In the Matter of the Accusation Against:

SAV ON CORPORATION,
DBA SAV ON #6763
12475 Rancho Bernardo Road
San Diego, CA 92128

Pharmacy Permit No. PHY 47699

Respondents.

Complainant alleges:

PARTIES

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

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

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

JURISDICTION

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

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

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

7. Section 4300.1 of the Code states:

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

STATUTORY AND REGULATORY PROVISIONS

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

A person may not furnish any dangerous drug, except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor 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.
9. Section 4301 of the Code states in pertinent part:

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

... 

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

... 

(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 any other state or
federal regulatory agency.

...

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

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

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

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

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

No pharmacist shall compound or dispense any prescription which contains any
significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon
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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DRUGS

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

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

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

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

FACTUAL ALLEGATIONS

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

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

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

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

22. Respondents furnished a total of 1,270 tablets of hydrocodone/acetaminophen 10/325mg, 20 tablets of
sulfamethaxazole/trimethoprim DS, 40 tablets of erythromycin 250mg, 20 tablets of erythromycin 500mg and 30 tablets of atenolol 30mg to B.G. without valid prescriptions.

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

**FIRST CAUSE FOR DISCIPLINE**
(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions, Irregularities, Uncertainties, Ambiguities or Alterations)

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

**SECOND CAUSE FOR DISCIPLINE**
(Violations of Pharmacy Law)

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

**THIRD CAUSE FOR DISCIPLINE**
(Violations of Drug Laws)

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

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

FIFTH CAUSE FOR DISCIPLINE
(Unprofessional Conduct)

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

PRAYER

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

1. Revoking or suspending Pharmacy Permit Number PHY 47699, issued to Sav On Corporation, doing business as Sav On #6763;
2. Revoking or suspending Pharmacy Permit Number PHY 51402, issued to Sav-On Pharmacy Ltd., doing business as Sav-On Pharmacy #6763;
3. Ordering Pharmacy Permit Number PHY 47699, issued to Sav On Corporation, doing business as Sav On #6763 and Pharmacy Permit Number PHY 51402, issued to Sav-On Pharmacy Ltd., doing business as Sav-On Pharmacy #6763 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
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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In the Matter of the Accusation Against Sav On Corporation and Sav-On Pharmacy Ltd