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

In the Matter of the Accusation Against: **PCC VENTURES LLC,** **dba PHARMACY CARE CONCEPTS** **STEPHEN L. STANGE, PIC** **HAROLD G. DELAMARTER, MEMBER** **GREGORY JOHN VISLOCKY, MEMBER** **RICK B. DELAMARTER, MD, MEMBER** **SCOTT BRADLEY HANCOCK, MEMBER** **TRACY WILLIAM ZARLING, MEMBER** **PAUL ERNEST HAFFNER, MEMBER** **7720 Lorraine Avenue, Suite 102/103** **Stockton, CA 95210** **Original Pharmacy Permit No. PHY 51484** **and** **STEPHEN L. STANGE** **4230 Heron Lakes Drive** **Stockton, CA 95219** **Pharmacist License No. RPH 28242** Respondents.	Case No. 5294 OAH No. 2015110440 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER AS TO PCC VENTURES, LLC, ET AL, ONLY**

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on June 6, 2016.

It is so ORDERED on May 5, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
Amy Gutierrez, Pharm.D.
Board President

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Attorneys for Complainant

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In the Matter of the Accusation Against: **PCC VENTURES LLC,** **dba PHARMACY CARE CONCEPTS** **STEPHEN L. STANGE, PIC** **HAROLD G. DELAMARTER, MEMBER** **GREGORY JOHN VISLOCKY, MEMBER** **RICK B. DELAMARTER, MD, MEMBER** **SCOTT BRADLEY HANCOCK, MEMBER** **TRACY WILLIAM ZARLING, MEMBER** **PAUL ERNEST HAFFNER, MEMBER** **7720 Lorraine Avenue, Suite 102/103** **Stockton, CA 95210** **Original Pharmacy Permit No. PHY 51484** **and** **STEPHEN L. STANGE** **4230 Heron Lakes Drive** **Stockton, CA 95219** **Pharmacist License No. RPH 28242** Respondents.	Case No. 5294 OAH No. 2015110440 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER AS TO PCC VENTURES, LLC, ET AL, ONLY**

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

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PARTIES

1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy. She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Kristina T. Jarvis, Deputy Attorney General.

2. On or about March 14, 2001, the Board issued Original Pharmacy Permit Number PHY 45169 to Pharmacy Care Concepts, Inc., with Stephen L. Stange ("Respondent Stange") as pharmacist-in-charge ("PIC") and president/treasurer. The pharmacy permit was canceled on July 2, 2013, due to a change in ownership of the pharmacy, as set forth in paragraph 3 below.

3. On or about July 1, 2013, the Board issued Original Pharmacy Permit Number PHY 51484 to PCC Ventures LLC ("Respondent PCC" or "PCC"), doing business as Pharmacy Care Concepts, with Respondent Stange as PIC and Harold G. Delamarter, Gregory John Vislocky, Rick B. Delamarter, MD, Scott Bradley Hancock, Tracy William Zarling, and Paul Ernest Haffner as members. The pharmacy permit was in full force and effect at all times relevant to the charges brought herein and will expire on July 1, 2016, unless renewed.

4. On or about April 24, 1973, the Board issued Pharmacist License Number RPH 28242 Respondent Stange. The pharmacist license was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2017, unless renewed.

5. Respondent PCC is represented in this proceeding by attorney Ivan Petrzelka, whose address is: 2855 Michelle Drive, Suite 180. Irvine, CA 92606.

6. Respondent Stange is represented in this proceeding by attorney Gregory P. Matzen, whose address is: 2104 Big Sandy Court, Gold River, CA 95670.

JURISDICTION

7. Accusation No. 5294 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondents on September 24, 2015. Respondents timely filed their Notices of Defense contesting the Accusation.

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8. A copy of Accusation No. 5294 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

9. Respondent PCC has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 5294. Respondent PCC has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

10. Respondent PCC is fully aware of its legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at its own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

11. Respondent PCC voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

12. Respondent PCC understands that the charges and allegations in Accusation No. 5294, if proven at hearing constitute cause for imposing discipline upon the Pharmacy Permit.

13. For the purposes of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent PCC agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent PCC hereby gives up their right to contest that cause for discipline exists based on those charges and agrees to be bound by the Board's Decision and Order.

14. Respondent PCC understands that by signing this stipulation they enable the Board to issue an order revoking its Pharmacy Permit and placing it on probation subject to the terms and conditions set forth in the Disciplinary Order below.

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CONTINGENCY

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

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

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

18. The Board agrees that Respondent PCC Ventures and all of its owners and/or managers are not prohibited from filing future or additional applications for ownership of other licensed premises.

19. The Board also agrees to expedite the processing of any application for transfer of ownership of Pharmacy Care Concepts if an application for a temporary permit is received by a new prospective owner of Respondent PCC. Any such change shall contain a stipulation for continued jurisdiction for probation by the Board for the new license should it be issued.

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20. If there is any violation of probation for which a petition to revoke probation is filed by the Board, then all of the charges and allegations in Accusation No. 5294 shall be deemed to be true, correct, and admitted for the purpose of that proceeding.

21. If Respondent PCC or any owners or managers should ever apply for a new or additional license or permit by the Board or any other health care licensing agency in the State of California, all of the charges and allegations in Accusation No. 5294 shall be deemed to be true, correct, and admitted for the purpose of any Statement of Issues or any other proceeding seeking to deny the license.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 51484 issued to Respondent PCC Ventures, LLC dba Pharmacy Care Concepts; et. al. is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions.

1. **Obey All Laws**

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

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

- ☐ an arrest of any owner or employee, or issuance of a criminal complaint against any owner or employee for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- ☐ a plea of guilty or nolo contender by any owner or employee in any state or federal criminal proceeding to any criminal complaint, information or indictment
- ☐ a conviction of any crime for any owner or employee
- ☐ discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's Pharmacy license or which is related to the practice of

pharmacy or the manufacturing, obtaining, handling or distributing, billing, or charging for any drug, device or controlled substance.

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

2. **Report to the Board**

Respondent PCC shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent PCC shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

3. **Interview with the Board**

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

4. **Cooperate with Board Staff**

Respondent PCC shall cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of their probation. Failure to cooperate shall be considered a violation of probation.

5. **Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, Respondent PCC shall pay to the board its costs of investigation and prosecution in the amount of $5,368.25. Respondent's owners are all jointly and severally liable for this debt. Respondent shall be permitted to make said payments in a payment plan approved in writing by the Board or its designee. There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure

to pay costs by the deadline(s) as directed shall be considered a violation of probation.

The filing of bankruptcy by Respondent or any owners of Respondent shall not relieve Respondent of their responsibility to reimburse the board its costs of investigation and prosecution.

6. **Probation Monitoring Costs**

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

7. **Status of License**

Respondent PCC shall, at all times while on probation, maintain current licensure with the board. If Respondent PCC submits an application to the board, and the application is approved, for a change of location, change of permit or change of ownership, the board shall retain continuing jurisdiction over the license, and the respondent shall remain on probation as determined by the board. Failure to maintain current licensure shall be considered a violation of probation.

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

8. **License Surrender While on Probation/Suspension**

Following the effective date of this decision, should Respondent PCC discontinue business, respondent may tender the premises license to the board for surrender. The board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation.

Upon acceptance of the surrender, Respondent PCC shall relinquish the premises wall and renewal license to the board within ten (10) days of notification by the board that the surrender is

accepted. Respondent PCC shall further submit a completed Discontinuance of Business form according to board guidelines and shall notify the board of the records inventory transfer.

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

Respondent PCC and each of its owners may not apply for any new licensure from the board for three (3) years from the effective date of the surrender. Respondent PCC's owner(s) shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

Respondent PCC's owner(s) further stipulate(s) that he or she shall reimburse the board for its costs of investigation and prosecution prior to the acceptance of the surrender.

9. **Notice to Employees**

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

considered a violation of probation.

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

10. **Owners and Officers: Knowledge of the Law**

Respondent PCC shall provide, within thirty (30) days after the effective date of this decision, signed and dated statements from its owners, including any owner or holder of ten percent (10%) or more of the interest in respondent or respondent's stock, and any officer, stating under penalty of perjury that said individuals have read and are familiar with state and federal laws and regulations governing the practice of pharmacy. The failure to timely provide said statements under penalty of perjury shall be considered a violation of probation.

11. **Posted Notice of Probation**

Respondent PCC shall prominently post a probation notice provided by the board in a place conspicuous and readable to the public. The probation notice shall remain posted during the entire period of probation.

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

Failure to post such notice shall be considered a violation of probation.

12. **Violation of Probation**

If Respondent PCC has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent license, and probation shall be automatically extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

If Respondent PCC or its owner(s) violates probation in any respect, the board, after giving respondent and its owner(s) notice and an opportunity to be heard, may revoke probation and

carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

13. **Completion of Probation**

Upon written notice by the board or its designee indicating successful completion of probation, respondent license will be fully restored.

14. **Community Services Program**

Within sixty (60) days of the effective date of this decision, Respondent PCC shall submit to the board or its designee, for prior approval, a community service program in which respondent shall provide free health-care related services to a community or charitable facility or agency consisting of drug buy-back programs, or sharps disposal programs at an amount of $45,000.00 over the three (3) years or probation.

Within thirty (30) days of board approval thereof, Respondent PCC shall submit documentation to the board demonstrating commencement of the community service program. Respondent PCC shall report on progress with the community service program in the quarterly reports.

Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Ivan Petrzelka. I understand the stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 2/19/16

PCC VENTURES, LLC
DBA PHARMACY CARE CONCEPTS
Respondent

Scott Hancock
Print Name of Representative for PCC Ventures, LLC.

APPROVAL AS TO FORM AND CONTENT

I have read and fully discussed with Respondent PCC Ventures, LLC dba Pharmacy Care Concepts; et. al. the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 2-19-2016

Ivan Petrzelka
Attorney for Respondent

ENDORSEMENT

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

Dated: 2-19-2016

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General

KRISTINA T. JARVIS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5294

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Complainant alleges:

PARTIES/LICENSE INFORMATION

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

2. On or about March 14, 2001, the Board issued Original Pharmacy Permit Number PHY 45169 to Pharmacy Care Concepts, Inc., with Stephen L. Stange ("Respondent Stange") as pharmacist-in-charge ("PIC") and president/treasurer. The pharmacy permit was canceled on July 2, 2013, due to a change in ownership of the pharmacy, as set forth in paragraph 3 below.

3. On or about July 1, 2013, the Board issued Original Pharmacy Permit Number PHY 51484 to PCC Ventures LLC ("Respondent PCC" or "PCC"), doing business as Pharmacy Care Concepts, with Respondent Stange as PIC and Harold G. Delamarter, Gregory John Vislocky, Rick B. Delamarter, MD, Scott Bradley Hancock, Tracy William Zarling, and Paul Ernest Haffner as members. The pharmacy permit was in full force and effect at all times relevant to the charges brought herein and will expire on July 1, 2016, unless renewed.

4. On or about April 24, 1973, the Board issued Pharmacist License Number RPH 28242 Respondent Stange. The pharmacist license was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2017, unless renewed.

JURISDICTION

5. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY AND REGULATORY PROVISIONS

6. Code section 4300 states, in pertinent part:

> (a) Every license issued may be suspended or revoked.
>
> (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
>
> (1) Suspending judgment.
>
> (2) Placing him or her upon probation.
>
> (3) Suspending his or her right to practice for a period not exceeding one year.
>
> (4) Revoking his or her license.
>
> (5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper . . .

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7. Code section 4300.1 states:

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

8. Code section 4301 states, in pertinent part:

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

9. Code section 4032 states that "[l]icense means and includes any license, permit, registration, certificate, or exemption issued by the board and includes the process of applying for and renewing the same."

10. Code section 4022 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.

11. Code section 4063 states, in pertinent part, that "[n]o prescription for any dangerous drug or dangerous device may be refilled except upon authorization of the prescriber. The authorization may be given orally or at the time of giving the original prescription . . ."

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12. Code section 4105, subdivision (a), states that "[a]ll records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form."

13. Code section 4113, subdivision (c), states that "[t]he pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

14. California Code of Regulations, title 16, section ("Regulation") 1714, subdivision (d), states:

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

COST RECOVERY

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

CONTROLLED SUBSTANCES/DANGEROUS DRUGS

16. "Norco", "Lortab", and "Vicodin ES" are compounds consisting of varying quantities of acetaminophen and hydrocodone bitartrate, also known as dihydrocodeinone, and are Schedule III controlled substances as designated by Health and Safety Code section 11056, subdivision (e)(4). Norco, Lortab, and Vicodin ES are used to relieve moderate to severe pain.

17. "Percocet" is a compound consisting of oxycodone and acetaminophen, and is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(M). Percocet is used to relieve moderate to severe pain.

18. "Methadose", a brand of methadone hydrochloride, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (c)(14). Methadose is used to treat opioid addiction as well as relieve severe pain.

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19. "Concerta", a brand of methylphenidate, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (d)(6). Concerta is used to treat attention deficit hyperactivity disorder (ADHD).

20. "Fentanyl" is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (c)(8). Fentanyl is used as part of anesthesia to help prevent pain after surgery or other medical procedure.

21. "Adderall XR" is a compound consisting of mixed salts of dextroamphetamine and/or amphetamine, and is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (d)(1). Adderall XR is indicated for the treatment of ADHD.

22. The above controlled substances are dangerous drugs within the meaning of Code section 4022 in that they require a prescription under federal law.

BACKGROUND

23. On or about November 6, 2013, the Board received a report from PIC Stange, notifying them that an unlicensed staff member, M. M., may have obtained 960 tablets of Norco 10/325 mg from the pharmacy without a valid prescription. PIC Stange stated that on or about June 10, 2013, a legal prescription was obtained from a physician's assistant for M. M.'s husband, J. M., for 240 tablets of Norco 10/325 mg, *with zero refills*. On August 2, 2013, M. M. presented a photocopy of the prescription to the billing technician, who processed it, and the prescription was then filled by pharmacy technician C. L. M. M. took the prescription before it was reviewed by a pharmacist.

24. PIC Stange also stated that on August 29, 2013, September 14, 2013, and October 2, 2013, M. M. presented C. L. with prescription labels "from the initial dispensing date (August 2, 2013)." C. L. filled the prescriptions (240 tablets of Norco 10/325 mg in each instance) after M. M. "promised" that she had a valid refill for each label. It appeared that M. M. took each of the prescriptions before final review by a pharmacist.

25. PIC Stange listed various corrective actions the pharmacy had taken since the incident, including filing a police report with the Stockton Police Department and suspending

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M. M. from her employment on October 12, 2013 (M. M. subsequently resigned on October 14, 2013).

26. On or about November 14, 2013, the Board sent a letter to PIC Stange, requesting certain information and documents pertaining to the reported theft/loss of controlled substances.

27. On or about December 19, 2013, the Board received various documents from PIC Stange, including a Drug Enforcement Agency (DEA) Form 106 dated October 16, 2013. PCC reported a loss of controlled substances valued at $2,000, including 14,706 tablets of hydrocodone/acetaminophen 10/325; the type of theft/loss was listed as "Employee Pilferage". PIC Stange also provided the Board with a statement, indicating that the business was sold to PCC on June 27, 2013, and that he and the new owner, pharmacist Scott Hancock ("Hancock"), conducted an inventory or audit of Schedule 2 medications and hydrocodone-related products, which "reflected a much larger problem than previously discovered." PIC Stange submitted a copy of the audit; it was conducted for the time period from June 28, 2013 to November 26, 2013. PIC Stange indicated in an additional statement that the audit was based on an inventory from June 27, 2013 to November 26, 2013, purchase records from various wholesalers, including Valley Wholesale and HD Smith (Smart Source), prescription utilization reports, and reverse distributor reports.

28. On or about January 17, 2014, PIC Stange submitted additional documents to the Board, including a letter dated January 10, 2014. PIC Stange stated that since the reported loss of controlled substances following the sale of PCC was significant, he and Hancock conducted another audit for a time period prior to the sale, specifically, from January 18, 2013 (the date the last biennial inventory was completed at PPC prior to the sale) to June 27, 2013 (the date of sale). This audit revealed significant losses as well, as set forth below. PIC Stange also provided DEA Form 106 dated January 14, 2014, showing that the losses applied to Pharmacy Care Concepts,

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Inc. PIC Stange stated in an additional statement to the Board that the audit was based on inventory records from January 18, 2013 to June 26, 2013, purchase records from wholesalers Valley Wholesale and HD Smith, prescription utilization reports, and reverse distributor reports.

Drug and Strength	Quantity Reported Loss (Units) for Audit Period from 01/18/2013 – 11/26/2013
hydrocodone/acetaminophen 10/325 mg	20,601
hydrocodone/acetaminophen 10/500 mg	489
hydrocodone/acetaminophen 7.5/325 mg	2,230
hydrocodone/acetaminophen 7.5/500 mg	705
hydrocodone/acetaminophen 7.5/750 mg	3,604
hydrocodone/acetaminophen 5/325 mg	850
hydrocodone/acetaminophen 5/500 mg	1,192
Fentanyl 12 mcg patch	17
Mixed amphetamine salts ER 20 mg	90

29. On or about March 4, 2014, Board Inspector C. H. conducted an inspection and investigation at the pharmacy.

30. C. H. asked PIC Stange if they ever found the original prescription. PIC Stange told C. H. that they only had a copy. C. H. asked PIC Stange why the prescription was filled when only a copy of the original prescription was presented. PIC Stange stated that he thought M. M. may have exploited the normal workflow for long-term care facilities.

31. PIC Stange explained that for some controlled substance prescriptions, the board and care facility had the original order from the patient or the patient's family. The care facility normally faxed a copy of the original prescription to PCC so the order could be prepared for the patient and delivered the same day. The fax copy of the prescription was sent through the workflow in order to get it filled, and the medication was then placed in a bin for delivery the same day. Once the medication was delivered, the original prescription was picked up and brought to the pharmacy that day. The pharmacist would sign the original prescription as well as the faxed copy, indicating final review of the prescription. The clerk or technician would keep a second copy of the prescription at their workstation as a reminder to follow up with the pharmacist and driver to ensure the original prescription was brought to the pharmacy. The only copy the pharmacy had of the prescription was the one found next to clerk S. The copy had not

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been signed by a pharmacist. PIC Stange told C. H. he verified with the physician's assistant that the prescription was valid and that there were no refills authorized.

32. C. H. obtained various documents from the pharmacy, including a copy of the original prescription and copies of pharmacy labels confirming that the prescription was processed as RX# 1326725 on August 2, 2013, with no refills. C. H. also obtained a controlled substances inventory log, purchase records from June 28, 2013 to November 26, 2013, from Smart Source, Cardinal, and Valley Wholesale, and drug usage reports from June 28, 2013 to November 26, 2013, for each controlled substance included in the audit.

33. On or about May 30, 2014, C. H. sent HD Smith and Valley Wholesaler requests for copies of records of purchases, sales, returns, and credits for certain products sold to or purchased from PCC for the time period from June 28, 2013 through November 26, 2013.

34. On or about June 2, 2014, C. H. received copies of purchase records from HD Smith. C. H. found that the purchase record data corresponded to the data from PCC's audit.

35. On or about June 5, 2014, C. H. received copies of purchase records from Valley Wholesaler. C. H. reviewed the purchase data twice for accuracy and compared it to the purchase data reported in PCC's audit. C. H. found no discrepancies.

36. On or about June 20, 2014, C. H. used the documents she received from PCC, including the inventory records, purchase records, and dispensing records, to verify their audit results for all drugs which showed a significant loss, as well as oxycodone IR (all strengths), methadone 5 mg, methylphenidate 36 mg, and oxycodone/acetaminophen 5/325 mg and 10/325. C. H. found no discrepancies. C. H. then used the purchase records she received from HD Smith and Valley Wholesaler to independently verify selected PCC audit entries for the

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hydrocodone/acetaminophen products with a significant loss. C. H. found no discrepancies. The audit conducted by PCC revealed the following losses as verified by C. H.:

Drug and Strength	Reported Loss (Units) for Audit Period from 06/28/2013 – 11/26/2013	% of Acquisition
hydrocodone/acetaminophen 10/325 mg	14,706	34.2
hydrocodone/acetaminophen 10/500 mg	204	40.8
hydrocodone/acetaminophen 7.5/325 mg	911	13.6
hydrocodone/acetaminophen 7.5/500 mg	614.5	61.4
hydrocodone/acetaminophen 7.5/750 mg	751	150
oxycodone/acetaminophen 10/325 mg	141	3.8
methadone 5 mg	100	8.3
methylphenidate 36 mg	30	33

CAUSE FOR DISCIPLINE

(Violations of the Pharmacy Law and State Laws and Regulations Governing Pharmacy)

37. Respondents PCC and Stange are subject to disciplinary action pursuant to Code section 4301, subdivision (o), for unprofessional conduct, in that Respondents violated or attempted to violate, directly or indirectly, assisted in or abetted the violation of, or conspired to violate provisions or terms of the Pharmacy Law (Bus. & Prof. Code § 4300, et seq.) and state laws and regulations governing pharmacy, as follows:

a. On or about August 29, 2013, September 14, 2013, and October 2, 2013, Respondents PCC and Stange authorized or permitted pharmacy technician C. L. to dispense refills of RX# 1326725, for 240 tablets of the controlled substance hydrocodone/acetaminophen 10/325 mg, for patient J. M. when, in fact, the physician's assistant who issued the original prescription had not authorized any refills, in violation of Code section 4063.

b. Respondents PCC and Stange failed to maintain on their premises and/or have available for inspection by Board inspector C. H. the original prescription for RX# 1326725 issued for patient J. M., as set forth in paragraphs 30 and 31 above, in violation of Code section 4105.

c. On and between June 28, 2013 and November 26, 2013, Respondents PCC and Stange failed to maintain or ensure the security of the prescription department and/or include

provisions for effective control against theft or diversion of dangerous drugs and devices, resulting in a significant loss of controlled substances, as set forth in paragraph 36 above, in violation of Regulation 1714, subdivision (d).

d. On and between January 18, 2013 and June 27, 2013, Respondent Stange failed to maintain or ensure the security of the prescription department and/or include provisions for effective control against theft or diversion of dangerous drugs and devices, resulting in a significant loss of controlled substances, as set forth in paragraph 28 above, in violation of Regulation 1714, subdivision (d).

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 51484, issued to PCC Ventures LLC, doing business as Pharmacy Care Concepts;

2. Revoking or suspending Pharmacist License Number RPH 28242, issued to Stephen L. Stange;

3. Ordering PCC Ventures LLC, doing business as Pharmacy Care Concepts, and Stephen L. Stange to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 9/12/15

Virginia Herold

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

SA2014117593