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7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:
11 **VALLEY WEST MEDICAL PHARMACY**
12 1935 W. Valley Blvd
Alhambra, CA 91803
13 Pharmacy Permit No. PHY 48957

Case No. 4038

FIRST AMENDED ACCUSATION

14 and

15 **BRIAN BYEONGWON MIN**
16 1935 W. Valley Blvd
Alhambra, CA 91803
17 Pharmacist License No. RPH 35960

18 Respondent.

19
20
21 Complainant alleges:

22 **PARTIES**

- 23 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
24 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 25 2. On or about February 14, 2008, the Board of Pharmacy (Board) issued Permit
26 Number PHY 48957 to Brian Byeongwon Min dba Valley West Medical Pharmacy (Respondent
27 VALLEY WEST MEDICAL PHARMACY). Brian Byeongwon Min is and has been the
28 Pharmacist-In-Charge since February 14, 2008. The Pharmacy Permit was in full force and effect

1 at all times relevant to the charges brought herein and will expire on February 1, 2012, unless
2 renewed.

3 3. On or about October 10, 1980, the Board issued Pharmacist License No. RPH 35960
4 to Brian Byeongwon Min (Respondent BRIAN BYEONGWON MIN). The Pharmacist License
5 was in full force and effect at all times relevant to the charges brought herein and will expire on
6 January 31, 2012, unless renewed.

7 JURISDICTION

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

11 STATUTORY PROVISIONS

12 5. Section 118, subdivision (b), of the Code states:

13 “The suspension, expiration, or forfeiture by operation of law of a license issued by a board
14 in the department, or its suspension, forfeiture, or cancellation by order of the board or by order
15 of a court of law, or its surrender without the written consent of the board, shall not, during any
16 period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its
17 authority to institute or continue a disciplinary proceeding against the licensee upon any ground
18 provided by law or to enter an order suspending or revoking the license or otherwise taking
19 disciplinary action against the licensee on any such ground.”

20 6. Section 4006 of the Code states:

21 “The board may adopt regulations consistent with this chapter and Section 111485 of the
22 Health and Safety Code or regulations adopted thereunder, limiting or restricting the furnishing
23 of a particular drug upon a finding that the otherwise unrestricted retail sale of the drug pursuant
24 to Section 4057 is dangerous to the public health or safety.”

25 7. Section 4022 of the Code states

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

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

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

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

1 8. Section 4052 of the Code, subdivision (a)(9) states notwithstanding any other
2 provision of law, a pharmacist may administer immunizations pursuant to a protocol with a
3 prescriber.

4 9. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
5 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
6 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
7 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,
8 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

9 10. Section 4063 of the Code states:

10 “No prescription for any dangerous drug or dangerous device may be refilled except upon
11 authorization of the prescriber. The authorization may be given orally or at the time of giving the
12 original prescription. No prescription for any dangerous drug that is a controlled substance may
13 be designated refillable as needed.”

14 11. Section 4076 of the Code, subdivision (a) states:

15 A pharmacist shall not dispense any prescription except in a container that meets the
16 requirements of state and federal law and is correctly labeled with all of the following:

17 ...

18 (4) The name of the prescriber or, if applicable, the name of certified nurse-midwife who
19 functions pursuant to a standardized procedure or protocol described in Section 2746.51, the
20 nurse practitioner who functions pursuant to a standardized procedure described in Section
21 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1., the
22 naturopathic doctor who functions pursuant to a standardized procedure or protocol described in
23 Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol
24 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of
25 paragraph (5) of, subdivision (a) of Section 4052.

26 12. Section 4076 of the Code, subdivision (a) (11)(A) of the Code states:

27 “Commencing January 1, 2006, the physical description of the dispensed medication, including
28 its color, shape, and any identification code that appears on the tablets or capsules, except as
follows:

(i) Prescriptions dispensed by a veterinarian.

(ii) An exemption from the requirements of this paragraph shall be granted to a new drug
for the first 120 days that the drug is on the market and for the 90 days during which the
national reference file has no description on file.

(iii) Dispensed medications for which no physical description exists in any commercially
available database.”

1 13. Section 4077 of the Code states, in pertinent part, that except as provided in
2 subdivisions (b) and (c) of this section, no person shall dispense any dangerous drug upon
3 prescription except in a container correctly labeled with the information required by Section
4 4076.

5 14. Section 4081 of the Code states:

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

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

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

22 15. Section 4104, subdivision (b) of the Code states:

23 "Every pharmacy shall have written policies and procedures for addressing chemical,
24 mental, or physical impairment, as well as theft, diversion, or self-use of dangerous drugs, among
25 licensed individuals employed by or with the pharmacy."

26 16. Section 4105 of the Code states:

27 "(a) All records or other documentation of the acquisition and disposition of dangerous
28 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.

 "(d) Any records that are maintained electronically shall be maintained so that the
pharmacist-in-charge, the pharmacist on duty if the pharmacist-in-charge is not on duty, or, in the
case of a veterinary food-animal drug retailer or wholesaler, the designated representative on
duty, shall, at all times during which the licensed premises are open for business, be able to
produce a hard copy and electronic copy of all records of acquisition or disposition or other drug
or dispensing-related records maintained electronically.

1 "(e)(1) Notwithstanding subdivisions (a), (b), and (c), the board, may upon written request,
2 grant to a licensee a waiver of the requirements that the records described in subdivisions (a), (b),
3 and (c) be kept on the licensed premises.

4 (2) A waiver granted pursuant to this subdivision shall not affect the board's authority
5 under this section or any other provision of this chapter."

6 17. Section 4301 of the Code, subdivision (g) of the Code states:

7 "...Unprofessional conduct shall include, but is not limited to knowingly making or signing
8 any certificate or other document that falsely represents the existence or nonexistence of a state of
9 facts."

10 18. Section 4306.5 of the Code states:

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

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

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

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

22 (d) Acts or omissions that involve, in whole or in part, the failure to fully maintain and
23 retain appropriate patient-specific information pertaining to the performance of any pharmacy
24 function."

25 19. Section 4342 of the Code states:

26 "(a) The board may institute any action or actions as may be provided by law and that, in its
27 discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not
28 conform to the standard and tests as to quality and strength, provided in the latest edition of the
United States Pharmacopoeia or the National Formulary, or that violate any provision of the
Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division
104 of the Health and Safety Code).

 20. Section 11152 of the Health and Safety Code states:

 "No person shall write, issue, fill, compound, or dispense a prescription that does not
conform to this division."

 21. Section 11153 of the Health and Safety Code states:

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

1 (b) Any person who knowingly violates this section shall be punished by imprisonment
2 pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding
one year, or by a fine not exceeding twenty thousand dollars (\$20,000), or by both that fine and
imprisonment.

3 (c) No provision of the amendments to this section enacted during the second year of the
4 1981-82 Regular Session shall be construed as expanding the scope of practice of a pharmacist.”

5 22. Section 11162.1 of the Health and Safety Code states:

6 “No person shall write, issue, fill, compound, or dispense a prescription that does not
7 conform to this division.

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

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

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

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

16 (4) A feature printed in thermochromic ink.

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

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

20 (7) (A) Six quantity check off boxes shall be printed on the form and the following
21 quantities shall appear:

22 1-24

23 25-49

24 50-74

25 75-100

26 101-150

27 151 and over.

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

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

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

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

(11) The date of origin of the prescription.

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

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

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

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

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

4 (c)

5 (1) A prescriber designated by a licensed health care facility, a clinic specified in
6 Section 1200, or a clinic specified in subdivision (a) of Section 1206 that has 25 or more
physicians or surgeons may order controlled substance prescription forms for use by
prescribers” when treating patients in that facility without the information required in
7 paragraph (9) of subdivision (a) or paragraph(3) of this subdivision.

8 (2) Forms ordered pursuant to this subdivision shall have the name, category of
licensure, license number, and federal controlled substance registration number of the
designated prescriber and the name, address, category of licensure, and license number
9 of the licensed health care facility the clinic specified in Section 1200, or the clinic
specified in subdivision (a) of Section 1206 that has 25 or more physicians or surgeons
10 preprinted on the form.

11 (3) Forms ordered pursuant to this section shall not be valid prescriptions without the
name, category of licensure, license number, and federal controlled substance
12 registration number of the prescriber on the form.

13 (4) (A) Except as provided in subparagraph (B), the designated prescriber shall
maintain a record of the prescribers to whom the controlled substance prescription forms are
14 issued, that shall include the name, category of licensure, license number, federal controlled
substance registration number, and quantity of controlled substance prescription forms issued to
15 each prescriber. The record shall be maintained in the health facility for three years.

16 (B) Forms ordered pursuant to this subdivision that are printed by a
computerized prescription generation system shall not be subject to subparagraph (A) or
17 paragraph (7) of subdivision (a). Forms printed pursuant to this subdivision that are printed by a
computerized prescription generation system may contain the prescriber's name, category of
18 professional licensure, license number, federal controlled substance registration number, and the
date of the prescription.”

19
20 23. Section 11165, subdivision (d) of the Health and Safety Code states:

21 “For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance,
the dispensing pharmacy or clinic shall provide the following information to the Department of
22 Justice on a weekly basis and in a format specified by the Department of Justice:

23 (1) Full name, address, and the telephone number of the ultimate user or research subject, or
contact information as determined by the Secretary of the United States Department of
24 Health and Human Services, and the gender, and date of birth of the ultimate user.

25 (2) The prescriber's category of licensure and license number; federal controlled substance
registration number; and the state medical license number of any prescriber using the
26 federal controlled substance registration number of a government-exempt facility.

27 (3) Pharmacy prescription number, license number, and federal controlled substance
registration number.

28 (4) NDC (National Drug Code) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

- 1 (6) ICD-9 (diagnosis code), if available.
2 (7) Number of refills ordered.
3 (8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.
4 (9) Date of origin of the prescription.
5 (10) Date of dispensing of the prescription.”

6 **REGULATORY PROVISIONS**

7 24. California Code of Regulations, title 16, section 1707.2 states:

8 ...

9 (b) (1) In addition to the obligation to consult set forth in subsection (a), a pharmacist shall
10 provide oral consultation to his or her patient or the patient's agent in any care setting in
11 which the patient or agent is present:

12 (A) whenever the prescription drug has not previously been dispensed to a patient;

13

14 (f) “In every pharmacy subject to the provisions of Business and Professions Code Section
15 4122, there shall be prominently posted in a place conspicuous to and readable by prescription
16 drug consumers the following notice:

17 **“NOTICE TO CONSUMERS”**

18 At your request, this pharmacy will provide its current retail price of any prescription
19 without obligation. You may request price information in person or by telephone.
20 Ask your pharmacist if a lower-cost generic drug is available to fill your prescription.
21 Prescription prices for the same drug vary from pharmacy to pharmacy. One reason for
22 differences in price is differences in services provided.
23 Before taking any prescription medicine, talk to your pharmacist; be sure you know:
24 What is the name of the medicine and what does it do?
25 How and when do I take it - and for how long? What if I miss a dose?
26 What are the possible side effects and what should I do if they occur?
27 Will the new medicine work safely with other medicines and herbal supplements I am
28 taking?
What foods, drinks or activities should I avoid while taking this medicine?
Ask your pharmacist if you have additional questions.”

24 25. California Code of Regulations, title 16, section 1711 states:

26 “(a) Each pharmacy shall establish or participate in an established quality assurance
27 program which documents and assesses medication errors to determine cause and an appropriate
28 response as part of a mission to improve the quality of pharmacy service and prevent errors.

(b) For purposes of this section, “medication error” means any variation from a prescription
or drug order not authorized by the prescriber, as described in Section 1716. Medication error, as
defined in the section, does not include any variation that is corrected prior to furnishing the drug
to the patient or patient's agent or any variation allowed by law.

(c) (1) Each quality assurance program shall be managed in accordance with written
policies and procedures maintained in the pharmacy in an immediately retrievable form.

(2) When a pharmacist determines that a medication error has occurred, a pharmacist
shall as soon as possible:

(A) Communicate to the patient or the patient's agent the fact that a medication error
has occurred and the steps required to avoid injury or mitigate the error.

(B) Communicate to the prescriber the fact that a medication error has occurred.

(3) The communication requirement in paragraph (2) of this subdivision shall only apply to medication errors if the drug was administered to or by the patient, or if the medication error resulted in a clinically significant delay in therapy.

(4) If a pharmacist is notified of a prescription error by the patient, the patient's agent, or a prescriber, the pharmacist is not required to communicate with that individual as required in paragraph (2) of this subdivision.

(d) Each pharmacy shall use the findings of its quality assurance program to develop pharmacy systems and workflow processes designed to prevent medication errors. An investigation of each medication error shall commence as soon as is reasonably possible, but no later than 2 business days from the date the medication error is discovered. All medication errors discovered shall be subject to a quality assurance review.

(e) The primary purpose of the quality assurance review shall be to advance error prevention by analyzing, individually and collectively, investigative and other pertinent data collected in response to a medication error to assess the cause and any contributing factors such as system or process failures. A record of the quality assurance review shall be immediately retrievable in the pharmacy. The record shall contain at least the following

1. the date, location, and participants in the quality assurance review;
2. the pertinent data and other information relating to the medication error(s) reviewed and documentation of any patient contact required by subdivision (c);
3. the findings and determinations generated by the quality assurance review; and,
4. recommend changes to pharmacy policy, procedure, systems, or processes, if any.

The pharmacy shall inform pharmacy personnel of changes to pharmacy policy, procedure, systems, or processes made as a result of recommendations generated in the quality assurance program.

(f) The record of the quality assurance review, as provided in subdivision (e) shall be immediately retrievable in the pharmacy for at least one year from the date the record was created.”

26. California Code of Regulations, title 16, section 1714, subdivision (c), states:

“The pharmacy and fixtures and equipment shall be maintained in a clean and orderly condition. The pharmacy shall be dry, well-ventilated, free from rodents and insects, and properly lighted. The pharmacy shall be equipped with a sink with hot and cold running water for pharmaceutical purposes.”

27. California Code of Regulations, title 16, section 1716 states:

“Pharmacists shall not deviate from the requirements of a prescription except upon the prior consent of the prescriber or to select the drug product in accordance with Section 4073 of the Business and Professions Code.”

28. California Code of Regulations, title 16, section 1717, states:

...
“(c) Promptly upon receipt of an orally transmitted prescription, the pharmacist shall reduce it to writing, and initial it, and identify it as an orally transmitted prescription. If the prescription is then dispensed by another pharmacist, the dispensing pharmacist shall also initial the prescription to identify him or herself.

1 "All orally transmitted prescriptions shall be received and transcribed by a pharmacist prior
to compounding, filling, dispensing, or furnishing.

2 "Chart orders as defined in Section 4019 of the Business and Professions Code are not
subject to the provisions of this subsection.

3
4 29. California Code of Regulations, title 16, section 1718, states:

5 "'Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions
Code shall be considered to include complete accountability for all dangerous drugs handled by
6 every licensee enumerated in Sections 4081 and 4332. "The controlled substances inventories
required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least
7 3 years after the date of the inventory."

8
9 30. California Code of Regulations, title 16, section 1761 states:

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

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

14
15 31. California Code of Regulations, title 16, section 1770, states:

16 "For the purpose of denial, suspension, or revocation of a personal or facility license
pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
17 crime or act shall be considered substantially related to the qualifications, functions or duties of a
licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
18 licensee or registrant to perform the functions authorized by his license or registration in a manner
consistent with the public health, safety, or welfare."

19
20 32. California Code of Regulations, title 16, section 1793.7, subdivision (d), states:

21 "Any pharmacy employing or using a pharmacy technician shall develop a job description
and written policies and procedures adequate to ensure compliance with the provisions of Article
22 11 of this Chapter, and shall maintain, for at least three years from the time of making, records
adequate to establish compliance with these sections and written policies and procedures.

23
24 **COST RECOVERY**

25 33. Section 125.3 of the Code states, in pertinent part, that the Board may request the
26 administrative law judge to direct a licentiate found to have committed a violation or violations of
the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
27 enforcement of the case.
28

1 34. **DRUG CLASSIFICATIONS**

2 A. Phenergan with Codeine (a brand name for Promethazine with Codeine) is an
3 antihistamine and narcotic cough suppression.

4 B. Oxycontin (a brand name for Oxycodone) is a dangerous drug per Business and
5 Profession Code section 4022 and a schedule II controlled substance per Health & Safety Code
6 section 11055. Oxycontin is used to relieve moderate to severe pain, and is in a class of
7 medications called opiate (narcotic) analgesics. It works by changing the way the brain and
8 nervous system respond to pain.

9 C. Xanax (a brand name for Benzodiazepine) is a dangerous drug per Business and
10 Profession Code section 4022 and a schedule IV controlled substance as designated by Health and
11 Safety Code section 11057(d)(1. Xanax is a depressant drug and is used to treat anxiety disorders
12 and panic disorder (sudden, unexpected attacks of extreme fear and worry about these attacks).
13 Alprazolam is in a class of medications called benzodiazepines. It works by decreasing abnormal
14 excitement in the brain.

15 D. Vicodin, Vicodin ES, Vicodin HP, Lorcet, Lorcet 10/650, and Norco are among the
16 brand names for compounds of varying dosages of acetaminophen (aka APAP) and Hydrocodone, a
17 Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4)
18 and dangerous drug as designated by Business and Professions Code section 4022. The varying
19 compounds are also known generically as Hydrocodone with APAP. These are all narcotic drugs.

20 **FIRST CAUSE FOR DISCIPLINE**

21 (Expired Medications on Shelf-Safety of Public)

22 35. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
23 BYEONGWON MIN are subject to disciplinary action under section 4342, subdivision (a), of the
24 Code, in that during a Board investigation of the Valley West Medical Pharmacy on August 9,
25 2010, the investigator found twenty two (22) medications on the shelf which were expired. The
26 list of said medications is as follows:

Name	Dosage	Lot #	Expiration Date
------	--------	-------	-----------------

1	Verapamil ER	120 mg	165351	7/2010
2	Lexapro	5 mg	M07715J	6/2010
3	Synthroid	175 mcg	81125A8	6/18/2010
4	Minocycline	50 mg	1761155	5/2010
5	Nisoldipine	30 mg	2000625	5/2010
6	Synthroid	125 mcg	82061A8	7/9/2010
7	Synthroid	150 mcg	82232A8	7/15/2010
8	Flecainide	100 mg	04145	5/19/07
9	Oxybutynin	10 mg	8080681	7/2010
10	Trilipix	45 mg	690302E22	5/12/10
11	Nifedical XL	30 mg	0808T27	7/2010
12	Oxybutynin ER	10 mg	8062071	6/2010
13	Vytorin	10/10	X4364	1/2010
14	Ultrase MT20		J080392	7/2010
15	Fluconazole	100 mg	Q9698011	7/2010
16	Lamictal	25 mg	A29584	6/2010
17	Spironolactone/HCTZ	25/25	60386	5/2010
18	Amlodipine/Benazepril	5/10	F0366	6/2010
19	Phentermine	15 mg	10111	6/2010
20	Synthroid	150 mcg	62680	6/2010
21	Ultrase MT20		H080319A	5/2010
22	Phenazopyridine	100 mg	11a681801310	7/2010

SECOND CAUSE FOR DISCIPLINE

(Failure to Implement Electronic Monitoring of Prescriptions)

36. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
 BYEONGWON MIN are subject to disciplinary action under Health & Safety Code section
 11165, subdivision (d), of the Code in that during a Board investigation of the Valley West

1 Medical Pharmacy on August 9, 2010, the investigator found that Respondents VALLEY WEST
2 MEDICAL PHARMACY and BRIAN BYEONGWON MIN failed to report the required
3 information set forth in section 11165, subdivision (d), of the Code, to the Department of Justice
4 on a weekly basis and in a format specified by the Department of Justice, for each prescription for
5 a Schedule II, Schedule III, or Schedule IV controlled substance, from June 2009 to July 2010.

6 **THIRD CAUSE FOR DISCIPLINE**

7 (Failure to Post Notice to Consumers)

8 37. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
9 BYEONGWON MIN are subject to disciplinary action under section 1707.2, subdivision (f) of
10 the California Code of Regulations, in that during a Board investigation of the Valley West
11 Medical Pharmacy on August 9, 2010, the investigator found Respondents VALLEY WEST
12 MEDICAL PHARMACY and BRIAN BYEONGWON MIN failed to post in a conspicuous
13 place, the Notice to Consumers.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 (Failure to State the Description of the Dispensed medication On the Label)

16 38. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
17 BYEONGWON MIN are subject to disciplinary action under section 4076, subdivision
18 (a)(11)(A) of the Business and Professions Code, in that during a Board investigation of the
19 Valley West Medical Pharmacy on August 9, 2010, the investigator found one (1) prescription
20 (RX# 649004) for Clarithromycin with no descriptors, in violation of the Business and
21 Professions Code, section 4076, subdivision (a)(11)(A).

22 **FIFTH CAUSE FOR DISCIPLINE**

23 (Failure to Maintain Current Vaccination Protocol)

24 39. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
25 BYEONGWON MIN are subject to disciplinary action under section 4052, subdivision (a)(9) of
26 the Code in that during a Board investigation of the Valley West Medical Pharmacy on August 9,
27 2010, the investigator found that Respondent BRIAN BYEONGWON MIN performed some
28 vaccinations in the past two (2) years, but his protocol was the protocol he was using while

1 working at Rite Aid, and was not updated, in violation of section 4052, subdivision (a)(9) of the
2 Code.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 (Failure to Maintain Theft and Impairment Policy)

5 40. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
6 BYEONGWON MIN are subject to disciplinary action under section 4104, subdivision (b) of the
7 Code in that during a Board investigation of the Valley West Medical Pharmacy on August 9,
8 2010, the investigator found that Respondent BRIAN BYEONGWON MIN stated he had the
9 Theft and Impairment Policy¹ at home, in violation of section 4104, subdivision (b) of the Code.
10 Further, on August 9, 2010, the investigator asked Respondent BRIAN BYEONGWON MIN to
11 send the Theft and Impairment Policy to her within three (3) days, however, the investigator
12 never received it, in violation of section 4104, subdivision (b) of the Code.

13 **SEVENTH CAUSE FOR DISCIPLINE**

14 (Unprofessional Conduct)

15 41. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
16 BYEONGWON MIN are subject to disciplinary action under section 4301, subdivision (g) and
17 section 4076, subdivision (a)(4) of the Code in that during a Board investigation of the Valley
18 West Medical Pharmacy on August 9, 2010, the investigator found that seventy four (74)
19 prescriptions out of about two hundred forty (240) prescriptions which had either no city for the
20 prescriber, or the wrong city for the patient or prescriber, as described below, in violation of
21 section 4301, subdivision (g) of the Code. The list of said prescriptions is as follows:

RX (Log)	Fill date (Log)	Original Date (Log)	Patient City	M.D. Name ² Log-RX	M.D. City Log-RX	Wrong City
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25 ¹ The written policies and procedures for addressing chemical, mental, or physical impairment, as well as theft,
26 diversion, or self-use of dangerous drugs among licensed individuals employed by or with the pharmacy (hereinafter
referred as "Theft and Impairment Policy)

27 ² In order to protect the privacy of the doctor, the last name initials are used for the purpose of identification.
28

1	636846		2/16/2010	Alhambra	K., Rupdev	Blank-Arcadia	None
2	626272	4/16/2010	9/3/2009	Alhambra	S., Tomas	Monterey park	None
3	641260		4/16/2010	Alhambra	S., Tomas	?	None
4	635027		1/22/2010	Los Angeles	N. , H. Phung	Blank-Rosemaed	None
5							
6	638598		3/11/2010	Los Angeles	S., Andrew	East LA-Monterey Park	Yes
7							
8	639212		3/20/2010	Los Angeles	S., Andrew	East LA-Monterey Park	Yes
9							
10	636829		2/16/2010	Los Angeles	S., Andrew	East LA-Monterey Park	Yes
11							
12	639552		3/25/2010	Los Angeles	S., Andrew	East LA-Monterey Park	Yes
13							
14	638924		3/16/2010	Los Angeles	C. Anna-W., Phillip	Los Angeles-Diamond Bar	Yes
15							
16	635179		1/25/2010	Los Angeles	S., Andrew	East LA-Monterey Park	Yes
17							
18	638932		3/16/2010	Alhambra	H., Gerald	Alhambra-Monterey Park	Yes
19							
20	637898		3/2/2010	Los Angeles	S., Andrew	East LA-Monterey Park	Yes
21							
22	638337		3/9/2010	Pico Rivera	F., David	Pasadena-LanCanada	Yes
23							
24	638336		3/9/2010	Pico Rivera	C., Jonathan-F. David	Montebello-LaCanada	Yes
25							
26							
27	635920	3/5/2010	2/3/2010	Alhambra	R., Jai	?-Pasadena	Yes
28							

1					Hyon		
2	635883		2/2/2010	Los Angeles	A., Mumtaz	Rancho Cucamonga-Garden Grove	Yes
3							
4							
5	632490	1/22/2010	1/4/2010	Lakeview-Rialto	P., Crescenzo	San Pedro	Yes
6							
7	635625	3/1/2010	1/30/2010	Los Angeles-Montebello	S., Andrew	East LA-Monterey Park	Yes
8							
9							
10	638105	3/16/2010	3/4/2010	Los Angeles	V.P., Juan	Carson-Marina Del Rey	Yes
11							
12	637834		3/1/2010	Los Angeles	W., Phillip	San Pedro-Diamond Bar	Yes
13							
14	639613		3/26/2010	Hawthorne	S., Andrew	East LA-Monterey Park	Yes
15							
16	638600		3/11/2010	Los Angeles	S., Andrew	East LA-Monterey Park	Yes
17							
18	639762		3/29/2010	Los Angeles	V.P., Juan	Carson-Marina Del Rey	Yes
19							
20	639862		3/30/2010	Los Angeles	V.P., Juan	Carson-Marina Del Rey	Yes
21							
22	639970		3/31/2010	Long Beach	V.P., Juan	Carson-Marina Del Rey	Yes
23							
24	636831		2/16/2010	Los Angeles	S., Andrew	East LA-Monterey Park	Yes
25							
26	636036		2/4/2010	Los Angeles	S., Andrew	East LA-Monterey Park	Yes
27							
28							

1	638451		3/9/2010	Los Angeles	V.P., Juan	Carson-Marina Del Rey	Yes
2							
3	639017		3/18/2010	Inglewood	S., Andrew	East LA- Monterey Park	Yes
4							
5	633888		1/4/2010	Los Angeles	A., Mumtaz-S., Andrew	Rancho Cucamonga- Garden Grove	Yes
6							
7							
8	638287		3/8/2010	Cerritos	S., Andrew	East LA- Monterey Park	Yes
9							
10	635031		1/22/2010	Los Angeles	N., Hy Phung	?-Rosemead	Yes
11							
12	635744		2/1/2010	Culver City	S., Andrew	Esat LA- Monterey Park	Yes
13							
14	640047		4/1/2010	Los Angeles	V.P., Juan	Carson-Marina Del Rey	Yes
15							
16	639553		3/25/10	Los Angeles	S., Andrew	Esat LA- Monterey Park	Yes
17							
18	639749		3/29/2010	Los Angeles	V.P., Juan	Carson-Marina Del Rey	Yes
19							
20	639863		3/30/2010	Los Angeles	V.P., Juan	Carson-Marina Del Rey	Yes
21							
22	634957		1/21/2010	Inglewood	R., Tyron- W., Tan	Inglewood- Rosenead	Yes
23							
24	635178		2/3/2010	Inglewood- Los Angeles	S., Andrew	East LA- Monterey Park	Yes
25							
26							
27	637689		3/8/2010	Inglewood-	S., Andrew	East LA-	Yes
28							

1			Los		Monterey Park	
2			Angeles			
3	639192	3/20/2010	Inglewood-	S., Andrew	East LA-	Yes
4			Los		Monterey Park	
5			Angeles			
6	636891	2/16/2010	Los	M., George	?-Los Angeles	Yes
7			Angeles			
8	638925	3/16/2010	Los	C., A-W.,	Los Angeles-	Yes
9			Angeles	Phillip	Diamond Bar	
10	639754	3/29/2010	Los	V.P., Juan	Carson-Marina	Yes
11			Angeles		Del Rey	
12	636530	2/11/2010	Lakeview-	P.,	San Pedro-Los	Yes
13			Rialto	Crescenzo-	Angeles	
14				S., Eleanor		
15	632490	1/4/2010	Lakeview-	P.,	San Pedro	Yes
16			Rialto	Crescenzo		
17	639748	3/29/2010	Long	V.P., Juan	Carson-Marina	Yes
18			Beach		Del Rey	
19	635378	1/27/2010	Los	S., Andrew	East LA-	Yes
20			Angeles		Monterey Park	
21	640231	4/3/2010	Los	V.P., Juan	Carson-Marina	Yes
22			Angeles		Del Rey	
23	636131	2/5/2010	Los	W., Kin-R.,	Los Angeles-	Yes
24			Angeles	Tyron	Inglewood	
25	639861	3/30/2010	Hawthorne	V.P., Juan	Carson-Marina	Yes
26					Del Rey	
27	639750	3/29/2010	Los	V.P., Juan	Carson-Marina	Yes
28						

1			Angeles		Del Rey	
2	639860	3/30/2010	Los Angeles	V.P., Juan	Carson-Marina Del Rey	Yes
3						
4	635180	1/25/2010	Los Angeles	S., Andrew	East LA- Monterey Park	Yes
5						
6	634349	1/12/2010	Inglewood	A., Mumtaz	Rancho Cucamonga- Garden Grove	Yes
7						
8						
9	636382	2/9/2010	Compton	A., Mumtaz	Rancho Cucamonga- Garden Grove	Yes
10						
11						
12	634345	1/12/2010	Inglewood	A., Mumtaz	Rancho Cucamonga- Garden Grove	Yes
13						
14						
15	636384	2/9/2010	Inglewood	A., Mumtaz	Rancho Cucamonga- Garden Grove	Yes
16						
17						
18	638152	3/5/2010	Inglewood	A., Mumtaz	Rancho Cucamonga- Garden Grove	Yes
19						
20						
21	640098	4/2/2010	Inglewood	A., Mumtaz	Rancho Cucamonga- Garden Grove	Yes
22						
23						
24	635615	1/30/2010	Los Angeles	S., Andrew	East LA- Monterey Park	Yes
25						
26	640135	4/3/2010	Los Angeles	V.P., Juan	Carson-Marina Del Rey	Yes
27						
28						

1	636135		2/5/2010	Los Angeles	R., Valente-R., Tyron	Torrance-Inglewood	Yes
2							
3							
4	640110		4/2/2010	Los Angeles	V.P., Juan	Carson-Marina Del Rey	Yes
5							
6	639369		3/23/2010	Los Angeles	S., Andrew	East LA-Monterey Park	Yes
7							
8	634960		1/21/2010	Los Angeles	R., Tyron-W., Tan	Inglewood-Rosemead	Yes
9							
10	636038		2/4/2010	Los Angeles	S., Andrew	East LA-Monterey Park	Yes
11							
12	637403		2/23/2010	Los Angeles	S., Andrew	East LA-Monterey Park	Yes
13							
14	638105		3/4/2010	Los Angeles	V.P., Juan	Carson-Marina Del Rey	Yes
15							
16	640113		4/2/2010	Los Angeles	V.P., Juan	Carson-Marina Del Rey	Yes
17							
18	635623	3/1/2010	1/30/2010	Los Angeles-Montebello	S., Andrew	East LA-Monterey Park	Yes
19							
20							
21	636830		2/16/2010	Los Angeles	S., Andrew	East LA-Monterey Park	Yes
22							
23	638923		3/16/2010	Los Angeles	C., Anna-W., Phillip	Los Angeles-Diamond bar	Yes
24							
25	637688		3/8/2010	Inglewood	S., Andrew	East LA-Monterey Park	Yes
26							
27							
28							

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 (Variation from prescription)

3 42. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
4 BYEONGWON MIN are subject to disciplinary action under section 1716 of the California Code
5 of Regulations, in that during a Board investigation of the Valley West Medical Pharmacy on
6 August 9, 2010, the investigator found that in the two prescriptions set forth below, the wrong
7 strength of drug was dispensed from the one prescribed (a higher dose was dispensed) in violation
8 of section 1716 of the California Code of Regulations. The list of said medications is as follows:
9

RX (Log)	Fill Date (Log)	Original Date (Log)	Patient Name ³	Drug	Amount (Log)	M.D. name ⁴ (Log-RX)
635308		1/26/2010	R. Robert	Filled 7.5/750 Ordered 5/500	30	C., Pei
638923		3/16/2010	L. Sr, Eddie	Filled XAN 2 Ordered XAN 1	100	C., Anna- Wunder, Phillip

22 **NINTH CAUSE FOR DISCIPLINE**

23 (Failure to Properly Prescribe and Dispense Controlled Substances)

24 43. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
25 BYEONGWON MIN are subject to disciplinary action under section 11153 of the Health and
26

27 ³ In order to protect the privacy of the patient, the last name initials are used for the purpose of identification.
28 ⁴ In order to protect the privacy of the doctor, the last name initials are used for the purpose of identification.

1 Safety Code, in that during a Board investigation of the Valley West Medical Pharmacy on
 2 August 9, 2010, the investigator found that Respondents VALLEY WEST MEDICAL
 3 PHARMACY and BRIAN BYEONGWON MIN were not in compliance with the Health and
 4 Safety Code, section 11153 which states that the pharmacist has a corresponding responsibility to
 5 ensure proper prescribing and dispensing with regards to the furnishing of controlled substances.
 6 Specifically, on August 9, 2010, the investigator revealed early refills on sixty three (63)
 7 occasions, more than five (5) days early. The list of said medications is as follows:

8 RX	Date Written	Date Filled	Patient Name ⁵	Drug	Amount	Doctor's Name ⁶	Direction	Refills	Days Early
10 640876		4/12/10	B., Rubin	Prom/Cod	240	V.P., Juan		2	7
11 634875		1/20/10	B., Oracell	Prom/Cod	480	R., Tyron			10
12 637971	3/12/10	3/17/10	B., Cammie	Prom/Cod	480	R., Tyron	5 cc qid	0	10
14 639937		4/1/10	C., Giovanni	Adderall XR 20	60	K., Hannah		0	7
16 639621		3/26/10	C., Sylvia	Adderall XR 20	60	F., David		0	13
18 637489	2/19/10	2/24/10	C., Reginald	Prom/Cod	480	R., Tyron	5cc qid	0	6
20 638059		3/4/10	C., Sylvia	xan 1	60	M., Vera		2	10
21 638471		3/10/10	C., Cloradell	Oxy 80	90	A., Mumtaz		0	18
23 634863	1/20/10	2/22/10	C., Charles	7.5/750	90	C., Anna	q8 prn	0	9
25 635333		2/9/10	C., David	Prom/Cod	240	F., Drew			6

26 ⁵ In order to protect the privacy of the patient, the last name initials are used for the purpose of identification.

27 ⁶ In order to protect the privacy of the doctor, the last name initials are used for the purpose of identification.

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635811		2/2/10	D., Kelly	dil 4	120	C., Chiwai			11
640009		4/1/10	D., Kelly	dil 4	120	C., Chiwai		0	9
641192		4/15/10	D., Mattie	Prom/Cod	480	L., Zhiwei		0	10
640911	4/12/10	4/12/10	D., Mattie	Prom/Cod	240	H., Robert	5cc q6	0	13
635523		1/29/10	D., Mattie	7.5/750	100	W., Donald			8
638886		4/7/10	F., Carlos	7.5/750	60	P., Omar		1	8
636766	12/9/09	2/13/10	F., Leveron	Prom/ Cod	360	C., Anna	5cc q6	0	6
626272		4/16/10	G., Olivia	dcn 100	60	S., Tomas	1-2 q6 prn	1	7
637290		3/3/10	G., Stephen	7.5/750	40	G., Ronald		1	14
637494		2/24/10	G., Eddie	Prom/Cod	480	R., Tyron		0	5
639055		3/26/10	G., Arnold	Prom/Cod	480	P., Ngo		0	8
640368		4/6/10	G., Maria	tem 15	30	P., Ngo		0	25
635920		3/31/10	H., Maria	clo 0.5	60	R., Jai- hyon		2	34
641169		4/15/10	H., Khyeisha	10/325	120	V. P., Juan		0	9
635053		3/23/10	H., Jung Lim	Zolpidem 10	15	L., Chris		0	26
638121		3/5/10	J., Claryn	Prom/Cod	480	R., Tyron		0	5

1	630323	11/2/09	2/4/10	J., Lester	7.5/750	100	P., Venkata	q6 prn	3	2
2										
3	633103		2/4/10	J., Lester	7.5/750	30	S., Ebrahim			2
4										
5	639192	3/20/10	3/20/10	J., Robert	Prom/Cod	480	S., Andrew	5cc qid	0	12
6										
7	640303		4/5/10	J., Robert	Prom/Cod	480	P., Ngo		0	18
8	637342		2/23/10	J., Angelice	Prom/Cod	480	R., Tyron			6
9										
10	637790		3/1/10	J., Robert	Prom/Cod	480	R., Joseph		0	6
11	637535		2/24/10	J., Emmet	7.5/750	90	T., Kenneth		0	14
12										
13	634340	1/7/10	1/12/10	L., Virgil	Prom/Cod	480	R., Tyron	5cc qid	0	24
14	638923		4/3/10	L. Sr., Eddie	xan 2	100	W., Phillip	q8 prn		15
15										
16	631383		3/1/2010	L., Twanna	Prom/Cod	360	C., Anna		F	24
17										
18	631386		3/1/10	L., Twanna	Xan 2	90	C., Anna		F	30
19										
20	638170		3/5/10	L., Patricia	amb cr 12.5	4	P., Ngo		0	30
21										
22	632490r	11/30/09	1/22/10	M., Oliver	Prom/Cod	480	P., Crescenzo	5cc q6	0	6
23										
24	636396	2/9/10	2/9/10	M., Minnie	Prom/Cod	360	P., Ngo	10cc q6 Prn	0	11
25										
26	637608		2/25/10	M., Ricardo	Prom/Cod	480	L., Zhiwei		0	19
27										
28										

1	638932		4/7/10	M., Richard	7.5/750	120	H., Gerald		1	8
2										
3	637341		2/23/10	M., Davette	Prom/Cod	480	R., Tyron		0	8
4										
5	636264		2/8/10	M., George	Prom/Cod	360	C., Anna			6
6										
7	637495		2/24/10	M., April	Prom/Cod	480	R., Tyron		0	5
8	639325		3/23/10	M., Ossie	xan 2	90	S., Andrew		0	9
9										
10	635063		2/22/10	O., Anna	5/500	90	P., Ngo			21
11	641189		4/15/10	P., Aaron	Prom/Cod	360	C., Anna		1	12
12	641188		4/15/10	P., Aaron	1/325	90	C., Anna		1	18
13	641190		4/15/10	P., Aaron	xan 2	90	C., Anna		1	18
14	640331		4/6/10	P., Patricia	7.5/750	50	M., Matthew		3	10
15										
16	632374		2/11/10	P., Patricia	Flu 30	30	S., Lewis			16
17										
18	634546	1/14/10	1/14/10	R., Robert	7.5/750	45	G., Enrique	1-2 qid prn	1	12
19										
20	632725	1/4/10	2/22/10	R., Robert	7.5/750	45	O., Nelson	tid prn		21
21										
22	632725	1/4/10	1/11/10	R., Robert	7.5/750	45/90	O., Nelson	tid prn	2	23
23										
24	632725	1/4/10	2/13/10	R., Robert	7.5/750	90	O., Nelson	tid prn	0	6
25										
26	637739	2/24/10	3/10/10	R. Robert	7.5/750	45/90	O., Nelson	1-2tid prn	5	7
27										
28										

1	637739	2/24/10	4/12/10	R. Robert	7.5/750	45/90	O., Nelson	1-2tid prn	3	8
2										
3	637676		2/26/10	S., Vierka	Zolpidem	30	P., Jorge			6
4	640135		4/9/10	S., Williams	Prom/Cod	240	V.P., Juan		1	6
5										
6	637492		2/24/10	T., Patricia	Prom/Cod	480	R., Tyron		0	5
7										
8	640783		4/10/10	V., Veronica	Prom/Cod	480	S., Andrew		0	6
9										
10	638105		3/4/10	W., Latausha	Prom/Cod	240	V.P., Juan		1	15
11										

TENTH CAUSE FOR DISCIPLINE

(Failure to Properly Label the Prescription With the Name of Prescriber)

44. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN

BYEONGWON MIN are subject to disciplinary action under section 4076, subdivision (a)(4) of the Business and Professions Code, in that during a Board investigation of the Valley West Medical Pharmacy on August 9, 2010, the investigator found that Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN BYEONGWON MIN made ten (10) errors in physician names, different from on the prescription itself, as follows:

RX (log)	Fill Date (log)	Original Date (log)	Patient Name ⁷	Drug	Amount (log)	Doctor's Name ⁸ (log-RX)	Doctor's City (log-RX)
638923		3/16/10	L.Sr., Eddie	Xan 2 xan 1	100	C., Anna- W., Phillip	Los Angeles-

⁷ In order to protect the privacy of the patient, the last name initials are used for the purpose of identification.

⁸ In order to protect the privacy of the doctor, the last name initials are used for the purpose of identification.

1							Diamond	
2							Bar	
3	638924		3/16/10	L.Sr., Eddie	10/325	60	C., Anna- W., Phillip	Los Angeles- Diamond Bar
4								
5								
6								
7	638336		3/9/10	C., Sylvia	Adderall xr 20	60	C., Jonathan- F., David	Montebello- La Canada
8								
9								
10	633888		1/4/10	G., Kelly	Prom/Cod	480	A., Mumtaz, S., Andrew	Rancho Cucamonga- Monterey Park
11								
12								
13								
14	634957		1/21/10	J., Robert	Prom/Cod	360	R., Tyron- W., Tan	Inglewood- Rosemead
15								
16	638925		3/16/10	L. Sr., Eddie	Prom/Cod	360	C., Anna- W., Phillip	Los Angeles- Diamond Bar
17								
18								
19								
20	636530		2/11/10	M., Oliver	Prom/Cod	480	P., Crescenzo- S., Eleanor	San Pedro- Los Angeles
21								
22								
23	636131		2/5/10	M., Davette	Prom/Cod	480	W., Kin- R., Tyron	Los Angeles- Inglewood
24								
25								
26	636135		2/5/10	T., Patricia	Prom/Cod	480	R., Valente-	Torrance- Inglewood
27								
28								

						R., Tyron	
634960		1/21/10	W., Lawrence	Prom/Cod	360	R., Tyron- W., Tan	Inglewood- Rosemead

ELEVENTH CAUSE FOR DISCIPLINE

(Lack of Pharmacist's Initials On the Oral or Transfer Prescriptions)

45. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN

BYEONGWON MIN are subject to disciplinary action under section 1717, subdivisions (c) and (e) of the California Code of Regulations, in that during a Board investigation of the Valley West Medical Pharmacy on August 9, 2010, the investigator found thirty eight (38) prescriptions that did not have the initials of the pharmacist, Respondent BRIAN BYEONGWON MIN, as shown below:

RX (log)	Fill Date	Original Date (log)	Patient Name ⁹	Oral Rx-no RPH initials
634255		1/11/01	G., Vincent	Y
634382	3/23/10	1/12/10	C., Charles	Y
634863	2/22/10	1/20/10	C., Charles	Y
635000		1/22/10	C., David	Y
635009	3/19/10	1/22/10	H., Jung Lim	Y
635063		2/13/10	O., Anna	Y
635177		1/25/10	J., Robert	Y
635295		1/26/10	R., Leslie	Y
635341	3/1/10	1/27/10	P., Doris	Y
635452		1/28/10	P., Patricia	Y
635453		1/28/10	P., Patricia	Y
635796		2/2/10	T., Maria	Y

⁹ In order to protect the privacy of the patient, the last name initials are used for the purpose of identification.

1	635834		2/2/10	S., Vierka	Y
2	636403		2/9/10	J., Robert	Y
3	636517		2/11/10	P., Patricia	Y
4	636520		2/11/10	P., Doris	Y
5	636708		2/13/10	S., Nicolletta	Y
6	636711		2/13/10	S., Nicolletta	Y
7	637100		2/18/10	J., Robert	Y
8	637290		2/22/10	G., Stephen	Transfer 1717e
9	637446	2/25/10	2/25/10	P., Patricia	Y
10	637650		2/26/10	J., Steven	Y
11	637767		3/1/10	P., Doris	Y
12	637986		3/3/10	P., James 2	Y
13	639231		3/22/10	P., Patricia	Y
14	639455		3/24/10	C., Rebecah	Y
15	639581		3/125/10	D., Kelly	Y
16	639744		3/29/10	G., Claudia	Y
17	639754		3/29/10	L., Domerick	Transfer 1717e
18					
19	640108		4/3/10	J., Derrick	Y
20	640200		4/3/10	P., Aaron	Y
21	640201		4/3/10	P., Aaron	Y
22	640202		4/3/10	P., Aaron	Y
23	640219		4/3/10	W., Latausha	Y
24	640405		4/6/10	O., Anna	Y
25	640428		4/6/10	O., Anna	Y
26	640529		4/7/10	D., Mattie	Y
27	641260		4/16/10	G., Olivia	Y
28					

TWELFTH CAUSE FOR DISCIPLINE

(Unauthorized Refills)

46. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN BYEONGWON MIN are subject to disciplinary action under section 4063 of the Business and Professions Code, in that during a Board investigation of the Valley West Medical Pharmacy on August 9, 2010, the investigator found nine (9) prescriptions which were refilled without authorization, as follows:

RX	RX date	Fill Date	Patient name ¹⁰	Refills	Unauthorized Refills
639455	3/24/10	4/5/10	C. Rebecah	0	Y
639455	3/24/10	3/24/10	C. Rebecah	0	
634382	1/12/10	1/13/10	C., Charles	0	Y
634382	1/12/10	3/23/10	C., Charles	0	
635142	1/25/10	2/12/10	D., Kelly	0	Y
635142	1/25/10	1/25/10	D., Kelly	0	
639744	3/29/10	4/2/10	G., Claudia	0	Y
639744	3/29/10	3/29/10	G., Claudia	0	
635341	1/27/10	3/1/10	P. Doris	0	Y
635341	1/27/10	1/27/10	P. Doris	0	
637446	2/24/10	3/9/10	P., Patricia	0	Y
637446	2/24/10	2/25/10	P., Patricia	0	
637243	2/22/10	3/18/10	R., Martha	0	Y
637243	2/22/10	2/27/10	R., Martha	0	
638923	3/6/10	3/16/10	L. Sr., Eddie	0	
638923		4/3/10	L. Sr., Eddie	Unauth.	
635063	1/23/10	2/13/10	O., Anna	0	

¹⁰ In order to protect the privacy of the patient, the last name initials are used for the purpose of identification.

635063		2/22/10	O., Anna	Unauth.	
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THIRTEENTH CAUSE FOR DISCIPLINE

(Uncertain Prescription)

47. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN BYEONGWON MIN are subject to disciplinary action under section 1761 of the California Code of Regulations, in that during a Board investigation of the Valley West Medical Pharmacy on August 9, 2010, the investigator found that four (4) prescriptions had some uncertainty, but was not clarified before dispensing as follows:

RX (log)	Date (RX)	Patient Name ¹¹	Patient City	Drug	Amount (log)	Doctor's name ¹²	Doctor's City	Direction (RX)	Refill (RX)	Erroneous/ Uncertain
634190	1/7/10	D., Mattie	Los Angeles	7.5/750	60	W., Donald	Los Angeles	Bid	0	Crossed out
639194	3/12/10	J., Derick	Gardena	Prom/Cod	480	S., Angel	Gardena	5-10cc q6	0	Form not filled correctly
635453	1/28/10	P., Patricia	Los Angeles	7.5/750	50	M., Matthew	Alhambra	qid prn	0	No amount
639810	3/29/10	S., Betty	Los Angeles	Peom/Cod	480	G., Joseph	Van Nuys	?Tid	0	Unknown dose

FOURTEENTH CAUSE FOR DISCIPLINE

(Prescription Filled Not On Security Form)

48. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN BYEONGWON MIN are subject to disciplinary action under section 11152 of the Health and Safety Code, in that during a Board investigation of the Valley West Medical Pharmacy on

¹¹ In order to protect the privacy of the patient, the last name initials are used for the purpose of identification.

¹² In order to protect the privacy of the doctor, the last name initials are used for the purpose of identification.

1 August 9, 2010, the investigator found seven (7) prescriptions which were dispensed upon a
 2 prescription that was not a security form as defined in the Health and Safety Code, section 11152
 3 as described below:

4 RX (log)	5 Date (RX)	6 Original Date (log)	7 Drug	8 Patient Name ¹³	9 Doctor's Name ¹⁴ (log-RX)	10 Doctor's City (log-RX)	11 Not Security Form
12 635027	1/22/10	1/22/10	Prom/Cod	E., Dwayne	N., Hy Phung	Blank-Rosemead	Y
13 634072	1/7/10	1/7/10	7.5/750	G., Linda	P., Ngo	Alhambra	Y
14 634074	1/7/10	1/17/10	xan .5	G., Linda	P., Ngo	Alhambra	Y
15 637750	2/127/10	2/27/10	tem 15	G., Maria	P., Ngo	Alhambra	Y
16 635031	1/22/10	1/22/10	Prom/Cod	H., Ronald	N., Hy Phung	?-Rosemead	Y
17 635920	2/3/10	2/3/10	clo .5	H., Maria	R., Jai Hyon	?-Pasadena	Y
18 637243	2/22/10	2/27/10	t3	R., Martha	P., Ngo	Alhambra	Y

19 **FIFTEENTH CAUSE FOR DISCIPLINE**

20 (Unprofessional Conduct-Failure to Exercise or Implement Professional Judgment))

21 49. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN

22 BYEONGWON MIN are subject to disciplinary action under section 4306.5 of the Business and
 23 Professions Code, in that during a Board investigation of the Valley West Medical Pharmacy on
 24 August 9, 2010, the investigator found that Respondent BRIAN BYEONGWON MIN filled a
 25 hundred eight (108) day supply of cough medicine to the same patient in a sixty (60) day period.

26 _____
 27 ¹³ In order to protect the privacy of the patient, the last name initials are used for the purpose of identification.

28 ¹⁴ In order to protect the privacy of the doctor, the last name initials are used for the purpose of identification.

Further, Respondent BRIAN BYEONGWON MIN also filled a sixty five (65) day supply of Hydrocodone/Apap within a forty five (45) day period¹⁵. Respondent BRIAN BYEONGWON MIN did not have any documentation on why he filled the prescriptions so soon. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN BYEONGWON MIN were not in compliance with Business and professions Code, section 4306.5 in that they failed to exercise or implement their best professional judgment or corresponding responsibility with regard to the dispensing of controlled substances, as follows:

RX (log)	Date (RX)	Fill Date (log)	Original date (log)	Patient Name ¹⁶	Drug	Amount (log)	Doctor's Name ¹⁷	Doctor's City log-RX)	Direction (RX)	Refill (RX)	More Than One Script/day
636401	2/9/10		2/9/10	RJ	10/325	100	P., ngo	Alhambra	qid prn	0	
637688	2/26/10		3/8/10	RJ	10/324	120	S., Andrew	East LA-Monterey Park	q6 prn	0	
635177	1/25/10		1/25/10	RJ	10/650	100	S., Andrew	East LA	q6 prn	0	Y
637102	2/17/10		2/18/10	RJ	7.5/750	30	W., Tan	Rosemead	tid prn	0	
634957	1/21/10		1/21/10	RJ	Prom/Cod	360	R., Tyron-W., Tan	Inglewood-rosemead	10cc qid prn	0	
635178	1/25/10		2/3/10	RJ	Prom/Cod	480	S., Andrew	East LA-Monterey Park	5cc qid	0	Y
636403	2/9/10		2/9/10	RJ	Prom/Cod	360	P., Ngo	Alhambra	10cc q6	0	Y

¹⁵ The patient saw multiple medical professionals

¹⁶ In order to protect the privacy of the patient, the last name initials are used for the purpose of identification.

¹⁷ In order to protect the privacy of the doctor, the last name initials are used for the purpose of identification.

									prn		
1											
2	637100	2/18/10	2/18/101	RJ	Prom/Cod	360	W., Tan	Rosemead	5cc qid	0	Y
3									prn		
4	637689	2/26/10	3/8/10	RJ	Prom/Cod	480	S.,	East LA-	5cc qid	0	
5							Andrew	Monterey			
6								Park			
7	639192	3/20/10	3/20/10	RJ	Prom/Cod	480	S.,	East LA-	5cc qid	0	
8							Andrew	Monterey			
9								Park			

SIXTEENTH CAUSE FOR DISCIPLINE

(Failure to Perform Quality Assurance)

50. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN BYEONGWON MIN are subject to disciplinary action under section 1711 of the California Code of Regulations, in that during a Board investigation of the Valley West Medical Pharmacy on August 9, 2010, the investigator found that Respondent BRIAN BYEONGWON MIN, the pharmacist in charge, had not documented one (1) error since he opened his pharmacy in January 2008, in violation of the California Code of Regulations, section 1711.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Notice to Consumer Poster Not Posted)

51. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN BYEONGWON MIN are subject to disciplinary action under section 1707.2, subdivision (f), of the California Code of Regulations, in that during a Board investigation of the Valley West Medical Pharmacy on February 28, 2011, the investigator found that there was only one Notice to Consumer posted, in violation of the section 1707.2, subdivision (f), of the California Code of Regulations. One of the other notices had fallen next to the refrigerator, another notice was posted on a “hard to see” wall. Respondents were previously cited for this violation before on August 9, 2012 when Respondents had the old posters posted.

1 **EIGHTEENTH CAUSE FOR DISCIPLINE**

2 (Theft and Impairment Policy Inadequate and Not Available During Inspection)

3 52. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
4 BYEONGWON MIN are subject to disciplinary action under section 4104, subdivision (b), of the
5 Code, in that during a Board investigation of the Valley West Medical Pharmacy on February 28,
6 2011, the investigator found that there was no theft and impairment policy available for
7 inspection, in violation of section 4104, subdivision (b), of the Code. Respondents were
8 previously cited for this violation before on August 9, 2012 when Respondents could not produce
9 the theft and impairment policy during the investigator's inspection on August 9, 2010, and did
10 not provide them upon request after the inspection.

11 **NINETEENTH CAUSE FOR DISCIPLINE**

12 (Technician Policy/Job Description Not Available During the Inspection)

13 53. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
14 BYEONGWON MIN are subject to disciplinary action under section 1793.7, subdivision (d), of
15 the California Code of Regulations, in that during a Board investigation of the Valley West
16 Medical Pharmacy on February 28, 2011, the investigator found that there were no technician
17 policies or procedures/job duty statements, in violation of section 1793.7, subdivision (d), of the
18 California Code of Regulation.

19 **TWENTIETH CAUSE FOR DISCIPLINE**

20 (Quality Assurance Policy and Procedure Not Available During the Inspection)

21 54. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
22 BYEONGWON MIN are subject to disciplinary action under section 1711, subdivision (c)(1), of
23 the California Code of Regulations, in that during a Board investigation of the Valley West
24 Medical Pharmacy on February 28, 2011, the investigator found that there was no Quality
25 Assurance policy and procedure, in violation of section 1711, subdivision (c)(1), of the California
26 Code of Regulations. Respondents were previously cited for this violation before as they had not
27 documented any errors from 2008 to August of 2010.

28

1 **TWENTY FIRST CAUSE FOR DISCIPLINE**

2 (Not Initialing Oral Prescriptions)

3 55. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
4 BYEONGWON MIN are subject to disciplinary action under section 1717, subdivision (d), of
5 the California Code of Regulations, in that during a Board investigation of the Valley West
6 Medical Pharmacy on February 28, 2011, the investigator found that Respondents were still not
7 initialing oral prescriptions, RX 664341, 664344 and 664345, in violation of section 1717,
8 subdivision (d)), of the California Code of Regulations. Respondents were previously cited for
9 this violation before on August 9, 2012 when the investigator found thirty eight (38) prescriptions
10 with no initials.

11 **TWENTY SECOND CAUSE FOR DISCIPLINE**

12 (No Consultation provided to the Patients)

13 56. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
14 BYEONGWON MIN are subject to disciplinary action under section 1707.2, subdivision
15 (b)(1)(A)), of the California Code of Regulations, in that during a Board investigation of the
16 Valley West Medical Pharmacy on February 28, 2011, the investigator found that Respondents
17 did not provide any consultation to any patients who picked up their prescriptions. The Board
18 Inspector retrieved the copies of the prescription signature log which revealed that five
19 prescriptions were picked up with no consultation in violation of section 1707.2, subdivision
20 (b)(1)(A)), of the California Code of Regulations.

21

RX	Name	Drug	Amount
22 664967	J. S.	Hydrocodone/Apap 23 10/325	100
24 664968	J. S.	Promethazine/Codeine	480
25 664969	J. S.	Hydrochlorothiazide 26 25 mg	100
27 664918	J. G.	Azithromycin 28 250mg	6

1	664977	P. B.	Azithromycin	6
2			250mg	

3

4 **TWENTY THIRD CAUSE FOR DISCIPLINE**

5 (Filling Medications Without a Valid Prescription)

6 57. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
7 BYEONGWON MIN are subject to disciplinary action under section 1761, subdivision (a), of the
8 California Code of Regulations, in that during a Board investigation of the Valley West Medical
9 Pharmacy on February 28, 2011, the investigator found that Respondents filled the following four
10 (4) prescriptions which were fraudulent, in violation of section 1761, subdivision (a), of the
11 California Code of Regulations.

12	RX	Name	Drug	Amount	Date	Bill	Cost	Script	Other
13	649667	K. F.	Zyprexa	30	8/11/10	CAM	1057	Yes	
14	649668	K. F.	Advair	60	8/11/10	CAM	332.67	Yes	Refill
15			500/50						Request
16									sent to
17									Magee
18	649670	D.B.	Seroquel	60	8/11/10	CAM	875	Yes	Refill
19			300 mg						Request
20									sent to
21									Magee
22	649671	D.B.	Advair	8/11/10	CAM	332,67	yes		Refill
23			500/50						Request
24									sent to
25									Magee

1 **TWENTY FOURTH CAUSE FOR DISCIPLINE**

2 (Records Violation)

3 58. Respondents VALLEY WEST MEDICAL PHARMACY and BRIAN
4 BYEONGWON MIN are subject to disciplinary action under section 4081 of the Code, in that
5 during a Board investigation of the Valley West Medical Pharmacy on February 28, 2011, the
6 investigator found that Respondents filled the following four (4) prescriptions which were
7 fraudulent, in violation of section 4081 of the Code.

8 **DISCIPLINE CONSIDERATIONS**

9 59. To determine the degree of discipline, if any, to be imposed on Respondent BRIAN
10 BYEONGWON MIN, Complainant alleges that on or about March 10, 2010, in a prior action, the
11 Board of Pharmacy issued Citation Number CI 2009 43737 and ordered Respondent BRIAN
12 BYEONGWON MIN to be cited for the loss of one thousand five hundred fifty two (1,552)
13 tablets of Oxycontin, eighty (80) mg, in violation of section 1714, subdivision (d) of the
14 California Code of Regulations. That Citation is now final and is incorporated by reference as if
15 fully set forth.

16 60. To determine the degree of discipline, if any, to be imposed on Respondent,
17 VALLEY WEST MEDICAL PHARMACY, Complainant alleges that on or about March 10,
18 2010, in a prior action, the Board of Pharmacy issued Citation Number CI 2007 35659 and
19 ordered Respondent VALLEY WEST MEDICAL PHARMACY to pay two thousand five
20 hundred dollars (\$2,500) in fines. That Citation is now final and is incorporated by reference as if
21 fully set forth.

22 61. To determine the degree of discipline, if any, to be imposed on Respondent BRIAN
23 BYEONGWON MIN, Complainant alleges that on or about November 9, 2011, in a prior action,
24 the Board of Pharmacy issued Citation Number CI 2011 50240 and ordered Respondent BRIAN
25 BYEONGWON MIN to be cited for (1) not having the physical description of the dispensed
26 medication on the prescription container, in violation of section 4076, subdivision (a)(11) of the
27 Business and Professions Code; (2) not properly labeling the finished product or not maintaining
28 proper records for the pre-packaged products, in violation of section 1735.2, subdivision (b) of

1 the California Code of Regulations; (3) incorrectly dispensing oxycodone 30 mg instead of
2 oxycodone 5 mg, in violation of section 1716 of the California Code of Regulations; (4) not
3 providing upon request the quality assurance review for patient G.G.'s oxycodone 5 mg RX#
4 651869 medication error, in violation of section 1711, subdivision (e) of the California Code of
5 Regulations. The Board of Pharmacy ordered Respondent BRIAN BYEONGWON MIN to pay
6 two thousand five hundred dollars (\$2,500) in fines. That Citation is now final and is
7 incorporated by reference as if fully set forth.

8 62. To determine the degree of discipline, if any, to be imposed on Respondent,
9 VALLEY WEST MEDICAL PHARMACY, Complainant alleges that on or about November 9,
10 2011, in a prior action, the Board of Pharmacy issued Citation Number CI 2011 50240 and
11 ordered Respondent BRIAN BYEONGWON MIN to be cited for (1) not having the physical
12 description of the dispensed medication on the prescription container, in violation of section
13 4076, subdivision (a)(11) of the Business and Professions Code; (2) not properly labeling the
14 finished product or not maintaining proper records for the pre-packaged products, in violation of
15 section 1735.2, subdivision (b) of the California Code of Regulations; (3) incorrectly dispensing
16 Oxycodone 30 mg instead of Oxycodone 5 mg, in violation of section 1716 of the California
17 Code of Regulations; (4) not providing upon request the quality assurance review for patient
18 G.G.'s Oxycodone 5 mg RX# 651869 medication error, in violation of section 1711, subdivision
19 (e) of the California Code of Regulations. The Board of Pharmacy ordered Respondent VALLEY
20 WEST MEDICAL PHARMACY to pay one thousand dollars (\$1,000) in fines. That Citation is
21 now final and is incorporated by reference as if fully set forth.

22 **PRAYER**

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

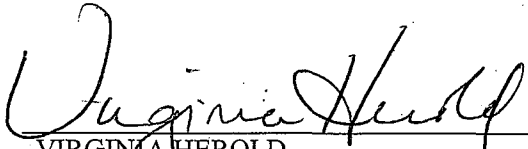
25 1. Revoking or suspending Permit Number PHY 48957, issued to Brian Byeongwon
26 Min dba Valley West Medical Pharmacy

27 2. Revoking or suspending Pharmacist License No. RPH 35960 to Respondent BRIAN
28 BYEONGWON MIN;

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3. Ordering Brian Byeongwon Min and Valley West Medical Pharmacy to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

DATED: 6/29/12 

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

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