

1 XAVIER BECERRA
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 CHAR SACHSON
Deputy Attorney General
4 State Bar No. 161032
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5558
6 Facsimile: (415) 703-5480
E-mail: Char.Sachson@doj.ca.gov
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5858

12 **POINT PHARMACY, INC.,**
13 **VERN VERLING AND CHERYL L.**
LAWSON, OWNERS
14 **139 W. Richmond Ave., Suite B**
Point Richmond, CA 94801

ACCUSATION

15 **Pharmacy Permit No. PHY 50655**

16 **VERN RAYMOND VERLING, PIC**
17 **1704 Northshore Drive**
Richmond, CA 94804

18 **Pharmacist License No. RPH 35360**

19 Respondents.

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21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about May 17, 2011, the Board of Pharmacy issued Pharmacy Permit Number
26 PHY 50655 to Point Pharmacy Inc. to do business as Point Pharmacy (Respondent Point
27 Pharmacy). At all relevant times, Respondent Vern Raymond Verling (Respondent Verling) was
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1 listed as the Pharmacist-in-Charge. The Pharmacy Permit was canceled due to change in
2 ownership on May 1, 2016.

3 3. On or about June 25, 1980, the Board of Pharmacy issued Pharmacist License
4 Number RPH 35360 to Respondent Verling. The Pharmacist License has been in full force and
5 effect at all times relevant to the charges brought herein and will expire on March 31, 2018,
6 unless renewed. Respondent Verling was the Pharmacist-in-Charge (PIC) of Respondent Point
7 Pharmacy, as well as the President, 50% shareholder and Vice President, from May 17, 2011 to
8 April 28, 2016.

9 JURISDICTION

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

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

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

18 7. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or
19 suspension of a Board-issued license, the placement of a license on a retired status, or the
20 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to
21 commence or proceed with any investigation of or action or disciplinary proceeding against the
22 licensee or to render a decision suspending or revoking the license.

23 STATUTORY AND REGULATORY PROVISIONS

24 8. Section 4036.5 of the Code provides:

25 "Pharmacist-in-charge" means a pharmacist proposed by a pharmacy and approved by the
26 board as the supervisor or manager responsible for ensuring the pharmacy's compliance with all
27 state and federal laws and regulations pertaining to the practice of pharmacy."

28 9. Section 4081 of the Code states:

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

10 "(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal
11 drug retailer shall be jointly responsible, with the pharmacist-in-charge or representative-in-
12 charge, for maintaining the records and inventory described in this section.

13 "(c) The pharmacist-in-charge or representative-in-charge shall not be criminally
14 responsible for acts of the owner, officer, partner, or employee that violate this section and of
15 which the pharmacist-in-charge or representative-in-charge had no knowledge, or in which he or
16 she did not knowingly participate."

17 10. Section 4113(c) of the Code states:

18 "The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state
19 and federal laws and regulations pertaining to the practice of pharmacy."

20 11. Section 4156 of the Code provides:

21 "A pharmacy corporation shall not do, or fail to do, any act where doing or failing to do the
22 act would constitute unprofessional conduct under any statute or regulation. In the conduct of its
23 practice, a pharmacy corporation shall observe and be bound by the laws and regulations that
24 apply to a person licensed under this chapter."

25 12. Section 4301 of the Code states:

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

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"(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.

". . . ."

13. Section 4302 of the Code provides:

"The board may deny, suspend, or revoke any license of a corporation where conditions exist in relation to any person holding 10 percent or more of the corporate stock of the corporation, or where conditions exist in relation to any officer or director of the corporation that would constitute grounds for disciplinary action against a licensee."

14. Code section 4306.5 provides:

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

". . . .

"(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.

". . . ."

15. Section 4307 of the Code provides:

"(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,

1 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,
2 administrator, owner, member, officer, director, associate, partner, or in any other position with
3 management or control of a licensee as follows:

4 "(1) Where a probationary license is issued or where an existing license is placed on
5 probation, this prohibition shall remain in effect for a period not to exceed five years.

6 "(2) Where the license is denied or revoked, the prohibition shall continue until the license
7 is issued or reinstated.

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

11 "(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to
12 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.
13 However, no order may be issued in that case except as to a person who is named in the caption,
14 as to whom the pleading alleges the applicability of this section, and where the person has been
15 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part
16 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision
17 shall be in addition to the board's authority to proceed under Section 4339 or any other provision
18 of law."

19 16. Section 4332 of the Code provides:

20 "Any person who fails, neglects, or refuses to maintain the records required by section 4081
21 or who, when called upon by an authorized officer or a member of the board, fails, neglects, or
22 refuses to produce or provide the records within a reasonable time . . . is guilty of a
23 misdemeanor."

24 17. California Code of Regulations, title 16, section 1715.6 states:

25 "The owner shall report to the Board within thirty (30) days of discovery of any loss of the
26 controlled substances, including their amounts and strengths. "

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

2 "'Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions
3 Code shall be considered to include complete accountability for all dangerous drugs handled by
4 every licensee enumerated in Sections 4081 and 4332. The controlled substances inventories
5 required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least
6 3 years after the date of the inventory."

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

8 "(a) No pharmacist shall compound or dispense any prescription which contains any
9 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any
10 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
11 validate the prescription.

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

15 20. Health and Safety Code section 11153(a) provides:

16 "A prescription for a controlled substance shall only be issued for a legitimate medical
17 purpose by an individual practitioner acting in the usual course of his or her professional practice.
18 The responsibility for the proper prescribing and dispensing of controlled substances is upon the
19 prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the
20 prescription. Except as authorized in this division, the following are not legal prescriptions: (1)
21 an order purporting to be a prescription which is issued not in the usual course of professional
22 treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of
23 controlled substances, which is issued not in the course of professional treatment or as part of an
24 authorized narcotic treatment program, for the purpose of providing the user with controlled
25 substances, sufficient to keep him or her comfortable by maintaining customary use."

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1 21. Code of Federal Regulations, title 21, section 1305.22(g) provides:

2 "When a purchaser receives a shipment, the purchaser must create a record of the quantity
3 of each item received and the date received. The record must be electronically linked to the
4 original order and archived. "

5 **COSTS**

6 22. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
7 administrative law judge to direct a licentiate found to have committed a violation of the licensing
8 act to pay a sum not to exceed the reasonable costs of investigation and enforcement.

9 **DRUGS**

10 23. Norco, Vicodin, Vicodin ES, Lortab, and Lorcet are among the brand names for
11 compounds of varying dosages of acetaminophen (aka APAP) and hydrocodone, a Schedule III
12 controlled substance as designated by Health and Safety Code section 11056(e)(4) and dangerous
13 drug as designated by Business and Professions Code section 4022. The varying compounds are
14 also known generically as Hydrocodone with APAP or HC/APAP. These are all narcotic
15 drugs. Products like these that combine hydrocodone with non-controlled substances are also
16 called hydrocodone combination products. Effective October 6, 2014, hydrocodone combination
17 productions were switched at the federal level from Schedule III (21 C.F.R. § 1308.13(e)(1)(iii)
18 and (iv)) to Schedule II (21 C.F.R. § 1308.12(b)(1)). This includes Hydrocodone with APAP
19 drugs.

20 24. Oxycodone, sometimes referred to by the brand name Oxycontin, is a Schedule II
21 controlled substance as designated by Health and Safety Code section 11055(b)(1)(M), and a
22 dangerous drug pursuant to Code section 4022.

23 25. Phenergan with Codeine syrup is a brand name for a compound consisting of the
24 antihistamine promethazine, a dangerous drug as designated by Business and Professions Code
25 section 4022, and codeine, a Schedule V controlled substance as designated by Health and Safety
26 Code section 11058(c)(1) and a dangerous drug as designated by Business and Professions Code
27 section 4022. This drug is also known generically as Promethazine with Codeine syrup. It is an
28 antihistamine/antitussive and narcotic analgesic.

1 26. Soma is a brand name for carisoprodol, a dangerous drug as designated by Business
2 and Professions Code section 4022. Since January 11, 2012, carisoprodol has been a Schedule IV
3 controlled substance at the federal level (21 C.F.R. § 1308.14(c)(6)). It is a muscle relaxant.

4 27. Methadone, a narcotic pain reliever, is a Schedule II controlled substance as
5 designated by Health and Safety Code section 11055(c)(14), and a dangerous drug per Code
6 section 4022.

7 **FACTUAL BACKGROUND**

8 28. On January 8, 2015, Board investigators conducted an inspection of Respondent Point
9 Pharmacy. The investigation was prompted by the conviction of physician T.N. on felony
10 charges of dispensing controlled substances. Respondent Point Pharmacy was one of the top two
11 pharmacies at which Dr. T.N.'s patients filled their prescriptions.

12 29. During the inspection, an overall lack of security for controlled substances was
13 observed. Respondent Verling had, but did not maintain a perpetual inventory for Schedule II
14 controlled substances and failed to make entries for numerous drugs. Respondents used the
15 CSOS (Controlled Substance Ordering System) for inventory management and tracking.
16 However, Respondent Verling failed to fill in the number of bottles received from suppliers on
17 the CSOS.

18 30. Respondents also filled a large number of prescriptions for Dr. H.N. 98% of the
19 prescriptions filled for Dr. H.N. were for HC/APAP. During their inspection, Board inspectors
20 found that many prescriptions written by Dr. H.N. for HC/APAP and promethazine with codeine
21 were written on prescriptions in sequential order, indicating that the patients were seen one after
22 the other.

23 31. Respondents filled a prescription for Oxycontin 80 mg, one tablet four times daily,
24 even though Oxycontin is an extended release medication designed to be taken twice daily. The
25 high dosage and frequency could have resulted in a fatal overdose. Additionally, Respondents
26 filled prescriptions early on multiple occasions.

27 32. Respondent Point Pharmacy was robbed and its employees were tied up on November
28 21, 2014. An armed robbery was attempted but thwarted on December 12, 2014. During the

1 investigation, Respondent Verling reported to the Board investigators that Respondent Point
2 Pharmacy had been robbed three times in six months. He believed that his dispensing habits
3 made the pharmacy a target for theft. Respondents failed to alert the police or the Board to the
4 thefts.

5 33. During the inspection, Respondent Verling administered a vaccine to a patient in the
6 dispensing area. He finished what he had been working on previously, and left the patient alone
7 in the pharmacy for several minutes.

8 34. An audit of Respondent Point Pharmacy from April 1, 2012 to March 30, 2014,
9 revealed the following discrepancies: a shortage of 963 HC/APAP tablets, an overage of 19
10 oxycodone, and an overage of 1104 ml of promethazine/codeine cough syrup.

11 35. CURES¹ data was compiled for Respondent Point Pharmacy's filling of controlled
12 substances from January 1, 2012 to January 7, 2015, and demonstrated that during that time,
13 HC/APAP 10/325 was the most dispensed controlled substance, accounting for 33.20% (235,513
14 units out of 710,382); oxycodone 30 mg was the second most dispensed controlled substance,
15 accounting for 16.60% (118,232 units out of 710,382); carisoprodol 350 mg was the third most
16 dispensed controlled substance, accounting for 9.40 % (67,058 units out of 710,382); methadone
17 10 mg was the fourth most dispensed controlled substance, accounting for 6.30% (44,850 units
18 out of 710,382); and oxycodone 15 mg was the fifth most dispensed controlled substance,
19 accounting for 2.0% (14,265 out of 710,382).

20 36. Dr. T.N. was the top controlled substance prescriber at Respondent Point Pharmacy,
21 and Dr. H.N. was the number two top prescriber. Dr. T.N.'s office was 23 miles from
22 Respondent Point Pharmacy and Dr. H.N.'s office was 16 miles from Respondent Point
23 Pharmacy.²

24 37. 54.1% of all prescriptions at Respondent Point Pharmacy were paid for in cash.
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27 ¹ CURES stands for Controlled Substance Utilization Review and Evaluation System.
CURES is a database that tracks prescriptions of controlled substances.

28 ² The top third, fourth and fifth prescribers were 14, 9, and 13 miles away, respectively.

1 38. The typical service area for a pharmacy is within a radius of five to ten miles. There
2 were between five and eight pharmacies within that radius of the offices of Dr. T.N. and Dr. H.N.
3 24 patient files were reviewed by Board investigators. Of those 24, 18 (75%) patients lived more
4 than 10 miles away from the pharmacy; 10 (42%) patients lived more than 20 miles away; 19
5 (79%) drove more than 40 miles round trip and five patients drove more than 30 miles round trip.

6 39. With regard to the 24 patient profiles and histories that were reviewed, many
7 commonalities, or “red flags,” existed:

- 8 a. Each patient visited between 4 and 17 pharmacies, and 22 of the 24 patients used
9 5 or more pharmacies, indicating pharmacy shopping;
- 10 b. 17 of the 24 patients paid for their prescriptions with cash;³
- 11 c. 14 of the 24 patients filled prescriptions only for controlled substances; and 8
12 patients filled prescriptions for mostly controlled substances;
- 13 d. 11 of the 24 patients were prescribed promethazine with codeine on a monthly
14 basis, which is suspicious because this medication should be used for short term
15 relief of symptoms associated with the common cold or allergies;
- 16 e. Most saw more than one physician; in one case, a patient saw 31 physicians,
17 indicating doctor shopping;
- 18 f. Most were prescribed controlled substances by Dr. T.N. and Dr. H.N; and
- 19 g. On August 6, 2013, nine patients saw Dr. H.N. and went to Respondent Point
20 Pharmacy to fill the prescriptions, even though there were several other
21 pharmacies located within the 16 miles between Dr. H.N.’s office and Respondent
22 Point Pharmacy; on August 7, 2013, nine patients again saw Dr. H.N. and had
23 their prescriptions filled at Respondent Point Pharmacy; on August 8, 2013, 11 of
24 Dr. H.N.’s patients had 14 prescriptions filled at Respondent Point Pharmacy; and
25 on August 9, 2013, 10 of Dr. H.N.’s patients had 12 prescriptions filled at
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27 ³ Some patients paid for prescriptions through Medi-Cal as well as with cash, which is
28 unusual because Medi-Cal patients would not typically have enough cash to pay for prescriptions.

1 Respondent Point Pharmacy; on August 12, 2013, 10 of Dr. H.N.'s patients had
2 11 prescriptions filled at Respondent Point Pharmacy;⁴

3 40. Dr. H.N. always prescribed HC/APAP with the instructions "take 1 tablet every 6
4 hours for back/joint pain" and he always prescribed promethazine with codeine with the
5 instructions "take 1 teaspoonful every 6 hours for cough and congestion." Dr. H.N. was an
6 internal medicine physician. Internal medicine is a broad specialty and it would be unusual for so
7 many patients to be prescribed the same pain medication and cough suppressant.

8 41. Dr. T.N. always prescribed oxycodone with the instructions "take 1 tablet every 8
9 hours for severe pain" and prescribed HC/APAP with the instructions "take 1 tablet every 8 hours
10 for lesser pain." Dr. T.N. was a podiatrist and it would be unusual for so many patients to be
11 prescribed the same pain medication and the same instructions.

12 42. Many of the prescriptions filled by Respondent Point Pharmacy were filled early,
13 indicating that the patients were not taking the medications as prescribed.

14 43. Board investigators compiled the number of prescriptions received during the audit
15 period at local pharmacies from doctors T.N. and H.N. Five pharmacies were located within a
16 five mile range of Respondent Point Pharmacy: Vale Road, Central, CVS, Target and Walgreens.
17 During the audit period, the following numbers of prescriptions were written by Dr. T.N. and
18 filled:

19	Respondent Point Pharmacy:	1592
20	Vale Road:	6
21	Central:	0
22	CVS:	1
23	Target:	3
24	Walgreens:	0

25 During the audit period, the following numbers of prescriptions were written by Dr. H.N. and
26 filled:

27 ⁴ In typical retail practice, it is unlikely to see multiple prescriptions for controlled
28 substances from one prescriber in the same day.

1	Respondent Point Pharmacy:	1361
2	Vale Road:	0
3	Central:	0
4	CVS:	3
5	Target:	1
6	Walgreens:	1

CAUSES FOR DISCIPLINE AGAINST RESPONDENT POINT PHARMACY

FIRST CAUSE FOR DISCIPLINE

(FAILURE TO ELECTRONICALLY RECORD QUANTITY OF SHIPMENT RECEIVED)

44. Respondent Point Pharmacy is subject to disciplinary action under Code section 4301(o) and Code of Federal Regulations, title 21, section 1305.22(g), in that it directly or indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations regulating the practice of pharmacy. As described above in FACTUAL BACKGROUND, Respondent Point Pharmacy failed to record the quantity of items received on the CSOS.

SECOND CAUSE FOR DISCIPLINE

(FAILURE TO MAINTAIN CURRENT INVENTORY)

45. Respondent Point Pharmacy is subject to disciplinary action under Code section 4301(o) and California Code of Regulations, title 16, section 1718, in that it directly or indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations regulating the practice of pharmacy. As described above in FACTUAL BACKGROUND, Respondent Point Pharmacy failed to account for all dangerous drugs and keep an accurate inventory.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(ERRONEOUS AND/OR UNCERTAIN PRESCRIPTIONS)**

3 46. Respondent Point Pharmacy is subject to disciplinary action under Code section
4 4301(o) and California Code of Regulations, title 16, section 1761(a) and (b), in that it directly or
5 indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or
6 regulations regulating the practice of pharmacy. As described above in FACTUAL
7 BACKGROUND, Respondent Point Pharmacy dispensed prescriptions which contained
8 significant errors, omissions, irregularities, uncertainties, or ambiguities in that it filled
9 prescriptions which should have given it reason to know the prescriptions were not issued for
10 legitimate purposes, such as multiple patients receiving the same drugs or combinations of drugs,
11 duplication of therapies for individual patients, high amounts of cash paying patients, early refills,
12 irregularities in the prescribers' qualifications, and long distances travelled by patients to see the
13 prescriber or the pharmacy.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(CORRESPONDING RESPONSIBILITY)**

16 47. Respondent Point Pharmacy is subject to disciplinary action under Code section
17 4301(o) and in conjunction with Health and Safety Code section 11153(a) and/or California Code
18 of Regulations, title 16, section 1761, in that it directly or indirectly violated, or attempted to
19 violate, or assisted in or abetted a violation of, the statutes or regulations governing the practice of
20 pharmacy.

21 48. As discussed above in FACTUAL BACKGROUND, Respondent Point Pharmacy
22 failed to appropriately exercise the corresponding responsibility to ensure that it only filled
23 prescriptions issued for legitimate medical purposes. Respondent Point Pharmacy failed to
24 contact the prescribers to obtain information to verify the customers' prescriptions. Moreover, in
25 multiple instances, Respondent Point Pharmacy filled prescriptions despite having objective
26 reason to know that said prescriptions were not issued for legitimate medical purposes.

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**FIFTH CAUSE FOR DISCIPLINE
(FAILURE TO REPORT DRUG LOSS)**

49. Respondent Point Pharmacy is subject to disciplinary action under Code section 4301(o) and in conjunction with California Code of Regulations, title 16, section 1715.6, in that it directly or indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations governing the practice of pharmacy when it failed to report losses of controlled substances to the Board within 30 days, as described above in FACTUAL BACKGROUND.

CAUSES FOR DISCIPLINE AGAINST RESPONDENT VERLING

**SIXTH CAUSE FOR DISCIPLINE
(FAILURE TO ELECTRONICALLY RECORD QUANTITY OF SHIPMENT
RECEIVED)**

50. Respondent Verling is subject to disciplinary action under Code section 4301(o) and Code of Federal Regulations, title 21, section 1305.22(g), in that he directly or indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations regulating the practice of pharmacy. As described above in FACTUAL BACKGROUND, Respondent Verling failed to record the quantity of items received on the CSOS.

**SEVENTH CAUSE FOR DISCIPLINE
(FAILURE TO MAINTAIN CURRENT INVENTORY)**

51. Respondent Verling is subject to disciplinary action under Code section 4301(o) and California Code of Regulations, title 16, section 1718, in conjunction with Code section 4081(a), in that he directly or indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations regulating the practice of pharmacy. As described above in FACTUAL BACKGROUND, Respondent Verling failed to account for all dangerous drugs and keep an accurate inventory.

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EIGHTH CAUSE FOR DISCIPLINE
(ERRONEOUS AND/OR UNCERTAIN PRESCRIPTIONS)

52. Respondent Verling is subject to disciplinary action under Code section 4301(o) and California Code of Regulations, title 16, section 1761(a) and (b), in that he directly or indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations regulating the practice of pharmacy. As described above in FACTUAL BACKGROUND, Respondent Verling dispensed prescriptions which contained significant errors, omissions, irregularities, uncertainties, or ambiguities in that he filled prescriptions which should have given him reason to know the prescriptions were not issued for legitimate purposes, such as multiple patients receiving the same drugs or combinations of drugs, duplication of therapies for individual patients, high amounts of cash paying patients, early refills, irregularities in the prescribers' qualifications and long distances travelled by patients to see the prescriber or the pharmacy.

NINTH CAUSE FOR DISCIPLINE
(CORRESPONDING RESPONSIBILITY)

53. Respondent Verling is subject to disciplinary action under Code section 4301(o) and in conjunction with Health and Safety Code section 11153(a) and/or California Code of Regulations, title 16, section 1761, in that he directly or indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations governing the practice of pharmacy.

54. As discussed above in FACTUAL BACKGROUND, Respondent Verling failed to appropriately exercise the corresponding responsibility to ensure that he only filled prescriptions issued for legitimate medical purposes. Respondent Verling failed to contact the prescribers to obtain information to verify the customers' prescriptions. Moreover, in multiple instances, Respondent Verling filled prescriptions despite having objective reason to know that said prescriptions were not issued for legitimate medical purposes.

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**TENTH CAUSE FOR DISCIPLINE
(FAILURE TO REPORT DRUG LOSS)**

55. Respondent Verling is subject to disciplinary action under Code section 4301(o) and in conjunction with California Code of Regulations, title 16, section 1715.6, in that he directly or indirectly violated, or attempted to violate, or assisted in or abetted a violation of, the statutes or regulations governing the practice of pharmacy when he failed to report losses of controlled substances to the Board within 30 days, as described above in FACTUAL BACKGROUND.

OTHER MATTERS

56. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 50655 issued to Point Pharmacy, Inc., Point Pharmacy, Inc. 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 50655 is placed on probation or until Pharmacy Permit Number PHY 50655 is reinstated if it is revoked.

57. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 50655 issued to Point Pharmacy, Inc. while Vern Raymond Verling and/or Cheryl L. Lawson have been an officer and owner and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, Vern Raymond Verling and Cheryl L. Lawson 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 50655 is placed on probation, or until Pharmacy Permit Number PHY 50655 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 Pharmacy Permit Number PHY 50655, issued to Point Pharmacy, Inc.;
2. Revoking or suspending Pharmacist License No. RPH 35360, issued to Vern Raymond Verling;

1 3. Prohibiting Point Pharmacy, Inc. from serving as a manager, administrator, owner,
2 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
3 Number 50655 is placed on probation or until Pharmacy Permit Number PHY 50655 is reinstated
4 if Pharmacy Permit Number PHY 50655 issued to Point Pharmacy, Inc. is revoked;

5 4. Prohibiting Vern Raymond Verling from serving as a manager, administrator, owner,
6 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
7 Number PHY 50655 is placed on probation or until Pharmacy Permit Number PHY 50655 is
8 reinstated if Pharmacy Permit Number 50655 issued to Point Pharmacy, Inc. is revoked;

9 5. Prohibiting Cheryl L. Lawson from serving as a manager, administrator, owner,
10 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
11 Number PHY 50655 is placed on probation or until Pharmacy Permit Number PHY 50655 is
12 reinstated if Pharmacy Permit Number 50655 issued to Point Pharmacy, Inc. is revoked;

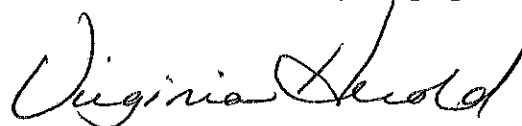
13 6. Ordering Vern Raymond Verling to pay the Board of Pharmacy the reasonable costs
14 of the investigation and enforcement of this case, pursuant to Business and Professions Code
15 section 125.3;

16 7. Ordering Point Pharmacy, Inc. to pay the Board of Pharmacy the reasonable costs of
17 the investigation and enforcement of this case, pursuant to Business and Professions Code section
18 125.3; and,

19 8. Taking such other and further action as deemed necessary and proper.

20
21 DATED: _____

4/24/17



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

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