

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

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

**APOTHECARY SOLUTIONS INC. dba MARCH LANE MEDICAL  
PHARMACY, KEVIN TOY, CEO and KAREN TOY, TREASURER**

**Pharmacy Permit No. PHY 46401, and**

**KEVIN TOY,**

**Registered Pharmacist License No. RPH 36972;**

**Respondents**

**Agency Case No. 6782**

**OAH No. 2020010764**

## DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on September 2, 2020.

It is so ORDERED on August 3, 2020.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

Greg Lippe  
Board President

1 XAVIER BECERRA  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 SETH A. CURTIS  
Deputy Attorney General  
4 State Bar No. 236263  
1300 I Street, Suite 125  
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7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **APOTHECARY SOLUTIONS INC. DBA**  
14 **MARCH LANE MEDICAL PHARMACY**  
15 **KEVIN TOY, CEO**  
16 **KARIN TOY, TREASURER**  
89 W. March Lane, Ste. 2  
Stockton, CA 95207

17 **Pharmacy Permit No. PHY 46401**

18 **and**

19 **KEVIN TOY**  
P.O. Box 7836  
20 Stockton, CA 95267

21 **Pharmacist License No. RPH 36972**

22 Respondents.

Case No. 6782

OAH No. 2020010764

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

**[AS TO APOTHECARY SOLUTIONS  
INC. DBA MARCH LANE MEDICAL  
PHARMACY ONLY]**

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

3 **PARTIES**

4 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy  
5 (Board). She brought this action solely in her official capacity and is represented in this matter by  
6 Xavier Becerra, Attorney General of the State of California, by Seth A. Curtis, Deputy Attorney  
7 General.

8 2. Respondent Apothecary Solutions Inc. dba March Lane Medical Pharmacy, Kevin  
9 Toy, CEO and Pharmacist-in-Charge (PIC), Karin Toy, Treasurer (Respondent March Lane) is  
10 represented in this proceeding by attorney Gregory P. Matzen, whose address is:

11 2104 Big Sandy Court  
12 Gold River, CA 95670-8399

13 **JURISDICTION**

14 3. On or about April 29, 2003, the Board issued Permit Number PHY 46401 to  
15 Respondent March Lane. The Permit was in full force and effect at all times relevant to the  
16 charges brought herein and will expire on April 1, 2021, unless renewed.

17 4. Accusation No. 6782 was filed before the Board, and is currently pending against  
18 Respondent March Lane. The Accusation and all other statutorily required documents were  
19 properly served on Respondent March Lane on December 5, 2019. Respondent March Lande  
20 timely filed its Notice of Defense contesting the Accusation. A copy of Accusation No. 6782 is  
21 attached as exhibit A and incorporated herein by reference.

22 **ADVISEMENT AND WAIVERS**

23 5. Respondent and CEO Kevin Toy, have carefully read, fully discussed with counsel,  
24 and understands the charges and allegations in Accusation No. 6782. Respondent and CEO  
25 Kevin Toy have also carefully read, fully discussed with counsel, and understands the effects of  
26 this Stipulated Settlement and Disciplinary Order.

27 6. Respondent March Lane is fully aware of its legal rights in this matter, including the  
28 right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-

1 examine the witnesses against them; the right to present evidence and to testify on its own behalf;  
2 the right to the issuance of subpoenas to compel the attendance of witnesses and the production of  
3 documents; the right to reconsideration and court review of an adverse decision; and all other  
4 rights accorded by the California Administrative Procedure Act and other applicable laws.

5 7. Respondent March Lane voluntarily, knowingly, and intelligently waives and gives  
6 up each and every right set forth above.

7 **CULPABILITY**

8 8. Respondent March Lane admits the truth of each and every charge and allegation in  
9 Accusation No. 6782.

10 9. Respondent March Lane agrees that its Pharmacy Permit is subject to discipline and  
11 agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below

12 **CONTINGENCY**

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

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

26 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
3 writing executed by an authorized representative of each of the parties.

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 46401 issued to Respondent  
9 Apothecary Solutions Inc. dba March Lane Medical Pharmacy, Kevin Toy, CEO and Pharmacist-  
10 in-Charge (PIC), Karin Toy, Treasurer is revoked. However, the revocation is stayed and  
11 Respondent is placed on probation for three (3) years on the following terms and conditions.

12 **1. Definition: Respondent**

13 For the purposes of these terms and conditions, "Respondent" shall refer to Apothecary  
14 Solutions Inc. dba March Lane Medical Pharmacy, Kevin Toy, CEO and Pharmacist-in-Charge  
15 (PIC), Karin Toy, Treasurer. All terms and conditions stated herein shall bind and be applicable  
16 to the licensed premises and to all owners, managers, officers, administrators, members, directors,  
17 trustees, associates, or partners thereof. For purposes of compliance with any term or condition,  
18 any report, submission, filing, payment, or appearance required to be made by respondent to or  
19 before the board or its designee shall be made by an owner or executive officer with authority to  
20 act on behalf of and legally bind the licensed entity.

21 **2. Obey All Laws**

22 Respondent shall obey all state and federal laws and regulations.

23 Respondent shall report any of the following occurrences to the board, in writing, within  
24 seventy- two (72) hours of such occurrence:

- 25 • an arrest or issuance of a criminal complaint for violation of any provision of the  
26 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
27 substances laws  
28

- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

### **3. Report to the Board**

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

### **4. Interview with the Board**

Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

### **5. Cooperate with Board Staff**

Respondent shall timely cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of Entity

1 probation, including but not limited to: timely responses to requests for information by board  
2 staff; timely compliance with directives from board staff regarding requirements of any term or  
3 condition of probation; and timely completion of documentation pertaining to a term or condition  
4 of probation. Failure to timely cooperate shall be considered a violation of probation.

5 **6. Reimbursement of Board Costs**

6 Respondent hereby acknowledges and agrees that along with Respondent Kevin Toy, is  
7 jointly and severally liable for the costs in the amount of \$7,500.00 for the Board's investigation  
8 and enforcement costs of this matter. Respondent shall be permitted to pay these costs in a  
9 payment plan approved by the Board. If the costs are not paid as ordered, Respondent shall not  
10 be allowed to renew its Pharmacy Permit until the costs are paid in full.

11 **7. Probation Monitoring Costs**

12 Respondent shall pay any costs associated with probation monitoring as determined by the  
13 board each and every year of probation. Such costs shall be payable to the board on a schedule as  
14 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
15 be considered a violation of probation.

16 **8. Status of License**

17 Respondent shall, at all times while on probation, maintain an active current Pharmacy  
18 Permit with the board, including any period during which suspension or probation is tolled.  
19 Failure to maintain an active, current Pharmacy Permit shall be considered a violation of  
20 probation.

21 If Respondent's Permit expires or is cancelled by operation of law or otherwise at any time  
22 during the period of probation, including any extensions thereof due to tolling or otherwise, upon  
23 renewal or reapplication respondent's license shall be subject to all terms and conditions of this  
24 probation not previously satisfied.

25 **9. Pharmacy Permit Surrender While on Probation**

26 Following the effective date of this decision, should respondent discontinue business,  
27 respondent may tender the Pharmacy Permit to the board for surrender. The board or its designee  
28 shall have the discretion whether to accept the surrender or take any other action it deems



1 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent  
2 will no longer be subject to the terms and conditions of probation. This surrender constitutes a  
3 record of discipline and shall become a part of the respondent's license history with the board.

4 Upon acceptance of the surrender of the Pharmacy Permit, respondent shall relinquish the  
5 premises and renewal license to the board within ten (10) days of notification by the board  
6 that the surrender is accepted. Respondent shall further submit a completed Discontinuance of  
7 Business form according to board guidelines and shall notify the board of the records inventory  
8 transfer within five (5) days. Respondent shall also arrange for the transfer of all records of  
9 acquisition and disposition of dangerous drugs and/or devices to premises licensed and approved  
10 by the board.

11 Respondent shall also, by the effective date of this decision, arrange for the continuation of  
12 care for ongoing patients of the pharmacy by, at minimum, providing a written notice to ongoing  
13 patients that specifies the anticipated closing date of the pharmacy and that identifies one or more  
14 area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary  
15 in the transfer of records or prescriptions for ongoing patients. Within five days of its provision  
16 to the pharmacy's ongoing patients, respondent shall provide a copy of the written notice to the  
17 board. For the purposes of this provision, "ongoing patients" means those patients for whom the  
18 pharmacy has on file a prescription with one or more refills outstanding, or for whom the  
19 pharmacy has filled a prescription within the preceding sixty (60) days.

20 Respondent may not apply for any new Pharmacy Permit from the board for three (3) years  
21 from the effective date of the surrender. Respondent shall meet all requirements applicable to the  
22 license sought as of the date the application for that license is submitted to the board. Respondent  
23 further stipulates that it shall reimburse the board for its costs of investigation and prosecution  
24 prior to the acceptance of the surrender.

#### 25 **10. Sale or Discontinuance of Business**

26 During the period of probation, should Respondent sell, trade or transfer all or part of the  
27 ownership of the ownership of the licensed entity, discontinue doing business under the license  
28 issued to respondent, or should practice at that location be assumed by another full or partial

1 owner, person, firm, business, or entity, under the same or a different premises license number,  
2 the board or its designee shall have the sole discretion to determine whether to exercise  
3 continuing jurisdiction over the licensed location, under the current or new premises license  
4 number, and/or carry the remaining period of probation forward to be applicable to the current or  
5 new premises license number of the new owner.

6 **11. Notice to Employees**

7 Respondent shall, upon or before the effective date of this decision, ensure that all  
8 employees involved in permit operations are made aware of all the terms and conditions of  
9 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.  
10 If the notice required by this provision is posted, it shall be posted in a prominent place and shall  
11 remain posted throughout the probation period. Respondent shall ensure that any employees  
12 hired or used after the effective date of this decision are made aware of the terms and conditions  
13 of probation by posting a notice, circulating a notice, or both. Additionally, respondent shall  
14 submit written notification to the board, within fifteen (15) days of the effective date of this  
15 decision, that this term has been satisfied. Failure to timely provide such notification to  
16 employees, or to timely submit such notification to the board shall be considered a violation of  
17 probation.

18 "Employees" as used in this provision includes all full-time, part-time, volunteer, temporary  
19 and relief employees and independent contractors employed or hired at any time during  
20 probation.

21 **12. Owners and Officers: Knowledge of the Law**

22 Respondent shall provide, within thirty (30) days after the effective date of this decision,  
23 signed and dated statements from any owner or holder of ten percent (10%) or more of the  
24 interest in Respondent or Respondent's stock, any officer or any District Manager or Health Care  
25 Supervisor authorized by Respondent, and all of its officer, stating under penalty of perjury that  
26 said individuals have read and are familiar with state and federal laws and regulations governing  
27 the practice of pharmacy. The failure to timely provide said statements under penalty of perjury  
28 shall be considered a violation of probation.

1           **13. Premises Open for Business**

2           Respondent shall remain open and engaged in its ordinary business as a pharmacy in  
3 California for a minimum of 120 hours per calendar month. Any month during which this  
4 minimum is not met shall toll the period of probation, i.e., the period of probation shall be  
5 extended by one month for each month during with this minimum is not met. During any such  
6 period of tolling of probation, respondent must nonetheless comply with all terms and conditions  
7 of probation, unless respondent is informed otherwise in writing by the board or its designee. If  
8 respondent is not open and engaged in its ordinary business as a pharmacy for a minimum of 120  
9 hours in any calendar month, for any reason (including vacation), respondent shall notify the  
10 board in writing within ten (10) days of the conclusion of that calendar month. This notification  
11 shall include at minimum all of the following: the date(s) and hours respondent was open; the  
12 reason(s) for the interruption or why business was not conducted; and the anticipated date(s) on  
13 which respondent will resume business as required. Respondent shall further notify the board in  
14 writing with ten (10) days following the next calendar month during which respondent is open  
15 and engaged in its ordinary business as a pharmacy in California for a minimum of hours. Any  
16 failure to timely provide such notification(s) shall be considered a violation of probation.

17           **14. Posted Notice of Probation**

18           Respondent shall prominently post a probation notice provided by the board or its designee  
19 in a place conspicuous to and readable by the public within two (2) days of receipt thereof from  
20 the board or its designee. Failure to timely post such notice, or to maintain the posting during the  
21 entire period of probation, shall be considered a violation of probation.

22           Respondent shall not, directly or indirectly, engage in any conduct or make any statement  
23 which is intended to mislead or is likely to have the effect of misleading any patient, customer,  
24 member of the public, or other person(s) as to the nature of and reason for the probation of the  
25 licensed entity.

26           **15. Consultant Review of Pharmacy Operations**

27           During the period of probation, respondent shall retain, at its own expense, an independent  
28 consultant who shall be responsible for conducting an on-site physical inspection to review the

1 operations of the pharmacy on a monthly basis for compliance by respondent with state and  
2 federal laws and regulations governing the practice of the pharmacy, and compliance by  
3 respondent. During the period of probation, the Board or its designee, retains discretion to  
4 reduce the frequency and/or form of inspection of the pharmacist consultant's review.

5 The consultant shall be a Pharmacist licensed by and not on probation with the board, who  
6 has been approved by the board or its designee to serve in this position. Respondent shall submit  
7 the name of the proposed consultant to the board or its designee for approval within thirty (30)  
8 days of the effective date of the decision. Assumption of any unauthorized supervision  
9 responsibilities shall be considered a violation of probation. In addition, failure to timely seek  
10 approval for, timely retain, or ensure timely reporting by the consultant shall be considered a  
11 violation of probation

#### 12 **16. Violation of Probation**

13 If Respondent has not complied with any term or condition of probation, the board shall  
14 have continuing jurisdiction over respondent, and the board shall provide notice to respondent  
15 that probation shall automatically be extended, until all terms and conditions have been satisfied  
16 or the board has taken other action as deemed appropriate to treat the failure to comply as a  
17 violation of probation, to terminate probation, and to impose the penalty that was stayed. The  
18 board or its designee may post a notice of the extended probation period on its website.

19 If Respondent violates probation in any respect, the board, after giving respondent notice  
20 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
21 was stayed. If a petition to revoke probation or an accusation is filed against respondent during  
22 probation, or the preparation of an accusation or petition to revoke probation is requested from  
23 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of  
24 probation shall be automatically extended until the petition to revoke probation or accusation is  
25 heard and decided.

#### 26 **17. Completion of Probation**

27 Upon written notice by the board or its designee indicating successful completion of  
28 probation, respondent's Pharmacy Permit will be fully restored.

ACCEPTANCE

I am the authorized representative of Respondent Apothecary Solutions, Inc. dba March Lane Pharmacy and am authorized to enter into this stipulation on behalf of Apothecary Solutions, Inc. dba March Lane Pharmacy. I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gregory P. Matzen. I understand the stipulation and the effect it will have on Apothecary Solutions, Inc. dba March Lane Pharmacy's Pharmacy Permit. On behalf of Apothecary Solutions, Inc. dba March Lane Pharmacy, I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: \_\_\_\_\_  
KEVIN TOY, CEO  
APOTHECARY SOLUTIONS INC. dba MARCH  
LANE MEDICAL PHARMACY;  
*Respondent*

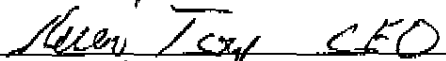
I have read and fully discussed with Kevin Toy, CEO of Respondent Apothecary Solutions, Inc. dba March Lane Pharmacy, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: \_\_\_\_\_  
GREGORY P. MATZEN  
*Attorney for Respondent*


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**ACCEPTANCE**

I am the authorized representative of Respondent Apothecary Solutions, Inc. dba March Lane Pharmacy and am authorized to enter into this stipulation on behalf of Apothecary Solutions, Inc. dba March Lane Pharmacy. I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gregory P. Matzen. I understand the stipulation and the effect it will have on Apothecary Solutions, Inc. dba March Lane Pharmacy's Pharmacy Permit. On behalf of Apothecary Solutions, Inc. dba March Lane Pharmacy, I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 6-19-20   
KEVIN TOY, CEO  
APOTHECARY SOLUTIONS INC. dba MARCH  
LANE MEDICAL PHARMACY;  
*Respondent*

I have read and fully discussed with Kevin Toy, CEO of Respondent Apothecary Solutions, Inc. dba March Lane Pharmacy, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 6-19-20   
GREGORY P. MATZEN  
*Attorney for Respondent*

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**ENDORSEMENT**

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

DATED: \_\_\_\_\_

Respectfully submitted,  
XAVIER BECERRA  
Attorney General of California  
KENT D. HARRIS  
Supervising Deputy Attorney General

SETH A. CURTIS  
Deputy Attorney General  
*Attorneys for Complainant*

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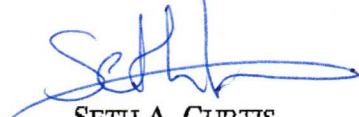
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**ENDORSEMENT**

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

DATED: 6/22/2020

Respectfully submitted,  
XAVIER BECERRA  
Attorney General of California  
KENT D. HARRIS  
Supervising Deputy Attorney General

  
SETH A. CURTIS  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 6782**

1 XAVIER BECERRA  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 SETH A. CURTIS  
Deputy Attorney General  
4 State Bar No. 236263  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-6121  
Facsimile: (916) 324-5567  
7 *Attorneys for Complainant*

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16 **KARIN TOY, TREASURER**  
89 W. March Lane, Ste. 2  
Stockton, CA 95207

**ACCUSATION**

17 **Pharmacy Permit No. PHY 46401,**

18 **and**

19 **KEVIN TOY**  
P.O. Box 7836  
20 Stockton, CA 95267

21 **Pharmacist License No. RPH 36972**

22 Respondents.

23  
24 **PARTIES**

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

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1 **STATUTORY PROVISIONS**

2 8. Code section 4301 states, in pertinent part:

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

5 . . .

6 (f) The commission of any act involving moral turpitude, dishonesty, fraud,  
7 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.

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

10 . . .

11 (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.

12 . . .

13 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
14 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,  
15 including regulations established by the board or by any other state or federal  
regulatory agency.

16 9. Code section 4022 states, in pertinent part:

17 "Dangerous drug" . . . means any drug or device unsafe for self-use in humans or  
18 animals, and includes the following:

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

20 . . .

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

23 10. Code section 4043 states:

24 "Wholesaler" means and includes a person who acts as a wholesale merchant, broker,  
25 jobber, customs broker, reverse distributor, agent, or a nonresident wholesaler, who sells for  
26 resale, or negotiates for distribution, or takes possession of, any drug or device included in  
Section 4022. Unless otherwise authorized by law, a wholesaler may not store, warehouse,  
or authorize the storage or warehousing of drugs with any person or at any location not  
licensed by the board.

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11. Code section 4081 states, in pertinent part:

(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy,...who maintains a stock of dangerous drugs or dangerous devices.”

(b) The owner, officer, and partner of any pharmacy...shall be jointly responsible, with the pharmacist-in-charge or representative-in-charge, for maintaining the records and inventory described in this section.

12. Code section 4113 states, in pertinent part:

(a) Every pharmacy shall designate a pharmacist-in-charge and within 30 days thereof, shall notify the board in writing of the identity and license number of that pharmacists and the date he or she was designated.

...

(c) The pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

...

13. 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.

14. Code section 4160 states, in pertinent part:

(a) A person shall not act as a wholesaler or third-party logistics provider of any dangerous drug or dangerous device unless he or she has obtained a license from the board.

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15. Code section 4105 states in pertinent part:

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

(b) The licensee may remove the original records or documentation from the licensed premises on a temporary basis for license-related purposes. However, a duplicate set of those records or other documentation shall be retained on the licensed premises.

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

(d) (1) Any records that are maintained electronically shall be maintained so that the pharmacist-in-charge, or the pharmacist on duty if the pharmacist-in-charge is not on duty, shall, at all times during which the licensed premises are open for business, be able to produce a hardcopy and electronic copy of all records of acquisition or disposition or other drug or dispensing-related records maintained electronically.

16. Code section 4169 states, in pertinent part:

(a) A person or entity shall not do any of the following:

(1) Purchase, trade, sell, warehouse, distribute, or transfer dangerous drugs or dangerous devices at wholesale with a person or entity that is not licensed with the board as a wholesaler third-party logistics provider, or pharmacy.

(2) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were adulterated, as set forth in Article 2 (commencing with Section 111250) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

(3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were misbranded, as defined in Section 111335 of the Health and Safety Code.

....

(5) Fail to maintain records of the acquisition or disposition of dangerous drugs or dangerous devices for at least three years.

17. Code section 4342 states, in pertinent part:

(a) The board may institute any action or actions as may be provided by law and that, in its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not conform to the standard and tests as to quality and strength, provided in the latest edition of the United States Pharmacopoeia or the National Formulary, or that violate any provision of the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of the Health and Safety Code ).

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1 18. Health and Safety Code section 111255 states:

2 Any drug or device is adulterated if it has been produced, prepared, packed, or held  
3 under conditions whereby it may have been contaminated with filth, or whereby it  
4 may have been rendered injurious to health

4 **REGULATORY PROVISIONS**

5 19. California Code of Regulations, Title 16 (CCR), section 1714 states, in pertinent part:

6 ...

7 (b) Each pharmacy licensed by the board shall maintain its facilities, space,  
8 fixtures, and equipment so that drugs are safely and properly prepared, maintained,  
9 secured and distributed. The pharmacy shall be of sufficient size and unobstructed  
10 area to accommodate the safe practice of pharmacy.

10 ...

11 (d) Each pharmacist while on duty shall be responsible for the security of the  
12 prescription department, including provisions for effective control against theft or  
13 diversion of dangerous drugs and devices, and records for such drugs and devices.  
14 Possession of a key to the pharmacy where dangerous drugs and controlled  
15 substances are stored shall be restricted to a pharmacist.

14 ...

15 20. CCR, section 1718, states as follows:

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

18 The controlled substances inventories required by Title 21, CFR, Section 1304  
19 shall be available for inspection upon request for at least 3 years after the date of the  
20 inventory.

20 21. CCR, section 1776 states:

21 Pharmacies, hospitals/clinics with onsite pharmacies, distributors and reverse  
22 distributors licensed by the board may offer, under the requirements in this article,  
23 specified prescription drug take-back services through collection receptacles and/or  
24 mail back envelopes or packages to provide options for the public to discard  
25 unwanted, unused or outdated prescription drugs. Each entity must comply with  
26 regulations of the federal Drug Enforcement Administration (DEA) and this article.

25 Only California-licensed pharmacies, hospitals/clinics with onsite pharmacies,  
26 and drug distributors (licensed wholesalers and third-party logistics providers) who  
27 are registered with the DEA as collectors and licensed in good standing with the  
28 board may host a pharmaceutical take-back receptacle as authorized under this article.

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1 22. CCR, section 1715.65 states, in pertinent part:

2 (a) Every pharmacy, and every clinic licensed under sections 4180 or 4190 of  
3 the Business and Professions Code, shall perform periodic inventory and inventory  
4 reconciliation functions to detect and prevent the loss of controlled substances.

5 (b) The pharmacist-in-charge of a pharmacy or consultant pharmacist for a  
6 clinic shall review all inventory and inventory reconciliation reports taken, and  
7 establish and maintain secure methods to prevent losses of controlled drugs. Written  
8 policies and procedures shall be developed for performing the inventory  
9 reconciliation reports required by this section.

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

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

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

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

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

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

27 (d) A pharmacy or clinic shall report in writing identified losses and known  
28 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.

(f) A new pharmacist-in-charge of a pharmacy shall complete an inventory  
reconciliation report as identified in subdivision (c) within 30 days of becoming  
pharmacist-in-charge. Whenever possible an outgoing pharmacist-in-charge should  
also complete an inventory reconciliation report as required in subdivision (c).

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1 23. Code of Federal Regulations (CFR) section 1304.11 states, in pertinent part:

2 (a) General requirements. Each inventory shall contain a complete and accurate  
3 record of all controlled substances on hand on the date the inventory is taken, and  
4 shall be maintained in written, typewritten, or printed form at the registered location.  
5 An inventory taken by use of an oral recording device must be promptly transcribed.  
6 Controlled substances shall be deemed to be “on hand” if they are in the possession of  
7 or under the control of the registrant, including substances returned by a customer,  
8 ordered by a customer but not yet invoiced, stored in a warehouse on behalf of the  
9 registrant, and substances in the possession of employees of the registrant and  
10 intended for distribution as complimentary samples. A separate inventory shall be  
11 made for each registered location and each independent activity registered, except as  
12 provided in paragraph (e)(4) of this section. In the event controlled substances in the  
13 possession or under the control of the registrant are stored at a location for which  
14 he/she is not registered, the substances shall be included in the inventory of the  
15 registered location to which they are subject to control or to which the person  
16 possessing the substance is responsible. The inventory may be taken either as of  
17 opening of business or as of the close of business on the inventory date and it shall be  
18 indicated on the inventory.

### 11 **COST RECOVERY**

12 24. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
13 administrative law judge to direct a licentiate found to have committed a violation or violations of  
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15 enforcement of the case.

### 16 **DRUGS**

17 25. *Xanax* is a brand name for Alprazolam and is a controlled substance and a dangerous  
18 drug pursuant to Code section 4022.

19 26. *Restoril* is a brand name for Temazepam and is a controlled substance and a  
20 dangerous drug within the meaning of Code section 4022.

21 27. *Klonopin* is a brand name for Clonozepam and is a controlled substance and a  
22 dangerous drug within the meaning of Code section 4022.

23 28. *Seroquel* is a brand name for Quetiapine, a dangerous drug within the meaning of  
24 Code section 4022.

25 29. *Xeralto* is a brand name for Rivarobaxaben, a dangerous drug within the meaning of  
26 Code section 4022.

27 30. *Tradjenta* is a brand name for Linagliptin, a dangerous drug within the meaning of  
28 Code section 4022



1           37. The inspection found that bubble pack cards<sup>3</sup> in the office area of the pharmacy for  
2 controlled substances with the labels cut off. PIC Toy stated that the bubble cards were his  
3 father's medication for destruction.

4           38. PIC Toy was asked to inventory all the various bubble cards found in the pharmacy.  
5 There were 219 bubble cards located with single drugs without patient information. Eleven  
6 multipack bubble cards with patient names on the labels were located and five single drug bubble  
7 cards with patient names on the label. There was also a plastic bag containing six prescriptions for  
8 patient JB.

9           39. Pharmacy staff reported that the bubble packs were drugs returned from the facilities  
10 they serviced. Some bubble packs returned from the facilities had labels with patient names on  
11 them. There were also bubble packs which were multi-packs comprised of several medications  
12 packed together with patient names.

13           40. The pharmacy also had bubble packs that were comprised of partially dispensed drugs  
14 that were held because the facilities wanted only a thirty-day supply but the patient's insurance  
15 paid for a ninety-day supply.

16           41. Respondent March Lane had no records of acquisition or destruction for 241 bubble  
17 cards.

18           42. The Board inspector noticed that the bubble cards indicated the quantity was for 30  
19 days, however, the maximum quantity each card could hold was a 7-day supply. When asked how  
20 the pharmacy provided the 30-day supply, pharmacy technician L.S. advised that she filled four  
21 7-day cards. Consequently, the pharmacy only provided a twenty-eight-day supply but the label  
22 and insurance billing were for a thirty-day supply.

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26           <sup>3</sup> Bubble cards are a type of packaging for drugs. Bubble cards can be for samples or various quantities of  
27 drugs that have individual cavities or pockets from a sheet of plastic that usually have a backing of paperboard,  
28 aluminum foil, or plastic.

1 43. Following the inspection, the Board investigator conducted three audits (zero-based<sup>4</sup>,  
2 DEA inventory<sup>5</sup>, and Hybrid<sup>6</sup>) of Respondent March Lane Medical Pharmacy's inventory using  
3 various different ranges to determine whether there was a positive or negative variance of specific  
4 drugs. The hybrid audit showed a negative variance of 10 of 11 drugs (total 4,752 tablets)  
5 including dangerous drugs and controlled substances. The negative variances indicates that  
6 Respondent March Lane sold more than they purchased of those drugs. Only Alprazolam .25mg  
7 showed a positive variance (261 tablets) indicating more purchased than sold. These  
8 discrepancies accounted for 5,013 tablets of which 1,432 tablets were for controlled substances  
9 including Restoril, Klonopin and Luminal, for which Respondent March Lane failed to maintain  
10 records of acquisition or disposition.

11 **RESPONDENT MARCH LANE**

12 **FIRST CAUSE FOR DISCIPLINE**

13 (Unlicensed Wholesaler Activity)

14 44. Respondent March Lane is subject to disciplinary action for unprofessional conduct  
15 under Code section 4301, subdivisions (j) and (o), in conjunction with Code sections 4043 and  
16 4160, subdivision (a), in that the pharmacy conducted itself as an unlicensed a wholesaler when it  
17 took back expired and unused returned bubble-cards from various living facilities totaling over  
18 200 bubble cards/prescription vials/multipack cards for destruction, as set forth more specifically  
19 above in paragraphs 37 through 42, above, and incorporated by reference herein as though fully  
20 set forth.

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25 <sup>4</sup> Zero based audit was conducted for the timer period of 3/22/17 to 3/22/19 with a zero-based beginning  
inventory for all audit drugs

26 <sup>5</sup> The DEA audit was for the dates of 7/2/17 through 3/22/19 based on the information provided by PIC  
27 TOY for his DEA inventory conducted at close of business on 7 /1/17 for the controlled substances and a zero-  
beginning inventory for the non-controlled substances during the same date range.

28 <sup>6</sup> The Hybrid audit used a split audit with the beginning and end inventories for the controlled substances for  
the dates of 7/2/17 to 3/22/19 as it most accurately represented the audit results and a zero-beginning inventory for  
non-controlled drugs for the time period of 3/22/17 through 3/22/19.

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Adulterated Drugs)

3 45. Respondent March Lane is subject to disciplinary action for unprofessional conduct  
4 under Code section 4301, subdivision (j), and Health and Safety Code section 111255 in  
5 conjunction with CCR section 1776, for taking back potentially adulterated, expired, and unused  
6 bubble-cards without complying with the regulatory requirements to engage in drug take-back  
7 services, as set forth more specifically above in paragraphs 37 through 42 above, and  
8 incorporated by reference herein as though fully set forth.

9 **THIRD CAUSE FOR DISCIPLINE**

10 (Inventory Requirements)

11 46. Respondent March Lane is subject to disciplinary action for unprofessional conduct  
12 under Code section 4301, subdivisions (j) and (o), and CCR section 1718 in conjunction with  
13 CFR section 1304.11 (a), in that Respondent pharmacy did not maintain an inventory of its  
14 dangerous drugs or controlled substances for three years as required. On March 22, 2019, during  
15 the Board inspection, the pharmacy produced an undated and alterable Excel document as the  
16 inventory list, as set forth more specifically above in paragraph 34, and incorporated by reference  
17 herein as though fully set forth.

18 **FOURTH CAUSE FOR DISCIPLINE**

19 (Unprofessional Conduct)

20 47. Respondent March Lane is subject to disciplinary action for unprofessional conduct  
21 under 4301, subdivisions (f) and (g) for creating false documents, in that on March 22, 2019,  
22 during the Board inspection, the pharmacy's records showed that the pharmacy dispensed a  
23 thirty-day supply to patients but used multi-drug bubble cards that only provided a twenty-eight-  
24 day supply. The Pharmacies records also showed that the billing was for a thirty-day supply, as  
25 set forth more specifically above in paragraph 42, and incorporated by reference herein as though  
26 fully set forth.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 (Maintenance of Records of Acquisition and Disposition)

3 48. Respondent March Lane is subject to disciplinary action for unprofessional conduct  
4 pursuant to Code section 4301, subdivision (o), and Code section 4081, subdivision (a) in  
5 conjunction with Code section 4105, subdivisions (a) and (c) for failure to maintain the records of  
6 acquisition or disposition of the dangerous drugs or controlled substances possessed by the  
7 pharmacy on March 22, 2019. Respondent March Lane did not have records of acquisition or  
8 disposition of the bubble packs they received and maintained in the pharmacy from the various  
9 facilities they serviced, as set forth above in paragraphs 37 through 42 above, and incorporated by  
10 reference herein as though fully set forth.

11 **SIXTH CAUSE FOR DISCIPLINE**

12 (Prescription Drug Take-Back Services)

13 49. Respondent March Lane is subject to disciplinary action for unprofessional conduct  
14 pursuant to Code section 4301, subdivision (o), and CCR section 1776, in that it took back  
15 unused or unwanted drugs from the facilities they served but did not comply with the regulatory  
16 requirements for drug take back services, as set forth above in paragraphs 37 through 42 above,  
17 and incorporated by reference herein as though fully set forth.

18 **SEVENTH CAUSE FOR DISCIPLINE**

19 (Inventory Report of Controlled Substances)

20 50. Respondent March Lane is subject to disciplinary action for unprofessional conduct  
21 pursuant to Code section 4301, subdivision (o), and CCR section 1715.65 for failing to conduct a  
22 quarterly inventory reconciliation of controlled substances in that Respondent only produced one  
23 inventory during the inspection on March 22, 2019, as set forth above in paragraph 34, and  
24 incorporated by reference herein as though fully set forth.

25 **EIGHTH CAUSE FOR DISCIPLINE**

26 (Prohibited Acts)

27 51. Respondent March Lane is subject to disciplinary action for unprofessional conduct  
28 under Code section 4301, subdivision (j) and Code section 4169 (a) (2) and (5) for transferring

1 drugs that were adulterated and failing to maintain records of acquisition and disposition of  
2 dangerous drugs for at least three years, as set forth above in paragraphs 33 to 43 above, and  
3 incorporated by reference herein as though fully set forth.

4 **RESPONDENT TOY**

5 **NINTH CAUSE FOR DISCIPLINE**

6 (Unlicensed Wholesaler Activity)

7 52. Respondent Toy is subject to disciplinary action for unprofessional conduct under  
8 Code section 4301, subdivisions (j) and (o), in conjunction with Code sections 4043 and 4160,  
9 subdivision (a), in that Respondent, while acting as PIC at March Lane Medical Pharmacy,  
10 allowed March Lane Medical Pharmacy to conduct itself as an unlicensed a wholesaler by taking  
11 back expired and unused returned bubble-cards from various living facilities totaling over 200  
12 bubble cards/prescription vials/multipack cards for destruction, as set forth more specifically  
13 above in paragraphs 37 through 42 above, and incorporated by reference herein as though fully  
14 set forth.

15 **TENTH CAUSE FOR DISCIPLINE**

16 (Adulterated Drugs)

17 53. Respondent Toy is subject to disciplinary action for unprofessional conduct under  
18 Code section 4301, subdivision (j), and Health and Safety Code section 111255 in conjunction  
19 with Code section 4342, in that Respondent Toy, while acting as PIC at March Lane Medical  
20 Pharmacy, was taking back potentially adulterated, expired, and unused bubble-cards from  
21 various facilities whose storage conditions were unknown, as set forth more specifically above in  
22 paragraphs 37 through 42 above, and incorporated by reference herein as though fully set forth.

23 **ELEVENTH CAUSE FOR DISCIPLINE**

24 (Inventory Requirements)

25 54. Respondent Toy is subject to disciplinary action for unprofessional conduct under  
26 Code section 4301, subdivisions (j) and (o), and CCR section 1718 in conjunction with CFR  
27 section 1304.11 (a) in that Respondent did not maintain an inventory of dangerous drugs or  
28 controlled substances for three years as required. On March 22, 2019, during the Board

1 inspection, the pharmacy produced an undated and alterable Excel document as the inventory list,  
2 as set forth more specifically above in paragraph 34, and incorporated by reference herein as  
3 though fully set forth.

4 **TWELFTH CAUSE FOR DISCIPLINE**

5 (Unprofessional Conduct)

6 55. Respondent Toy is subject to disciplinary action for unprofessional conduct under  
7 4301, subdivisions (f) and (g) for creating false documents, in that Respondent Toy, while acting  
8 as PIC, at March Lane Medical Pharmacy, created a false record of dispensed medication. On  
9 March 22, 2019, during the Board inspection, the pharmacy's records showed that March Lane  
10 Medical Pharmacy dispensed a thirty-day supply to patients but used multi-drug bubble cards that  
11 only provided a twenty-eight-day supply. The Pharmacies records also showed that the billing  
12 was for a thirty-day supply, as set forth more specifically above in paragraph 42, and incorporated  
13 by reference herein as though fully set forth.

14 **THIRTEENTH CAUSE FOR DISCIPLINE**

15 (Maintenance of Records of Acquisition and Disposition)

16 56. Respondent Toy is subject to disciplinary action for unprofessional conduct pursuant  
17 to Code section 4301, subdivision (o), and Code section 4081, subdivision (a) in conjunction with  
18 Code section 4105, subdivisions (a) and (c), in that Respondent Toy, while acting as PIC for  
19 March Lane Medical Pharmacy, failed to maintain the records of acquisition or disposition of the  
20 dangerous drugs or controlled substances possessed by March Lane Medical Pharmacy. On  
21 March 22, 2019, during the Board inspection, Respondent Toy did not have records of acquisition  
22 or disposition of the bubble packs received and maintained in the pharmacy from the various  
23 facilities they serviced, as set forth above in paragraphs 37 through 42, above, and incorporated  
24 by reference herein as though fully set forth.

25 **FOURTEENTH CAUSE FOR DISCIPLINE**

26 (Prescription Drug Take Back Services)

27 57. Respondent Toy is subject to disciplinary action for unprofessional conduct pursuant  
28 to Code section 4301, subdivision (o), and CCR section 1776, in that Respondent Toy, while



1 acting as PIC at March Lane Medical Pharmacy, took back unused or unwanted drugs from the  
2 facilities March Lane Medical Pharmacy served but did not comply with the regulatory  
3 requirements for drug take back services, as set forth above in paragraphs 37 through 42 above,  
4 and incorporated by reference herein as though fully set forth.

5 **FIFTEENTH CAUSE FOR DISCIPLINE**

6 (Inventory Report of Controlled Substances)

7 58. Respondent Toy is subject to disciplinary action for unprofessional conduct under  
8 Code section 4301(j) and CCR section 1715.65, in that Respondent Toy, while acting as PIC for  
9 March Lane Medical Pharmacy, failed to conduct quarterly inventory reconciliations of  
10 controlled substances as required. On March 22, 2019, during the Board inspection, Respondent  
11 Toy only produced one inventory reconciliation as set forth above in paragraph 34, and  
12 incorporated by reference herein as though fully set forth.

13 **SIXTEENTH CAUSE FOR DISCIPLINE**

14 (Prohibited Acts)

15 59. Respondent Toy is subject to disciplinary action for unprofessional conduct under  
16 Code section 4301, subdivision (j) and Code section 4169 (a) (2) and (5), in that Respondent Toy,  
17 acting as PIC for March Lane Medical Pharmacy, for transferring drugs that were adulterated and  
18 failing to maintain records of acquisition and disposition of dangerous drugs for at least three  
19 years, as set forth above in paragraphs 33 through 43 above, and incorporated by reference herein  
20 as though fully set forth.

21 **OTHER MATTERS**

22 60. Business and Professions Code section 4307(a) provides, in pertinent part, that any  
23 person whose license has been revoked or is under suspension shall be prohibited from serving as  
24 a manager, administrator, owner, member, officer, director, associate or partner of a licensee.

25 61. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit  
26 Number PHY 46401 issued to Apothecary Solutions Inc. dba March Lane Medical Pharmacy,  
27 Apothecary Solutions Inc. dba March Lane Medical Pharmacy shall be prohibited from serving as  
28 a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for

1 five years if Pharmacy Permit Number PHY 46401 is placed on probation or until Pharmacy  
2 Permit Number PHY 46401 is reinstated if it is revoked.

3 62. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit  
4 Number PHY 46401 issued to Apothecary Solutions Inc. dba March Lane Medical Pharmacy,  
5 while Kevin Toy has been a manager, administrator, owner, director, associate, partner, or any  
6 other person with management or control and had knowledge of or knowingly participated in any  
7 conduct for which the licensee was disciplined, Kevin Toy shall be prohibited from serving as a  
8 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for  
9 five years if Pharmacy Permit Number PHY 46401 is placed on probation or until Pharmacy  
10 Permit Number PHY 46401 is reinstated if it is revoked.

11 63. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit  
12 Number PHY 46401 issued to Apothecary Solutions Inc. dba March Lane Medical Pharmacy,  
13 while Karin Toy has been a manager, administrator, owner, director, associate, partner, or any  
14 other person with management or control and had knowledge of or knowingly participated in any  
15 conduct for which the licensee was disciplined, Karin Toy shall be prohibited from serving as a  
16 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for  
17 five years if Pharmacy Permit Number PHY 46401 is placed on probation or until Pharmacy  
18 Permit Number PHY 46401 is reinstated if it is revoked.

19 64. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License  
20 Number RPH 36972 issued to Kevin Toy, Respondent Toy shall be prohibited from serving as a  
21 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for  
22 five years if Pharmacist License Number RPH 36972 is placed on probation or until Pharmacist  
23 License Number RPH 36972 is reinstated if it is revoked.

24 **PRAYER**

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

27 1. Revoking or suspending Permit Number PHY 46401, issued to Apothecary Solutions  
28 Inc. dba March Lane Medical Pharmacy, Kevin Toy, CEO, Karin Toy, Treasurer;

1           2.    Revoking or suspending Pharmacist License Number RPH 36972, issued to Kevin  
2 Toy;

3           3.    Prohibiting Karin Toy from serving as a manager, administrator, owner, member,  
4 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number  
5 PHY 46401 is placed on probation or until Pharmacy Permit Number PHY 46401 is reinstated if  
6 Pharmacy Permit Number PHY 46401 issued to Apothecary Solutions Inc. dba March Lane  
7 Medical Pharmacy is revoked;

8           4.    Prohibiting Kevin Toy from serving as a manager, administrator, owner, member,  
9 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number  
10 PHY 46401 is placed on probation or until Pharmacy Permit Number PHY 46401 is reinstated if  
11 Pharmacy Permit Number PHY 46401 issued to Apothecary Solutions Inc. dba March Lane  
12 Medical Pharmacy is revoked;

13          5.    Prohibiting Kevin Toy from serving as a manager, administrator, owner, member,  
14 officer, director, associate, or partner of a licensee for five years if Pharmacist License Number  
15 RPH 36972 is placed on probation or until Pharmacist License Number RPH 36972 is reinstated  
16 if Pharmacist License Number RPH 36972 issued to Kevin Toy is revoked;

17          6.    Ordering Apothecary Solutions Inc. dba March Lane Medical Pharmacy to pay the  
18 Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,  
19 pursuant to Business and Professions Code section 125.3;

20          7.    Ordering Kevin Toy to pay the Board of Pharmacy the reasonable costs of the  
21 investigation and enforcement of this case, pursuant to Business and Professions Code  
22 section 125.3;

23          8.    Ordering Karin Toy to pay the Board of Pharmacy the reasonable costs of the  
24 investigation and enforcement of this case, pursuant to Business and Professions Code  
25 section 125.3; and

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

DATED: December 2, 2019 \_\_\_\_\_



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

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