multiple security features and failed to comply with Health and Safety Code Section 11162.1. In addition, 24 other prescriptions for controlled substances were written on prescription documents, which also lacked multiple security features and failed to comply with Health and Safety Code Section 11162.1, were also presented to Respondent Allied. These 24 prescriptions listed an incorrect prescriber on the patient centered label and in Respondent Allied's electronic records. Nonetheless, Respondents verified and dispensed controlled substance medications pursuant to the noncompliant 724 prescriptions. As a result, a total of 52,295 tablets and 59,206 mLs of controlled substances were dispensed to patients by Respondent Allied between October 1, 2015 and October 9, 2018, as detailed below in Table 3.

TABLE 3

Prescriber	Number of Non-Compliant Rx	Total Number of Rx for Controlled Substances	Reviewed By	Total Units of Controlled Substances Dispensed
Dr. Goldstein	57	57	Almost exclusively by Respondent PIC Farahani	5,440 tablets 480 mLs
Dr. Asuncion	55	64	Respondent PIC Farahani	3,930 tablets 5,760 mLs
Dr. Behfarin	14	14	Respondent PIC Farahani	1,200 tablets 480 mLs
Dr. Venkateswaralu	125	310	Respondent PIC Farahani reviewed 107 Pharmacist Sun Young Yun reviewed 17	9,270 tablets 4,320 mLs
Dr. Prosser	192	334	Respondent PIC Farahani	12,220 tablets 23,986 mLs
Dr. Piety	257	752	Respondent PIC Farahani reviewed 247 Pharmacist Cheryl Johnson reviewed 10	18,360 tablets 22,260 mLs
Incorrect prescriber listed	24	NA	Almost exclusively by Respondent PIC Farahani	1,875 tablets 1,920 mLs

36. Between October 1, 2015, and October 9, 2018, Respondent Allied dispensed 90 prescriptions listing an incorrect prescriber on the patient centered label and in Respondent Allied's electronic records. Of these, Respondent PIC Farahani dispensed 87 prescriptions with an incorrect prescriber listed.[6] As stated above in paragraph 35, 24 of these prescriptions did not comply with Health and Safety Code section 11162.1.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Assume Corresponding Responsibility - Respondent Allied and Respondent PIC Farahani)

37. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code section 4301, subdivisions (d), (j) and (o), and 4306.5, subdivisions (a) through (c), in conjunction with section 4113, subdivision (c),on the grounds of unprofessional conduct, in that between October 1, 2015, and October 9, 2018, Respondents failed to exercise their corresponding responsibility to ensure that controlled substances were dispensed for a legitimate medical purpose, in violation of Health and Safety Code section 11153, and California Code of Regulations, title 16, section 1761. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 35 through 36, inclusive, as though set forth fully herein.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dispensing Prescriptions on Noncompliant Prescription Documents - Respondent Allied and Respondent PIC Farahani)

38. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code section 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), on the grounds of unprofessional conduct, in that between October 1, 2015, and October 9, 2018, Respondents dispensed 724 prescriptions for controlled substances, which were written on deficient and noncompliant prescription forms that failed to comply with Health and Safety Code sections 11164

[6] Pharmacist Yun dispensed three prescriptions with an incorrect prescriber listed on the patient centered label and in Respondent Allied's electronic records.

and 11162.1. As a result, a total of 52,295 tablets and 59,206 mLs of controlled substances were dispensed to patients by Respondents. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 35 through 36, inclusive, as though set forth fully herein.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dispensing Prescriptions with Incorrect Prescriber Listed - Respondent Allied and Respondent PIC Farahani)

39. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code section 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), on the grounds of unprofessional conduct, in that between October 1, 2015, and October 9, 2018, Respondents dispensed 90 prescriptions with an incorrect prescriber listed on the patient centered label and in the electronic pharmacy record in violation of Business and Professions Code section 4076, in conjunction with California Code of Regulations, title 16, section 1707.1. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 35 through 36, inclusive, as though set forth fully herein.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Respondent Allied and Respondent PIC Farahani)

40. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, in conjunction with section 4113, subdivision (c), and section 4306.5 in that between October 1, 2015, and October 9, 2018, Respondents committed acts of unprofessional conduct, as described above. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 35 through 36, inclusive, as though set forth fully herein.

FACTUAL ALLEGATIONS

(JANUARY 2020 INSPECTION, INVESTIGATION, AND AUDIT)

41. On or around January 14, 2020, Board Inspector Top conducted another inspection of Allied Health Pharmacy, as well as an investigation of its pharmacy records and an audit of the

following dangerous drugs and controlled substances: oxycodone 30 mg for the period of May 29, 2018 to January 14, 2020; H/APAP 10/325 mg for the period of May 29, 2018 to January 14, 2020; carisoprodol 350 mg for the period of May 30, 2018 to January 23, 2020; and alprazolam 2 mg for the period of May 30, 2018 to January 23, 2020. At the conclusion of her inspection, audit, and investigation, Inspector Top found that Respondents were continuing to commit violations of the Pharmacy Law, as further explained below.

42. **Inventory Requirements**: During the inspection, the pharmacist on duty, Pharmacist Yun, was unable to locate Respondent Allied's Biennial Inventory.[7] When Inspector Top finally received the Biennial Inventory on January 17, 2020, she found that it was completed over multiple days—May 28, 2018 and May 29, 2018. Some pages were dated May 28, *2019*. Yet, the cover page of the Biennial Inventory indicated that the inventory was completed at the close of business on May 29, 2018. On January 27, 2020, Inspector Top received a more recent Biennial Inventory. Pharmacist Yun conducted the inventory of schedule II controlled substances on January 14, 2020 after business hours. As a blank Controlled Substances Inventory form was not readily available, she was instructed to record the counts on yellow notebook paper. On January 15, 2020, in the presence of Technician Claudia Palacios, Respondent PIC Farahani (known as "Ken" to his staff) wrote Pharmacist Yun's name on the inventory, had Technician Palacios sign her own name on the inventory, and instructed Technician Palacios to backdate the inventory to January 6, 2020. On January 16, 2020, Pharmacist Yun saw that the Controlled Substances Inventory Log was completed and that it had been backdated to January 6, 2020. Pharmacist Yun never signed the inventory. Technician Palacios conducted the inventory for schedules III, IV, and V controlled substances during business hours on January 23, 2020.

43. **Schedule II Reconciliation Reports**: On January 17, 2020, Inspector Top received Reconciliation Reports for four National Drug Codes ("NDC")[8] of oxycodone 30 mg. The report for oxycodone 30 mg, NDC "00406-8530001," showed the following discrepancies:

[7] The Biennial Inventory is also referred to as "DEA Biennial Inventory" or "Controlled Substances Inventory." Respondent Allied's Biennial Inventories are entitled "Controlled Substances Inventory Log."

[8] The Food and Drug Administration maintains a database of all drugs manufactured, prepared,

- Between June 2018 and August 2018, there was a loss of five tablets due to an alleged miscount.
- Between September 2018 and December 1, 2018, there was a loss of 30 tablets due to them allegedly having been dropped.
- There was an overage of five tablets between December 2019 and March 1, 2019 that was never investigated by pharmacy staff.
- Between March 1, 2019 and June 8, 2019, there was a loss of 208 tablets due to them allegedly having fallen into the sink. According to Inspector Top, this is a suspicious and implausible explanation for a loss of such magnitude.
- There was an overage of two tablets between June 8, 2019 and September 1, 2019 that was never investigated by pharmacy staff.

The reports for the three other NDC's of oxycodone 30 mg, "65162005150," "42858-0005-07," and "10702-00901," were not filled out completely. Furthermore, none of the Quarterly Reconciliation Reports were countersigned by Respondent PIC Farahani and Respondents did not have Quarterly Reconciliation Reports for any federal schedule II controlled substances other than for oxycodone 30 mg, even though Respondent Allied carried other federal schedule II controlled substances, in addition to H/APAP. Additionally, during her first inspection of Respondent Allied on October 8, 2018, Inspector Top issued an Order of Correction to Respondents for their failure to comply with the requirements of California Code of Regulations, title 16, section 1715.65.

44. **Failure to Report Loss of Oxycodone 30 mg:** Respondent Allied's Quarterly Schedule II Inventory Reconciliation Report for oxycodone 30 mg, NDC "00406-8530001," showed the losses as set forth in paragraph 44. These losses were never reported to the Board.

45. **Shortages in Controlled Substance Stock**: Respondent Allied had significant shortages in its stock of controlled substances. From May 29, 2018 to January 14, 2020, there was a shortage of 10,821 tablets of oxycodone 30 mg (31% of the number of oxycodone 30 mg tablets

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propagated, compounded, or processed by it for commercial distribution. Drug products are identified and reported using a unique three-segment number called the National Drug Code (NDC), which serves as a universal product identified for drugs.

dispensed by Respondent Allied). From May 29, 2018 to January 14, 2020, there was a shortage of 18,985 tablets of H/APAP 10/325 mg (35 % of the number of H/APAP 10/325 mg tablets dispensed by Respondent Allied). From May 30, 2018 to January 23, 2020, there was a shortage of 739 tablets of carisoprodol 350 mg (4% of the number of carisoprodol 350 mg tablets dispensed by Respondent Allied). From May 30, 2018 to January 23, 2020, there was a shortage of 12,221 tablets of alprazolam 2 mg (98% of the number of alprazolam 2 mg tablets dispensed by Respondent Allied). According to Inspector Top, the significant losses in stock of controlled substances demonstrate that Respondents failed to meet the operational standards and security requirements of the pharmacy and failed to maintain accountability for all of their controlled substances.

46. **Self-Assessment:** During the January 14, 2020 inspection, Respondent Allied's Self-Assessment was not on file at the pharmacy. On January 27, 2020, Inspector Top received Respondent Allied's Self-Assessment, which Respondent PIC Farahani signed under penalty of perjury on June 26, 2019. Inspector Top identified the following inconsistencies and inaccuracies in Allied's Self-Assessment:

- The expiration date for Respondent Allied's permit was inaccurate;
- The expiration date for Respondent Allied's DEA Registration number was inconsistent with that observed by Inspector Top on the DEA license at Allied Health Pharmacy;
- The expiration date for Respondent PIC Farahani's pharmacist license was listed as August 31, 2021. As of the date of the Self-Assessment, the actual expiration date for Respondent PIC Farahani's pharmacist license was August 13, 2019.

Moreover, Respondent PIC Farahani checked "Yes" to being aware of his corresponding responsibility to determine that a prescription written for a controlled substance was issued for legitimate medical purposes only.

47. **Filling Prescriptions Written on Noncompliant Prescription Documents:** Between October 10, 2018 and January 14, 2020, Respondent Allied dispensed 334 prescriptions for controlled substances that were written on prescription documents that lacked multiple security features and failed to comply with the requirements set forth in Health and Safety Code section

11162.1. In turn, a total of 25,650 tablets and 17,520 mLs (43,170 units) of controlled substances were dispensed to patients despite being written on noncompliant prescriptions documents:

Drug	Quantity
oxycodone 30 mg	7,440 tablets
promethazine/codeine	17,520 mLs
carisoprodol 350 mg	8,490 tablets
H/APAP 10/325 mg	8,430 tablets
alprazolam 2 mg	990 tablets
APAP/codeine #3	300 tablets

Respondent PIC Farahani reviewed 290 of the invalid prescriptions. Pharmacist Jerome Newman[9] reviewed one of the invalid prescriptions. Forty-three prescriptions were verified by an unknown pharmacist. According to Inspector Top, the fact that the verifying pharmacist could not be identified for these prescriptions is problematic in that Respondents allowed pharmacists to verify prescriptions at the point of sale without recording their credentials, causing a lack of accountability and transparency in the operation of the pharmacy.

48. **Dispensing Prescriptions with Incorrect Prescriber Listed on Label:** Between October 10, 2018 and January 14, 2020, Respondent Allied dispensed 17 prescriptions with an incorrect prescriber listed on the patient centered label and in its electronic pharmacy record. Fifteen of the 17 prescriptions were dispensed with "Jennifer Edwards" listed as the prescriber when, in fact, they were prescribed by Amir Friedman or Joseph Dinglasan. Two of the 17 prescriptions were dispensed with "Irv Edwards" listed as the prescriber when, in fact, they were prescribed by Jennifer Edwards. Twelve of the prescriptions were verified by Respondent PIC Farahani. Five were verified by an unknown pharmacist. According to Inspector Top, the fact that the verifying pharmacist could not be identified for these prescriptions is problematic in that Respondents allowed pharmacists to verify prescriptions at the point of sale without recording their credentials, causing a lack of accountability and transparency in the operation of the pharmacy.

[9] Jerome Newman is not a subject in this Accusation. However, the Board issued Mr. Newman a citation for this violation.

49. **Deviating from Prescriptions and Committing Medication Errors**: Between October 10, 2018 and January 14, 2020, Respondents deviated from 15 prescriptions as written by the prescribing physician and committed medication errors by dispensing a medication other than the one prescribed. Specifically, the prescription documents, allegedly written under the prescribing authority of Jennifer Edwards, PA, prescribed Oxycontin 30 mg and instructed patients to take one tablet every four to six hours as needed. Oxycontin is an extended-release version of oxycodone, which is utilized for the management of pain severe enough to require daily around-the-clock dosing. Oxycontin is usually administered every 12 hours by patients and not on an as-needed basis. There were no records indicating a conversation took place with PA Edwards regarding the irregular prescriptions or that PA Edwards had authorized the change in medication. Respondent Allied erroneously dispensed the 15 prescriptions for Oxycontin 30 mg as *oxycodone 30 mg immediate release tablets*. Thirteen prescriptions were verified by Respondent PIC Farahani. Two were verified by an unknown pharmacist. According to Inspector Top, the fact that the verifying pharmacist could not be identified for these prescriptions is problematic in that Respondents allowed pharmacists to verify prescriptions at the point of sale without recording their credentials, causing a lack of accountability and transparency in the operation of the pharmacy.

50. **Failure to Identify Reviewing or Dispensing Pharmacist**: Between October 10, 2018 to January 14, 2020, Respondent Allied did not properly identify the reviewing or dispensing pharmacist. The initials on the stickers fixed to the backs of prescription documents referenced a pharmacist chosen arbitrarily by the technician in order to process the prescriptions. Sometimes, there was more than one pharmacist on duty at a time. Furthermore, Respondent Allied's electronic dispensing data from October 10, 2018 to January 14, 2020 did not contain the identity of the reviewing pharmacist for multiple prescriptions. Respondent PIC Farahani admitted that a pharmacist sometimes checks the medication by looking at the prescription, dosage, and type of medication inside the vial before releasing the medication, but does not verify it in the computer system. Thus, there was no way to identify the reviewing or dispensing pharmacist, further exacerbating the lack of accountability at Allied Health Pharmacy. This is not sufficient and violates what is required by law.

51. **Failure to Exercise Corresponding Responsibility**: Based on Respondent Allied's electronic dispensing records, Inspector Top found that between October 10, 2018 to January 14, 2020, Respondent Allied dispensed 917 prescriptions written by Jennifer Edwards, PA, despite a glaring number of red flags and irregularities suggesting they were not written for legitimate medical purposes:

(a) Of the 917 total prescriptions written by PA Edwards, Respondent Allied dispensed approximately 555 prescriptions for controlled substances (61% of 917 total prescriptions). The ratio of controlled to non-controlled substance dispensing is inconsistent with Respondent Allied's overall dispensing pattern of 12% controlled to 88% non-controlled;

(b) 0.9% of the prescriptions dispensed by Respondent Allied were for oxycodone 30 mg. 69% of the oxycodone 30 mg prescriptions dispensed by Respondent Allied were written by PA Edwards;

(c) PA Edwards prescribed and Respondent Allied dispensed the highest strength oxycodone 30 mg to all 120 patients who received the medication without upward titration and without consideration for interpatient variability. Titration is the process of adjusting the dose of a medication for the maximum benefit without adverse effects. Oxycodone is available in 5 mg, 7.5 mg, 10 mg, 15 mg, 20 mg and 30 mg strength tablets;

(d) 81% of the prescriptions written by PA Edwards were purchased using cash without the aid of insurance. This is disproportionate to the use of cash as payment for all medications dispensed by Respondent Allied (42%) and cash payment for controlled substances dispensed by Respondent Allied (46%). Furthermore, PA Edwards' patients paid cash for prescriptions of oxycodone 30 mg as costly as $500.55. This is irregular as patients prefer the aid of insurance to cash when purchasing high-cost medications;

(e) The top four medications prescribed by PA Edwards and dispensed by Respondent Allied were oxycodone 30 mg, promethazine/codeine, carisoprodol 350 mg, and H/APAP 10/325 mg, which are all individually recognized as drugs of abuse and prescribed most commonly to treat pain and cough. These four controlled substances made up 59% of PA Edwards' prescribing profile. Of PA Edwards' 216 patients, 120 (56%) received prescriptions for oxycodone

30 mg, 96 (45%) received prescriptions for carisoprodol 350 mg, 116 (54%) received prescriptions for promethazine/codeine, and 83 (38%) received prescriptions for H/APAP 10/325 mg. PA Edwards' prescribing pattern was also incongruous with the self-reported areas of practice of the physicians for whom she worked. PA Edwards was a physician's assistant for two doctors whose self-reported primary area of practice was general practice. PA Edwards also practiced pain management and family medicine. A physician's assistant working under general practice physicians and those specializing in family medicine would be expected to prescribe a significant percentage of non-controlled medications to treat a variety of medical conditions such as hypertension, diabetes, hypercholesterolemia, depression, asthma, acid reflux disease, simple infections and other common ailments. However, only approximately 25% of the medications prescribed by PA Edwards were intended to treat these ailments;

(f) PA Edwards' patients traveled approximately 25 miles between her medical office and Allied Health Pharmacy to fill prescriptions for controlled substances. Pharmacies within 10 miles of Allied Health Pharmacy dispensed very few prescriptions for controlled substances written by PA Edwards, with the exception of one pharmacy.

(g) At least half of PA Edwards' patients resided at the same address, 1620 W. 57th Street, which is associated with "Creative Blessings," a homeless shelter[10];

(h) PA Edwards' patients presented to Respondent Allied with prescriptions for controlled substances that were written on prescription documents lacking multiple security features and failing to comply with Health and Safety Code section 11162.1; and

(i) In many instances, groups of prescriptions written by PA Edwards were presented to Respondent Allied on the same day, were written on the same day, were written for

[10] The exact number was difficult to calculate as the electronic pharmacy records contained a number of variations of this address, which Inspector Top suspects to be typographical errors. Inspector Top also noted during her previous October 2018 investigation that between October 1, 2015, and October 9, 2018, Respondent Allied dispensed approximately 1663 total prescriptions to 232 patients whose address of record was 1620 W. 57th Street. Approximately 60% of those prescriptions were for commonly abused controlled substances such as oxycodone, H/APAP, carisoprodol, promethazine/codeine, and benzodiazepines, such as alprazolam. During the October 2018 investigation, Inspector Top found that the homeless patients residing at the Creative Blessings shelter paid an exorbitant amount—up to $1,530—for their oxycodone 30 mg prescriptions. (See paragraph 35(c) and 35(d).)

similar or identical medications, quantities, and directions for use, were close or sequential in batch numbers, and were processed within minutes of one another and assigned consecutive or nearly consecutive pharmacy prescription numbers.

52. **Overcharging for Oxycodone 30 mg**: Inspector Top also discovered, in the course of her investigation, that Respondent PIC Farahani instructed his staff to enter a $148 cash charge for oxycodone 30 mg prescriptions when, in reality, Respondents charged $1,000.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Comply with Inventory Requirements - Respondent Allied and Respondent PIC Farahani)

53. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct, in that Respondents violated or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspired to violate Code of Federal Regulations, title 21, section 1304.11, subdivision (a) and (c), as follows:

(a) On or about January 14, 2020, Respondents failed to maintain on file a biennial inventory of controlled substances;

(b) The May 2018 and January 2020 biennial inventories were conducted over multiple days;

(c) The January 2020 biennial inventory for schedules III, IV, and V controlled substances was conducted during business hours on January 23, 2020 instead of at the opening of business or close of business as required by law;

(d) The January 2020 biennial inventory was backdated to January 6, 2020 when, in fact, it had been conducted on January 14, 2020 after the closing of the pharmacy and during business hours on January 23, 2020; and

(e) The January 2020 biennial inventory was not signed by Pharmacist Yun, who performed the schedule II controlled substances inventory on January 14, 2020.

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Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dispensing Prescriptions on Noncompliant Prescription Documents - Respondent Allied and Respondent PIC Farahani)

54. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code section 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), on the grounds of unprofessional conduct, in that between October 10, 2018 and January 14, 2020, Respondents dispensed 334 prescriptions for controlled substances, which were written on noncompliant prescription forms that lacked multiple security features and failed to comply with Health and Safety Code sections 11164 and 11162.1. As a result, 25,650 tablets and 17,520 mLs of controlled substances were dispensed to patients by Respondents. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

SEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Dispensing Prescriptions with Incorrect Prescriber Listed - Respondent Allied and Respondent PIC Farahani)

55. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code section 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), on the grounds of unprofessional conduct, in that between October 10, 2018 and January 14, 2020, Respondents dispensed 17 prescriptions with an incorrect prescriber listed on the patient centered label and in the electronic pharmacy record in violation of Business and Professions Code section 4076, in conjunction with California Code of Regulations, title 16, section 1707.1. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

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EIGHTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Maintain Operational Standards and Security - Respondent Allied and Respondent PIC Farahani)

56. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct, in that Respondents failed to maintain Respondent Allied's facilities, space, fixtures, and equipment in such a way that would ensure that drugs are safely and properly prepared, maintained, secured, and distributed, which resulted in a significant shortage of controlled substances and a failure to maintain complete accountability for all dangerous drugs, in violation of California Code of Regulations, title 16, section 1714, subdivision (b), in conjunction with section 1718 and Business and Professions Code sections 4081 and 4332. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

NINTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Maintain Self-Assessment on File – Respondent Allied and Respondent PIC Farahani)

57. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct, in that during Inspector Top's January 14, 2020 inspection, Respondent Allied's Self-Assessment was not on file, in violation of California Code of Regulations, title 16, section 1715, subdivision (d). Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

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TENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Properly and Accurately Complete Self-Assessment - Respondent Allied and Respondent PIC Farahani)

58. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct, in that Respondent Allied's Self-Assessment, which was provided to Inspector Top several days following her inspection, was not properly and accurately completed, in violation of California Code of Regulations, title 16, section 1715, subdivision (a). Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

ELEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Compile or Accurately Prepare Schedule II Reconciliation Reports - Respondent Allied and Respondent PIC Farahani)

59. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct, in that Respondents violated California Code of Regulations, title 16, section 1715.65, subdivisions, (a) through (c). The circumstances are as follows:

(a) Respondents failed to compile an inventory reconciliation report at least every three months for federal schedule II controlled substances, other than oxycodone 30 mg, even though Respondent Allied carried federal schedule II controlled substances other than oxycodone 30 mg, including H/APAP; and

(b) The reconciliation reports for the three NDC's of oxycodone 30 mg, "65162005150," "42858-0005-07," and "10702-00901," were not filled out completely.

Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

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TWELFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Report Identified Losses of Controlled Substances - Respondent Allied and Respondent PIC Farahani)

60. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct, in that Respondents failed to report in writing to the Board, within 30 days of the discovery, identified losses of oxycodone 30 mg NDC 00406-8530001 and known causes, or within 14 days if the cause of the loss was theft, diversion, or self-use, in violation of California Code of Regulations, title 16, section 1715.65, subdivision (d). Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

THIRTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Countersign Reconciliation Report - Respondent Allied and Respondent PIC Farahani)

61. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct, in that none of the reconciliation reports for four NDCs of oxycodone 30 mg were countersigned by Respondent PIC Farahani, in violation of California Code of Regulations, title 16, section 1715.65, subdivision (e). Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

FOURTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Variation from Prescriptions – Respondent Allied and Respondent PIC Farahani)

62. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301,

subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct, in that between October 10, 2018 and January 14, 2020, Respondents deviated from 15 prescriptions by erroneously dispensing *oxycodone 30 mg immediate release tablets* instead of the prescribed Oxycontin 30 mg, without prior consent of the prescriber, in violation of California Code of Regulations, title 16, section 1716. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

FIFTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Identify Dispensing Pharmacist – Respondent Allied and Respondent PIC Farahani)

63. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct, in that between October 10, 2018 and January 14, 2020, Respondents did not properly or accurately identify the reviewing or dispensing pharmacist on the prescription documents or in Respondent Allied's electronic dispensing data, in violation of California Code of Regulations, title 16, section 1717, subdivision (b). Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

SIXTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Maintain on File a Controlled Substances Inventory - Respondent Allied and Respondent PIC Farahani)

64. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), for unprofessional conduct, in that during Inspector Top's January 14, 2020 inspection, Respondents did not have a controlled substances inventory (or a Biennial Inventory) available for inspection for at least three years prior, in violation of California Code of Regulations, title 16, section 1718, in conjunction

with Code of Federal Regulations, title 21, section 1304. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Report Loss to Board - Respondent PIC Farahani Only)

65. Respondent PIC Farahani's pharmacist license is subject to discipline pursuant to Business and Professions Code sections 4301, subdivisions (j) and (o), for unprofessional conduct, in that Respondent PIC Farahani, as the owner of Respondent Allied, failed to report to the Board, within 30 days of the discovery, the loss of oxycodone 30 mg NDC 00406-8530001, including their amounts and strengths, in violation of California Code of Regulations, title 16, section 1715.6. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

EIGHTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Knowingly and Falsely Representing Facts - Respondent Allied and Respondent PIC Farahani)

66. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivision (g), in conjunction with section 4113, subdivision (c), for unprofessional conduct, in that Respondents misrepresented facts in Respondent Allied's Self-Assessment. Specifically, the expiration date of Respondent Allied's pharmacy permit was incorrect, the expiration date of Respondent Allied's DEA Registration Number was incorrect, and the expiration date of Respondent PIC Farahani's pharmacist license was incorrect. Moreover, Respondent PIC Farahani indicated that he was aware of his duty to exercise corresponding responsibility, but failed to carry out his corresponding responsibility in the dispensing of over 900 prescriptions despite a glaring number of red flags and irregularities suggesting they were not written for legitimate medical purposes. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

NINETEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption – Respondent Allied and Respondent PIC Farahani)

67. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, subdivision (f), in conjunction with section 4113, subdivision (c), for unprofessional conduct, in that Respondents committed the following acts involving moral turpitude, dishonesty, fraud, deceit, or corruption: (1) knowingly falsified the January 2020 Biennial Inventory by backdating it to January 6, 2020; (2) wrote in the name of Pharmacist Yun as the person completing the inventory on an incorrectly dated Biennial Inventory; (3) furnished to the Board a copy of Respondent Allied's oxycodone 30 mg Reconciliation Report, which listed a significant loss of 208 tablets with the implausible reason of them allegedly having fallen into the sink; (4) furnished a copy of Respondent Allied's Self-Assessment, which contained multiple inconsistencies deeming it extremely unlikely to have been completed or signed on the date referenced on the document; and (5) instructed staff to enter a $148 cash charge for oxycodone 30 mg prescriptions when, in reality, patients were charged $1,000. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

TWENTIETH CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Assume Corresponding Responsibility - Respondent Allied and Respondent PIC Farahani)

68. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code section 4301, subdivisions (d), (j) and (o), and 4306.5, subdivision (a) through (c), in conjunction with section 4113, subdivision (c), on the grounds of unprofessional conduct, in that between October 10, 2018 to January 14, 2020, Respondents failed to exercise their corresponding responsibility and, in turn, dispensed 917 prescriptions written by Jennifer Edwards, PA, despite a glaring number of red flags and irregularities suggesting they were not written for legitimate medical purposes, in violation of

Health and Safety Code section 11153, and California Code of Regulations, title 16, section 1761. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Respondent Allied and Respondent PIC Farahani)

69. Respondent Allied's pharmacy permit and Respondent PIC Farahani's pharmacist license are subject to discipline pursuant to Business and Professions Code sections 4301, in conjunction with section 4113, subdivision (c), and section 4306.5 in that between October 10, 2018 and January 14, 2020, Respondents committed acts of unprofessional conduct, as described above. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 41 through 52, inclusive, as though set forth fully herein.

OTHER MATTERS

70. Pursuant to Business and Professions Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 52501, issued to Respondent Allied, for conduct that occurred while Respondent Farahani was the manager, and Respondent Farahani had knowledge of or knowingly participated in the conduct for which Respondent Allied was disciplined, then Respondent Farahani shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 52501 is placed on probation or until Pharmacy Permit Number PHY 52501 is reinstated if it is revoked.

PRAYER

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

1. Revoking or suspending Permit Number PHY 52501, issued to Allied Health Partner, Inc. dba Allied Health Pharmacy, Korush Jalali Farahani;

2. Revoking or suspending Pharmacist License Number RPH 70445, issued to Respondent Korush Jalali Farahani;

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3. Prohibiting Respondent Korush Jalali Farahani from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 52501 is placed on probation or until Pharmacy Permit Number PHY 52501 is reinstated if it is revoked;

4. Ordering Respondent Allied Health Pharmacy and Respondent Korush Jalali Farahani to 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,

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

DATED: 9/3/2020

Anne Sodergren

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

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