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

12 In the Matter of the Accusation Against:

Case No. 5361

13 **SAV ON CORPORATION,**  
14 **DBA SAV ON #6763**  
15 **12475 Rancho Bernardo Road**  
**San Diego, CA 92128**

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

16 **Pharmacy Permit No. PHY 47699**

17 **SAV-ON LTD,**  
18 **DBA SAV-ON PHARMACY #6763**  
**12475 Rancho Bernardo Road**  
**San Diego, CA 92128**

19 **Pharmacy Permit No. PHY 51402**

20 Respondents.

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22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about September 22, 2006, the Board issued Pharmacy Permit Number PHY  
27 47699 to Sav On Corporation, doing business as SavOn #6763 (Respondent Sav On #6763). The  
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1 Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein,  
2 and was cancelled on March 22, 2013.

3 3. On or about March 22, 2013, the Board of Pharmacy issued Pharmacy Permit Number  
4 PHY 51402 to Sav-On Pharmacy Ltd, doing business as Sav-On Pharmacy #6763 (Respondent  
5 Sav-On Pharmacy). The Pharmacy Permit was in full force and effect at all times relevant to the  
6 charges brought herein and will expire on March 1, 2016, unless renewed.

### 7 JURISDICTION

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

11 5. Section 4011 of the Code provides that the Board shall administer and enforce both  
12 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
13 Act [Health & Safety Code, § 11000 et seq.].

14 6. Section 4300(a) of the Code provides that every license issued by the Board may be  
15 suspended or revoked.

16 7. Section 4300.1 of the Code states:

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

### 21 STATUTORY AND REGULATORY PROVISIONS

22 8. Section 4059(a) of the Code states:

23 A person may not furnish any dangerous drug, except upon the prescription of a  
24 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
25 pursuant to Section 3640.7. A person may not furnish any dangerous device, except  
upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
naturopathic doctor pursuant to Section 3640.7.

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1 9. Section 4301 of the Code states in pertinent part:

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

6 ...

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

9 ...

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

15 ...

16 10. Section 11164.1(a)(1) of the Health & Safety states:

17 Notwithstanding any other provision of law, a prescription for a controlled  
18 substance issued by a prescriber in another state for delivery to a patient in another  
19 state may be dispensed by a California pharmacy, if the prescription conforms with  
20 the requirements for controlled substance prescriptions in the state in which the  
21 controlled substance was prescribed.

22 11. Section 11171 of the Health & Safety Code states:

23 No person shall prescribe, administer, or furnish a controlled substance except  
24 under the conditions and in the manner provided by this division.

25 12. Section 1761(a) of title 16, California Code of Regulations states:

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

### **COST RECOVERY**

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

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1 **DRUGS**

2 14. Ery-tabs is the brand name for erythromycin, and a dangerous drug pursuant to  
3 Business and Professions Code section 4022.

4 15. Lortab and Norco are brand names for hydrocodone/acetaminophen, a Schedule III  
5 controlled substance pursuant to Health & Safety Code section 11056(e)(5), and a dangerous drug  
6 pursuant to Business and Professions Code section 4022.

7 16. Tenormin is the brand name for atenolol, and is a dangerous drug pursuant to Business  
8 and Professions Code section 4022.

9 17. Xanax is the brand name for alprazolam, a Schedule IV controlled substance pursuant  
10 to Health and Safety Code section 11057(d)(1) and a dangerous drug pursuant to Business and  
11 Professions Code section 4022.

12 **FACTUAL ALLEGATIONS**

13 18. From November 22, 2009 through March 22, 2013, Respondent Sav On #6763  
14 dispensed and furnished dangerous drugs and controlled substances to patients B.G. and L.C.,  
15 California residents who presented prescriptions for dangerous drugs and controlled substances  
16 allegedly written by out-of-state prescribers, Dr. R.V., Dr. E.P. and Dr. F.R.

17 19. From March 27, 2013 through September 1, 2013, Respondent Sav-On Pharmacy  
18 dispensed and furnished dangerous drugs and controlled substances to L.C. and B.G., California  
19 residents who presented prescriptions for dangerous drugs and controlled substances allegedly  
20 written by out of state prescribers, Dr. R.V., Dr. E.P. and Dr. F.R.

21 20. Dr. R.V., Dr. E.P. and Dr. F.R. did not write any prescriptions for dangerous drugs  
22 and controlled substances to L.C. and B.G.

23 21. Respondents furnished a total of 1,450 tablets of hydrocodone/acetaminophen  
24 10/500mg, 7,350 tablets of hydrocodone/acetaminophen 10/325mg, 505 tablets of alprazolam  
25 0.5mg, 320 tablets of erythromycin 333mg, 246 tablets of erythromycin 500mg and 60 tablets of  
26 atenolol mg to L.C. without valid prescriptions.

27 22. Respondents furnished a total of 1,270 tablets of hydrocodone/acetaminophen  
28 10/500mg, 6,700 tablets of hydrocodone/acetaminophen 10/325mg, 20 tablets of

1 sulfamethaxazole/trimethoprim DS, 40 tablets of erythromycin 250mg, 20 tablets of erythromycin  
2 500mg and 30 tablets of atenolol 30mg to B.G. without valid prescriptions.

3 23. Respondents' pharmacists admitted to dispensing and furnishing fraudulent  
4 prescriptions for dangerous drugs and controlled substances to L.C. and B.G.

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions,  
7 Irregularities, Uncertainties, Ambiguities or Alterations)**

8 24. Respondents are subject to disciplinary action under Code section 4301(o), for  
9 violating title 16, California Code of Regulations, section 1761(a), in that they dispensed  
10 prescriptions for dangerous drugs and controlled substances, which contained significant errors,  
11 omissions, irregularities, uncertainties, ambiguities or alterations, as set forth in paragraphs 18  
12 through 22 above, which are incorporated herein by reference.

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Violations of Pharmacy Law)**

15 25. Respondents are subject to disciplinary action under Code section 4301(o) for  
16 violating Pharmacy Law, in that Respondents furnished dangerous drugs and controlled  
17 substances without valid prescriptions in violation of Code section 4059(a), as set forth in  
18 paragraphs 18 through 22, which are incorporated herein by reference.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Violations of Drug Laws)**

21 26. Respondents are subject to disciplinary action under Code section 4301(j), for  
22 violating statutes regulating controlled substances and dangerous drugs, including Health &  
23 Safety Code section and 11171, in that they furnished controlled substances not in conditions and  
24 the manner provided by the Health & Safety Code, as set forth in paragraphs 18 through 22,  
25 which are incorporated herein by reference.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violations of Drug Laws)**

3 27. Respondents are subject to disciplinary action under Code section 4301(j), for  
4 violating statutes regulating controlled substances and dangerous drugs, including Health &  
5 Safety Code section and 11164.1, in that they delivered controlled substances to in-state patients  
6 in connection with prescriptions for controlled substances issued by prescribers in another state,  
7 as set forth in paragraphs 18 through 22, which are incorporated herein by reference.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct)**

10 28. Respondents are subject to disciplinary action under Code section 4301 for  
11 unprofessional conduct in that they engaged in the activities described in paragraphs 18 through  
12 22 above, which are incorporated herein by reference.

13 **PRAAYER**

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

- 16 1. Revoking or suspending Pharmacy Permit Number PHY 47699, issued to Sav On  
17 Corporation, doing business as Sav On #6763;
- 18 2. Revoking or suspending Pharmacy Permit Number PHY 51402, issued to Sav-On  
19 Pharmacy Ltd., doing business as Sav-On Pharmacy #6763;
- 20 3. Ordering Pharmacy Permit Number PHY 47699, issued to Sav On Corporation, doing  
21 business as Sav On #6763 and Pharmacy Permit Number PHY 51402, issued to Sav-On  
22 Pharmacy Ltd., doing business as Sav-On Pharmacy #6763 to pay the Board of Pharmacy the  
23 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
24 Professions Code section 125.3; and

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

DATED: 6/12/15



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

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