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

11 In the Matter of the Accusation Against:
12
13 **SKY PHARMA CORP.,**
DBA THE MEDICINE SHOPPE
14 **MICHAEL EDWARD MILAD TADROS,**
CHIEF EXECUTIVE OFFICER,
15 **PHARMACIST IN CHARGE**
FADY FAROUK ZAKI, TREASURER/
16 **CHIEF FINANCIAL OFFICER**
10237 Magnolia Ave.
Riverside, CA 92503
17
Pharmacy Permit No. PHY 51646
18
MICHAEL EDWARD MILAD TADROS
19 **1739 Spyglass Drive**
Corona, CA 92883
20
Pharmacist License No. RPH 68859
21

Case No. 6231
FIRST AMENDED ACCUSATION

22 Respondents.

23
24 Complainant alleges:

25 **PARTIES**

26 1. Virginia Herold (Complainant) brings this First Amended Accusation solely in her
27 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
28 Affairs.

1 2. On October 18, 2013, the Board of Pharmacy issued Pharmacy Permit Number PHY
2 51646 to Sky Pharma Corp., dba The Medicine Shoppe; Michael Edward Milad Tadros, Chief
3 Executive Officer and 50% Shareholder; Fady Farouk Zaki, Treasurer/ Chief Financial Officer
4 and 50% Shareholder (Respondent Pharmacy). The Pharmacy Permit was in full force and effect
5 at all times relevant to the charges brought herein and will expire on October 1, 2018, unless
6 renewed.

7 3. On or about July 1, 2013, the Board of Pharmacy issued Pharmacist License Number
8 RPH 68859 to Michael Edward Milad Tadros (Respondent Tadros). Michael Edward Milad
9 Tadros has been the Pharmacist-in-Charge of The Medicine Shoppe since October 18, 2013. The
10 Pharmacist License was in full force and effect at all times relevant to the charges brought herein
11 and will expire on January 31, 2019, unless renewed.

12 **JURISDICTION**

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

16 5. Section 4011 of the Code provides that the Board shall administer and enforce both
17 the Pharmacy Law [Code section 4000 et seq.] and the Uniform Controlled Substances Act
18 [Health & Safety Code section 11000 et seq.].

19 6. Section 4032 defines "license" to include any license, permit, registration, certificate
20 or exemption issued by the Board.

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

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

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

25 (1) Suspending judgment.

26 (2) Placing him or her upon probation.

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

1 (4) Revoking his or her license.

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

4

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

10 8. Section 4300.1 of the Code states:

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

17 9. Section 4307, subdivision (a) of the Code states:

18 (a) Any person who has been denied a license or whose license has been
19 revoked or is under suspension, or who has failed to renew his or her license while
20 it was under suspension, or who has been a manager, administrator, owner,
21 member, officer, director, associate, partner, or any other person with management
22 or control of any partnership, corporation, trust, firm, or association whose
23 application for a license has been denied or revoked, is under suspension or has
24 been placed on probation, and while acting as the manager, administrator, owner,
25 member, officer, director, associate, partner, or any other person with management
26 or control had knowledge of or knowingly participated in any conduct for which
27 the license was denied, revoked, suspended, or placed on probation, shall be
28 prohibited from serving as a manager, administrator, owner, member, officer,
29 director, associate, partner, or any other person with management or control of a
30 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.

STATUTORY PROVISIONS

10. Section 4022 of the Code states

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

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

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

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

7 11. Section 4040 of the Code states:

8 (a) "Prescription" means an oral, written, or electronic transmission order
9 that is both of the following:

10 (1) Given individually for the person or persons for whom ordered that
11 includes all of the following:

12 (A) The name or names and address of the patient or patients.

13 (B) The name and quantity of the drug or device prescribed and the
14 directions for use.

15 (C) The date of issue.

16 (D) Either rubber stamped, typed, or printed by hand or typeset, the name,
17 address, and telephone number of the prescriber, his or her license classification,
18 and his or her federal registry number, if a controlled substance is prescribed.

19 (E) A legible, clear notice of the condition or purpose for which the drug is
20 being prescribed, if requested by the patient or patients.

21 (F) If in writing, signed by the prescriber issuing the order, or the certified
22 nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor who
23 issues a drug order pursuant to Section 2746.51, 2836.1, 3502.1, or 3640.5,
24 respectively, or the pharmacist who issues a drug order pursuant to Section 4052.1,
25 4052.2, or 4052.6.

26 (2) Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or
27 naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued
28 pursuant to Section 2746.51, 2836.1, 3502.1, or 3460.5, by a certified nurse-
midwife, nurse practitioner, physician assistant, or naturopathic doctor licensed in
this state, or pursuant to Section 4052.1, 4052.2, or 4052.6 by a pharmacist
licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a
dangerous drug, except for any Schedule II controlled substance, that contains at
least the name and signature of the prescriber, the name and address of the patient
in a manner consistent with paragraph (2) of subdivision (a) of Section 11164 of
the Health and Safety Code, the name and quantity of the drug prescribed,
directions for use, and the date of issue may be treated as a prescription by the
dispensing pharmacist as long as any additional information required by
subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict
between this subdivision and Section 11164 of the Health and Safety Code,
Section 11164 of the Health and Safety Code shall prevail.

1 (c) Electronic transmission prescription includes both image and data
2 prescriptions. Electronic image transmission prescription means any prescription
3 order for which a facsimile of the order is received by a pharmacy from a licensed
4 prescriber. Electronic data transmission prescription means any prescription order,
5 other than an electronic image transmission prescription, that is electronically
6 transmitted from a licensed prescriber to a pharmacy.

7 (d) The use of commonly used abbreviations shall not invalidate an
8 otherwise valid prescription.

9

10 12. Section 4113, subdivision (c) of the Code states:

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

13 13. Section 4301 of the Code states:

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

17

18 (c) Gross negligence.

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

21

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

24

25 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
26 abetting the violation of or conspiring to violate any provision or term of this
27 chapter or of the applicable federal and state laws and regulations governing
28 pharmacy, including regulations established by the board or by any other state or
federal regulatory agency.

. . . .

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

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

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

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15. Health and Safety Code section 11162.1 states:

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

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

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

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

(4) A feature printed in thermochromic ink.

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

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

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

1-24

25-49

50-74

75-100

101-150

151 and over.

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

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

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

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

(11) The date of origin of the prescription.

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

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

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

6 (B) Each prescriber who signs the prescription form shall identify himself or
7 herself as the prescriber by checking the box by his or her name.

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

11

12 (d) This section shall become operative on January 1, 2012. Prescription
13 forms not in compliance with this division shall not be valid or accepted after July
14 1, 2012.

15 16. Health and Safety Code section 11164 states:

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

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

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

(2) The prescription shall also contain the address of the person for whom
the controlled substance is prescribed. If the prescriber does not specify this
address on the prescription, the pharmacist filling the prescription or an employee
acting under the direction of the pharmacist shall write or type the address on the
prescription or maintain this information in a readily retrievable form in the
pharmacy.

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

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

7 (3) Pursuant to an authorization of the prescriber, any agent of the prescriber
8 on behalf of the prescriber may orally or electronically transmit a prescription for a
9 controlled substance classified in Schedule III, IV, or V, if in these cases the
10 written record of the prescription required by this subdivision specifies the name
11 of the agent of the prescriber transmitting the prescription.

12 (c) The use of commonly used abbreviations shall not invalidate an
13 otherwise valid prescription.

14 (d) Notwithstanding any provision of subdivisions (a) and (b), prescriptions
15 for a controlled substance classified in Schedule V may be for more than one
16 person in the same family with the same medical need.

17 (e) This section shall become operative on January 1, 2005.

18 REGULATORY PROVISIONS

19 17. Code of Federal Regulations, Title 21, section 1306.04, subdivision (a) states:

20 A prescription for a controlled substance to be effective must be issued for a
21 legitimate medical purpose by an individual practitioner acting in the usual course
22 of his professional practice. The responsibility for the proper prescribing and
23 dispensing of controlled substances is upon the prescribing practitioner, but a
24 corresponding responsibility rests with the pharmacist who fills the prescription.
25 An order purporting to be a prescription issued not in the usual course of
26 professional treatment or in legitimate and authorized research is not a prescription
27 within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the
28 person knowingly filling such a purported prescription, as well as the person
issuing it, shall be subject to the penalties provided for violations of the provisions
of law relating to controlled substances.

18 18. California Code of Regulations, Title 16, (CCR) section 1761, states:

19 (a) No pharmacist shall compound or dispense any prescription which
20 contains any significant error, omission, irregularity, uncertainty, ambiguity or
21 alteration. Upon receipt of any such prescription, the pharmacist shall contact the
22 prescriber to obtain the information needed to validate the prescription.

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

27 COST RECOVERY

28 19. Section 125.3 of the Code states, in pertinent part, that the Board may request the
administrative law judge to direct a licentiate found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 DRUGS

4 20. Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code
5 section 11057, subdivision (d)(1), and a dangerous drug pursuant to Business and Professions
6 Code section 4022.

7 21. Hydrocodone/Acetaminophen (APAP) was a Schedule III controlled substance
8 pursuant to Health and Safety Code section 11056, subdivision (e)(5), and a dangerous drug
9 pursuant to Business and Professions Code section 4022. On October 6, 2014,
10 Hydrocodone/APAP was reclassified as a Schedule II controlled substance.

11 22. Hydromorphone is a Schedule II controlled substance pursuant to Health and Safety
12 Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions
13 Code section 4022.

14 23. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
15 section 11055, subdivision (b)(1)(M), and a dangerous drug pursuant to Business and Professions
16 Code section 4022.

17 24. Oxymorphone is a Schedule II controlled substance pursuant to Health and Safety
18 Code section 11055, subdivision (b)(1)(N), and a dangerous drug pursuant to Business and
19 Professions Code section 4022.

20 25. Promethazine with codeine is a Schedule V controlled substance pursuant to Health
21 and Safety Code section 11058, subdivision (c)(1), and a dangerous drug pursuant to Business
22 and Professions Code section 4022.

23 FACTUAL ALLEGATIONS

24 26. Sky Pharma Corp. dba The Medicine Shoppe (Respondent Pharmacy), is an
25 independent retail pharmacy located in Riverside, California. At all times mentioned herein and
26 since October 18, 2013, Michael Edward Milad Tadros (Respondent Tadros) has been the
27 Pharmacist-in-Charge (PIC) at Respondent Pharmacy.

28 ///

1 27. On January 28, 2016, Board of Pharmacy inspectors conducted an inspection of
2 Respondent Pharmacy. Respondent Tadros was present during the inspection. The inspectors
3 found controlled substance prescriptions that were dispensed from prescribers whose forms
4 lacked required security features.

5 28. The inspectors focused on three prescribers, (Dr. S.W, Dr. R.G. and Dr. K.O.). They
6 found prescriptions that contained significant irregularities and “red flags” suggesting that the
7 prescriptions were not written for a legitimate medical purpose. The prescribing profiles for all
8 three prescribers contained numerous prescriptions for a limited number of commonly abused
9 controlled substances, in high doses, and with similar combinations of controlled substances
10 dispensed in sequence to multiple patients.

11 29. For Dr. S.W., from April 26, 2014 to September 2, 2015, Respondent Pharmacy
12 dispensed 1,527 prescriptions to 452 different patients. Over 85% of the prescriptions were for
13 controlled substances. 442 of the 452 patients received promethazine/codeine, most in full pint
14 sized bottles. In addition, almost all were to be taken concurrently with alprazolam and/or with
15 an opioid such as hydrocodone, hydromorphone, oxycodone or oxymorphone. An Accusation
16 was filed against Dr. S.W.’s medical license on October 6, 2014. His medical license was
17 revoked on January 14, 2016.

18 30. For Dr. R.G., from April 13, 2015 to January 6, 2016, Respondent Pharmacy
19 dispensed 1,268 prescriptions to 348 different patients. Over 80% of the prescriptions were for
20 controlled substances. 335 of the 348 patients received promethazine/codeine, all in full pint
21 sized bottles. In addition, almost all were to be taken concurrently with alprazolam and/or with
22 an opioid such as hydrocodone, hydromorphone, oxycodone or oxymorphone. The inspectors
23 reviewed 73 original prescription documents issued by Dr. R. G., for 217 dispensed prescriptions
24 that were missing features required on controlled substance security prescription forms. These
25 missing features included the required “California Security Prescription” watermark, a lot
26 number, printing in thermochromic ink and discrepancies in the quantity check off boxes. Of the
27 348 patients 233 were previously dispensed prescriptions from Dr. S.W.

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1 31. For Dr. K.O., from December 8, 2015 to January 13, 2016, Respondent Pharmacy
2 dispensed 322 prescriptions to 112 different patients. All of the prescriptions were for controlled
3 substances. All but one of the 112 patients received promethazine/codeine, all in full pint sized
4 bottles. In addition, except for the one patient that did not receive promethazine/codeine, all were
5 to be taken concurrently with alprazolam and/or with an opioid such as hydrocodone,
6 hydromorphone, oxycodone or oxymorphone. The inspectors reviewed 76 original prescription
7 documents issued by Dr. K.O., for dispensed prescriptions that were missing features required on
8 controlled substance security prescription forms. These missing features included the required
9 "California Security Prescription" watermark, a lot number and discrepancies in the quantity
10 check off boxes. Of the 112 patients 51 were previously dispensed prescriptions from Dr. S.W or
11 Dr. R.G.

12 32. In addition, almost all of the controlled substances from all three prescribers were
13 purchased in cash, without the assistance of prescription insurance. In fact, all of the
14 prescriptions for controlled substances written by Dr. R.G. and Dr. K.O. were paid for in cash at
15 Respondent Pharmacy. With respect to the prescriptions for controlled substances written by Dr.
16 S.W., 99.5 % of his prescriptions for controlled substances were paid for in cash at Respondent
17 Pharmacy.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct - Failing to Comply with Corresponding Responsibility)**

20 33. Respondent Pharmacy and Respondent Tadros are subject to disciplinary action under
21 Code sections 4301, subdivisions (j) and (o), for violating Health and Safety Code section 11153,
22 subdivision (a) and the Code of Federal Regulations, Title 21, section 1306.04, subdivision (a), in
23 that they failed to comply with their corresponding responsibility to ensure that controlled
24 substances were dispensed for a legitimate medical purpose when Respondents furnished
25 prescriptions for controlled substances even though "red flags" were present to indicate those
26 prescriptions were not issued for a legitimate medical purpose, as set forth in paragraphs 27
27 through 33 above, which are incorporated herein by reference.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Filling Erroneous or Uncertain Prescriptions)**

3 34. Respondent Pharmacy and Respondent Tadros are subject to disciplinary action under
4 Code section 4301, subdivision (o), for violating CCR section 1761, in that Respondents
5 dispensed prescriptions which contained significant irregularities, uncertainties, or ambiguities, as
6 set forth in paragraphs 27 through 33 above, which are incorporated herein by reference.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct - Gross Negligence)**

9 35. Respondent Pharmacy and Respondent Tadros are subject to disciplinary action for
10 unprofessional conduct under Code section 4301, subdivision (c), in that Respondents were
11 grossly negligent in dispensing controlled substances. The circumstances are that Respondents
12 knew or should have known that the controlled substances dispensed to patients were likely to be
13 used for other than a legitimate medical purpose and Respondent failed to take appropriate steps
14 when presented with numerous controlled substance prescriptions by patients from the same
15 doctor for the same drug and strength on the same day and who came into Respondent Pharmacy
16 in sequence. Respondent failed to perform additional investigation to determine whether the
17 prescriptions were issued for a legitimate medical purpose, as set forth in paragraphs 27 through
18 33, above, which are incorporated herein by reference.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Unprofessional Conduct - Excessive Furnishing of Controlled Substances)**

21 36. Respondent Pharmacy and Respondent Tadros are subject to disciplinary action under
22 Code section 4301, subdivision (d), for the clearly excessive furnishing of controlled substances
23 in violation of Health and Safety Code section 11153 (a), as more particularly described in
24 paragraphs 27 through 33, above, which are incorporated herein by reference.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct - Filling Prescriptions from Noncompliant Prescription Forms)**

27 37. Respondent Pharmacy and Respondent Tadros are subject to disciplinary action under
28 Code sections 4301, subdivisions (j) and (o), for violating Health and Safety Code section 11164

1 for filling and dispensing controlled substances from prescription forms that did not comply with
2 the requirements of Health and Safety Code section 11162.1, as set forth in paragraphs 27 through
3 33, above, which are incorporated herein by reference.

4 DISCIPLINARY CONSIDERATIONS

5 38. To determine the degree of discipline, if any, to be imposed on Respondent
6 Pharmacy, Complainant alleges that on or about March 6, 2015, in a prior action, the Board of
7 Pharmacy issued Citation Number CI 2014 62748 to Respondent Pharmacy for violations of Code
8 section 4049, subdivisions (a), allowing a non-pharmacist to sign for a delivery of controlled
9 substances; Code section 4115, subdivision (a), allowing more than one pharmacy technician to
10 package prescriptions simultaneously; CCR section 1735.3, subdivision (a)(6), dispensing
11 compounded drug products without maintaining a proper compounding record; CCR section
12 1735.4, subdivisions (a) and (c), dispensing compounded drug products without proper labeling,
13 and assessed a fine in the amount of \$3,625.00. That Citation is now final and is incorporated by
14 reference as if fully set forth.

15 39. To determine the degree of discipline, if any, to be imposed on Respondent Tadros,
16 Complainant alleges that on or about March 6, 2015, in a prior action, the Board of Pharmacy
17 issued Citation Number CI 2014 64237 to Respondent Tadros for violations of Code section
18 4049, subdivisions (a), allowing a non-pharmacist to sign for a delivery of controlled substances;
19 Code section 4115, subdivision (a), allowing more than one pharmacy technician to package
20 prescriptions simultaneously; CCR section 1735.3, subdivision (a)(6), dispensing compounded
21 drug products without maintaining a proper compounding record; CCR section 1735.4,
22 subdivisions (a) and (c), dispensing compounded drug products without proper labeling, and
23 assessed a fine in the amount of \$3,625.00. That Citation is now final and is incorporated by
24 reference as if fully set forth.

25 40. To determine the degree of discipline, if any, to be imposed on Respondent
26 Pharmacy, Complainant alleges that on or about October 20, 2016, in a prior action, the Board of
27 Pharmacy issued Citation Number CI 2016 71153 to Respondent Pharmacy for a violation of
28 Health & Safety Code section 111440 and 111395, selling misbranded drugs, and assessed a fine

1 in the amount of \$500.00. That Citation is now final and is incorporated by reference as if fully
2 set forth.

3 41. To determine the degree of discipline, if any, to be imposed on Respondent Tadros,
4 Complainant alleges that on or about July 19, 2016, in a prior action, the Board of Pharmacy
5 issued Citation Number CI 2016 71154 to Respondent Tadros for a violation of Health & Safety
6 Code section 111440 and 111395, selling misbranded drugs. No fine was assessed for this
7 violation.

8 OTHER MATTERS

9 42. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
10 PHY 51646 issued to Sky Pharma Corp., dba The Medicine Shoppe, while Michael Edward
11 Milad Tadros has been an officer and owner and had knowledge of or knowingly participated in
12 any conduct for which the licensee was disciplined, Michael Edward Milad Tadros shall be
13 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
14 or partner of a licensee for five years if Pharmacy Permit Number PHY 51646 is placed on
15 probation or until Pharmacy Permit Number PHY 51646 is reinstated if it is revoked.

16 43. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
17 Number RPH 68859, issued to Respondent Michael Edward Milad Tadros, Michael Edward
18 Milad Tadros Patel shall be prohibited from serving as a manager, administrator, owner, member,
19 officer, director, associate, or partner of a licensee for five years if Pharmacist License Number
20 RPH 68859 is placed on probation or until Pharmacist License Number RPH 68859 is reinstated
21 if it is revoked.

22 PRAYER

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

25 1. Revoking or suspending Pharmacy Permit Number PHY 51646, issued to Sky
26 Pharma Corp., dba The Medicine Shoppe;

27 2. Revoking or suspending Pharmacist License No. RPH 68859, issued to Michael
28 Edward Milad Tadros;

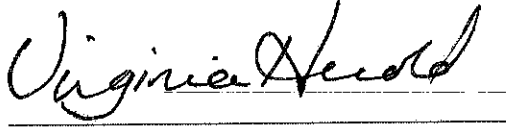
1 3. Prohibiting Michael Edward Milad Tadros from serving as a manager, administrator,
2 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
3 Permit Number PHY 51646 is placed on probation or until Pharmacy Permit Number PHY 51646
4 is reinstated if Pharmacy Permit Number PHY 51646 issued to Sky Pharma Corp., dba The
5 Medicine Shoppe, is revoked;

6 4. Prohibiting Respondent Michael Edward Milad Tadros from serving as a manager,
7 administrator, owner, member, officer, director, associate or partner of a licensee for five years if
8 Pharmacist License Number RPH 68859 is placed on probation or until Pharmacist License
9 Number RPH 68859 is reinstated if Pharmacist License Number RPH 68859 issued to Michael
10 Edward Milad Tadros;

11 5. Ordering Michael Edward Milad Tadros and Sky Pharma Corp., dba The Medicine
12 Shoppe, jointly and severally, to pay the Board of Pharmacy the reasonable costs of the
13 investigation and enforcement of this case, pursuant to Business and Professions Code section
14 125.3; and,

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

16
17 DATED: 2/12/18



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

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Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 6231

12 **SKY PHARMA CORP.,**
13 **DBA THE MEDICINE SHOP**
14 **MICHAEL EDWARD MILAD TADROS,**
CHIEF EXECUTIVE OFFICER,
15 **PHARMACIST IN CHARGE**
16 **FADY FAROUK ZAKI, TREASURER/**
CHIEF FINANCIAL OFFICER
10237 Magnolia Ave.
Riverside, CA 92503

A C C U S A T I O N

17 **Pharmacy Permit No. PHY 51646**
18 **Sterile Compounding Pharmacy License No.**
LSC 99865

19 **MICHAEL EDWARD MILAD TADROS**
20 **1739 Spyglass Drive**
21 **Corona, CA 92883**

22 **Pharmacist License No. RPH 68859**

23 Respondents.

24
25 Complainant alleges:

26 **PARTIES**

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

1 2. On October 18, 2013, the Board of Pharmacy issued Pharmacy Permit Number PHY
2 51646 to Sky Pharma Corp., dba The Medicine Shoppe; Michael Edward Milad Tadros, Chief
3 Executive Officer and 50% Shareholder; Fady Farouk Zaki, Treasurer/ Chief Financial Officer
4 and 50% Shareholder (Respondent Pharmacy). The Pharmacy Permit was in full force and effect
5 at all times relevant to the charges brought herein and will expire on October 1, 2018, unless
6 renewed.

7 3. On or about October 21, 2013, the Board of Pharmacy issued Sterile Compounding
8 Pharmacy License Number LSC 99865 to Respondent Pharmacy. The Sterile Compounding
9 Pharmacy License was in full force and effect at all times relevant to the charges brought herein
10 and will expire on October 1, 2018, unless renewed.

11 4. On or about July 1, 2013, the Board of Pharmacy issued Pharmacist License Number
12 RPH 68859 to Michael Edward Milad Tadros (Respondent Tadros). Michael Edward Milad
13 Tadros has been the Pharmacist-in-Charge of The Medicine Shoppe since October 18, 2013. The
14 Pharmacist License was in full force and effect at all times relevant to the charges brought herein
15 and will expire on January 31, 2019, unless renewed.

16 **JURISDICTION**

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

20 6. Section 4011 of the Code provides that the Board shall administer and enforce both
21 the Pharmacy Law [Code section 4000 et seq.] and the Uniform Controlled Substances Act
22 [Health & Safety Code section 11000 et seq.].

23 7. Section 4032 defines "license" to include any license, permit, registration, certificate
24 or exemption issued by the Board.

25 8. Section 4300 of the Code states, in pertinent part:

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

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

- 1 (1) Suspending judgment.
- 2 (2) Placing him or her upon probation.
- 3 (3) Suspending his or her right to practice for a period not exceeding one
- 4 year.
- 5 (4) Revoking his or her license.
- 6 (5) Taking any other action in relation to disciplining him or her as the board
- 7 in its discretion may deem proper.

7

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

11 9. Section 4300.1 of the Code states:

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

16 10. Section 4307, subdivision (a) of the Code states:

17 (a) Any person who has been denied a license or whose license has been
18 revoked or is under suspension, or who has failed to renew his or her license while
19 it was under suspension, or who has been a manager, administrator, owner,
20 member, officer, director, associate, partner, or any other person with management
21 or control of any partnership, corporation, trust, firm, or association whose
22 application for a license has been denied or revoked, is under suspension or has
23 been placed on probation, and while acting as the manager, administrator, owner,
24 member, officer, director, associate, partner, or any other person with management
25 or control had knowledge of or knowingly participated in any conduct for which
26 the license was denied, revoked, suspended, or placed on probation, shall be
27 prohibited from serving as a manager, administrator, owner, member, officer,
28 director, associate, partner, or any other person 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.

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STATUTORY PROVISIONS

11. Section 4022 of the Code states

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

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

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

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

12. Section 4040 of the Code states:

(a) "Prescription" means an oral, written, or electronic transmission order that is both of the following:

(1) Given individually for the person or persons for whom ordered that includes all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions for use.

(C) The date of issue.

(D) Either rubber stamped, typed, or printed by hand or typeset, the name, address, and telephone number of the prescriber, his or her license classification, and his or her federal registry number, if a controlled substance is prescribed.

(E) A legible, clear notice of the condition or purpose for which the drug is being prescribed, if requested by the patient or patients.

(F) If in writing, signed by the prescriber issuing the order, or the certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor who issues a drug order pursuant to Section 2746.51, 2836.1, 3502.1, or 3640.5, respectively, or the pharmacist who issues a drug order pursuant to Section 4052.1, 4052.2, or 4052.6.

(2) Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued pursuant to Section 2746.51, 2836.1, 3502.1, or 3460.5, by a certified nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor licensed in this state, or pursuant to Section 4052.1, 4052.2, or 4052.6 by a pharmacist licensed in this state.

(b) Notwithstanding subdivision (a), a written order of the prescriber for a dangerous drug, except for any Schedule II controlled substance, that contains at

1 least the name and signature of the prescriber, the name and address of the patient
2 in a manner consistent with paragraph (2) of subdivision (a) of Section 11164 of
3 the Health and Safety Code, the name and quantity of the drug prescribed,
4 directions for use, and the date of issue may be treated as a prescription by the
dispensing pharmacist as long as any additional information required by
subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict
between this subdivision and Section 11164 of the Health and Safety Code,
Section 11164 of the Health and Safety Code shall prevail.

5 (c) Electronic transmission prescription includes both image and data
6 prescriptions. Electronic image transmission prescription means any prescription
7 order for which a facsimile of the order is received by a pharmacy from a licensed
8 prescriber. Electronic data transmission prescription means any prescription order,
other than an electronic image transmission prescription, that is electronically
transmitted from a licensed prescriber to a pharmacy.

9 (d) The use of commonly used abbreviations shall not invalidate an
otherwise valid prescription.

10

11 13. Section 4113, subdivision (c) of the Code states:

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

14 14. Section 4301 of the Code states:

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

17

18 (c) Gross negligence.

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

21

22 (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.

23

24 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
25 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
26 pharmacy, including regulations established by the board or by any other state or
federal regulatory agency.

27

28 ///

1 15. Health and Safety Code section 11153, subdivision (a) states:

2 A prescription for a controlled substance shall only be issued for a legitimate
3 medical purpose by an individual practitioner acting in the usual course of his or
4 her professional practice. The responsibility for the proper prescribing and
5 dispensing of controlled substances is upon the prescribing practitioner, but a
6 corresponding responsibility rests with the pharmacist who fills the prescription.
7 Except as authorized by this division, the following are not legal prescriptions: (1)
8 an order purporting to be a prescription which is issued not in the usual course of
9 professional treatment or in legitimate and authorized research; or (2) an order for
10 an addict or habitual user of controlled substances, which is issued not in the
11 course of professional treatment or as part of an authorized narcotic treatment
12 program, for the purpose of providing the user with controlled substances,
13 sufficient to keep him or her comfortable by maintaining customary use.

14 16. Health and Safety Code section 11162.1 states:

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

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

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

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

23 (4) A feature printed in thermochromic ink.

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

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

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

1-24
25-49
50-74
75-100
101-150
151 and over.

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

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

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

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

5 (11) The date of origin of the prescription.

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

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

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

10 (B) Each prescriber who signs the prescription form shall identify himself or
herself as the prescriber by checking the box by his or her name.

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

13

14 (d) This section shall become operative on January 1, 2012. Prescription
15 forms not in compliance with this division shall not be valid or accepted after July
1, 2012.

16 17. Health and Safety Code section 11164 states:

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

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

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

26 (2) The prescription shall also contain the address of the person for whom
the controlled substance is prescribed. If the prescriber does not specify this
27 address on the prescription, the pharmacist filling the prescription or an employee
acting under the direction of the pharmacist shall write or type the address on the
28 prescription or maintain this information in a readily retrievable form in the
pharmacy.

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

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

15 (3) Pursuant to an authorization of the prescriber, any agent of the prescriber
16 on behalf of the prescriber may orally or electronically transmit a prescription for a
17 controlled substance classified in Schedule III, IV, or V, if in these cases the
18 written record of the prescription required by this subdivision specifies the name
19 of the agent of the prescriber transmitting the prescription.

20 (c) The use of commonly used abbreviations shall not invalidate an
21 otherwise valid prescription.

22 (d) Notwithstanding any provision of subdivisions (a) and (b), prescriptions
23 for a controlled substance classified in Schedule V may be for more than one
24 person in the same family with the same medical need.

25 (e) This section shall become operative on January 1, 2005.

26 REGULATORY PROVISIONS

27 18. Code of Federal Regulations, Title 21, section 1306.04, subdivision (a) states:

28 A prescription for a controlled substance to be effective must be issued for a
legitimate medical purpose by an individual practitioner acting in the usual course
of his professional practice. The responsibility for the proper prescribing and
dispensing of controlled substances is upon the prescribing practitioner, but a
corresponding responsibility rests with the pharmacist who fills the prescription.
An order purporting to be a prescription issued not in the usual course of
professional treatment or in legitimate and authorized research is not a prescription
within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the
person knowingly filling such a purported prescription, as well as the person
issuing it, shall be subject to the penalties provided for violations of the provisions
of law relating to controlled substances.

19. California Code of Regulations, Title 16, (CCR) section 1761, states:

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

(b) Even after conferring with the prescriber, a pharmacist shall not
compound or dispense a controlled substance prescription where the pharmacist

1 knows or has objective reason to know that said prescription was not issued for a
2 legitimate medical purpose.

3 **COST RECOVERY**

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

8 **DRUGS**

9 21. Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code
10 section 11057, subdivision (d)(1), and a dangerous drug pursuant to Business and Professions
11 Code section 4022.

12 22. Hydrocodone/Acetaminophen (APAP) was a Schedule III controlled substance
13 pursuant to Health and Safety Code section 11056, subdivision (e)(5), and a dangerous drug
14 pursuant to Business and Professions Code section 4022. On October 6, 2014,
15 Hydrocodone/APAP was reclassified as a Schedule II controlled substance.

16 23. Hydromorphone is a Schedule II controlled substance pursuant to Health and Safety
17 Code section 11055, subdivision (b), and a dangerous drug pursuant to Business and Professions
18 Code section 4022.

19 24. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
20 section 11055, subdivision (b)(1)(M), and a dangerous drug pursuant to Business and Professions
21 Code section 4022.

22 25. Oxymorphone is a Schedule II controlled substance pursuant to Health and Safety
23 Code section 11055, subdivision (b)(1)(N), and a dangerous drug pursuant to Business and
24 Professions Code section 4022.

25 26. Promethazine with codeine is a Schedule V controlled substance pursuant to Health
26 and Safety Code section 11058, subdivision (c)(1), and a dangerous drug pursuant to Business
27 and Professions Code section 4022.

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1 **FACTUAL ALLEGATIONS**

2 27. Sky Pharma Corp. dba The Medicine Shoppe (Respondent Pharmacy), is an
3 independent retail pharmacy located in Riverside, California. At all times mentioned herein and
4 since October 18, 2013, Michael Edward Milad Tadros (Respondent Tadros) has been the
5 Pharmacist-in-Charge (PIC) at Respondent Pharmacy.

6 28. On January 28, 2016, Board of Pharmacy inspectors conducted an inspection of
7 Respondent Pharmacy. Respondent Tadros was present during the inspection. The inspectors
8 found controlled substance prescriptions that were dispensed from prescribers whose forms
9 lacked required security features.

10 29. The inspectors focused on three prescribers, (Dr. S.W, Dr. R.G. and Dr. K.O.). They
11 found prescriptions that contained significant irregularities and "red flags" suggesting that the
12 prescriptions were not written for a legitimate medical purpose. The prescribing profiles for all
13 three prescribers contained numerous prescriptions for a limited number of commonly abused
14 controlled substances, in high doses, and with similar combinations of controlled substances
15 dispensed in sequence to multiple patients.

16 30. For Dr. S.W., from April 26, 2014 to September 2, 2015, Respondent Pharmacy
17 dispensed 1,527 prescriptions to 452 different patients. Over 85% of the prescriptions were for
18 controlled substances. 442 of the 452 patients received promethazine/codeine, most in full pint
19 sized bottles. In addition, almost all were to be taken concurrently with alprazolam and/or with
20 an opioid such as hydrocodone, hydromorphone, oxycodone or oxymorphone. An Accusation
21 was filed against Dr. S.W.'s medical license on October 6, 2014. His medical license was
22 revoked on January 14, 2016.

23 31. For Dr. R.G., from April 13, 2015 to January 6, 2016, Respondent Pharmacy
24 dispensed 1,268 prescriptions to 348 different patients. Over 80% of the prescriptions were for
25 controlled substances. 335 of the 348 patients received promethazine/codeine, all in full pint
26 sized bottles. In addition, almost all were to be taken concurrently with alprazolam and/or with
27 an opioid such as hydrocodone, hydromorphone, oxycodone or oxymorphone. The inspectors
28 reviewed 73 original prescription documents issued by Dr. R. G., for 217 dispensed prescriptions

1 that were missing features required on controlled substance security prescription forms. These
2 missing features included the required "California Security Prescription" watermark, a lot
3 number, printing in thermochromic ink and discrepancies in the quantity check off boxes. Of the
4 348 patients 233 were previously dispensed prescriptions from Dr. S.W.

5 32. For Dr. K.O., from December 8, 2015 to January 13, 2016, Respondent Pharmacy
6 dispensed 322 prescriptions to 112 different patients. All of the prescriptions were for controlled
7 substances. All but one of the 112 patients received promethazine/codeine, all in full pint sized
8 bottles. In addition, except for the one patient that did not receive promethazine/codeine, all were
9 to be taken concurrently with alprazolam and/or with an opioid such as hydrocodone,
10 hydromorphone, oxycodone or oxymorphone. The inspectors reviewed 76 original prescription
11 documents issued by Dr. K.O., for dispensed prescriptions that were missing features required on
12 controlled substance security prescription forms. These missing features included the required
13 "California Security Prescription" watermark, a lot number and discrepancies in the quantity
14 check off boxes. Of the 112 patients 51 were previously dispensed prescriptions from Dr. S.W or
15 Dr. R.G.

16 33. In addition, almost all of the controlled substances from all three prescribers were
17 purchased in cash, without the assistance of prescription insurance. In fact, all of the
18 prescriptions for controlled substances written by Dr. R.G. and Dr. K.O. were paid for in cash at
19 Respondent Pharmacy. With respect to the prescriptions for controlled substances written by Dr.
20 S.W., 99.5 % of his prescriptions for controlled substances were paid for in cash at Respondent
21 Pharmacy.

22 **FIRST CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct - Failing to Comply with Corresponding Responsibility)**

24 34. Respondent Pharmacy and Respondent Tadros are subject to disciplinary action under
25 Code sections 4301, subdivisions (j) and (o), for violating Health and Safety Code section 11153,
26 subdivision (a) and the Code of Federal Regulations, Title 21, section 1306.04, subdivision (a), in
27 that they failed to comply with their corresponding responsibility to ensure that controlled
28 substances were dispensed for a legitimate medical purpose when Respondents furnished

1 prescriptions for controlled substances even though “red flags” were present to indicate those
2 prescriptions were not issued for a legitimate medical purpose, as set forth in paragraphs 27
3 through 33 above, which are incorporated herein by reference.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct - Filling Erroneous or Uncertain Prescriptions)**

6 35. Respondent Pharmacy and Respondent Tadros are subject to disciplinary action under
7 Code section 4301, subdivision (o), for violating CCR section 1761, in that Respondents
8 dispensed prescriptions which contained significant irregularities, uncertainties, or ambiguities, as
9 set forth in paragraphs 27 through 33 above, which are incorporated herein by reference.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct - Gross Negligence)**

12 36. Respondent Pharmacy and Respondent Tadros are subject to disciplinary action for
13 unprofessional conduct under Code section 4301, subdivision (c), in that Respondents were
14 grossly negligent in dispensing controlled substances. The circumstances are that Respondents
15 knew or should have known that the controlled substances dispensed to patients were likely to be
16 used for other than a legitimate medical purpose and Respondent failed to take appropriate steps
17 when presented with numerous controlled substance prescriptions by patients from the same
18 doctor for the same drug and strength on the same day and who came into Respondent Pharmacy
19 in sequence. Respondent failed to perform additional investigation to determine whether the
20 prescriptions were issued for a legitimate medical purpose, as set forth in paragraphs 27 through
21 33, above, which are incorporated herein by reference.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Unprofessional Conduct - Excessive Furnishing of Controlled Substances)**

24 37. Respondent Pharmacy and Respondent Tadros are subject to disciplinary action under
25 Code section 4301, subdivision (d), for the clearly excessive furnishing of controlled substances
26 in violation of Health and Safety Code section 11153 (a), as more particularly described in
27 paragraphs 27 through 33, above, which are incorporated herein by reference.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct - Filling Prescriptions from Noncompliant Prescription Forms)**

3 38. Respondent Pharmacy and Respondent Tadros are subject to disciplinary action under
4 Code sections 4301, subdivisions (j) and (o), for violating Health and Safety Code section 11164
5 for filling and dispensing controlled substances from prescription forms that did not comply with
6 the requirements of Health and Safety Code section 11162.1, as set forth in paragraphs 27 through
7 33, above, which are incorporated herein by reference.

8 **DISCIPLINARY CONSIDERATIONS**

9 39. To determine the degree of discipline, if any, to be imposed on Respondent
10 Pharmacy, Complainant alleges that on or about March 6, 2015, in a prior action, the Board of
11 Pharmacy issued Citation Number CI 2014 62748 to Respondent Pharmacy for violations of Code
12 section 4049, subdivisions (a), allowing a non-pharmacist to sign for a delivery of controlled
13 substances; Code section 4115, subdivision (a), allowing more than one pharmacy technician to
14 package prescriptions simultaneously; CCR section 1735.3, subdivision (a)(6), dispensing
15 compounded drug products without maintaining a proper compounding record; CCR section
16 1735.4, subdivisions (a) and (c), dispensing compounded drug products without proper labeling,
17 and assessed a fine in the amount of \$3,625.00. That Citation is now final and is incorporated by
18 reference as if fully set forth.

19 40. To determine the degree of discipline, if any, to be imposed on Respondent Tadros,
20 Complainant alleges that on or about March 6, 2015, in a prior action, the Board of Pharmacy
21 issued Citation Number CI 2014 64237 to Respondent Tadros for violations of Code section
22 4049, subdivisions (a), allowing a non-pharmacist to sign for a delivery of controlled substances;
23 Code section 4115, subdivision (a), allowing more than one pharmacy technician to package
24 prescriptions simultaneously; CCR section 1735.3, subdivision (a)(6), dispensing compounded
25 drug products without maintaining a proper compounding record; CCR section 1735.4,
26 subdivisions (a) and (c), dispensing compounded drug products without proper labeling, and
27 assessed a fine in the amount of \$3,625.00. That Citation is now final and is incorporated by
28 reference as if fully set forth.

1 41. To determine the degree of discipline, if any, to be imposed on Respondent
2 Pharmacy, Complainant alleges that on or about October 20, 2016, in a prior action, the Board of
3 Pharmacy issued Citation Number CI 2016 71153 to Respondent Pharmacy for a violation of
4 Health & Safety Code section 111440 and 111395, selling misbranded drugs, and assessed a fine
5 in the amount of \$500.00. That Citation is now final and is incorporated by reference as if fully
6 set forth.

7 42. To determine the degree of discipline, if any, to be imposed on Respondent Tadros,
8 Complainant alleges that on or about July 19, 2016, in a prior action, the Board of Pharmacy
9 issued Citation Number CI 2016 71154 to Respondent Tadros for a violation of Health & Safety
10 Code section 111440 and 111395, selling misbranded drugs. No fine was assessed for this
11 violation.

12 **OTHER MATTERS**

13 43. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
14 PHY 51646 issued to Sky Pharma Corp., dba The Medicine Shop, while Michael Edward Milad
15 Tadros has been an officer and owner and had knowledge of or knowingly participated in any
16 conduct for which the licensee was disciplined, Michael Edward Milad Tadros shall be prohibited
17 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
18 of a licensee for five years if Pharmacy Permit Number PHY 51646 is placed on probation or
19 until Pharmacy Permit Number PHY 51646 is reinstated if it is revoked.

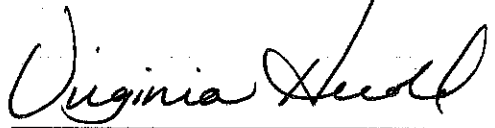
20 44. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
21 Number RPH 68859, issued to Respondent Michael Edward Milad Tadros, Michael Edward
22 Milad Tadros Patel shall be prohibited from serving as a manager, administrator, owner, member,
23 officer, director, associate, or partner of a licensee for five years if Pharmacist License Number
24 RPH 68859 is placed on probation or until Pharmacist License Number RPH 68859 is reinstated
25 if it is revoked.

26 **PRAYER**

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

- 1 1. Revoking or suspending Pharmacy Permit Number PHY 51646, issued to Sky
2 Pharma Corp., dba The Medicine Shop;
- 3 2. Revoking or suspending Sterile Compounding Pharmacy License Number LSC
4 99865, issued to Sky Pharma Corp., dba The Medicine Shop;
- 5 3. Revoking or suspending Pharmacist License No. RPH 68859, issued to Michael
6 Edward Milad Tadros;
- 7 4. Prohibiting Michael Edward Milad Tadros from serving as a manager, administrator,
8 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
9 Permit Number PHY 51646 is placed on probation or until Pharmacy Permit Number PHY 51646
10 is reinstated if Pharmacy Permit Number PHY 51646 issued to Sky Pharma Corp., dba The
11 Medicine Shop, is revoked;
- 12 5. Prohibiting Respondent Michael Edward Milad Tadros from serving as a manager,
13 administrator, owner, member, officer, director, associate or partner of a licensee for five years if
14 Pharmacist License Number RPH 68859 is placed on probation or until Pharmacist License
15 Number RPH 68859 is reinstated if Pharmacist License Number RPH 68859 issued to Michael
16 Edward Milad Tadros;
- 17 6. Ordering Michael Edward Milad Tadros and Sky Pharma Corp., dba The Medicine
18 Shop, jointly and severally, to pay the Board of Pharmacy the reasonable costs of the
19 investigation and enforcement of this case, pursuant to Business and Professions Code section
20 125.3; and,
- 21 7. Taking such other and further action as deemed necessary and proper.

22
23 DATED: 11/6/17



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

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