

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

In the Matter of the Accusation Against:

**KAISER PERMANENTE CORP.,  
DBA KAISER PERMANENTE  
PHARMACY #833  
3800 Dale Rd.  
P.O Box 577680  
Modesto, CA 95357**

**Pharmacy Permit Number PHY 46384**

**And**

**DARIN L. SISE, RPH  
Pharmacist-In-Charge  
1513 Old Farm Road  
Modesto, CA 95357**

**Pharmacist Permit Number RPH 43429**

Respondents.

Case No. 5533

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

**(KAISER PERMANENTE CORP., DBA  
KAISER PERMANENTE PHARMACY  
#833)**

**DECISION AND ORDER**

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

This Decision shall become effective at 5:00 p.m. on November 28, 2016.

It is so ORDERED on October 27, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



\_\_\_\_\_  
Deborah Veale, R.Ph.  
Board Vice President

1 KAMALA D. HARRIS  
Attorney General of California  
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Supervising Deputy Attorney General  
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8

9  
10 **BEFORE THE  
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DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

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Case No. 5533

12 **KAISER PERMANENTE CORP.,  
DBA KAISER PERMANENTE  
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3800 Dale Rd.  
14 P. O. Box 577680  
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**(KAISER PERMANENTE CORP., DBA  
KAISER PERMANENTE PHARMACY  
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15 **Pharmacy Permit Number PHY 46384**

16 **And**

17 **DARIN L. SISE, RPH  
18 Pharmacist-In-Charge  
1513 Old Farm Rd.  
19 Modesto, CA 95357**

20 **Pharmacist Permit Number RPH 43429**

21 Respondents:

22  
23 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-  
24 entitled proceedings that the following matters are true:

25 **PARTIES**

26 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy  
27 ("Board"), Department of Consumer Affairs. She brought this action solely in her official  
28

1 capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of  
2 California, by Leslie A. Burgermyer, Deputy Attorney General.

3 2. Respondent Kaiser Permanente Corp. doing business as Kaiser Permanente Pharmacy  
4 #833 ("Respondent") is represented in this proceeding by attorney John A. Gilbert, Jr., Esq.,  
5 whose address is John A. Gilbert, Jr., Esq., Hyman, Phelps & McNamara, PC, 700 13th Street,  
6 NW, Washington, DC 20005, and by Herb L. Weinberger, Esq., whose address is Herb L.  
7 Weinberger, Esq., Fenton Law Group, LLP, 1990 S. Bundy Drive, Suite 777, Los Angeles, C  
8 90025.

9 3. On or about April 17, 2003, the Board issued Pharmacy Permit No. PHY 46384 to  
10 Kaiser Permanente Corp., doing business as Kaiser Permanente Pharmacy #833, ("Respondent").  
11 The Pharmacy Permit was in full force and effect at all times relevant to the charges brought in  
12 Accusation No. 5533 and will expire on November 1, 2016, unless renewed.

#### 13 JURISDICTION

14 4. Accusation No. 5533 was filed before the Board and is currently pending against  
15 Respondent. The Accusation and all other statutorily required documents were properly served  
16 on Respondent on March 7, 2016. Respondent timely filed its Notice of Defense contesting the  
17 Accusation.

18 5. A true and correct copy of Accusation No. 5533 is attached hereto, marked Exhibit A,  
19 and incorporated herein by reference.

#### 20 ADVISEMENT AND WAIVERS

21 6. Respondent has carefully read, fully discussed with counsel, and understands the  
22 charges and allegations in Accusation No. 5533. Respondent has also carefully read, fully  
23 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
24 Order.

25 7. Respondent is fully aware of its legal rights in this matter, including the right to a  
26 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
27 its own expense; the right to confront and cross-examine the witnesses against it; the right to  
28 present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel

1 the attendance of witnesses and the production of documents; the right to reconsideration and  
2 court review of an adverse decision; and all other rights accorded by the California  
3 Administrative Procedure Act and other applicable laws.

4 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
5 every right set forth above.

6 CULPABILITY

7 9. Respondent understands and agrees that the charges and allegations in Accusation  
8 No. 5533, if proven at a hearing, constitute cause for imposing discipline of Respondent's  
9 Pharmacy Permit No. PHY 46384.

10 10. For the purpose of resolving the Accusation without the expense and uncertainty of  
11 further proceedings, Respondent agrees that, at a hearing, Complaint could establish a factual  
12 basis for the charges and allegations in the Accusation, and that Respondent hereby gives up its  
13 right to contest those charges and allegations.

14 10. Respondent agrees that its Pharmacy Permit No. PHY 46384 is subject to discipline  
15 and it agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order  
16 below.

17 CONTINGENCY

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

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- 1            A plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
2           criminal complaint, information or indictment  
3            A conviction of any crime  
4            Discipline, citation, or other administrative action filed by any state or federal agency  
5           which involves Respondent's Pharmacy Permit No. PHY 46384 or which is related to  
6           the practice of pharmacy or the manufacturing, obtaining, handling or distributing,  
7           billing, or charging for any drug, device or controlled substance.

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

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

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

24          5.    **Cooperate with Board Staff.** Respondent owner shall cooperate with the Board's  
25          inspection program and with the Board's monitoring and investigation of Respondent's  
26          compliance with the terms and conditions of their probation. Failure to cooperate shall be  
27          considered a violation of probation.

28          ///

1           **6. Reimbursement of Board Costs.** As a condition precedent to successful completion  
2 of probation, Respondent owner shall pay to the Board its costs of investigation and prosecution  
3 in the amount of \$5,732.30 payable under terms to be determined by the Board or its designee.  
4 The filing of bankruptcy by Respondent owner shall not relieve Respondent of their responsibility  
5 to reimburse the Board its costs of investigation and prosecution.

6           **7. Probation Monitoring Costs.** Respondent owner shall pay any costs associated with  
7 probation monitoring as determined by the Board each and every year of probation. Such costs  
8 shall be payable to the Board on a schedule as directed by the Board or its designee. Failure to  
9 pay such costs by the deadline(s) as directed shall be considered a violation of probation.

10           **8. Status of License.** Respondent owner shall, at all times while on probation, maintain  
11 current licensure with the Board. If Respondent owner submits an application to the Board, and  
12 the application is approved, for a change of location, change of permit or change of ownership,  
13 the Board shall retain continuing jurisdiction over the license, and the Respondent shall remain on  
14 probation as determined by the Board. Failure to maintain current licensure shall be considered a  
15 violation of probation.

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

20           **9. License Surrender While on Probation and/or Suspension.** Following the  
21 effective date of this decision, should Respondent owner discontinue business, Respondent owner  
22 may tender the premises license to the Board for surrender. The Board or its designee shall have  
23 the discretion whether to grant the request for surrender or take any other action it deems  
24 appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent  
25 will no longer be subject to the terms and conditions of probation.

26           Upon acceptance of the surrender, Respondent owner shall relinquish the premises wall and  
27 renewal license to the Board within ten (10) days of notification by the Board that the surrender is  
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1 accepted. Respondent owner shall further submit a completed Discontinuance of Business form  
2 according to Board guidelines and shall notify the Board of the records inventory transfer.

3 Respondent owner shall also, by the effective date of this decision, arrange for the  
4 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written  
5 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that  
6 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating  
7 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five  
8 (5) days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a  
9 copy of the written notice to the Board. For the purposes of this provision, "ongoing patients"  
10 means those patients for whom the pharmacy has on file a prescription with one (1) or more  
11 refills outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty  
12 (60) days.

13 Respondent owner may not apply for any new licensure from the Board for three (3) years  
14 from the effective date of the surrender. Respondent owner shall meet all requirements applicable  
15 to the license sought as of the date the application for that license is submitted to the Board.

16 Respondent owner further stipulates that he or she shall reimburse the Board for its costs of  
17 investigation and prosecution prior to the acceptance of the surrender.

18 10. **Notice to Employees.** Respondent shall, upon or before the effective date of this  
19 Decision, ensure that all employees involved in permit operations are made aware of all the terms  
20 and conditions of probation, either by posting a notice of the terms and conditions, circulating  
21 such notice, or both. If the notice required by this provision is posted, it shall be posted in a  
22 prominent place and shall remain posted throughout the probation period. Respondent owner  
23 shall ensure that any employees hired or used after the effective date of this decision are made  
24 aware of the terms and conditions of probation by posting a notice, circulating a notice, or both.  
25 Additionally, Respondent owner shall submit written notification to the Board, within fifteen (15)  
26 days of the effective date of this decision, that this term has been satisfied. Failure to submit such  
27 notification to the Board shall be considered a violation of probation.

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

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

11 12. **Posted Notice of Probation.** Respondent owner shall prominently post a probation  
12 notice provided by the Board in a place conspicuous and readable to the public. The probation  
13 notice shall remain posted during the entire period of probation.

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

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

19 13. **Violation of Probation.** If a Respondent owner has not complied with any term or  
20 condition of probation, the Board shall have continuing jurisdiction over Respondent license, and  
21 probation shall be automatically extended until all terms and conditions have been satisfied or the  
22 Board has taken other action as deemed appropriate to treat the failure to comply as a violation of  
23 probation, to terminate probation, and to impose the penalty that was stayed.

24 If Respondent owner violates probation in any respect, the Board, after giving Respondent  
25 owner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary  
26 order that was stayed. Notice and opportunity to be heard are not required for those provisions  
27 stating that a violation thereof may lead to automatic termination of the stay and/or revocation of  
28 the license. If a petition to revoke probation or an accusation is filed against Respondent during

1 probation, the Board shall have continuing jurisdiction and the period of probation shall be  
2 automatically extended until the petition to revoke probation or accusation is heard and decided.

3 14. **Completion of Probation.** Upon written notice by the Board or its designee  
4 indicating successful completion of probation, Respondent license will be fully restored.

5 15. **Community Services Program.** Within sixty (60) days of the effective date of this  
6 decision, Respondent owner shall submit to the Board or its designee, for prior approval, a  
7 community service program in which Respondent shall provide free health-care related services  
8 to a community or charitable facility or agency valuing \$10,000.00 in services such as  
9 immunizations, sharps disposal containers, brown bags, etc.

10 Within thirty (30) days of Board approval thereof, Respondent owner shall submit  
11 documentation to the Board demonstrating commencement of the community service program.  
12 Respondent owner shall report on progress with the community service program in the quarterly  
13 reports.

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

16 **ACCEPTANCE**

17 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
18 discussed it with my attorney, John A. Gilbert, Jr., Esq., and Herb L. Weinberg, Esq. I under-  
19 stand the stipulation and the effect it will have on Pharmacy Permit Number PHY 46384. I enter  
20 into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently,  
21 and agree to be bound by the Decision and Order of the Board of Pharmacy.

22  
23 DATED: 8/23/16


24   
25 For: KAISER PERMANENTE CORP., DBA KAISER  
PERMANENTE PHARMACY #833  
Respondent

26 We have read and fully discussed with Respondent Kaiser Permanente Corp., doing  
27 business as Kaiser Permanente Pharmacy #833, the terms and conditions and other matters  
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contained in the above Stipulated Settlement and Disciplinary Order. We approve its form and content.

DATED: 8/23/2016

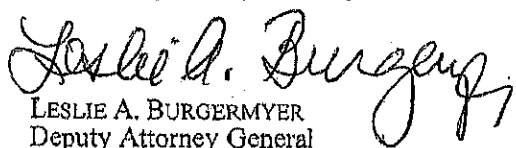
  
HERB L. WEINBERG, ESQ.  
JOHN A. GILBERT, JR., ESQ.  
Attorneys for Respondent

ENDORSEMENT

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

Dated: 8-23-2016

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

  
LESLIE A. BURGERMYER  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**

**Accusation No. 5533**

1 KAMALA D. HARRIS  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 LESLIE A. BURGERMYER  
Deputy Attorney General  
4 State Bar No. 117576  
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7 E-mail: Leslie.Burgermyer@doj.ca.gov  
*Attorneys for Complainant*

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14 P. O. Box 577680  
Modesto, CA 95357

**ACCUSATION**

15 Pharmacy Permit Number PHY 46384

16 And

17 **DARIN L. SISE, RPH**  
18 **Pharmacist-In-Charge**  
P. O. Box 578987  
19 Modesto, CA 95357

20 **Pharmacist Permit Number RPH 43429**

21 Respondents.

22 Complainant alleges:

23 **PARTIES**

- 24 1. Virginia Herold ("Complainant") brings this Accusation solely in her official  
25 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.  
26 2. On or about April 17, 2003, the Board of Pharmacy, Department of Consumer  
27 Affairs, ("Board") issued Pharmacy Permit Number PHY 46384 to Kaiser Permanente Corp.,  
28 doing business as Kaiser Permanente Pharmacy #833, ("Respondent Kaiser"). The Pharmacy

ACCUSATION

1 Permit was in full force and effect at all times relevant to the charges brought herein and will  
2 expire on November 1, 2016, unless renewed.

3 3. On or about July 25, 1990, the Board issued Pharmacist Permit Number RPH 43429  
4 Darin L. Sise ("Respondent Sise"). The Pharmacist Permit was in full force and effect at all times  
5 relevant to the charges brought herein and will expire on March 31, 2018, unless renewed. From  
6 November 21, 2010, to June 20, 2014, Respondent Sise was the Pharmacist-in-Charge of Kaiser  
7 Permanente Corp., doing business as Kaiser Permanente Pharmacy #833, within the meaning of  
8 Business and Professions Code section 4113.

9 4. As used herein, "Respondents" shall collectively refer to Respondent Kaiser and  
10 Respondent Sise.

### 11 JURISDICTION

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

15 6. Section 4300 of the Code states, in pertinent part:

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

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

19 (1) Suspending judgment.

20 (2) Placing him or her upon probation.

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

23 (4) Revoking his or her license.

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

25 7. Section 4300.1 of the Code states:

26 The expiration, cancellation, forfeiture, or suspension of a board-issued  
27 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  
28 a licensee shall not deprive the board of jurisdiction to commence or proceed with

1 any investigation of, or action or disciplinary proceeding against, the licensee or to  
2 render a decision suspending or revoking the license.

### 3 STATUTORY PROVISIONS

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

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

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

12 9. Section 4022 of the Code states

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

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

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

19 10. Code section 4081 states, in pertinent part:

20 (a) All records of manufacture and of sale, acquisition, receipt, shipment, or  
21 disposition of dangerous drugs or dangerous devices shall be at all times during  
22 business hours open to inspection by authorized officers of the law, and shall be  
23 preserved for at least three years from the date of making. A current inventory shall  
24 be kept by every manufacturer, wholesaler, third-party logistics provider, pharmacy,  
25 veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian,  
26 laboratory, clinic, hospital, institution, or establishment holding a currently valid  
27 and unrevoked certificate, license, permit, registration, or exemption under Division  
28 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4  
(commencing with Section 16000) of Division 9 of the Welfare and Institutions  
Code who maintains a stock of dangerous drugs or dangerous devices.

11. Code section 4105 states:

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

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

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

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

7 12. Code section 4113 states, in pertinent part:

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

### 11 REGULATORY PROVISIONS

12 13. California Code of Regulations, title 16, section 1714 states, in pertinent part:

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

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

### 22 DRUGS

23 14. **Hydrocodone/APAP 10/325mg**, the generic name for the brand name Norco, is a  
24 Schedule II controlled substance as designated by Health and Safety Code section 11055,  
25 subdivision (b)(1)(I), and a dangerous drug within the meaning of Code section 4022. The drug  
26 contains a combination of Acetaminophen (a pain reliever that increases the effects of  
27 Hydrocodone) and Hydrocodone (an opioid pain medication) and is used to treat pain.

28 15. **Zolpidem**, a generic name for the brand Ambien, is a Schedule IV controlled  
substance as designated by Health and Safety Code section 11057, subdivision (d)(32), and a  
dangerous drug within the meaning of Code section 4022. The drug is a sedative used to treat  
insomnia.

### 4 COST RECOVERY

16. 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 **BACKGROUND**

4 17. On or about December 6, 2013, Respondent Sise discovered a low inventory of  
5 Hydrocodone/APAP 10/325 mg on Respondent Kaiser's drug shelf; the shelf had been full the  
6 previous night.

7 18. From on or about December 7 through 9, 2013, Respondent Kaiser's internal  
8 investigation and surveillance disclosed that janitor A.G. was stealing the Hydrocodone/APAP  
9 10/325 mg from the shelves of Respondent Kaiser. A.G. confessed he had been stealing the drug  
10 for the past six months for self-use and for supplying to his friends. A.G. was terminated on or  
11 about January 6, 2014. Respondents' internal investigation revealed a shortage of 64,460 tablets  
12 of Hydrocodone/ APAP 10/325mg for the period of June 27, 2013, to December 10, 2013.

13 19. On or about January 9, 2014, Respondents notified the Board that Respondent  
14 Pharmacy had experienced a loss of 64,460 tablets of Hydrocodone/APAP 10/325mg. On or  
15 about May 7, 2014, Respondent Kaiser submitted an amended report of loss of controlled  
16 substances indicating the amended loss of 77,115 tablets of Hydrocodone/APAP 10/325mg.

17 20. From on or about January 14, 2014, through May 13, 2015, the Board's assigned  
18 inspector conducted an investigation of Respondents reported drug loss.

19 21. On or about August 27, 2014, the inspector received Respondent's acquisition and  
20 disposition records for Hydrocodone/APAP 10/325mg for the period of March 17, 2013 to  
21 December 9, 2103. Based upon those records, the inspector's audit results concluded that  
22 Respondents' actual shortage of Hydrocodone/APAP 10/325 mg was 75,266 tablets.

23 22. On or about May 13, 2015, the Board issued a notice of non-compliance to  
24 Respondent Kaiser and Respondent Sise due to their failure to maintain their dangerous drugs in a  
25 safe and secure manner and failure to have records of disposition to account for the inventory  
26 shortage of 75,266 tablets of Hydrocodone/APAP 10/325 mg.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Dangerous Drugs in Safe and Secure Manner)**

3 23. Respondent Kaiser is subject to disciplinary action under Code sections 4300 and  
4 4301, subdivisions (j) and (o), in conjunction with California Code of Regulations, title 16,  
5 section 1714, subdivision (b), in that Respondent Kaiser failed to maintain its facilities, space,  
6 fixtures, and equipment so that drugs in its stock were safely and properly prepared, maintained,  
7 secured and distributed. Respondent Kaiser's failures resulted in the loss of 75,266 tablets of the  
8 dangerous drug Hydrocodone/ APAP 10/325mg as set forth in paragraphs 17 through 22, above,  
9 incorporated herein by reference.

10 24. Respondent Sise, the Pharmacist-in-Charge, is subject to disciplinary action sections  
11 4300 and 4300.1, subdivisions (j) and (o), in conjunction with California Code of Regulations,  
12 title 16, section 1714, subdivision (d), in that Respondent Sise failed to secure the prescription  
13 department of Respondent Kaiser and failed to provide for the effective control against theft or  
14 diversion of dangerous drugs resulting in the loss of 75,266 tablets of Hydrocodone/APAP  
15 10/325mg as set forth in paragraphs 17 through 22, above, incorporated herein by reference.

16 **SECOND CAUSE FOR DISCIPLINE**

17 **(Failure to Maintain Records of Disposition of Dangerous Drugs)**

18 25. Respondent Kaiser and Respondent Sise, the Pharmacist-in-Charge, are subject to  
19 disciplinary action under Code sections 4300 and 4300.1, subdivisions (j) and (o), in conjunction  
20 with Code sections 4081, subdivision (a), and 4105, in that they failed to maintain and preserve  
21 all records of acquisition, disposition, and current inventory of dangerous drugs which resulted in  
22 their failure to have records of disposition to account for an inventory shortage of 75,266 tablets  
23 of the dangerous drug Hydrocodone/APAP 10/325mg as set forth in paragraphs 17 through 22,  
24 above, incorporated herein by reference.

25 **DISCIPLINARY CONSIDERATION**

26 26. In determining the level of discipline to be imposed on Respondent Kaiser,  
27 Complainant respectfully requests that the following be considered:  
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