

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

In the Matter of the Accusation Against:

**THE MEDICINE SHOPPE  
PETER K. KWOK, PARTNER  
CHERYL L. CHIN, PARTNER  
CHERYL KWOK,  
aka CHERYL CHIN KWOK,  
PHARMACIST-IN-CHARGE  
3507 W. Walnut Avenue  
Visalia, CA 93277**

**Pharmacy License No. PHY 40626**

**and**

**CHERYL CHIN KWOK  
3507 W. Walnut Avenue  
Visalia, CA 93277**

**Pharmacist License No. RPH 43606**

Respondents.

Case No. 6013

OAH No. 2017100801

**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 May 24, 2018.

It is so ORDERED on April 24, 2018.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

1 XAVIER BECERRA  
Attorney General of California  
2 DAVID E. BRICE  
Supervising Deputy Attorney General  
3 PATRICIA WEBBER HEIM  
Deputy Attorney General  
4 State Bar No. 230889  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-7519  
Facsimile: (916) 322-8288  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

12 **THE MEDICINE SHOPPE**  
13 **PETER K. KWOK, PARTNER**  
**CHERYL L. CHIN, PARTNER**  
14 **CHERYL KWOK,**  
aka **CHERYL CHIN KWOK,**  
15 **PHARMACIST-IN-CHARGE**  
**3507 W. Walnut Avenue**  
**Visalia, CA 93277**

16 **Pharmacy Permit No. PHY 40626**

17 **and**

18 **CHERYL CHIN KWOK**  
19 **3507 W. Walnut Avenue**  
**Visalia, CA 93277**

20 **Pharmacist License No. RPH 43606**

21 Respondents.

Case No. 6013

OAH No. 2017100801

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

**FOR RESPONDENT THE MEDICINE  
SHOPPE ONLY**

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

26 PARTIES

- 27 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy

1 (Board). She brought this action solely in her official capacity and is represented in this matter by  
2 Xavier Becerra, Attorney General of the State of California, by Patricia Webber Heim, Deputy  
3 Attorney General.

4 2. Respondent The Medicine Shoppe; Peter K. Kwok, Partner; Cheryl L. Chin, Partner;  
5 Cheryl Chin Kwok (Respondent) is represented in this proceeding by attorney Ivan Petrzelka,  
6 whose address is: Ivan Petrzelka  
7 California Pharmacy Lawyers  
8 Law office of Tony J. Park, Inc.  
9 2855 Michelle Drive, Suite 180  
10 Irvine, CA 92606-1027

11 3. On or about January 4, 1995, the Board issued Pharmacy Permit No. PHY 40626 to  
12 The Medicine Shoppe; Peter K. Kwok, Partner; Cheryl L. Chin, Partner; Cheryl Chin Kwok  
13 (Respondent). The Pharmacy Permit was in full force and effect at all times relevant to the  
14 charges brought in Accusation No. 6013, and will expire on January 1, 2019, unless renewed.

#### 15 JURISDICTION

16 4. Accusation No. 6013 was filed before the Board, and is currently pending against  
17 Respondent. The Accusation and all other statutorily required documents were properly served  
18 on Respondent on July 18, 2017. Respondent timely filed its Notice of Defense contesting the  
19 Accusation.

20 5. A copy of Accusation No. 6013 is attached as exhibit A and incorporated herein by  
21 reference.

#### 22 ADVISEMENT AND WAIVERS

23 6. Respondent has carefully read, fully discussed with counsel, and understands the  
24 charges and allegations in Accusation No. 6013. Respondent has also carefully read, fully  
25 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
26 Order.

27 7. Respondent is fully aware of its legal rights in this matter, including the right to a  
28

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

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

8 CULPABILITY

9 9. Respondent understands and agrees that the charges and allegations in Accusation  
10 No. 6013, if proven at a hearing, constitute cause for imposing discipline upon its Pharmacy  
11 Permit License No. 40626. Respondent hereby gives up its right to contest those charges.

12 10. For the purpose of resolving the Accusation without the expense and uncertainty of  
13 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual  
14 basis for the charges in the Accusation and that those charges constitute cause for discipline.  
15 Respondent hereby gives up its right to contest that cause for discipline exists based on those  
16 charges.

17 11. Respondent agrees that its Pharmacy Permit is subject to discipline and they agree to  
18 be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

19 CONTINGENCY

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

28 ///

1 and the Board shall not be disqualified from further action by having considered this matter.

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

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

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

14 **DISCIPLINARY ORDER**

15 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 40626 issued to Respondent  
16 The Medicine Shoppe; Peter K. Kwok, Partner; Cheryl L. Chin, Partner; Cheryl Chin Kwok is  
17 revoked. However, the revocation is stayed and Respondent is placed on probation for five (5)  
18 years on the following terms and conditions.

19 1. **Obey All Laws**

20 Respondent owner shall obey all state and federal laws and regulations.

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

- 23  an arrest or issuance of a criminal complaint for violation of any provision of the  
24 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
25 substances laws  
26  a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
27 criminal complaint, information or indictment  
28  a conviction of any crime

1         discipline, citation, or other administrative action filed by any state or federal agency  
2                which involves respondent's pharmacy permit license or which is related to the  
3                practice of pharmacy or the manufacturing, obtaining, handling or distributing,  
4                billing, or charging for any drug, device or controlled substance.

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

6        **2. Report to the Board**

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

15        **3. Interview with the Board**

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

21        **4. Cooperate with Board Staff**

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

25        **5. Reimbursement of Board Costs**

26        As a condition precedent to successful completion of probation, respondent owner shall pay  
27        to the Board, jointly and severally with Respondent Cheryl Chin Kwok, its costs of investigation  
28

1 and prosecution in the amount of \$18,000.00. Respondent owner shall make said payments  
2 according to a payment plan approved by the Board. There shall be no deviation from this  
3 schedule absent prior written approval by the board or its designee. Failure to pay costs by the  
4 deadline(s) as directed shall be considered a violation of probation.

5 The filing of bankruptcy by respondent owner shall not relieve respondent of their  
6 responsibility to reimburse the board its costs of investigation and prosecution.

7 **6. Probation Monitoring Costs**

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

12 **7. Status of License**

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

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

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

24 Following the effective date of this decision, should respondent owner discontinue  
25 business, respondent owner may tender the premises license to the board for surrender. The  
26 board or its designee shall have the discretion whether to grant the request for surrender or take  
27 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of  
28

1 the license, respondent will no longer be subject to the terms and conditions of probation.

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

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

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

19 Respondent owner further stipulates that he or she shall reimburse the board for its costs of  
20 investigation and prosecution prior to the acceptance of the surrender.

21 **9. Notice to Employees**

22 Respondent owner shall, upon or before the effective date of this decision, ensure that all  
23 employees involved in permit operations are made aware of all the terms and conditions of  
24 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.  
25 If the notice required by this provision is posted, it shall be posted in a prominent place and shall  
26 remain posted throughout the probation period. Respondent owner shall ensure that any  
27 employees hired or used after the effective date of this decision are made aware of the terms and  
28



1 conditions of probation by posting a notice, circulating a notice, or both. Additionally,  
2 respondent owner shall submit written notification to the board, within fifteen (15) days of the  
3 effective date of this decision, that this term has been satisfied. Failure to submit such  
4 notification to the board shall be considered a violation of probation.

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

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

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

15 **11. Posted Notice of Probation**

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

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

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

24 **12. Violation of Probation**

25 If a respondent owner has not complied with any term or condition of probation, the board  
26 shall have continuing jurisdiction over respondent license, and probation shall be automatically  
27 extended until all terms and conditions have been satisfied or the board has taken other action as  
28

1 deemed appropriate to treat the failure to comply as a violation of probation, to terminate  
2 probation, and to impose the penalty that was stayed.

3 If respondent owner violates probation in any respect, the board, after giving respondent  
4 owner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary  
5 order that was stayed. Notice and opportunity to be heard are not required for those provisions  
6 stating that a violation thereof may lead to automatic termination of the stay and/or revocation of  
7 the license. If a petition to revoke probation or an accusation is filed against respondent during  
8 probation, the board shall have continuing jurisdiction and the period of probation shall be  
9 automatically extended until the petition to revoke probation or accusation is heard and decided.

10 **13. Completion of Probation**

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

13 **14. Community Services Program**

14 Within sixty (60) days of the effective date of this decision, respondent owner shall submit  
15 to the Board or its designee, for prior approval, a community service program in which  
16 respondent shall provide \$10,000 worth of Naloxone to community organizations approved by the  
17 Board.

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

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

24 **15. Consultant Pharmacist Review of Pharmacy Operations**

25 During the period of probation, Respondent shall retain an independent consultant at its  
26 own expense who shall be responsible for reviewing pharmacy operations on a twice per month  
27 basis for compliance by Respondent with state and federal laws and regulations governing the  
28

1 practice of pharmacy. The consultant shall be a pharmacist licensed by and not on probation with  
2 the Board or its designee, for prior approval, within thirty (30) days of the effective date of this  
3 decision. During the period of probation, the Board or its designee retains the discretion to  
4 reduce the frequency of the pharmacist consultant's review of Respondent Pharmacy's  
5 operations. Failure to timely retain, seek approval of, or ensure timely reporting by the consultant  
6 shall be considered a violation of probation.

7 **16. Report of Controlled Substances**

8 Respondent owner shall submit quarterly reports to the board detailing the total acquisition  
9 and disposition of such controlled substances as the board may direct. Respondent owner shall  
10 specify the manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g.,  
11 from a manufacturer, from another retailer, etc.) of such controlled substances. Respondent  
12 owner shall report on a quarterly basis or as directed by the board. The report shall be delivered  
13 or mailed to the board no later than ten (10) days following the end of the reporting period.  
14 Failure to timely prepare or submit such reports shall be considered a violation of probation.

15 **17. Mandatory Training for All Pharmacist Staff**

16 Within six (6) months of the effective date of this Decision, all pharmacist staff of  
17 Respondent Pharmacy shall complete the continuing education course offered jointly by the  
18 Board and the U.S. Drug Enforcement Administration, entitled "CURES, Prescription Drug  
19 Abuse and Preventing Drug Diversion – What a Pharmacist Needs to Know."

20 Failure to timely complete the mandatory training shall be considered a violation of  
21 probation. The period of probation will be automatically extended until such mandatory training  
22 is successfully completed and written proof, in a form acceptable to the Board, is provided to the  
23 Board or its designee.

24 In the event the training described in this term is not offered by the Board within six (6)  
25 months of the effective date of this Order, attendance of the first available session shall satisfy the  
26 requirements of this term without extending the probation. Attendance of training described in  
27 this term between March 10, 2018, and the effective date of this Order shall satisfy the

1 requirements of this term. This term is only applicable to pharmacist(s) currently employed by  
2 Respondent Pharmacy and does not apply to relief personnel who may provide temporary  
3 coverage during the period of probation.

4 ACCEPTANCE

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

10  
11  
12 DATED:

3/9/18



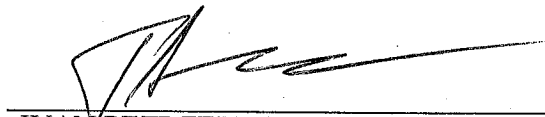
13 THE MEDICINE SHOPPE; PETER K. KWOK,  
14 PARTNER; CHERYL L. CHIN, PARTNER;  
15 CHERYL CHIN KWOK

16 *Respondent*

17 I have read and fully discussed with Respondent The Medicine Shoppe; Peter K. Kwok,  
18 Partner; Cheryl L. Chin, Partner; Cheryl Chin Kwok the terms and conditions and other matters  
19 contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and  
20 content.

21 DATED:

3-9-18



22 IVAN PETRZELKA

23 *Attorney for Respondent*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

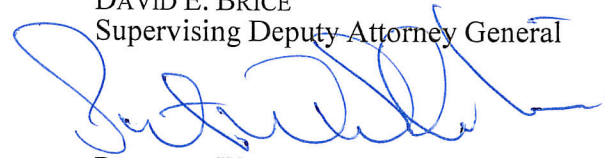
ENDORSEMENT

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

Dated: 3/9/18

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
DAVID E. BRICE  
Supervising Deputy Attorney General



PATRICIA WEBBER HEIM  
Deputy Attorney General  
*Attorneys for Complainant*

SA2016104515  
12989803.doc

**Exhibit A**

**Accusation No. 6013**

1 XAVIER BECERRA  
Attorney General of California  
2 JANICE K. LACHMAN  
Supervising Deputy Attorney General  
3 PATRICIA WEBBER HEIM  
Deputy Attorney General  
4 State Bar No. 230889  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5263  
Facsimile: (916) 322-8288  
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 6013

12 **THE MEDICINE SHOPPE**  
**PETER K. KWOK, PARTNER**  
13 **CHERYL L. CHIN, PARTNER**  
**OWNERS**  
14 **3507 W. Walnut Avenue**  
**Visalia, CA 93277**

**A C C U S A T I O N**

15 **Pharmacy Permit No. PHY 40626**

16 **and**

17 **CHERYL KWOK,**  
18 **aka CHERYL CHIN KWOK,**  
**PHARMACIST-IN-CHARGE**  
19 **3507 W. Walnut Avenue**  
**Visalia, CA 93277**

20 **Pharmacist License No. RPH 43606**

21 Respondents.  
22

23 Complainant alleges:

24 **PARTIES**

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

27 2. On or about January 4, 1995, the Board issued Pharmacy Permit Number PHY 40626  
28 to The Medicine Shoppe ("Respondent The Medicine Shoppe"), with Peter K. Kwok and Cheryl

1 L. Chin as partners and owners. On or about April 4, 2010, Cheryl Kwok, also known as Cheryl  
2 Chin Kwok (“Respondent Kwok”), became the pharmacist-in-charge. The pharmacy permit was  
3 in full force and effect at all times relevant to the charges brought herein and will expire on  
4 January 1, 2018, unless renewed.

5 3. On or about July 31, 1990, the Board issued Pharmacist License Number RPH 43606  
6 to Respondent Kwok. The pharmacist license was in full force and effect at all times relevant to  
7 the charges brought herein and will expire on November 30, 2017, unless renewed.

### 8 JURISDICTION

9 4. This Accusation is brought before the Board under the authority of the following  
10 laws. All section references are to the Business and Professions Code (“Code”) unless otherwise  
11 indicated.

12 5. Code section 4300 states, in pertinent part:

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

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

16 (1) Suspending judgment.

17 (2) Placing him or her upon probation.

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

20 (4) Revoking his or her license.

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

22 6. Code section 4300.1 states:

23 The expiration, cancellation, forfeiture, or suspension of a board-issued  
24 license by operation of law or by order or decision of the board or a court of law, the  
25 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  
26 investigation of, or action or disciplinary proceeding against, the licensee or to render  
a decision suspending or revoking the license.

27 7. Section 4307, subdivision (a), states:

28 Any person who has been denied a license or whose license has been revoked or is  
under suspension, or who has failed to renew his or her license while it was under



1 suspension, or who has been a manager, administrator, owner member, officer,  
2 director, associate, or partner of any partnership, corporation, firm, or association  
3 whose application for a license has been denied or revoked, is under suspension or  
4 has been placed on probation, and while acting as the manager, administrator, owner,  
5 member, officer, director, associate, or partner had knowledge or knowingly  
6 participated in any conduct for which the license was denied, revoked, suspended, or  
7 placed on probation, shall be prohibited from serving as a manager, administrator,  
8 owner, member, officer, director, associate, or partner of a licensee as follows:

- 9
- 10 (1) Where a probationary license is issued or where an existing license is placed on  
11 probation, this prohibition shall remain in effect for a period not to exceed five years.
  - 12 (2) Where the license is denied or revoked, the prohibition shall continue until the license is  
13 issued or reinstated.
- 14

15 .....

16 **STATUTORY AND REGULATORY PROVISIONS**

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

18 The board shall take action against any holder of a license who is guilty  
19 of unprofessional conduct . . . Unprofessional conduct shall include, but is not limited  
20 to, any of the following:

21 .....

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

24 .....

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

27 .....

28 (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 4306.5 states, in pertinent part:

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

(a) Acts or omissions that involve, in whole or in part, the inappropriate  
exercise of his or her education, training, or experience as a pharmacist, whether or  
not the act or omission arises in the course of the practice of pharmacy or the  
ownership, management, administration, or operation of a pharmacy or other entity  
licensed by the board.

1 (b) Acts or omissions that involve, in whole or in part, the failure to  
2 exercise or implement his or her best professional judgment or corresponding  
responsibility with regard to the dispensing or furnishing of controlled substances,  
dangerous drugs, or dangerous devices, or with regard to the provision of services.

3 (c) Acts or omissions that involve, in whole or in part, the failure to  
4 consult appropriate patient, prescription, and other records pertaining to the  
performance of any pharmacy function . . .

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

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

9 A prescription for a controlled substance shall only be issued for a  
10 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  
11 dispensing of controlled substances is upon the prescribing practitioner, but a  
corresponding responsibility rests with the pharmacist who fills the prescription.  
12 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  
13 professional treatment or in legitimate and authorized research; or (2) an order for an  
addict or habitual user of controlled substances, which is issued not in the course of  
14 professional treatment or as part of an authorized narcotic treatment program, for the  
purpose of providing the user with controlled substances, sufficient to keep him or her  
15 comfortable by maintaining customary use.

16 12. Health and Safety Code section 11162.1 states, in pertinent part:

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

19 (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  
20 "void" shall appear in a pattern across the entire front of the prescription.

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

22 . . . .

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

25 (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  
26 following quantities shall appear:

- 27 1-24
- 28 25-49

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 50-74
- 75-100
- 101-150
- 151 and over . . .

....

(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."

....

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

....

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

....

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

13. Health and Safety Code section 11164 states, in pertinent part:

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

(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 . . .

14. Health and Safety Code section 111255 states that "[a]ny drug or device is adulterated if it has been produced, prepared, packed, or held under conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health."

15. Health and Safety Code section 111295 states that "[i]t is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is adulterated."

16. Title 21, Code of Federal Regulations ("CFR"), section 1301.75, subdivision (b), states that "[c]ontrolled substances listed in Schedules II, III, IV, and V shall be stored in a securely locked, substantially constructed cabinet. However, pharmacies and institutional

1 practitioners may disperse such substances throughout the stock of noncontrolled substances in  
2 such a manner as to obstruct the theft or diversion of the controlled substances.”

3 17. Title 16, California Code of Regulations (“CCR”), section 1714 states, in pertinent  
4 part:

5 . . . .

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

9 . . . .

10 (d) Each pharmacist while on duty shall be responsible for the security of  
11 the prescription department, including provisions for effective control against theft or  
diversion of dangerous drugs and devices, and records for such drugs and devices . . .

12 18. Title 16, CCR, section 1761, subdivision (a), states:

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

#### 16 COST RECOVERY

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

#### 21 DRUG CLASSIFICATIONS

22 20. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code  
23 section 11055, subdivision (b)(1)(M), and a dangerous drug pursuant to Code section 4022.

24 Oxycodone is used to treat pain. “Roxicodone” is a brand of oxycodone.

25 21. Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code  
26 section 11057, subdivision (d)(1), and a dangerous drug pursuant to Code section 4022.

27 Alprazolam is used to treat anxiety. “Xanax” is a brand of alprazolam.

28 22. Promethazine with codeine is a Schedule V controlled substance pursuant to Health

1 and Safety Code section 11058, subdivision (c)(1), and a dangerous drug pursuant to Code  
2 section 4022. Promethazine with codeine is used to treat cough. "Phenergan with codeine" is a  
3 brand of promethazine with codeine.

4 23. Hydrocodone/acetaminophen is a Schedule III controlled substance pursuant to  
5 Health and Safety Code section 11056, subdivision (e), and a Schedule II controlled substance  
6 pursuant to Title 21, CFR, section 1308.12, subdivision (b)(1)(vi).<sup>1</sup> Hydrocodone/acetaminophen  
7 is also a dangerous drug pursuant to Code section 4022. Hydrocodone/acetaminophen is used to  
8 treat pain. "Norco" is a brand of hydrocodone/acetaminophen.

9 24. Carisoprodol is a Schedule IV Controlled Substance pursuant to Title 21, CFR,  
10 section 1308.14, subdivision (c)(6), and a dangerous drug pursuant to Code section 4022.  
11 Carisoprodol is used as a muscle relaxant. "Soma" is a brand of carisoprodol.

#### 12 CURES Program

13 25. The Controlled Substance Utilization Review and Evaluation System (CURES)  
14 program was initiated in 1998 and required mandatory monthly pharmacy reporting of dispensed  
15 Schedule II controlled substances. The program was amended in January 2005 to include  
16 mandatory weekly reporting of Schedule II to IV medications. The data is collected statewide  
17 and can be used by healthcare professionals, such as pharmacists and prescribers, to evaluate and  
18 determine whether their patients are utilizing their controlled substances safely and appropriately.

19 26. The component of CURES which is accessible to pharmacists and prescribers is  
20 called the Prescription Drug Monitoring Program (PDMP). Registration for access to the PDMP  
21 has been available since February 2009. The data may be used to aid in determining if a patient  
22 sees multiple prescribers, frequents multiple pharmacies to fill controlled substance prescriptions,  
23 and/or obtains early refills of controlled substance prescriptions.

24 ///

25 ///

26 ///

27 <sup>1</sup>Hydrocodone/acetaminophen was rescheduled to a Schedule II controlled substance  
28 effective October 6, 2014.

**FACTUAL ALLEGATIONS**

1  
2       27. Board Inspector I. T. analyzed CURES data for Respondent The Medicine Shoppe  
3 (“TMS”) and found certain “red flags” or irregularities indicating that various doctors were  
4 potentially issuing prescriptions for controlled substances for other than a legitimate medical  
5 purpose and that TMS was dispensing the drugs indiscriminately; i.e., without exercising its  
6 corresponding responsibility with regard to the dispensing or furnishing of the drugs.

7       28. On or about July 1, 2016, Board Inspectors I. T. and S. K. conducted an inspection at  
8 TMS and were assisted by Respondent Kwok (“Kwok”) and pharmacy technician M. H. The  
9 inspectors observed returned or used blister pack cards containing medications for patient F. W.,  
10 lying in a bin within an open closet. The inspectors asked Kwok about the blister pack cards.  
11 Kwok admitted that the pharmacy takes the cards back from two assisted living facilities when a  
12 patient has a dose change or the prescriber discontinues any of the medications contained inside  
13 the cards. Kwok also admitted that the returned medications which remained the same were re-  
14 dispensed by the pharmacy to the same patient using a new blister pack card.

15       29. Inspector I. T. requested and obtained TMS’ books containing controlled substance  
16 prescription documents, and she and Inspector S. K. pulled certain prescriptions, from the books,  
17 which were identified during I. T.’s review of the pharmacy’s CURES data. Later, the inspectors  
18 noticed M. H. retrieving a Schedule II controlled substance from an unlocked file cabinet. Kwok  
19 stated that she was unaware the cabinet needed to be locked at all times and admitted that it was  
20 only locked at the end of the day. At the conclusion of the inspection, Inspector I. T. requested  
21 that Kwok provide her with the pharmacy’s electronic records of dispensed prescriptions for all  
22 patients and all drugs for the time period from February 1, 2012 to July 1, 2016.

23       30. On or about July 12, 2016 and July 19, 2016, Inspector I. T. received copies of TMS’  
24 electronic dispensing records. CURES searches were conducted for various patients by the  
25 pharmacy and the reports were stapled to the prescription documents, which were collected  
26 during the inspection. The CURES reports were attached to prescriptions issued by R. G., MD  
27 and S. K., MD. Inspector I. T. found that Kwok utilized the PDMP (Prescription Drug  
28 Monitoring Program) to check the dispensing histories of controlled substances of certain

1 patients; however, she failed to appropriately scrutinize the reports for proper spelling of patient  
2 names, and failed to investigate further if patients had multiple addresses, if the records indicated  
3 the patients were doctor or pharmacy shopping; i.e., obtaining prescriptions for the same  
4 controlled substances from different physicians and having them filled at different pharmacies, or  
5 when the report produced no records even though Kwok knew, or should have known, she had  
6 filled controlled substances for those patients in the past several months and a dispensing history  
7 should have come up in her searches.

8 31. Inspector I. T. reviewed records specifically pertaining to prescriptions written by  
9 physician's assistant S. D. R. and doctors S. W., MD, K. T., MD, D. C., MD, R. G., MD, S. D.,  
10 DO, C. A., MD, and S. K. MD. Inspector I. T. determined based on her examination of the  
11 CURES data, the electronic pharmacy records, and the prescription documents that from February  
12 1, 2012 to July 1, 2016, TMS dispensed numerous prescriptions for the controlled substances  
13 oxycodone, alprazolam, promethazine with codeine, hydrocodone/acetaminophen, and  
14 carisoprodol, issued by the above prescribers, without regard to certain irregularities or factors, as  
15 set forth below. Inspector I. T. also found that TMS dispensed controlled substance prescriptions  
16 written by Drs. R. G., D on prescription forms that were not in compliance with the law.

17 **FIRST CAUSE FOR DISCIPLINE**

18 **(Sell, Deliver, Hold, or Offer for Sale Adulterated Drugs)**

19 32. Respondent The Medicine Shoppe is subject to disciplinary action for unprofessional  
20 conduct pursuant to Code section 4301, subdivision (j), in that Respondent sold, delivered, held,  
21 and/or offered for sale drugs that were adulterated, in violation of Health and Safety Code  
22 sections 111295 and 111255, as follows: Respondent took back used blister pack cards  
23 containing medications from assisted living facilities when a patient had a dose change or the  
24 prescriber discontinued a medication contained in the cards. Further, Respondent re-dispensed  
25 the unchanged medications to the same patient using a new blister pack card, as set forth in  
26 paragraph 27 above.

27 ///

28 ///





1 practice. Greater than 90% of each of these prescriber's prescriptions were written for highly  
2 abused controlled substances, such as alprazolam 2 mg, oxycodone 30 mg, promethazine/codeine,  
3 hydrocodone/acetaminophen 10/325 mg and/or carisoprodol 350 mg. Drs. R. G. and C. A.  
4 exclusively wrote prescriptions for alprazolam 2 mg, oxycodone 30 mg, and  
5 promethazine/codeine. Dr. S. D. only wrote prescriptions for oxycodone 30 mg and  
6 promethazine/codeine.

7 2. 100% of the prescriptions written by the above prescribers were paid for with  
8 cash. Further, patients paid cash for high retail cost medications without the financial benefit of  
9 insurance.

10 3. Multiple patients' prescriptions for identical controlled substances, written by  
11 the above prescribers, were filled by the pharmacy around the same time. Prescriptions were  
12 written on the same day, had identical batch numbers, and were either sequential or close in script  
13 number. The prescriptions were either consecutively numbered or very close in number.

14 4. All of the patients of the above prescribers receiving prescriptions for  
15 oxycodone and alprazolam received the highest tablet strength of both drugs, 30 mg and 2 mg  
16 respectively (some patients received two tablets per dose), with no evidence of upward titration  
17 from a lower dose.

18 5. The above prescribers' medical offices were located long distances (over 100  
19 miles in many instances) from The Medicine Shoppe.

20 6. Patients traveled far distances (over 100 miles in many instances) to receive  
21 controlled substance prescriptions from the above prescribers and to have those prescriptions  
22 filled at The Medicine Shoppe.

23 7. Multiple patients of the above prescribers resided at the same address and  
24 received either identical or very similar prescriptions for controlled substances.

25 8. Multiple prescriptions were written by Drs. R. G., S. D., S. P.,  
26 E. S., R. P., and R. A. on prescription forms which contained significant errors and omissions and  
27 were not in compliance with Health and Safety Code section 11162.1, as more particularly set  
28 forth in paragraph 34 below.



1           b.     Prescriptions written by Dr. R. G. and dispensed by the pharmacy on June 23, 2015,  
2     June 24, 2015, June 26, 2015, June 29, 2015, July 25, 2015, July 27, 2015, July 28, 2015, July 31,  
3     2015, and August 1, 2015, did not have a latent, repetitive "void" pattern printed across the entire  
4     front of the prescription forms; did not have a watermark printed on the backside of the  
5     prescription forms consisting of the words "California Security Prescription"; six quantity check  
6     off boxes were included on the prescriptions, but incorrectly stated in the sixth check off box "and  
7     over 151" instead of "151 and over"; the prescription forms did not have an identifying number  
8     assigned to the approved security printer by the Department of Justice; and lot numbers were not  
9     printed on the prescription forms.

10           c.     Prescriptions written by Dr. R. G. and dispensed by the pharmacy on April 5, 2016,  
11     April 11, 2016, April 13, 2016, and April 19, 2016, did not have a latent, repetitive "void" pattern  
12     printed across the entire front of the prescription forms; did not have a watermark printed on the  
13     backside of the prescription forms consisting of the words "California Security Prescription"; and  
14     the prescription forms did not have an identifying number assigned to the approved security  
15     printer by the Department of Justice.

16           d.     A total of 134 prescriptions, written by Dr. R. G. and reviewed by Respondent Kwok,  
17     were not in compliance with Health and Safety Code section 11162.1.

18           **S. D., MD**

19           e.     Prescriptions written by Dr. S. D. and dispensed by the pharmacy on November 7,  
20     2012 and November 19, 2012, did not have a watermark printed on the backside of the  
21     prescription forms consisting of the words "California Security Prescription"; six quantity check  
22     off boxes were included on the prescriptions, but incorrectly stated in the sixth check off box "and  
23     over 151" instead of "151 and over"; the prescription forms did not have an identifying number  
24     assigned to the approved security printer by the Department of Justice; and lot and batch numbers  
25     were not printed on the prescription forms. A total of 66 prescriptions, written by Dr. S. D. and  
26     reviewed by Respondent Kwok, were not in compliance with Health and Safety Code section  
27     11162.1.

28     ///

1           **S. P., MD**

2           f.     Prescriptions written by Dr. S. P. and dispensed by the pharmacy on November 30,  
3 2012 and December 4, 2012, did not have a watermark printed on the backside of the prescription  
4 forms consisting of the words "California Security Prescription"; six quantity check off boxes  
5 were included on the prescriptions, but incorrectly stated in the sixth check off box "151-210"  
6 instead of "151 and over"; the prescription forms did not contain a statement printed on the  
7 bottom that the "Prescription is void if the number of drugs prescribed is not noted"; and lot and  
8 batch numbers were not printed on the prescription forms. A total of 38 prescriptions, written by  
9 Dr. S. P. and reviewed by Respondent Kwok, were not in compliance with Health and Safety  
10 Code section 11162.1.

11           **E. S., MD**

12           g.     Prescriptions written by Dr. E. S. and dispensed by the pharmacy on May 20, 2013  
13 and May 28, 2013, did not have the complete statement printed on the bottom of the forms that  
14 the "Prescription is void if the number of drugs *prescribed* is not noted" (the statement was  
15 included, but the word "prescribed" was missing). Further, there were no check boxes printed on  
16 the prescription forms so that the prescriber may indicate the number of refills ordered (the forms  
17 showed "Refill NR 1 2 3 4 5" without any check boxes). A total of 91 prescriptions, written by  
18 Dr. E. S. and reviewed by Respondent Kwok, were not in compliance with Health and Safety  
19 Code section 11162.1.

20           **R. P., MD**

21           h.     Prescriptions written by Dr. R. P. and dispensed by the pharmacy on December 13,  
22 2012 and January 18, 2013, did not have a watermark printed on the backside of the prescription  
23 forms consisting of the words "California Security Prescription"; six quantity check off boxes  
24 were included on the prescriptions, but incorrectly stated in the sixth check off box "151-over"  
25 instead of "151 and over"; the forms did not have the complete statement printed on the bottom  
26 that the "Prescription is void if the number of drugs *prescribed* is not noted" (the statement was  
27 included, but the word "prescribed" was missing); there were no check boxes printed on the  
28 prescription forms so that the prescriber may indicate the number of refills ordered (the forms

1 showed "Refill NR 1 2 3 4 5" without any check boxes); and the prescription forms did not have  
2 an identifying number assigned to the approved security printer by the Department of Justice. A  
3 total of 22 prescriptions, written by Dr. R. P. and reviewed by Respondent Kwok, were not in  
4 compliance with Health and Safety Code section 11162.1.

5 **R. A., MD**

6 i. Prescriptions written by Dr. R. A. and dispensed by the pharmacy on March 3, 2015,  
7 March 4, 2015, and March 9, 2015, did not have a latent, repetitive "void" pattern printed across  
8 the entire front of the prescription forms; did not have a watermark printed on the backside of the  
9 prescription forms consisting of the words "California Security Prescription"; six quantity check  
10 off boxes were included on the prescriptions, but incorrectly stated in the sixth check off box "and  
11 151+" instead of "151 and over"; the forms did not have the correct statement printed on the  
12 bottom that the "Prescription is void if the number of drugs prescribed is not *noted*" (the  
13 statement was included, but the word "indicated" was used instead of "noted"); there were no  
14 check boxes printed on the prescription forms so that the prescriber may indicate the number of  
15 refills ordered (the forms showed "Refills 0 1 2 3 4 PRN" without any check boxes); the  
16 prescription forms did not have an identifying number assigned to the approved security printer  
17 by the Department of Justice; and lot numbers were not printed on the prescription forms. A total  
18 of 8 prescriptions, written by Dr. R. A. and reviewed by Respondent Kwok, were not in  
19 compliance with Health and Safety Code section 11162.1.

20 **A. A., MD**

21 j. Prescriptions written by Dr. A. A. and dispensed by the pharmacy on April 21, 2016,  
22 April 22, 2016, May 9, 2016, May 11, 2016, May 13, 2016, May 17, 2016, June 8, 2016, June 10,  
23 2016, and June 13, 2016, did not have a watermark printed on the backside of the prescription  
24 forms consisting of the words "California Security Prescription"; there were two sets of different  
25 descriptions of the security features on the backs of the forms (one of them was printed on top of  
26 the other); six quantity check off boxes were included on the prescriptions, but incorrectly stated  
27 in the sixth check off box "Over 151" instead of "151 and over"; there were no check boxes  
28 printed on the prescription forms so that the prescriber may indicate the number of refills ordered

1 (the forms showed "Refills 0-1-2-3-4-5" without any check boxes); and lot numbers were not  
2 printed on the prescription forms. A total of 16 prescriptions, written by Dr. A. A. and reviewed  
3 by Respondent Kwok, were not in compliance with Health and Safety Code section 11162.1.

4 **S. K., MD**

5 k. Respondent Kwok dispensed 33 controlled substance prescriptions (a total of  
6 approximately 2,160 tablets of oxycodone 30 mg, 810 tablets of alprazolam 2 mg and 5,760 ml of  
7 promethazine with codeine) written by Dr. S. K. that were not dated.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Sell, Deliver, Hold, or Offer for Sale Adulterated Drugs)**

10 36. Respondent Kwok is subject to disciplinary action for unprofessional conduct  
11 pursuant to Code section 4301, subdivision (j), in that Respondent, as pharmacist-in-charge of  
12 The Medicine Shoppe, sold, delivered, held, and/or offered for sale drugs that were adulterated, in  
13 violation of Health and Safety Code sections 111295 and 111255, as follows: Respondent took  
14 back used blister pack cards containing medications from assisted living facilities when a patient  
15 had a dose change or the prescriber discontinued a medication contained in the cards. Further,  
16 Respondent re-dispensed the unchanged medications to the same patient using a new blister pack  
17 card, as set forth in paragraph 27 above.

18 **SIXTH CAUSE FOR DISCIPLINE**

19 **(Failure to Maintain Pharmacy, Fixtures, and Equipment  
20 so that Drugs Were Safely and Properly Secured)**

21 37. Respondent Kwok is subject to disciplinary action for unprofessional conduct  
22 pursuant to Code section 4301, subdivisions (o) and (j), in that Respondent, as pharmacist-in-  
23 charge of The Medicine Shoppe, failed to maintain the pharmacy and its facilities, space, fixtures  
24 and/or equipment so that drugs were safely and properly secured, in violation of Title 16, CCR,  
25 section 1714, subdivision (d), and failed to store Schedule II controlled substances in securely  
26 locked, substantially constructed cabinets, in violation of Title 21, CFR, section 1301.75,  
27

28

1 subdivision (b), as follows: Respondent kept the file cabinet where Schedule II controlled  
2 substances were stored unlocked during pharmacy hours.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 **(Excessive Furnishing of Controlled Substances)**

5 38. Respondent Kwok is subject to disciplinary action for unprofessional conduct  
6 pursuant to Code section 4301, subdivision (d), in that Respondent, as pharmacist-in-charge of  
7 The Medicine Shoppe, clearly excessively furnished the controlled substances oxycodone,  
8 alprazolam, promethazine with codeine, hydrocodone/acetaminophen, and carisoprodol, in  
9 violation of Health and Safety Code section 11153, subdivision (a), and dispensed numerous  
10 prescriptions containing significant errors, omissions, irregularities, uncertainties, ambiguities  
11 and/or alterations, in violation of Title 16, CCR, section 1761, subdivision (a), as follows:

12 a. On and between February 1, 2012 and July 1, 2016, Respondent dispensed numerous  
13 prescriptions for the above controlled substances without regard to the following irregularities or  
14 factors:

15 1. Prescribing trends were incongruent with the primary area of practice listed on  
16 the Medical Board of California's website by each prescriber. Physician's assistant S. D. R. and  
17 Dr. S. K. practiced internal medicine, Drs. S. W., D. C., and C. A. practiced general medicine,  
18 and Dr. R. D. practiced family medicine; Drs. K. T. and S. D. did not identify a primary area of  
19 practice. Greater than 90% of each of these prescriber's prescriptions were written for highly  
20 abused controlled substances, such as alprazolam 2 mg, oxycodone 30 mg, promethazine/codeine,  
21 hydrocodone/acetaminophen 10/325 mg and/or carisoprodol 350 mg. Drs. R. G. and C. A.  
22 exclusively wrote prescriptions for alprazolam 2 mg, oxycodone 30 mg, and  
23 promethazine/codeine. Dr. S. D. only wrote prescriptions for oxycodone 30 mg and  
24 promethazine/codeine.

25 2. 100% of the prescriptions written by the above prescribers were paid for with  
26 cash. Further, patients paid cash for high retail cost medications without the financial benefit of  
27 insurance.

28 3. Multiple patients' prescriptions for identical controlled substances, written by

1 the above prescribers, were filled by Respondent Kwok around the same time. Prescriptions were  
2 written on the same day, had identical batch numbers, and were either sequential or close in script  
3 number. The prescriptions were either consecutively numbered or very close in number.

4 4. All of the patients of the above prescribers receiving prescriptions for  
5 oxycodone and alprazolam received the highest tablet strength of both drugs, 30 mg and 2 mg  
6 respectively (some patients received two tablets per dose), with no evidence of upward titration  
7 from a lower dose.

8 5. The above prescribers' medical offices were located long distances (over 100  
9 miles in many instances) from The Medicine Shoppe.

10 6. Patients traveled far distances (over 100 miles in many instances) to receive  
11 controlled substance prescriptions from the above prescribers and to have those prescriptions  
12 filled at The Medicine Shoppe.

13 7. Multiple patients of the above prescribers resided at the same address and  
14 received either identical or very similar prescriptions for controlled substances.

15 8. Multiple prescriptions were written by Drs. R. G., S. D., S. P.,  
16 E. S., R. P., and R. A., on prescription forms which contained significant errors and omissions  
17 and were not in compliance with Health and Safety Code section 11162.1, as more particularly set  
18 forth in paragraph 41 below.

19 b. Respondent failed to assume her corresponding responsibility when she failed to  
20 appropriately scrutinize patients' drug therapy with readily available tools such as the PDMP and  
21 pharmacy records, resulting in the dispensing of controlled substances in certain instances to  
22 patients who engaged in "doctor shopping" and poly-pharmacy activity and to potentially opioid  
23 naïve patients.

24 ///

25 ///

26 ///

27 ///

28 ///



1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Inappropriate Exercise of Respondent's Education,**  
3 **Training, or Experience as a Pharmacist)**

4 39. Respondent Kwok is subject to disciplinary action for unprofessional conduct  
5 pursuant to Code section 4301, as defined by Code section 4306.5, subdivision (a), for  
6 inappropriately exercising her education, training or experience as a pharmacist, as set forth in  
7 paragraph 37 above.

8 **NINTH CAUSE FOR DISCIPLINE**

9 **(Failure to Exercise or Implement Best Professional Judgment**  
10 **or Corresponding Responsibility)-**

11 40. Respondent Kwok is subject to disciplinary action for unprofessional conduct  
12 pursuant to Code section 4301, as defined by Code section 4306.5, subdivision (b), for failing to  
13 exercise or implement her best professional judgment or corresponding responsibility with regard  
14 to the dispensing or furnishing of controlled substances, as set forth in paragraph 37 above.

15 **TENTH CAUSE FOR DISCIPLINE**

16 **(Failure to Consult Appropriate Records)**

17 41. Respondent Kwok is subject to disciplinary action for unprofessional conduct  
18 pursuant to Code section 4301, as defined by Code section 4306.5, subdivision (c), for failing to  
19 consult appropriate records, including, but not limited to, the PDMP and The Medicine Shoppe's  
20 pharmacy records, pertaining to the dispensing or furnishing of controlled substances, as set forth  
21 in paragraph 37 above.

22 **ELEVENTH CAUSE FOR DISCIPLINE**

23 **(Dispensing of Controlled Substances Based on**  
24 **Prescription Forms Not in Compliance with the Law)**

25 42. Respondent Kwok is subject to disciplinary action for unprofessional conduct  
26 pursuant to Code section 4301, subdivision (j), in that Respondent, as pharmacist-in-charge of  
27 The Medicine Shoppe, violated Health and Safety Code section 11164, subdivision (a), when she  
28 dispensed prescriptions for controlled substances based on prescription forms that were not in

1 compliance with Health and Safety Code Section 11162.1, as set forth below. A total of 375  
2 prescriptions for controlled substances (approximately 28,590 tablets of oxycodone 30 mg, 6,150  
3 tablets of alprazolam 2 mg and 67,200 ml of promethazine with codeine) were written on  
4 prescription forms that were not in compliance with the law and dispensed by Respondent.  
5 Respondent Kwok dispensed 33 controlled substance prescriptions (approximately 2,160 tablets  
6 of oxycodone 30 mg, 810 tablets of alprazolam 2 mg, and 5,760 mL of promethazine with  
7 codeine), written by S. K., MD, which were not dated. A total of approximately 30,750 tablets of  
8 oxycodone 30 mg, 6,960 tablets of alprazolam 2 mg and 72,960 ml of promethazine with codeine  
9 were dispensed to patients, who presented invalid controlled substance prescriptions to  
10 Respondent.

11 **R. G., MD**

12 a. Prescriptions written by Dr. R. G. and dispensed by Respondent Kwok on February  
13 25, 2015 and February 27, 2015, did not have a watermark printed on the backside of the  
14 prescription forms consisting of the words "California Security Prescription"; six quantity check  
15 off boxes were included on the prescriptions, but the second check off box incorrectly stated "25-  
16 50" instead of "25-49"; and the lot numbers were not printed on the prescription forms.

17 b. Prescriptions written by Dr. R. G. and dispensed by Respondent Kwok on June 23,  
18 2015, June 24, 2015, June 26, 2015, June 29, 2015, July 25, 2015, July 27, 2015, July 28, 2015,  
19 July 31, 2015, and August 1, 2015, did not have a latent, repetitive "void" pattern printed across  
20 the entire front of the prescription forms; did not have a watermark printed on the backside of the  
21 prescription forms consisting of the words "California Security Prescription"; six quantity check  
22 off boxes were included on the prescriptions, but incorrectly stated in the sixth check off box "and  
23 over 151" instead of "151 and over"; the prescription forms did not have an identifying number  
24 assigned to the approved security printer by the Department of Justice; and lot numbers were not  
25 printed on the prescription forms.

26 c. Prescriptions written by Dr. R. G. and dispensed by Respondent Kwok on April 5,  
27 2016, April 11, 2016, April 13, 2016, and April 19, 2016, did not have a latent, repetitive "void"  
28 pattern printed across the entire front of the prescription forms; did not have a watermark printed

1 on the backside of the prescription forms consisting of the words "California Security  
2 Prescription"; and the prescription forms did not have an identifying number assigned to the  
3 approved security printer by the Department of Justice.

4 d. A total of 134 prescriptions, written by Dr. R. G. and reviewed by Respondent Kwok,  
5 were not in compliance with Health and Safety Code section 11162.1.

6 **S. D., MD**

7 e. Prescriptions written by Dr. S. D. and dispensed by Respondent Kwok on November  
8 7, 2012 and November 19, 2012, did not have a watermark printed on the backside of the  
9 prescription forms consisting of the words "California Security Prescription"; six quantity check  
10 off boxes were included on the prescriptions, but incorrectly stated in the sixth check off box "and  
11 over 151" instead of "151 and over"; the prescription forms did not have an identifying number  
12 assigned to the approved security printer by the Department of Justice; and lot and batch numbers  
13 were not printed on the prescription forms. A total of 66 prescriptions, written by Dr. S. D. and  
14 reviewed by Respondent Kwok, were not in compliance with Health and Safety Code section  
15 11162.1.

16 **S. P., MD**

17 f. Prescriptions written by Dr. S. P. and dispensed by Respondent Kwok on November  
18 30, 2012 and December 4, 2012, did not have a watermark printed on the backside of the  
19 prescription forms consisting of the words "California Security Prescription"; six quantity check  
20 off boxes were included on the prescriptions, but incorrectly stated in the sixth check off box  
21 "151-210" instead of "151 and over"; the prescription forms did not contain a statement printed  
22 on the bottom of the forms that the "Prescription is void if the number of drugs prescribed is not  
23 noted"; and lot and batch numbers were not printed on the prescription forms. A total of 38  
24 prescriptions, written by Dr. S. P. and reviewed by Respondent Kwok, were not in compliance  
25 with Health and Safety Code section 11162.1.

26 **E. S., MD**

27 g. Prescriptions written by Dr. E. S. and dispensed by Respondent Kwok on May 20,  
28 2013 and May 28, 2013, did not have the complete statement printed on the bottom of the forms

1 that the "Prescription is void if the number of drugs *prescribed* is not noted" (the statement was  
2 included, but the word "prescribed" was missing). Further, there were no check boxes printed on  
3 the prescription forms so that the prescriber may indicate the number of refills ordered (the forms  
4 showed "Refill NR 1 2 3 4 5" without any check boxes). A total of 91 prescriptions, written by  
5 Dr. E. S. and reviewed by Respondent Kwok, were not in compliance with Health and Safety  
6 Code section 11162.1.

7 **R. P., MD**

8 h. Prescriptions written by Dr. R. P. and dispensed by Respondent Kwok on December  
9 13, 2012 and January 18, 2013, did not have a watermark printed on the backside of the  
10 prescription forms consisting of the words "California Security Prescription"; six quantity check  
11 off boxes were included on the prescriptions, but incorrectly stated in the sixth check off box  
12 "151-over" instead of "151 and over"; the forms did not have the complete statement printed on  
13 the bottom that the "Prescription is void if the number of drugs *prescribed* is not noted" (the  
14 statement was included, but the word "prescribed" was missing); there were no check boxes  
15 printed on the prescription forms so that the prescriber may indicate the number of refills ordered  
16 (the forms showed "Refill NR 1 2 3 4 5" without any check boxes); and the prescription forms  
17 did not have an identifying number assigned to the approved security printer by the Department  
18 of Justice. A total of 22 prescriptions, written by Dr. R. P. and reviewed by Respondent Kwok,  
19 were not in compliance with Health and Safety Code section 11162.1.

20 **R. A., MD**

21 i. Prescriptions written by Dr. R. A. and dispensed by Respondent Kwok on March 3,  
22 2015, March 4, 2015, and March 9, 2015, did not have a latent, repetitive "void" pattern printed  
23 across the entire front of the prescription forms; did not have a watermark printed on the backside  
24 of the prescription forms consisting of the words "California Security Prescription"; six quantity  
25 check off boxes were included on the prescriptions, but incorrectly stated in the sixth check off  
26 box "and 151+" instead of "151 and over"; the forms did not have the correct statement printed  
27 on the bottom that the "Prescription is void if the number of drugs *prescribed* is not *noted*" (the  
28 statement was included, but the word "indicated" was used instead of "noted"); there were no

1 check boxes printed on the prescription forms so that the prescriber may indicate the number of  
2 refills ordered (the forms showed "Refills 0 1 2 3 4 PRN" without any check boxes); the  
3 prescription forms did not have an identifying number assigned to the approved security printer  
4 by the Department of Justice; and lot numbers were not printed on the prescription forms. A total  
5 of 8 prescriptions, written by Dr. R. A. and reviewed by Respondent Kwok, were not in  
6 compliance with Health and Safety Code section 11162.1.

7 **A. A., MD**

8 j. Prescriptions written by Dr. A. A. and dispensed by Respondent Kwok on April 21,  
9 2016, April 22, 2016, May 9, 2016, May 11, 2016, May 13, 2016, May 17, 2016, June 8, 2016,  
10 June 10, 2016, and June 13, 2016, did not have a watermark printed on the backside of the  
11 prescription forms consisting of the words "California Security Prescription"; there were two sets  
12 of different descriptions of the security features on the backs of the forms (one of them was  
13 printed on top of the other); six quantity check off boxes were included on the prescriptions, but  
14 incorrectly stated in the sixth check off box "Over 151" instead of "151 and over"; there were no  
15 check boxes printed on the prescription forms so that the prescriber may indicate the number of  
16 refills ordered (the forms showed "Refills 0-1-2-3-4-5" without any check boxes); and lot  
17 numbers were not printed on the prescription forms. A total of 16 prescriptions, written by Dr. A.  
18 A. and reviewed by Respondent Kwok, were not in compliance with Health and Safety Code  
19 section 11162.1.

20 **S. K., MD**

21 k. Respondent Kwok dispensed 33 controlled substance prescriptions (a total of  
22 approximately 2,160 tablets of oxycodone 30 mg, 810 tablets of alprazolam 2 mg and 5,760 ml of  
23 promethazine with codeine) written by Dr. S. K. that were not dated.

24 **MATTERS IN AGGRAVATION**

25 43. To determine the degree of discipline to be assessed against Respondents The  
26 Medicine Shoppe and Kwok, if any, Complainant alleges as follows:

27 a. On or about October 26, 2016, the Board issued Citation and Fine No. CI 2015-67954  
28 against Respondent The Medicine Shoppe for violations of Code section 4342, subdivision (a)

1 (actions by the Board to prevent sales of drugs lacking quality or strength) and Title 16, CCR,  
2 section 1716 (variations from a prescription). On or about January 19, 2016, during a Board  
3 inspection, it was discovered that Respondent had expired drugs on the pharmacy shelves to be  
4 dispensed to customers. Further, the pharmacy dispensed lithium to a patient when the  
5 prescription was written for lactulose. The patient took several doses and required  
6 hospitalization. The Board ordered Respondent to pay a fine of \$1,000 by November 25, 2016.  
7 Respondent has failed to pay the citation.

8 b. On or about October 26, 2016, the Board issued Citation and Fine No. CI 2016 72480  
9 against Respondent Kwok for violations of Code section 4342, subdivision (a) (actions by the  
10 Board to prevent sales of drugs lacking quality or strength) and Title 16, CCR, section 1716  
11 (variations from a prescription). On or about January 19, 2016, during a Board inspection, it was  
12 discovered that Respondent, as pharmacist-in-charge of The Medicine Shoppe, had expired drugs  
13 on the pharmacy shelves to be dispensed to customers. Further, Respondent, as pharmacist-in-  
14 charge of The Medicine Shoppe, dispensed lithium to a patient when the prescription was written  
15 for lactulose. The patient took several doses and required hospitalization. The Board ordered  
16 Respondent to pay fines totaling \$2,000 by November 25, 2016. Respondent has failed to pay the  
17 citation.

#### 18 OTHER MATTERS

19 44. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number  
20 PHY 40626 issued to The Medicine Shoppe, The Medicine Shoppe shall be prohibited from  
21 serving a manager, administrator, owner, member, officer, director, associate, or partner of a  
22 licensee for five years if Pharmacy Permit Number PHY 40626 is placed on probation or until  
23 Pharmacy Permit Number PHY is reinstated if it is revoked.

24 45. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number  
25 PHY 40626 issued to The Medicine Shoppe while Peter K. Kwok and/or Cheryl L. Chin (Kwok)  
26 have been a partner and owner and had knowledge of or knowingly participated in any conduct  
27 for which the licensee was disciplined, Peter K. Kwok and Cheryl L. Chin (Kwok) shall be  
28 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,

1 or partner of a licensee for five years if Pharmacy Permit Number PHY 40626 is placed on  
2 probation or until Pharmacy Permit Number PHY 40626 is reinstated if it is revoked.

3 **PRAYER**

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

6 1. Revoking or suspending Pharmacy Permit Number PHY 40626, issued to The  
7 Medicine Shoppe;

8 2. Revoking or suspending Pharmacist License Number RPH 43606, issued to Cheryl  
9 Kwok, also known as Cheryl Chin Kwok;

10 3. Prohibiting The Medicine Shoppe from serving as a manager, administrator, owner,  
11 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
12 Number PHY 40626 is placed on probation or until Pharmacy Permit Number 40626 is reinstated  
13 if Pharmacy Permit Number 40626 issued to The Medicine Shoppe is revoked;

14 4. Prohibiting Peter K. Kwok from serving as a manger, administrator, owner, member,  
15 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number  
16 PHY 40626 is placed on probation or until Pharmacy Permit Number 40626 is reinstated if  
17 Pharmacy Permit Number 40626 issued to The Medicine Shoppe is revoked;

18 5. Prohibiting Cheryl L. Chin (Kwok) from serving as a manger, administrator, owner,  
19 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
20 Number PHY 40626 is placed on probation or until Pharmacy Permit Number 40626 is reinstated  
21 if Pharmacy Permit Number 40626 issued to The Medicine Shoppe is revoked;

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

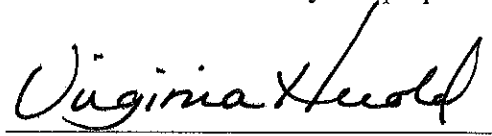
28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

6. Ordering The Medicine Shoppe and Cheryl Kwok, also known as Cheryl Chin Kwok, 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; and

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

DATED: 7/1/17



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

SA2016104515