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

In the Matter of the Accusation Against**:** **HARBOR DRUG CO. INC.** **DBA STEVEN'S PHARMACY** **1525 Mesa Verde Drive East** **Costa Mesa, CA 92626** **Pharmacy Permit No. PHY 37415** **and** **CHARLES TERRENCE BONNER** **P.O. Box 2007** **Costa Mesa, CA 92628** **Pharmacist License No. RPH 39398** **and** **MERVYN MILLER** **9 Redwood Tree Lane** **Irvine, CA 92612** **Pharmacist License No. RPH 41474** **and** **LEAH BONNER** **P.O. BOX 2007** **Costa Mesa, CA 92628** **Pharmacist License No. RPH 40731** **and**	Case No. 5843 **FIRST AMENDED** **A C C U S A T I O N**

WARREN JAY KINGDON
10885 El Domino
Fountain Valley, CA 92708

Pharmacist License No. RPH 28125

Respondents.

Complainant alleges:

PARTIES

1. Anne Sodergren (Complainant) brings this First Amended Accusation solely in her official capacity as the Interim Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

2. On or about September 12, 1991, the Board issued Pharmacy Permit Number PHY 37415 to Harbor Drug Co. Inc., dba Steven's Pharmacy (Steven's Pharmacy). Charles T. Bonner is, and has been, the President/Treasurer since September 21, 1991. The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and expired on August 31, 2017. It has not been renewed.

3. On or about October 21, 1986, the Board issued Pharmacist License Number RPH 39398 to Charles Terrence Bonner (BONNER). BONNER was the Pharmacist-in-Charge of Respondent Pharmacy since September 12, 1991. The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2020, unless renewed.

4. On or about June 21, 1998, the Board issued Pharmacist License Number RPH 41474 to Mervyn Miller (MILLER). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2019, unless renewed.

5. On or about May 19, 1987, the Board issued Pharmacist License Number RPH 40731 to Leah Bonner (LEAH BONNER). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2020, unless renewed.

6. On or about March 22, 1973, the Board issued Pharmacist License Number RPH 28125 to Warren Jay Kingdon (KINGDON). The Pharmacist License was in full force and effect

at all times relevant to the charges brought herein and will expire on September 30, 2020, unless renewed.

JURISDICTION

7. Code section 4300:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

…

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

8. Code section 4300.1 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

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

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10. Code section 4005 states:

> (a) The board may adopt rules and regulations, not inconsistent with the laws of this state, as may be necessary for the protection of the public. Included therein shall be the right to adopt rules and regulations as follows: for the proper and more effective enforcement and administration of this chapter; pertaining to the practice of pharmacy; relating to the sanitation of persons and establishments licensed under this chapter; pertaining to establishments wherein any drug or device is compounded, prepared, furnished, or dispensed; providing for standards of minimum equipment for establishments licensed under this chapter; pertaining to the sale of drugs by or through any mechanical device; and relating to pharmacy practice experience necessary for licensure as a pharmacist.
>
> (b) Notwithstanding any provision of this chapter to the contrary, the board may adopt regulations permitting the dispensing of drugs or devices in emergency situations, and permitting dispensing of drugs or devices pursuant to a prescription of a person licensed to prescribe in a state other than California where the person, if licensed in California in the same licensure classification would, under California law, be permitted to prescribe drugs or devices and where the pharmacist has first interviewed the patient to determine the authenticity of the prescription.
>
> …

11. Code section 4033(a)(1) defines "Manufacturer" as "every person who prepares, derives, produces, compounds, or repackages any drug or device except a pharmacy that manufactures on the immediate premises where the drug or device is sold to the ultimate consumer."

12. Code section 4076 provides in part:

> (a) A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:
>
> (1) Except when the prescriber or the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6 orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.
>
> (2) The directions for the use of the drug.
>
> (3) The name of the patient or patients.
>
> (4) The name of the prescriber or, if applicable, the name of the certified

nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(5) The date of issue.

(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

(7) The strength of the drug or drugs dispensed.

(8) The quantity of the drug or drugs dispensed.

(9) The expiration date of the effectiveness of the drug dispensed.

(10) The condition or purpose for which the drug was prescribed if the condition or purpose is indicated on the prescription.

(11)(A) Commencing January 1, 2006, the physical description of the dispensed medication, including 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.

(B) This paragraph applies to outpatient pharmacies only.

(C) The information required by this paragraph may be printed on an auxiliary label that is affixed to the prescription container.

(D) This paragraph shall not become operative if the board, prior to January 1, 2006, adopts regulations that mandate the same labeling requirements set forth in this paragraph.

…

13. 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 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

…

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(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.

…

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter that would be grounds for revocation, suspension, or other discipline under this chapter. Any disciplinary action taken by the board pursuant to this section shall be coterminous with action taken by another state, except that the term of any discipline taken by the board may exceed that of another state, consistent with the board's enforcement guidelines. The evidence of discipline by another state is conclusive proof of unprofessional conduct.

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

…

14. Section 4306.5 states in pertinent part:

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

…

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

…

15. Section 4307 states:

(a) Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner, member, officer, director, associate, or partner of any partnership, corporation, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manager, administrator, owner, member, officer, director, associate, or partner had knowledge of or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee as follows:

(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.

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(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.

(b) "Manager, administrator, owner, member, officer, director, associate, or partner," as used in this section and Section 4308, may refer to a pharmacist or to any other person who serves in that capacity in or for a licensee.

(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. However, no order may be issued in that case except as to a person who is named in the caption, as to whom the pleading alleges the applicability of this section, and where the person has been given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision shall be in addition to the board's authority to proceed under Section 4339 or any other provision of law.

16. Title 16, California Code of Regulations (CCR), section 1707.3 states, "Prior to consultation as set forth in section 1707.2, a pharmacist shall review a patient's drug therapy and medication record before each prescription drug is delivered. The review shall include screening for severe potential drug therapy problems."

17. Title 16, CCR, section 1717 states:

(a) No medication shall be dispensed on prescription except in a new container which conforms with standards established in the official compendia.

…

(b) In addition to the requirements of Section 4040, Business and Professions Code, the following information shall be maintained for each prescription on file and shall be readily retrievable:

(1) The date dispensed, and the name or initials of the dispensing pharmacist. All prescriptions filled or refilled by an intern pharmacist must also be initialed by the supervising pharmacist before they are dispensed.

(2) The brand name of the drug or device; or if a generic drug or device is dispensed, the distributor's name which appears on the commercial package label; and

(3) If a prescription for a drug or device is refilled, a record of each refill, quantity dispensed, if different, and the initials or name of the dispensing pharmacist.

(4) A new prescription must be created if there is a change in the drug, strength, prescriber or directions for use, unless a complete record of all such changes is otherwise maintained.

(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.

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

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

(d) A pharmacist may furnish a drug or device pursuant to a written or oral order from a prescriber licensed in a State other than California in accordance with Business and Professions Code Section 4005.

(e) A pharmacist may transfer a prescription for Schedule III, IV, or V controlled substances to another pharmacy for refill purposes in accordance with Title 21, Code of Federal Regulations, section 1306.26.

Prescriptions for other dangerous drugs which are not controlled substances may also be transferred by direct communication between pharmacists or by the receiving pharmacist's access to prescriptions or electronic files that have been created or verified by a pharmacist at the transferring pharmacy. The receiving pharmacist shall create a written prescription; identifying it as a transferred prescription; and record the date of transfer and the original prescription number. When a prescription transfer is accomplished via direct access by the receiving pharmacist, the receiving pharmacist shall notify the transferring pharmacy of the transfer. A pharmacist at the transferring pharmacy shall then assure that there is a record of the prescription as having been transferred, and the date of transfer. Each pharmacy shall maintain inventory accountability and pharmacist accountability and dispense in accordance with the provisions of section 1716 of this Division. Information maintained by each pharmacy shall at least include:

(1) Identification of pharmacist(s) transferring information;

(2) Name and identification code or address of the pharmacy from which the prescription was received or to which the prescription was transferred, as appropriate;

(3) Original date and last dispensing date;

(4) Number of refills and date originally authorized;

(5) Number of refills remaining but not dispensed;

(6) Number of refills transferred.

(f) The pharmacy must have written procedures that identify each individual pharmacist responsible for the filling of a prescription and a corresponding entry of information into an automated data processing system, or a manual record system, and the pharmacist shall create in his/her handwriting or through hand-initializing a record of such filling, not later than the beginning of the pharmacy's next operating day. Such record shall be maintained for at least three years."

18. Title 16, CCR, section 1735.2 states in pertinent part:

…

(b) A pharmacy may prepare and store a limited quantity of a compounded drug product in advance of receipt of a patient-specific prescription where and solely in such quantity as is necessary to ensure continuity of care for an identified

population of patients of the pharmacy based on a documented history of prescriptions for that patient population.

…

19. Title 16, CCR, section 1735.5 states in pertinent part:

(a) Any pharmacy engaged in compounding shall maintain a written policy and procedure manual for compounding that establishes procurement procedures, methodologies for the formulation and compounding of drugs, facilities and equipment cleaning, maintenance, operation, and other standard operating procedures related to compounding.

…

20. Title 16, CCR, section 1761 states:

(a) 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.

(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 that said prescription was not issued for a legitimate medical purpose.

21. Health and Safety (H&S) Code section 11153 states in pertinent part:

(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.

…

22. H&S Code section 11158 states in pertinent part:

(a) Except as provided in Section 11159 or in subdivision (b) of this section, no controlled substance classified in Schedule II shall be dispensed without a prescription meeting the requirements of this chapter. Except as provided in Section 11159 or when dispensed directly to an ultimate user by a practitioner, other than a pharmacist or pharmacy, no controlled substance classified in Schedule III, IV, or V may be dispensed without a prescription meeting the requirements of this chapter.

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(b) A practitioner specified in Section 11150 may dispense directly to an ultimate user a controlled substance classified in Schedule II in an amount not to exceed a 72-hour supply for the patient in accordance with directions for use given by the dispensing practitioner only where the patient is not expected to require any additional amount of the controlled substance beyond the 72 hours. Practitioners dispensing drugs pursuant to this subdivision shall meet the requirements of subdivision (f) of Section 11164.

…

23. H&S Code section 11162.1 states:

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

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

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

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

(4) A feature printed in thermochromic ink.

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

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

(7)(A) Six quantity check off boxes shall be printed on the form so that the prescriber may indicate the quantity by checking the applicable box where the following quantities shall appear:

1-24

25-49

50-74

75-100

101-150

151 and over.

(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, and address 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.

(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.

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

(c) (1) A prescriber designated by a licensed health care facility, a clinic specified in 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 paragraph (9) of subdivision (a) or paragraph (3) of this subdivision.

(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 of the licensed health care facility the clinic specified in Section 1200, or the clinic specified in Section 1206 that has 25 or more physicians or surgeons preprinted on the form. Licensed health care facilities or clinics exempt under Section 1206 are not required to preprint the category of licensure and license number of their facility or clinic.

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

(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 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 each prescriber. The record shall be maintained in the health facility for three years.

(B) Forms ordered pursuant to this subdivision that are printed by a computerized prescription generation system shall not be subject to subparagraph (A) or 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 professional licensure, license number, federal controlled substance registration number, and the

date of the prescription.

(d) This section shall become operative on January 1, 2012. Prescription forms not in compliance with this division shall not be valid or accepted after July 1, 2012.

24. H&S Code section 11164 states:

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

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

(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the prescriber's address and telephone number; the name of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services; refill information, such as the number of refills ordered and whether the prescription is a first-time request or a refill; and the name, quantity, strength, and directions for use of the controlled substance prescribed.

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

(b)(1) Notwithstanding paragraph (1) of subdivision (a) of Section 11162.1, any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be produced in hard copy form and signed and dated by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code. Any person who transmits, maintains, or receives any electronically transmitted prescription shall ensure the security, integrity, authority, and confidentiality of the prescription.

(2) The date of issue of the prescription and all the information required for a written prescription by subdivision (a) shall be included in the written record of the prescription; the pharmacist need not include the address, telephone number, license classification, or federal registry number of the prescriber or the address of the patient on the hard copy, if that information is readily retrievable in the pharmacy.

(3) Pursuant to an authorization of the prescriber, any agent of the prescriber on behalf of the prescriber may orally or electronically transmit a prescription for a controlled substance classified in Schedule III, IV, or V, if in these cases the written record of the prescription required by this subdivision specifies the name of the agent of the prescriber transmitting the prescription.

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(c) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(d) Notwithstanding any provision of subdivisions (a) and (b), prescriptions for a controlled substance classified in Schedule V may be for more than one person in the same family with the same medical need.

(e) This section shall become operative on January 1, 2005.

25. H&S Code section 11164.1 states in pertinent part:

(a)(1) 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.

…

(b) Pharmacies may dispense prescriptions for Schedule III, Schedule IV, and Schedule V controlled substances from out-of-state prescribers pursuant to Section 4005 of the Business and Professions Code and Section 1717 of Title 16 of the California Code of Regulations.

26. H&S Code section 11200 states in pertinent part:

(a) No person shall dispense or refill a controlled substance prescription more than six months after the date thereof.

(b) No prescription for a Schedule III or IV substance may be refilled more than five times and in an amount, for all refills of that prescription taken together, exceeding a 120-day supply.

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27. H&S Code section 110290 states:

In determining whether the labeling or advertisement of a food, drug, device, or cosmetic is misleading, all representations made or suggested by statement, word, design, device, sound, or any combination of these, shall be taken into account. The extent that the labeling or advertising fails to reveal facts concerning the food, drug, device, or cosmetic or consequences of customary use of the food, drug, device, or cosmetic shall also be considered.

28. H&S Code section 111330 states, "Any drug or device is misbranded if its labeling is false or misleading in any particular."

29. H&S Code section 111335 states, "Any drug or device is misbranded if its labeling or packaging does not conform to the requirements of Chapter 4 (commencing with Section 110290)."

30. H&S Code section 111440 states, "It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded."

31. H&S Code section 111615 states:

> No person shall manufacture any drug or device in this state unless he or she has a valid license from the department. The license is valid for two calendar years from the date of issue, unless it is revoked. The license is not transferable.
>
> The department may require any manufacturer, wholesaler, or importer of any prescription ophthalmic device in this state to obtain a license.

32. Nevada Revised Statutes (NRS) section 453.431 states:

> 1. A pharmacist shall not knowingly fill or refill any prescription for a controlled substance for use by a person other than the person for whom the prescription was originally issued.
>
> 2. A person shall not furnish a false name or address while attempting to obtain a controlled substance or a prescription for a controlled substance. A person prescribing, administering or dispensing a controlled substance may request proper identification from a person requesting controlled substances.
>
> 3. A pharmacist shall not fill a prescription for a controlled substance if the prescription shows evidence of alteration, erasure or addition, unless the pharmacist obtains approval of the practitioner who issued the prescription.
>
> 4. A pharmacist shall not fill a prescription for a controlled substance classified in schedule II unless it is tendered on or before the 14th day after the date of issue. This subsection does not prohibit a practitioner from issuing a prescription on which the practitioner indicates that the prescription may not be filled until the date indicated on the prescription, which must not be later than 6 months after the date the prescription is issued.
>
> 5. A person who violates this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

33. Title 21, United States Code Annotated (U.S.C.A.), section 360 states in pertinent part:

> **(a) Definitions**
>
> As used in this section--
>
> (1) the term "manufacture, preparation, propagation, compounding, or processing" shall include repackaging or otherwise changing the container, wrapper, or labeling of any drug package or device package in furtherance of the distribution of the drug or device from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user; and

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> (2) the term "name" shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

(b) Annual registration

(1) During the period beginning on October 1 and ending on December 31 of each year, every person who owns or operates any establishment in any State engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs shall register with the Secretary [of the United States Department of Health and Human Services] the name of such person, places of business of such person, all such establishments, the unique facility identifier of each such establishment, and a point of contact e-mail address.

…

DRUGS

34. The following drugs are designated as dangerous drugs pursuant to Code section 4022:

NAME	GENERIC NAME	INDICATION FOR USE
Dyclonine	Dyclonine	Pain
Flexeril	Cyclobenzaprine	Pain
Florinef	Fludricortisone	Addison's Disease
Flurbiprofen	Flurbiprofen	Inflammation
Ketoprofen	Ketoprofen	Inflammation
Lidocaine	Lidocaine	Pain
Neurontin	Gabapentin	Nerve Pain
Prilocaine	Prilocaine	Pain
Prometrium	Progesterone	Hormone deficiency
Tetracaine	Tetracaine	Pain
Voltaren	Diclofenac	Inflammation

35. The following drugs are neither dangerous drugs pursuant to Code section 4022 nor controlled substances:

BRAND NAME	GENERIC NAME	INDICATION FOR USE
Capsaicin	Capsaicin	Pain
Menthol	Menthol	Pain
Camphor	Camphor	Pain

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36. The following drugs are both dangerous drugs pursuant to Code section 4022 and are controlled substances:

BRAND NAME	GENERIC NAME	CONTROLLED SUBSTANCE PER H & SC	INDICATION FOR USE
	testosterone/oil	per H&SC 11056	injectable hormone replacement
Testred	methyltestosterone	per H&SC 11056	oral hormone replacement
Marinol	dronabinol	per H&SC 11056	anorexia with AIDS diagnosis and nausea in cancer patients
Adderall	dextro-amphetamine salts	per H&SC 11055	ADHD and ADD in adults
Anadrol	oxymetholone	per H&SC 11056	anabolic steroid – anemia associated with red cell deficiencies
Androxy	fluoxymesterone	per H&SC 11056	Anabolic steroid-replacement of endogenous testosterone
Soma	carisoprodol	per H&SC 11057	muscle relaxant
	ketamine powder	per H&SC 11056	anesthetic prior to surgery to produce loss of consciousness
Provigil	modafinil	per H&SC 11057	narcolepsy
MS Contin	morphine sulfate extended release	per H&SC 11055	chronic pain
	oxycodone immediate release	per H&SC 11055	chronic pain
Oxandrin	oxandrolone	per H&SC 11056	regain weight post-surgery
Testim gel	testosterone gel	per H&SC 11056	hormone replacement
Intermezzo	zolpidem SL	per H&SC 11057	Sleep
Fycompa	perampanel	per H&SC 11056	Grand mal seizures
Xanax	alprazolam	per H&SC 11057	anxiety
Ativan	lorazepam	per H&SC 11057	anxiety
Valium	diazepam	per H&SC 11057	anxiety or muscle spasms
MS Contin	morphine sulfate ER	per H&SC 11055	chronic pain
	oxycodone	per H&SC 11055	chronic pain
Restoril	temazepam	per H&SC 11057	sleep
Ambien	zolpidem	per H&SC 11057	sleep
Klonopin	clonazepam	per H&SC 11057	anxiety, restless legs
Lunesta	eszopiclone	per H&SC 11057	sleep
Halcion	triazolam	per H&SC 11057	sleep
Fiorinal	butalbital/asa	per H&SC 11056	pain, headaches
Vicodin	hydrocodone/apap	per H&SC 11056 (related to this case)	pain
	phenobarbital	per H&SC 11057	seizures

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COST RECOVERY

36. Code section 125.3 states, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of

the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FACTS

37. On December 5, 2006, the Food and Drug Administration (FDA) issued a general news release warning five firms to stop compounding and distributing standardized versions of topical anesthetic creams, which were marketed for general distribution rather than responding to the unique medical needs of individual patients. The FDA warned of serious public health risks related to compounded anesthetic creams, exposure to high concentrations of which may cause grave reactions including seizures and irregular heartbeats. According to the FDA warning, compounded topical anesthetic creams contain high doses of local anesthetics including lidocaine, tetracaine, benzocaine and prilocaine. When different anesthetics are combined into one product, each anesthetic's potential for harm is increased. The FDA warned that the potential for harm may also increase if the product is left on the body for long periods of time or applied to broad areas of the body, particularly if an area is then covered by a bandage, plastic or other dressing.

38. On November 12, 2008, the FDA issued a warning letter to Steven's Pharmacy following the FDA's inspection of the pharmacy on June 23-25, 2008. The warning letter stated that Steven's Pharmacy, although purported to be a compounding pharmacy, exceeded "the practices associated with traditional extemporaneous compounding and is more akin to that of a drug manufacturer ." Specifically, the FDA found that Steven's Pharmacy manufactured large volumes of drugs including standardized topical anesthetic drugs ("Profound Gel" and "Profound Gel Light") in anticipation of receiving prescriptions rather than compounding a medication based upon a specific medical need of an individually-identified patient. "Profound Gel" contained a combination of prilocaine, lidocaine, and tetracaine. The FDA found Steven's Pharmacy to be in violation of the Federal Food, Drug, and Cosmetic Act (FD&C Act) in Steven's Pharmacy's compounding of unapproved new drug products and misbranding of drug products.

39. In October, 2015, the FDA published guidance related to pharmacies that compound patient-specific medications on an individual basis. These pharmacies were classified under section

503A of the FD&C Act. According to section 503A of the FD&C Act, a compounded medication is one that was:

a. compounded for an identified individual patient based on the receipt of a valid prescription order; and,

b. compounded by a licensed pharmacist:

(i) in a state licensed pharmacy or a Federal facility, or by a licensed physician on the prescription order for an individual patient; or,

(ii) or licensed physician in limited quantities before receipt of a valid prescription order for such individual patient.

c. compounded in a state that has entered into a memorandum of understanding with the FDA that addresses the distribution of inordinate amounts of compounded drug products interstate and provides for appropriate investigation by a state agency of complaints relating to compounded drug products distributed outside such state; or, in states that have not entered into such a memorandum with FDA, such as California, the licensed pharmacist, licensed pharmacy, or licensed physician does not distribute, or cause to be distributed, compounded drug products out of the state in which they were compounded, more than 5 percent of the total prescription orders dispensed or distributed by such pharmacy.

APRIL 23, 2015 and JULY 7, 2015 INSPECTIONS

40. On April 23, 2015, Board inspectors conducted an inspection of Steven's Pharmacy. BONNER was present during the inspection and showed the Board inspectors the different areas of the pharmacy, including the pharmacy dispensing area, the compounding lab, and the shipping area. BONNER stated that Steven's Pharmacy shipped "very little" compounded preparations to out-of-state residents. BONNER stated Steven's Pharmacy was licensed in 30 states and that some states did not require the pharmacy to be licensed. Steven's Pharmacy had prescriptions from Illinois, West Virginia, Texas, Connecticut, Nevada, New York, Florida, Maryland, Kansas and Minnesota. Steven's Pharmacy did not have an active license in Illinois, West Virginia, Maryland and Minnesota.

41. The compounding area was separated into three compartments by plastic curtains. Board inspectors observed various hormone and pain creams in the first compartment. There were multiple 300-gram jars of various stock creams on the shelves, as well as scales and powder hoods.

42. The second compartment of the compounding area contained various 300-gram jars labeled "PFG." A group of labels with the letters "PFG" printed on them were paper-clipped together. None of these labels were patient specific. According to the label, PFG was the compound of lidocaine 10%/ prilocaine 10%/ tetracaine 1%. In addition, there was a bin of about 20-30 syringes filled with a green-colored substance. When asked why the syringes were not labeled, MILLER explained that they normally label the syringes after they are made and that the syringes were going to be labeled before the end of the day. However, the inspectors noted that the compounds in the syringes had been made the day before the inspection. MILLER was the pharmacist involved in the verification, supervising and compounding of nonsterile products.

43. The Board inspectors also observed a large plastic unlabeled tub of a reddish compound found in a cabinet in the second area of the lab. MILLER and C.H. identified the reddish compound as PFG gel. According to C.H., the PFG gel needed time to solidify and was made a day prior to the Board's inspection. A bag of chips was found next to the container of the unidentified red compound. This was not an appropriate practice of a compounding pharmacy. Another large plastic unlabeled tub of a green colored compound was found in a cabinet in the third area of the lab.

44. According to MILLER, "PFG" was often ordered by dentists to use as an analgesic prior to a dental procedure. There were multiple small plastic containers labeled "PFG-D," "PFG – Mint," and "PFG – Tutti Frutti." MILLER explained different dentists wanted different formulations. As an example, MILLER said the "D" in "PFG-D" stood for "phenylephrine." The containers were not labeled for specific patients.

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45. In the third compartment, Board inspectors observed two 30-gallon containers on stands, such as those that typically contain drinking water. One of the containers was labeled "Water for Compounds," and was about two-thirds full. The other 30-gallon container was

labeled, "DYC [Dyclonine] Rinse DO NOT DRINK!!!" and was empty except for a dry, white residue. The use of such large containers implied the manufacturing of large amounts of dyclonine solution for general distribution, rather than for compounded medication on a patient-specific basis.

46. In addition, Board inspectors found several 480 milliliter amber bottles in the compounding area. Some of the bottles were labeled "dyclonine 0.5%" and "dyclonine 1%." Approximately 10-12 bottles were unlabeled. Some of the bottle caps bore the writing "L1%," which was explained to denote "lemon flavored dyclonine 1%."

47. Board inspectors found large plastic tubs of an unidentified cream stacked on top of one another in a section of the compounding room. There were no labels or signs identifying the contents. The use of such large containers to store or compound medications implied the manufacturing of products for a large patient population rather than the compounding for individual patient-specific needs.

48. Steven's Pharmacy obtained their compounding formulas from Professional Compounding Centers of America (PCCA), a pharmacy consulting company and out of state wholesale distributor licensed with the Board. According to pharmacy staff, when a particular formula was needed, Steven's Pharmacy would call PCCA for a formula that was similar to the drug it desired to compound. Steven's Pharmacy would then change the formula percentages and/or add other components to fit the specific formula they desired. This practice raised concerns about documentation of beyond use dates (BUD) and the maintenance of the integrity, potency, quality, and strength of the finished product. PCCA's formulas had BUD recommendations that were specific to the particular components and strengths present in the final preparation. Any deviation from the specific formula would alter the ratio of ingredients used in the product and therefore a new BUD would have to be determined. However, Steven's

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Pharmacy did not provide documentation that a new BUD was determined but rather referenced the BUD given by PCCA.

49. For some formulations, Steven's Pharmacy did not provide references to the BUD noted in the compounding logs. Steven's Pharmacy used the general 180-day BUD guideline in the regulations when more specific, applicable BUD guidelines were referred to in its compounding logs. For example, Steven's Pharmacy's compounded PFG 10%/10%/4% used by a dentist as an oral anesthetic; this compounded drug contained water. In the compounding logs obtained from Steven's Pharmacy, there was no stability information referenced about this compounded drug but there was a reference to the United States Pharmacopeia (USP) Chapter 795. According to USP 795, in the absence of stability information, this compound should have been given a BUD of "not later than 30 days." Steven's Pharmacy disregarded the BUD noted on their compounding logs and indicated the BUD on the compounded PFG 10%/10%/4% was 180 days.

50. The rear area of the pharmacy housed an Accutek SVF series, or Semi-Automatic Volumetric Filler, machine (Accutek machine). According to Accutek, the Accutek machine "deliver[s] a measured volume of product to each container. The accuracy of these machines ensures bottom line savings by reducing the amount of product that is used as overfill." According to Accutek, the recommended products to be used with the Accutek machine include the following:

> Water, Fruit Juices & Extracts, Liquid Tea, Liquid Coffee, Food Coloring, Tooth Paste, Peanut Butter, Vegetable Oil, Milk, Honey, Mayonnaise, Sour Cream, Cheese, Tomato juice, Fruit toppings, Jellies, Jams, Syrup, Molasses, Yogurt, Salsa, Salad Dressings, Soup, Chili, Perfumes, Essential Oils, Nail Polish, Nail Polish Remover, Ink, Lip Balms, Soap, Sun Tan Lotions, Shampoo's, Hair Conditioners, Hair Styling Gels …"

51. Below the Accutek machine were cabinets that contained totes of large amounts of 120-gram pain creams. The Board inspector found 706 120-gram tubes of various pain creams and 199 30-gram tubes of compounded drugs, which, according to MILLER, were sold to the individual physicians to be given to the patient as a "starter" or initial therapy while the patient waited for receipt of their initial shipment of the prescribed medication.

52. The following 120-gram tubes of compounded creams were found during the Board's inspection:

Compound	Date Made	BUD	Lot	# of 120-gm Tubes
Flurbiprofen 15%/gabapentin 7%/lidocaine 5%	3/19/15	9/15/15	PH-21644(LE)	70
Gabapentin 7%/ketoprofen 10%/lidocaine 5%	3/25/15	9/21/15	PH-21659(LE)	54
Flurbiprofen 15%/cyclobenzaprine 3%/capsaicin 0.0375%/menthol 2%/camphor 1%	4/9/15	10/6/15	PH-21715	79
Flurbiprofen 20%	1/8/15	7/7/15	PH-20413	30
Flurbiprofen 20%	3/31/15	9/27/15	PH-21668	86
Flurbiprofen 15%/cyclobenzaprine 3%/capsaicin 0.0375%/menthol 2%/camphor 1%	4/9/15	10/6/15	PH-21713 PH-21715	178
Diclofenac 5%/fluocinonide 0.05%/tetracaine 5%	3/5/15	9/1/15	PH-21598	30
Flurbiprofen 15%/cyclobenzaprine 3%/capsaicin 0.0375%/menthol 2%/camphor 1%	1/13/15 2/17/15	7/12/15 8/16/15	PH-21434 PH-21518	95
Flurbiprofen 15%/cyclobenzaprine 3%/capsaicin 0.0375%/menthol 2%/camphor 1%	3/13/15	8/30/15	PH-21580	52
Flurbiprofen 15%/gabapentin 7%/lidocaine 5%	3/31/15	9/27/15	PH-21674	28
Ketoprofen 20%	12/12/14	6/10/15	PH-21355	4

53. The following 30-gram tubes were found at the pharmacy. According to MILLER, the 30-gram tubes were sold to the physician and given by the physician in the physician's office to initiate treatment until the patient received a 120-gram tube from the pharmacy.

Compound	Date Made	BUD	Lot	# of 120gm Tubes
Diclofenac 5%/fluocinonide 0.05%/tetracaine 5%	3/5/15	9/1/15	PH-21598	45
Ketoprofen 20%	4/9/15	10/6/15	PH-21709	82
Cyclobenzaprine 3%/ketoprofen 10%/ lidocaine 5%	3/6/15	9/2/15	PH-21601	72

54. Steven's Pharmacy's compounding logs for 2012, 2013 and 2014 were obtained. The logs show that large volumes of compounded products were made by Steven's Pharmacy. For example, Steven's Pharmacy compounded eight lots of cyclobenzaprine/ketoprofen/lidocaine 3%/10%/5% cream one month, January, 2012. Each lot made was for 15,000 grams. Therefore, in January, 2012, Steven's Pharmacy compounded a total of 120,000 grams of cyclobenzaprine/ketoprofen/lidocaine 3%/10%/5% cream. This quantity made approximately 10,000 120-gram tubes of cyclobenzaprine/ketoprofen/lidocaine 3%/10%/5% cream. Typically, Steven's Pharmacy dispenses one 120-gram tube of a particular compound to individual patients. If so, then Steven's Pharmacy distributed 10,000 120-gram tubes of cyclobenzaprine/ketoprofen/lidocaine 3%/10%/5% cream in January, 2012.

55. The following table illustrates the amount Steven's Pharmacy compounded versus the amount dispensed of flurbiprofen 15%/cyclobenzaprine 3%/capsaicin 0.0375%/menthol 2%/camphor 1% and flurbiprofen 15%/gabapentin 7%/lidocaine 5% creams from January 1, 2015 to April 23, 2015:

Month 2015	Quantity Made (Grams)	# of 120gm Tubes	Quantity Dispensed (Grams)	# of 120gm Tubes	Difference between Compounded and Dispensed (120gm Tubes)
January	30,000	250	3,240	27	223
February	30,000	250	34,440	287	-37
March	60,000	500	29,610	247	253
April	30,000	250	23,460	196	54

56. The following table illustrates the amount Steven's Pharmacy compounded versus the amount dispensed of flurbiprofen 15%/gabapentin 7%/lidocaine 5% from January 1, 2015 to April 23, 2015:

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Month 2015	Quantity	# of 120gm	Quantity	# of 120gm	Difference

	Made (Grams)	Tubes	Dispensed (Grams)	Tubes	between Compounded and Dispensed (120gm Tubes)
January	20,000	167	1,080	9	158
February	20,000	167	17,850	149	18
March	20,000	167	19,530	163	4
April	10,000	83	10,530	88	-5

57. Steven's Pharmacy regularly compounded large volumes of product. In 2012, 15.61% of all compounds were greater than 1000 milliliters or 1000 grams. In 2013, 11.42% of all compounds were greater than 1000 milliliters or 1000 grams. In 2014, 11.24% of all compounds were greater than 1000 milliliters or 1000 grams.

58. The large quantities of product found are common of a manufacturer and are not normally found in a compounding pharmacy, which compounds products specific to individual patient needs. The observations of the Board inspectors indicated that Steven's pharmacy failed to comply with the FDA's warning letter issued on 11/12/2008, and acted as a manufacturer in the production of compounded preparations.

59. Steven's Pharmacy's website and preprinted order forms also demonstrate that Steven's Pharmacy manufactured compounded products instead of compounding products for an individual patient's needs. Steven's Pharmacy's website had a list of products offered "for the Health Care Professional." For example, Steven's Pharmacy offered standardized products such as "PFG & PF Lite," "PFP," "DGB," and "Dental Lollipop" under "Steven's Dentistry Compounds." Each product had a link to a preprinted order form with a list of compounds, many with predetermined strengths and quantities. Printed on the bottom of each order sheet was the following acknowledgment to be signed by the physician:

> Federal regulations require that all compounded prescriptions be patient specific. I attest that this compound is not commercially available and is custom compounded to my specifications and prescription order.

60. The website also had a form patient log with rows to fill in the date, patient name, date of birth (DOB), quantity used, practitioner signature, and RX#. The use of such a log implies the use of one container of a particular compounded formulation for multiple patients, rather than use

of a product compounded specifically for an individual patient. Material Safety Data Sheets (MSDS) for the ingredients used in each of the compounds Steven's Pharmacy made were included on Steven's Pharmacy's website. The availability of MSDS, which are typically made available by product manufacturers, is not typical in a compounding pharmacy.

61. Steven's Pharmacy's policies and procedures regarding engaging in anticipatory compounding states that Steven's Pharmacy would only compound up to three weeks of anticipated compounded prescriptions. However, during the inspection on April 23, 2015, Board inspectors observed cabinets containing compounds that were made in January 2014. Therefore, Steven's Pharmacy was not following its policy and procedures.

62. Board inspectors conducted a second inspection of Steven's Pharmacy on July 7, 2015. During the inspection, the Board inspectors noted that bottles of dyclonine 0.5% solution, lot number PH-21849, were labeled with a "1/2016" BUD. According to the compounding log for this lot number, the BUD was "November 30, 2015."

63. The inspectors reviewed the PFG compounds on the pharmacy shelves. PFG containers bearing lot number PH-21859 were labeled with a different BUD from the BUD on the stock bottle. The stock PFG container had a BUD of "12/06/2015. However, the labels on the individual PFG containers had a BUD of "01/2016." According to the compounding log for PFG, lot number PH-21859, the BUD was "December 6, 2015."

FIRST CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Miller, Charles Bonner, and Leah Bonner Only

(Unlawful Manufacturing)

64. Respondents Steven's Pharmacy, MILLER, BONNER, and LEAH BONNER are subject to disciplinary action under Code sections 4301(j) and (o) in conjunction with H&S Code section 111615 for unprofessional conduct for manufacturing drugs without a valid license, in that from about January 3, 2012 to July 7, 2015, Respondents manufactured large amounts of standardized compounds for general distribution, as more fully set forth in paragraphs 37 – 63 and incorporated by this reference as though set forth in full herein.

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SECOND CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Miller, Charles Bonner, and Leah Bonner

(Misbranded Drugs)

65. Respondents Steven's Pharmacy, MILLER, BONNER, and LEAH BONNER are subject to disciplinary action under Code sections 4301(j) and (o) in conjunction with H&S Code section 111440 for unprofessional conduct in that on or about April 23, 2015, Respondents manufactured, sold, delivered, held, or offered for sale misbranded drugs in that multiple syringes of lidocaine 10%/prilocaine 10%/tetracaine 1% and bottles of dyclonine solution were not labeled, as more fully set forth in paragraphs 37 – 63 and incorporated by this reference as though set forth in full herein.

THIRD CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Miller, Charles Bonner, and Leah Bonner Only

(Policy and Procedure Regarding Anticipatory Compounding)

66. Respondents Steven's Pharmacy, MILLER, BONNER, and LEAH BONNER are subject to disciplinary action under Code sections 4301(j) and (o) in conjunction with title 16, CCR, section 1735.5(a) for unprofessional conduct in that Respondents failed to comply with Steven's Pharmacy's policy and procedure regarding anticipatory compounding of preparations up to three weeks of anticipated compounded prescriptions. During the Board's inspection on April 23, 2015, compounded products that were compounded in January, 2014, were stored in the pharmacy, as more fully set forth in paragraphs 37 – 63 and incorporated by this reference as though set forth in full herein.

FOURTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Miller, Charles Bonner, and Leah Bonner Only

(Compounding Limitations and Requirements)

67. Respondents Steven's Pharmacy, MILLER, BONNER, and LEAH BONNER are subject to disciplinary action under Code section 4301(o) in conjunction with title 16, CCR, section 1735.2(b), for unprofessional conduct in that Steven's Pharmacy compounded and stored large amounts of compounded products rather than preparing and storing a limited quantity of a

compounded products in advance of receipt of a patient-specific prescription where such a quantity was necessary to ensure continuity of care for an identified population of patients of the pharmacy, as more fully set forth in paragraphs 37 – 63 and incorporated by this reference as though set forth in full herein.

FIFTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Miller, Charles Bonner, and Leah Bonner Only

(Misbranded Drugs – Incorrect BUD)

68. Respondents Steven's Pharmacy, MILLER, BONNER, and LEAH BONNER are subject to disciplinary action under Code section 4301(o) in conjunction with Health and Safety Code section 111330 for unprofessional conduct for misbranding drugs with false labeling in that on July 7, 2015, dyclonine 0.5% solution, lot number PH-21849, and PFG, lot number PH-21859 were falsely labeled with beyond use dates of "1/2016" when the compounding logs showed a beyond use date of "11/30/2015" for dyclonine 0.5% solution, PH-21849 and a beyond use date of "12/6/2015" for PFG, PH-21859, as more fully set forth in paragraphs 37 – 63 and incorporated by this reference as though set forth in full herein.

SIXTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Charles Bonner, and Leah Bonner Only

(Registration of Producers of Drugs or Devices)

69. Respondents Steven's Pharmacy, BONNER, and LEAH BONNER are subject to disciplinary action under Code section 4301(o) in conjunction with title 21, U.S.C.A. section 360(b)(1) for unprofessional conduct for violating or attempting to violate federal laws regarding pharmacy in that Respondents owned or operated Steven's Pharmacy and engaged in the manufacture, preparation, propagation, compounding, or processing of drug or drugs but was not registered as a manufacturer with the Secretary [of Health and Human Services], as more fully set forth in paragraphs 37 – 63 and incorporated by this reference as though set forth in full herein.

INVESTIGATION RELATED TO PRESCRIPTIONS FOR J.T.

70. The Board received a complaint from J.T. about pharmacy A.P., a California pharmacy, that J.T. believed wrongfully refused to dispense a prescription written in Nevada to

J.T. at J.T.'s California address. During the Board's investigation of J.T.'s complaint, J.T. stated a California pharmacy had previously dispensed a prescription written in Nevada to him in California. The Board inspector ran J.T.'s Controlled Substance Utilization Review and Evaluation System (CURES) report to determine which pharmacy filled a Nevada prescription and dispensed it in California. The CURES report, which covered the period from January 1, 2012 through April 23, 2015, identified Steven's Pharmacy. The CURES report showed that J.T. received Schedule II controlled substances and three benzodiazepines from prescribers in California and also Schedule II controlled substance prescriptions from Nevada. During the investigation, Board inspectors learned that J.T. was 39 years old and was a bodybuilder.

71. On July 17, 2015, the Board inspector contacted BONNER and requested original prescriptions for J.T., Steven's Pharmacy's dispensing history for J.T. (patient profile) from December 31, 2012 through April 23, 2015, a pharmacy audit report showing who filled each of the prescriptions and signature logs showing who picked up each of the prescriptions.

72. Although the Board inspector requested Steven's Pharmacy provide J.T.'s patient profile, BONNER provided J.T.'s expense report. After a second request for J.T.'s patient profile, the Board received the profile on or about January 6, 2016. This profile did not contain the quantity dispensed, refills, and prescriber name.

73. The prescriptions and patient profile for J.T. showed that J.T. received multiple controlled substances from multiple prescribers located in Nevada and California:

Date Rx written/Rx number:	Drug:	Quantity/Days supply indicated:	Prescriber and location:	Address of patient on prescription:
1/7/14 Rx2225475 Bonner	morphine 30mg IR	225/ 15 days	Dr. S.K.-Las Vegas	Costa Mesa, CA
3/10/14 Rx4501812	Marinol 10mg	360/ 30 days	J.M. PA – Pacific Palasades	None
2/21/14 Rx4501626 Kingdon	lorazepam 2mg	90/ 30 days	L.A. PA-Pacific Palasades	Costa Mesa, CA
5/1/14 Rx4502304 Kingdon*	Androxy 10mg	60/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
5/1/14 Rx4502305 Kingdon	Anadrol 50mg	300/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV

5/1/14 Rx4502306 Kingdon	Oxandrin 10mg	180/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
5/1/14 Rx4502308 Not found on profile	depo-Testosterone 200mg/ml	20ml/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
5/28/14 Rx4502631 Kingdon*	Oxandrin 10mg	180/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
6/26/14 Rx4502892 Not found on profile	Oxandrin 10mg	180/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
6/26/14 Rx4502893 Bonner	Xanax 2mg (alprazolam)	120/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
6/26/14 Rx4502894 Kingdon*	depo-Testosterone 200mg/ml	20ml/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
6/26/14 Rx4502895 Not found on profile	Androxy 10mg	60/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
6/26/14 Rx4502896 Kingdon*	Anadrol 50mg	300/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
6/26/14 Rx2226393 Kingdon	MS Contin 200mg	240/ 30 days	Dr. S.K.-Las Vegas	Las Vegas, NV
6/26/14 Rx2226394 Kingdon	oxycodone IR 30mg	315/ 15 days	Dr. S.K.-Las Vegas	Las Vegas, NV
7/24/14 Rx4503067 Kingdon	depo-Testosterone 200mg/ml	20ml/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
7/24/14 Rx4503066 Kingdon	Xanax 2mg (alprazolam)	120/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
6/26/14 Rx2226395 Kingdon	oxycodone IR 30mg	315/ 15 days	Dr. S.K.-Las Vegas	Las Vegas, NV
5/28/14 Rx2226562 Kingdon	MS Contin 200mg	240/ 30 days	Dr. S.K.-Las Vegas	Las Vegas, NV
8/21/14 4503317 Kingdon*	depo-Testosterone 200mg/ml	20ml/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
8/21/14 4503318 Kingdon	Xanax 2mg (alprazolam)	120/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
9/5/14 Rx4503435 Kingdon	diazepam 10mg	60/ 30 days	Dr. D.P. - Irvine, CA	Costa Mesa, CA

5/28/14 Rx2226561 Kingdon	oxycodone IR 30mg	630/ 15 days	Dr. S.K.-Las Vegas, NV	Las Vegas, NV
9/18/14 Rx4503583 Kingdon	Xanax 2mg (alprazolam)	120/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
9/18/14 Rx4503584 Kingdon*	Depo-Testosterone 200mg/ml	20ml/ 30 days	A.T. PA – Las Vegas, NV : supervised by Dr. S.K.	Las Vegas, NV
7/24/15 Rx2226492 Kingdon	MS Contin 200mg	240/ 30 days	Dr. S.K.-Las Vegas, NV	Las Vegas, NV
10/31/14 Rx2227089 Kingdon	Norco 5/325mg	6/ 2 days	Dr. R. – Orange, CA	Costa Mesa, CA
10/31/14 Rx2227090 Kingdon	Dilaudid 2mg	6/ 2 days	Dr. B. – Orange, CA	Costa Mesa, Ca
7/24/14 Rx2226493 Kingdon	oxycodone IR 30mg	315/ 15 days	Dr. S.K.-Las Vegas, CA	Las Vegas, NV
9/18/14 Rx2226781 Kingdon	MS Contin 200mg	240/ 30 days	PA A.T. under Dr. S.K.-Las Vegas, NV	Las Vegas, NV
10/20/14 Rx4503856 Not on profile	depo-testosterone 200mg/ml	20ml/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
10/20/14 Rx4503857 Kingdon	Xanax 2mg (alprazolam)	120/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
11/4/14 Rx4503966-refill request Kingdon	diazepam 10mg	60/ 30 days	Dr. D.P.- Irvine, CA	Costa Mesa, CA
8/21/14 Rx2226653 Kingdon	MS Contin 200mg	240/ 30 days	Dr. S.K.-Las Vegas, NV	Las Vegas, NV
11/20/14 Rx4504193 Kingdon	Xanax 2mg (alprazolam)	120/ 30 days	PA A.T. under Dr. S.K.-Las Vegas, NV	Las Vegas, NV
8/21/14 Rx2226652 Kingdon	oxycodone IR 30mg	315/ 15 days	Dr. S.K.-Las Vegas, CA	Las Vegas, NV
12/8/14 Rx4504244-refill request +1 Kingdon	diazepam 10mg	60/ 30 days	Dr. D.P.- Irvine, CA	Costa Mesa, CA
12/19/14 Rx4504353 Kingdon	Xanax 2mg (alprazolam)	120/ 30 days	PA A.T. under Dr. S.K.-Las Vegas, NV	Las Vegas, NV
9/18/14 Rx2226782 Kingdon	oxycodone IR 30mg	315/ 15 days	Dr. S.K.-Las Vegas, CA	Las Vegas, NV
10/20/14	MS Contin	240/ 30 days	Dr. S.K.-Las	Las Vegas, NV

Rx2227003 Kingdon	200mg		Vegas, NV	
1/2/15 Rx4504427 Kingdon	diazepam 10mg	60/ 30 days	Dr. D.P.- Irvine, CA	Costa Mesa, CA
5/28/14 Rx2226562 Kingdon	MS Contin 200mg	240/ 30 days	Dr. S.K.-Las Vegas, NV	Las Vegas, NV

An "*" indicates that the patient profile had an incorrect prescription date. Doctors S.K. and D.P. were previously disciplined and Physician's Assistant A.T. had no current supervising physician identified.

74. A pharmacy may fill Schedule CIII-V prescriptions from out-of-state prescribers if the secure prescription is in compliance with California law. There were 28 out-of-state prescriptions that did not comply with the requirements for filling a controlled substance prescription in California as follows: (a) there were no check off boxes for quantities; (b) the statement, "Prescription is void if the number of drugs prescribed is not noted" was not printed on the bottom of the prescription; (c) the prescriptions were not dated in ink by the prescribers; and, (d) none of the out-of-state prescriptions had any notation that demonstrated a pharmacist contacted the prescriber to verify each prescription.

75. If the prescription does not comply with California regulations the pharmacist must verify the prescription with the prescriber. There was no indication on the Schedule III-IV prescriptions the pharmacists at Steven's Pharmacy verified the prescriptions. The prescriptions were filled by BONNER and KINGDON. In addition, a log of J.T.'s medical expenses provided by Steven's Pharmacy to the Board inspector showed that other controlled substances, such as amphetamine salts and carisoprodol, were dispensed to J.T.

76. J.T. was dispensed the following duplicative medications by Steven's Pharmacy:

Pain medications:	Benzodiazepines/muscle relaxants:	Stimulants:	Testosterone/anabolic steroids:
morphine sulfate ER 200mg 240/month Dr. S.K. in NV oxycodone 30mg 315/month PA A.T. in CA	alprazolam 2mg #120 By Dr. S.K. in NV diazepam 10mg #60 Dr. D.P.: CA carisoprodol 350mg #60	amphetamine salts #120/month By Dr. S.S. in CA	Anadrol-50 Testred 10mg depo-testosterone 60ml testosterone enan 200mg 60ml oxandrolone 10mg

	Dr. M.K. in CA		Anadrol -50 testosterone 50mg topical All by Dr. M.K. in CA

77. The CURES report for J.T. showed the following examples of duplicative therapy:

a. On June 8, 2015 and June 30, 2015, diazepam 10mg #60 was filled as written by Dr. D.P. in California. On June 26, 2015 and July 2, 2015, alprazolam 2mg #120 was filled as written by prescribers PA A.T. and Godfrey in Nevada.

b. On May 4, 2015, diazepam 10mg #60 was filled as written by Dr. D.P. in California. On May 28, 2015, alprazolam 2mg #120 was filled as written by prescriber PA A.T. in Nevada.

c. On April 2, 2015, diazepam 10mg #60 was filled as written by Dr. D.P. in California. On April 4, 2015 and April 30, 2015, alprazolam 2mg #120 was filled as written by prescribers PA A.T. and Dr. S.K. in Nevada.

d. On March 3, 2015, diazepam 10mg #60 was filled as written by Dr. D.P. in California. On March 3, 2015, alprazolam 2mg #120 was filled as written by prescriber Dr. S.K. in Nevada.

e. On February 4, 2015, diazepam 10mg #60 was filled as written by Dr. D.P. in California. On February 4, 2015, alprazolam 2mg #120 was filled as written by prescriber Dr. S.K. in Nevada.

f. Between January 13, 2014 and March 21, 2014, Steven's pharmacy filled both lorazepam 2mg and alprazolam 2mg for JT. The prescriptions were written by PA L.A. and PA J.M. in California

78. In cases with multiple therapeutic duplications, the pharmacist should contact the prescriber to question the legitimacy of the medical necessity of the duplicative therapy. BONNER was asked to provide his understanding of the medical justification for J.T. taking multiple pain medications, several benzodiazepines, a muscle relaxant and a stimulant. Although BONNER stated he would provide an explanation, he has not done so.

79. The duplication in therapy described in paragraphs 76 and 77 above, may result in drug interaction that could cause deterioration of J.T.'s clinical status such as increasing the analgesic effect of opioid, increasing the potential for addiction, enhancing the central nervous

system (CNS) effect of CNS depressants, and/or enhancing the adverse/toxic effect of other CNS depressants.

80. J.T.'s patient profile for April 2015 alone showed he was dispensed 42 medications and that he could be taking as many as two to three benzodiazepines with carisoprodol at the same time and was on multiple testosterone drugs with an anabolic steroid at the same time. A reasonable pharmacist should have questioned these combinations. The prescriptions did not have any explanation for the duplicative therapy or documentation of contact with prescriber offices.

81. A review of the signature logs provided by Steven's Pharmacy showed that J.T. picked up his Nevada prescriptions from Steven's Pharmacy instead of Steven's Pharmacy mailing the prescribed medication to J.T.'s Nevada address, as required by the Board's regulations. The signature logs also showed that J.T. picked up amphetamine salts, alprazolam 2mg, and clomiphene in addition to the medication on the prescription. Clomiphene is a drug used mainly for fertility in women. Rarely, it is used for hypogonadism in males to increase testosterone levels.

82. A CURES report was obtained for Steven's Pharmacy. The CURES report showed the following refills were dispensed to the following patients that exceeded the number of refills allowed by the Board's regulations and/or were refilled more than six months after the date of the prescription:

Drug/Rx number:	Quantity:	Day supply:	Patient initials:	Number of total fills/ Fills in excess of regulation	Date range (first and last fill):
temazepam 30mg/ Rx4493983	30	30	RK	Seven/Two	1/4/12 -7/2/12 7- cash
lorazepam 1mg/ Rx4494349	60	30	TW	Six/one	2/6/12 – 7/3/12 6- ins
Lunesta 3mg/ Rx4493909	30	30	RB	Six/one	1/1/12 – 5/22/12 6 – ins
zolpidem 5mg/ Rx4494664	30	30	JB	Six/one	3/6/12 – 8/2/12 6- ins
clonazepam .5mg/ Rx4494574	45	30	JC	Six/one	2/27/12 – 7/16/12 (6:MC)
lorazepam 2mg/ Rx4494550	30	30	GS	Six/one	2/24/12 – 8/25/12 6- cash
alprazolam .5mg/	60	30	LA	Six/one	2/18/12 – 6/25/12 6- cash

Rx4494458					
zolpidem 10mg/ Rx4494218	30	30	KH	Six/one	1/24/12 – 6/7/12 6- cash
Axiron 30mg soln/ Rx4495395	90	30	JV	Six/one	5/18/12 – 10/3/12 6-ins
Fiorinal 325/50mg/ Rx4495284	60	30	AA	Six/one	5/7/12 – 9/27/12 6 cash
Vicodin ES 750mg/7.5mg/ Rx4495282	60 30 (on one fill)	30 30	AA	Six/one	5/7/12 – 9/27/12 6 cash
zolpidem 10mg/ Rx4495134	30	30	RS	Six/one	4/21/12 – 9/13/12 6 cash
temazepam 15mg/ Rx4495099	30	30	JS	Six/one	4/18/12 – 9/6/12 6 cash
triazolam .125mg/ Rx4495071	30	30	IY	Six/one	4/16/12 – 9/18/12 6 cash 95 y.o female
zolpidem 10mg/ Rx4497562	30	30	PS Note: Patient address is in NH; MD in CA	Six/one	12/31/12 – 5/28/13 6 cash
diazepam 10mg/ Rx4495013	60	30	PS Note: Patient address is in NH; MD in CA	Six/one	4/9/12 – 9/24/12 6 ins
lorazepam .5mg/ Rx4494906	110	28	CN	Six/one (about)	4/20/12 – 8/23/12 (15 day early fills) 6 cash
zolpidem 5mg/ Rx4494886	30	30	NC	Six/one	3/27/12 – 8/20/12 6 ins
clonazepam .5mg/ Rx4496202	45	30	JC	Six/one	8/13/12 – 12/10/12 (over 30 day early fill) 6 MC
hydrocod/apap 10/325mg/ Rx4496129	60	4	SH	11/five	8/3/12 – 9/19/12 (660 tabs in 45 days= 14+ per day) 11-cash
Lunesta 3mg/ Rx4496098	30	30	NP	Six/one	8/6/12 – 12/31/12 6 ins
temazepam 15mg/ Rx4495646	30	30	RR	Six/one	6/27/12 – 11/30/12 6 cash
zolpidem 5mg/ Rx4495631	60	30	ST	Six/one	6/14/12 – 11/13/12 6 ins
Provigil	30	30	AA	Six/one	6/8/12 – 10/29/12

200mg/ Rx4495574					6 ins
temazepam 15mg/ Rx4495528	30	30	AK	Six/one	6/4/12 – 11/6/12 6 cash
phenobarbital 32.4mg/ Rx4495521	90	30	DW	Six/one	6/15/12 -10/28/12 6 ins
temazepam 15mg/ Rx4495460	30	30	BL	Six/one	5/29/12 – 10/19/12 6 cash
temazepam 15mg/ Rx4497491	30	30	JT Note: pt address in CA. MD address in PA.	Six/one	1/15/13 -6/17/13 6 cash
temazepam 15mg/ Rx4497442	30	30	BL	Six/one	12/13/12 – 5/11/13 6 cash
temazepam 30mg/ Rx4497338	30	30	JU	Six/one	12/31/12 -5/22/13 6 ins
hydrocod/apap 5/500mg/ Rx4497324	90	30	AM	Six/one	12/19/12 – 5/16/13 6 ins
clonazepam 1mg/ Rx4497220	90	30	KH	Six/one	11/21/12 -4/25/13 6 cash
zolpidem 10mg/ Rx4497219	30	30	KH	Six/one	11/21/12 – 4/25/13 6 cash
temazepam 30mg/ Rx4497198	30	30	DD	Six/one	11/19/12 – 4/16/13 6 cash
temazepam 30mg/ Rx4497130	30	30	MM	Six/one	11/13/12 – 4/10/13 (two, 30-day fills in one month) 6 cash
zolpidem 10mg/ Rx4497052	30	30	EB	Six/one	11/5/12 – 5/14/13 (two, 30-day fills in one month 6 ins.
Fiorinal 325/50mg/ Rx4496935	60	30	AA	Six/one	10/23/12 – 3/4/13 6 cash
Norco 10/325mg/ Rx4496933	60	30	AA	Six/one	10/23/12 – 3/4/13 6 cash
zolpidem 5mg/ Rx4496924	30	30	NC	Six/one	10/22/12 – 3/20/13 3 cash; 3 ins
temazepam 30mg/ Rx4496914	30	30	FI	Six/one	10/22/12 – 4/9/13 6 cash
lorazepam	120	30	CN	Six/one	10/16/12 -3/5/13 6

.5mg/ Rx4496864					cash
clonazepam 1mg/ Rx4496829	60	30	MM	Six/one	10/12/12 – 3/8/13 6 cash
Nuvigil 150mg/ Rx4496801	30	30	JA	Six/one	10/10/12 – 3/11/13 6 ins
temazepam 30mg/ Rx4496759	30	30	PS	Six/one	10/15/12 – 2/19/13 6 cash
temazepam 30mg/ Rx4496705	30	30	ED	Six/one	9/28/12 – 2/27/13 6 cash
Lunesta 2mg/ Rx4496652	30	30	AM	Six/one	10/1/12 – 3/7/13 6 ins
zolpidem 10mg/ Rx4496648	30	30	SI	Six/one	9/25/12 – 2/18/13 6 cash
Lunesta 3mg/ Rx4497600	30	30	RB	Six/one	1/3/13 – 6/3/13 6 ins
zolpidem 10mg/ Rx4497919	30	30	JB	Six/one	2/4/13 – 7/5/13 6 cash
Lunesta 3mg/ Rx4497915	30	30	NP	Six/one	2/28/13 – 6/6/13 (60 day overall early fills) 5 ins 1 cash
clonazepam .5mg/ Rx4497915	45	30	NP	Six/one	2/4/13 – 6/6/13 5 ins; 1 cash
temazepam 30mg/ Rx4497828	30	30	JP	Six/one	1/24/13-5/28/13 (two fills on 1/24/13) 6 ins
zolpidem 10mg/ Rx4497710	30	30	RS	six/one	1/12/13 – 6/10/13 6 cash
clonazepam .5mg/ Rx4497625	30	30	TW	Six/one	1/5/13 – 5/30/13 6 ins
zolpidem 5mg/ Rx4500491	30	30	NC	Six/one	10/17/13 – 3/21/14 6 cash
alprazolam 1mg/ Rx4500363	30	30	LJA	Six/one	10/7/13 – 3/3/14 6 ins
hydrocod/apap 5/500mg/ Rx4500191	90	30	AM	Six/one	9/20/13 – 2/13/14 4 ins; 2 cash
clonazepam 2mg/ Rx4500015	60	30	DR	Six/one	9/4/13 – 1/15/14 (early fills = 30 days) 4 cash; 2 ins
phenobarbital 32.4mg/ Rx4500007	120	30	RM	Seven/two	9/3/13 – 1/31/14 7 cash
clonazepam	60	30	LM	Six/one	8/29/13 – 1/28/14

.5mg/ Rx4499976					6 cash
lorazepam .5mg/ Rx4499911	90	30	JG	Six/one	8/22/13 – 1/22/14 6 cash
lorazepam .5mg/ Rx4499720	60	30	DB	Six/one	8/6/13 – 12/30/13 6 ins
zolpidem 10mg/ Rx4499716	30	30	JB	Six/one	8/5/13 – 1/23/14 6 cash
clonazepam .5mg/ Rx4499706	30	30	SH	Six/one	8/5/13 – 12/30/13 6 cash
lorazepam 1mg/ Rx4499616	90	30	WS	Seven/two	7/29/13 – 12/31/13 (7 fills in 5 months) 7 cash
zolpidem 10mg/ Rx4499607	30	30	MM	Six/one	7/26/13 – 11/27/13 (six fills in 5 months) 6 cash
zolpidem 5mg/ Rx4499486	30	30	IN	Six/one	7/12/13 – 12/30/13 6 cash
Lunesta 2mg/ Rx4499167	30	30	AM	Six/one	6/7/13 – 10/29/13 6 ins
zolpidem 10mg/ Rx4499158	30	30	JD	Six/one	6/6/13 – 10/25/13 6 ins
Provigil 200mg/ Rx4499056	45	30	AA	Six/one	6/16/13 – 11/20/13 6 ins
temazepam 30mg/ Rx4498941	30	30	DD	Six/one	5/16/13 – 10/16/13 6 cash
temazepam 15mg/ Rx4498892	30	30	EB	Six/one	5/13/13 – 10/15/13 6 cash
lorazepam .5mg/ Rx4499866	30	30	BM	Six/one	5/10/13 – 9/27/13 (six fills in 4 months; 3 of 6 cash) 3 cash; 3 ins
diazepam 10mg/ Rx4498803	30	30	CM	Six/one	5/3/13 – 9/26/13 6 cash *urgent care MD
zolpidem 5mg/ Rx4498648	30	30	NC	Six/one	4/17/13 – 9/17/13 6 cash
temazepam 15mg/ Rx4498452	30	30	AG	Seven/two	3/28/13 – 8/26/13 (7 fills in 5 months) 7 cash
zolpidem 10mg/ Rx4498442	30	30	SI	Six/one	3/27/13 – 8/19/13 6 cash
temazepam 15mg/ Rx4498199	30	30	DG	Six/one	4/3/13 – 8/28/13 6 cash
clonazepam	109	30	CM	Six/one	2/26/13 – 9/3/13

.5mg/ Rx4498172					Filled past 6 months 6 ins
phenobarbital 32.4mg/ Rx4498086	120	30	RM	Six/one	3/20/13 – 8/2/13 6 cash
zolpidem 10mg/ Rx4501876	30	30	JB	Six/one	3/18/14 – 8/18/14 6 cash
zolpidem 10mg/ Rx4501859	30	30	SI	Six/one	3/15/14 – 8/15/14 6 cash
phenobarbital 32.4mg/ Rx4501731	120	30	RM	Six/one	3/4/14 – 7/24/14 6 cash
temazepam 15mg/ Rx4501706	30	30	TJ	Six/one	3/3/14 – 7/30/14 6 ins
clonazepam .5mg/ Rx4501693	60	30	LM	Six/one	2/28/14 – 7/24/14 6 ins
lorazepam .5mg/ Rx4501634	90	30	JG	Six/one	2/21/14 – 7/23/14 6 cash
Nuvigil 250mg/ Rx4501524	30	30	KS	Six/one	2/10/14 – 6/27/14 (19 days early fills) 6 ins
zolipidem 10mg/ Rx4501403	30	30	JL	Six/one	1/30/14 – 6/14/14 6 cash
Provigil 200mg/ Rx4501396	45	30	AA	Six/one	2/22/14 – 7/7/14 (15 day early fills) 6 ins
Lunesta 3mg/ Rx4501393	30	30	RB	Six/one	1/29/14 – 6/26/14 6 ins
zolpidem 5mg/ Rx4501365	35	30	PS	Six/one	1/27/14 – 6/9/14 – 6 cash; 22 day early fills
clonazepam .5mg/ Rx4501359	30	30	SH	Six/one	1/24/14 – 6/17/14 6 ins
temazepam 15mg/ Rx4501346	30	30	BL	Six/one	1/23/14 – 6/13/14 6 cash
zolpidem 10mg/ Rx4501304	30	30	PS	Six/one	1/20/14 – 6/20/14 (Pt has NH address) 6 cash
Intermezzo 1.75mg/ Rx4501092	30	30	SS	Six/one	12/23/13 – 6/11/14 (15 day early fills) 6 ins
temazepam 15mg/ Rx4502379	30	30	GM	Six/one	5/13/14 – 9/30/14 6 cash
Fycompa 6mg	30	30	CI	Six/one	5/5/14 – 9/27/14 6 ins
diazepam	30	30	CM	Six/one	4/23/14 – 9/19/14

10mg/ Rx4502202					(urgent care) 6 cash
clonazepam 1mg/ Rx4502141	60	30	CB	Six/one	4/23/14 – 8/29/14 6 cash
temazepam 15mg/ Rx4501978	30	30	EW	Six/one	3/28/14 – 8/29/14 6 ins
zolpidem 5mg/ Rx4503785	30	30	PS	Seven/two	10/13/14 -3/30/14 (20 day early fills also) 7 cash
clonazepam 2mg/ Rx4503676	60	30	DR	Six/one	10/24/14 – 3/9/15 (15 day early fills) 4 cash; 2 ins
lorazepam 1mg/ Rx4503535	60	30	GF	Six/one	9/15/14 – 2/11/15 4 ins; 2 cash
Lunesta 3mg/ Rx4503091	30	30	RB	Six/one	7/30/14 – 12/17/14 (24 day early fills) 6 ins
alprazolam 1mg/ Rx4502975	120	30	LR	Six/one	7/31/14 – 12/19/14 6 ins
alprazolam .5mg/ Rx4502566	30	30	GH	Six/one	5/31/14 – 9/27/14 6 cash
zolipidem 5mg/ Rx4502501	60	30	ST	Six/one	5/24/14 – 10/23/14 6 cash
diazepam 10mg/ Rx4502438	60	30	PS	Six/one	5/16/14 – 10/10/14 6 cash
alprazolam .5mg/ Rx4498376	60	30	KH	Six/one	3/19/13 – 10/10/13- 6 cash// filled past 6 months

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SEVENTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Charles Bonner, and Kingdon Only

(Failure to Exercise Best Professional Judgment or Corresponding Responsibility)

83. Respondents Steven's Pharmacy, BONNER, and KINGDON are subject to disciplinary action under Code sections 4306.5(b) in conjunction with H&S Code section 11153(a)

for unprofessional conduct for failure to exercise or implement his best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services as follows, and as more fully set forth in paragraphs 70 – 82 and incorporated by this reference as though set forth in full herein.

84. Respondents Steven's Pharmacy, BONNER, and KINGDON dispensed dangerous drugs which were categorized in a duplicate therapeutic class to J.T. without regard of multiple drug interactions and risk of toxicity and further harm to J.T. and without taking steps to verify the legitimacy of the duplicative therapeutic prescriptions.

85. Respondents Steven's Pharmacy, BONNER, and KINGDON dispensed out-of-state controlled substances in conjunction with in-state controlled substances from multiple prescribers without taking steps to verify the legitimacy of the prescriptions.

86. Respondents Steven's Pharmacy, BONNER, and KINGDON repeatedly dispensed controlled substances in excess of allowed refills by law.

87. Respondents Steven's Pharmacy, BONNER, and KINGDON filled and dispensed multiple Nevada Schedule II controlled substance prescriptions without delivery to the state of origin, Nevada.

88. Respondents Steven's Pharmacy, BONNER, and KINGDON dispensed filled and dispensed multiple out of state controlled substance prescriptions in Schedules III and IV which did not meet the requirements of California law.

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EIGHTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Charles Bonner, and KINGDON Only

(Drug Therapy Review)

89. Respondents Steven's Pharmacy, BONNER, and KINGDON are subject to disciplinary action under Code section 4301 (o) in conjunction with title 16, CCR, sections 1761

and 1707.3 for unprofessional conduct for failing to contact the prescriber to obtain the information needed to validate prescriptions containing irregularities or uncertainties and failing to review J.T.'s drug therapy and medication record before each prescription drug is delivered, as more fully set forth in paragraphs 70 – 82 and incorporated by this reference as though set forth in full herein.

90. The circumstances are that Respondents Steven's Pharmacy, BONNER, and KINGDON dispensed medications prescribed for J.T. that contained irregularities or uncertainties in that the prescriptions were for duplicative drug classes, which required verification with the prescriber, in that, co-administration of medications prescribed for J.T. had the potential to increase the risk of severe drug interactions. Respondents Steven's Pharmacy, BONNER and KINGDON failed to review J.T.'s drug therapy for problems associated with multiple drug therapy and failed to contact the individual prescribers.

NINTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Charles Bonner, and Kingdon Only

(Controlled Substance Prescriptions Issued for Delivery to Patient in Another State)

91. Respondents Steven's Pharmacy, BONNER, and KINGDON are subject to disciplinary action under Code sections 4301 (j) and (o) in conjunction with H&S Code section 11164.1 in that Respondents received and dispensed at least 17 controlled substance prescriptions from prescribers in Nevada for J.T. but delivered to J.T. in California and not Nevada, which was the state of issue as more fully set forth in paragraphs 70 – 82 and incorporated by this reference as though set forth in full herein.

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TENTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy and Charles Bonner Only

(Out of State Prescription Requirements)

92. Respondents Steven's Pharmacy and BONNER are subject to disciplinary action under Code sections 4301 (j) and (o) in conjunction with H&S Code section 11164.1 and NRS 453.431

in that Respondents dispensed two controlled substance prescriptions received past the 14th day after the date the prescription was issued. On August 11, 2014, Respondents received and dispensed two Nevada prescriptions for controlled substances for J.T. that were issued on May 28, 2014:

Drug	Date written by NV prescriber:	Date received by pharmacy:	Variance:
MS Contin RX2226562 RPH Kingdon	5/28/14	8/11/14	Greater than 14 days
oxycodone 30mg IR RX2226561 RPH Kingdon	5/28/14	8/11/14	Greater than 14 days

ELEVENTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Charles Bonner, and Kingdon Only

(Schedule III and IV Out-of-State Prescription Requirements)

93. Respondents Steven's Pharmacy, BONNER, and Kingdon are subject to disciplinary action under Code sections 4301 (j) and (o) in conjunction with H&S Code sections 11164.1(b) and 11158, and, title 16, CCR, section 1717 in that Respondents dispensed Schedule III and IV controlled substance prescriptions issued by Nevada prescribers that did not meet the requirements of Schedule III and IV controlled substance prescriptions as more fully set forth in paragraphs 70 – 82 and incorporated by this reference as though set forth in full herein.

TWELVETH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy and Charles Bonner Only

(Excessive Refills)

94. Respondents Steven's Pharmacy and BONNER are subject to disciplinary action under Code sections 4301 (j) and (o) in conjunction with H&S Code section 11200(b) in that between January 1, 2012 and April 25, 2104, Respondents refilled, and/or allowed to be refilled, 111 prescriptions for Schedule III or IV substances more than five times and in which all refills of that prescription taken together, exceeded a 120-day supply, as more fully set forth in paragraphs 70 – 82 and incorporated by this reference as though set forth in full herein.

THIRTEENTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy and Charles Bonner Only

(Refills In Excess of Six Months from Date of Prescription)

95. Respondents Steven's Pharmacy and BONNER are subject to disciplinary action under Code sections 4301 (j) and (o) in conjunction with H&S Code section 11200(a) in that between January 1, 2012 and April 25, 2104, Respondents refilled, and/or allowed to be refilled, prescriptions for Schedule III or IV substances more than six months from the date of the prescription, as more fully set forth in paragraphs 70 – 82 and incorporated by this reference as though set forth in full herein.

FOURTEENTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy Only

(Discipline by Oklahoma Board of Pharmacy)

96. Respondent Steven's Pharmacy is subject to disciplinary action under Code sections 4301 (o) for unprofessional conduct in that on January 31, 2017, *In the Matter of the Complaint Against Harbor Drug Co, Inc., dba Steven's Pharmacy,* the Oklahoma State Board of Pharmacy (Oklahoma Board) placed Steven's Pharmacy's Oklahoma pharmacy license on probation for three years until January 25, 2020, and fined Steven's Pharmacy a total of $6,125.00. The circumstances are as follows.

97. Respondent Steven's Pharmacy, located in Costa Mesa, California, was licensed in Oklahoma as a non-resident pharmacy on August 27, 2009. Steven's Pharmacy filed an application to renew its pharmacy license on September 1, 2016 and named pharmacist J.R. as the Pharmacist-in-Charge. J.R.'s address was represented to be in Owasso, Oklahoma and had been a licensed pharmacist in Oklahoma since 2015 but did not hold a California pharmacist license, the state in which Steven's Pharmacy is located.

98. The Oklahoma Board found it Steven's Pharmacy violated Oklahoma pharmacy laws by: (1) failing to have a pharmacy manager who is responsible for all aspects of the operation related to the practice of pharmacy; (2) failing to have a pharmacy manager who works sufficient hours in the pharmacy to exercise control and meet the responsibilities of the pharmacy manager; (3) failing to have a pharmacy manager who is currently a pharmacist in the state in which she is

practicing; and, (4) failing to follow Oklahoma pharmacy laws regarding a non-resident pharmacy's practice or operation.

OTHER MATTERS

99. Pursuant to Code section 4307, if Pharmacy Permit Number PHY 37415 issued to Harbor Drug Co. Inc., dba Steven's Pharmacy, is suspended, revoked or placed on probation, and BONNER, while acting as the manager, administrator, owner, member, officer, director, associate, or partner, had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY 37415 was revoked, suspended, or placed on probation, BONNER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board.

100. Pursuant to Section 4307, if Pharmacist License Number RPH 39398 issued to BONNER is suspended or revoked, BONNER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

101. Pursuant to Code section 4307, if Pharmacy Permit Number PHY 37415 issued to Harbor Drug Co. Inc., dba Steven's Pharmacy, is suspended, revoked or placed on probation, and MILLER, while acting as the manager, administrator, owner, member, officer, director, associate, or partner, had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY 37415 was revoked, suspended, or placed on probation, MILLER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board.

102. Pursuant to Section 4307, if Pharmacist License Number RPH 41474 issued to MILLER is suspended or revoked, MILLER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

103. Pursuant to Code section 4307, if Pharmacy Permit Number PHY 37415 issued to Harbor Drug Co. Inc., dba Steven's Pharmacy, is suspended, revoked or placed on probation, and LEAH BONNER, while acting as the manager, administrator, owner, member, officer, director, associate, or partner, had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY 37415 was revoked, suspended, or placed on probation, LEAH

BONNER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board.

104. Pursuant to Section 4307, if Pharmacist License Number RPH 40731 issued to LEAH BONNER is suspended or revoked, LEAH BONNER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

105. Pursuant to Code section 4307, if Pharmacy Permit Number PHY 37415 issued to Harbor Drug Co. Inc., dba Steven's Pharmacy, is suspended, revoked or placed on probation, and KINGDON, while acting as the manager, administrator, owner, member, officer, director, associate, or partner, had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY 37415 was revoked, suspended, or placed on probation, KINGDON shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board.

106. Pursuant to Section 4307, if Pharmacist License Number RPH 28125 issued to KINGDON is suspended or revoked, KINGDON shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

DISCIPLINE CONSIDERATIONS

107. To determine the degree of discipline, if any, to be imposed on Respondent Steven's Pharmacy, Complainant alleges that on or about May 24, 2010, in a prior disciplinary action entitled *In the Matter of the Accusation Against Steven's Pharmacy and Charles Terrance Bonner*, before the Board of Pharmacy, in Case Number 2008-3279. Respondent Pharmacy's permit was revoked, revocation stayed and placed on probation for three years with terms and conditions. Respondent Pharmacy's pharmacy permit was disciplined for violations of Code sections 4301(o), in conjunction with title 16, CCR, section 1714(b), and Code sections 4301(j) and (o) in conjunction with Code section 4081(a). That decision is now final and is incorporated by reference as if fully set forth.

108. To determine the degree of discipline, if any, to be imposed on Respondent Steven's Pharmacy, Complainant alleges that on or about May 5, 2016, the Board issued Citation Number CI 2015 67360 against Respondent Pharmacy for violations of title 16, CCR, sections

1707.2(a)(2), 1707.3, 1761(a) and Code section s 4076(a)(4) and 4104(c). The citation is now final and is incorporated by reference as if fully set forth.

109. To determine the degree of discipline, if any, to be imposed on Respondent BONNER, Complainant alleges that on or about May 24, 2010, in a prior disciplinary action entitled *In the Matter of the Accusation Against Steven's Pharmacy and Charles Terrance Bonner*, before the Board of Pharmacy, in Case Number 2008-3279, BONNER's Pharmacist license number RPH 39398 was revoked, revocation stayed, and placed on probation for three years with terms and conditions. BONNER's Pharmacist license number RPH 39398 was disciplined for violations of Code sections 4301(o), in conjunction with title 16, CCR, section 1714(d) and Code sections 4301(j) and (o) in conjunction with Code section 4113(b). That decision is now final and is incorporated by reference as if fully set forth.

110. To determine the degree of discipline, if any, to be imposed on Respondent BONNER, Complainant alleges that on or about May 5, 2016, the Board issued Citation and Fine Number CI 2015 70236 against BONNER for violations of Code section 4104(c) and title 16, CCR, section 1711(d). The amount of the assessed fine was $500.00, which has been paid. The citation is now final and is incorporated by this reference as if fully set forth.

111. To determine the degree of discipline, if any, to be imposed on Respondent KINGDON, Complainant alleges:

a. On or about December 19, 1991, in a prior disciplinary action entitled *In the Matter of the Accusation Against Warren Jay Kingdon*, before the Board of Pharmacy, in Case Number 1361, KINGDON's Pharmacist license number RPH 28125 was revoked, revocation stayed, and placed on probation for three years with terms and conditions. KINGDON's Pharmacist license number RPH 28125 was disciplined for violations of Code section 4350.5(a), (b) and (d) in conjunction with title 16, California Administrative Code (CAC), section 1761; Code section 4350.5(a), (b), (c) and (d) in conjunction with Health and Safety Code sections 11158, 11172, 11173(a)(1) and (a)(2) and 11173(b); Code section 4350.5(a), (b), (c) and (d) in conjunction with Code sections 4036 and 4227, Health and Safety Code sections 11152 and 11165, and title 16, CAC, section 1761; Code section 4350.5(a), (b), (c) and (d) in conjunction with Code sections

4036 and 4227(a), 4229, Health and Safety Code sections 11152 and 11166, and title 16, CAC, section 1761; Code section 4350.5(a), (b), (c) and (d) in conjunction with Code sections 4036 and 4227(a), 4229, 4351 and 4390, Health and Safety Code sections 11150, 11152, 11153(a), 11154, 11157, 11158, 11164(a), 11171, 11173(b), and title 16, CAC, section 1761; and, Code sections 4350.5(c), 4354 and 4363. That decision is now final and is incorporated by reference as if fully set forth.

b. On or about March 29, 2002, in a prior disciplinary action entitled *In the Matter of the Accusation Against Warren Jay Kingdon*, before the Board of Pharmacy, in Case Number AC 2362, KINGDON's Pharmacist license number RPH 28125 was revoked, revocation stayed, and placed on probation for five years with terms and conditions and license number RPH 28125 was suspended for 60 days. KINGDON's Pharmacist license number RPH 28125 was disciplined for violations of Code section 4301(o) in conjunction with section 4060; Code section 4301(o) in conjunction with section 4059; Code section 4301(j) in conjunction with Health and Safety Code sections 11158 and 11170. That decision is now final and is incorporated by reference as if fully set forth.

c. On or about March 29, 2002, in a prior disciplinary action entitled *In the Matter of the Petition to Revoke Probation Against Warren Jay Kingdon*, before the Board of Pharmacy, in Case Number 2642, KINGDON's Pharmacist license number RPH 28125 was revoked, revocation stayed, and placed on probation for five years with terms and conditions.KINGDON's Pharmacist license number RPH 28125 was disciplined for violation of Probation Term Number 19. That decision is now final and is incorporated by reference as if fully set forth.

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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 27415 issued to Harbor Drug Co. Inc. dba Steven's Pharmacy;

2. Prohibiting Harbor Drug Co. Inc. from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board;

3. Revoking or suspending Pharmacist License No. RPH 39398 issued to Charles Terrence Bonner;

4. Prohibiting Charles Terrence Bonner from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board;

5. Revoking or suspending Pharmacist License No. RPH 41474 issued to Mervyn Miller;

6. Prohibiting Mervyn Miller from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board;

7. Revoking or suspending Pharmacist License No. RPH 40731 issued to Leah Bonner;

8. Prohibiting Leah Bonner from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board;

9. Revoking or suspending Pharmacist License No. RPH 28125 issued to Warren Jay Kingdon;

10. Prohibiting Warren Jay Kingdon from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board;

11. Ordering Harbor Drug Co. Inc. dba Steven's Pharmacy, Charles Terrence Bonner, Mervyn Miller, Leah Bonner, and Warren Jay Kingdon, jointly and severally, 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,

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

DATED: June 25, 2019

ANNE SODERGREN
Interim Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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

In the Matter of the Accusation Against: **HARBOR DRUG CO. INC.** **DBA STEVEN'S PHARMACY** **1525 Mesa Verde Drive East** **Costa Mesa, CA 92626** **Pharmacy Permit No. PHY 37415** **and** **CHARLES TERRENCE BONNER** **P.O. Box 2007** **Costa Mesa, CA 92628** **Pharmacist License No. RPH 39398** **and** **MERVYN MILLER** **9 Redwood Tree Lane** **Irvine, CA 92612** **Pharmacist License No. RPH 41474** **and** **LEAH BONNER** **P.O. BOX 2007** **Costa Mesa, CA 92628** **Pharmacist License No. RPH 40731** **and**	Case No. 5843 **ACCUSATION**

WARREN JAY KINGDON
10885 El Domino
Fountain Valley, CA 92708

Pharmacist License No. RPH 28125

and

ERIC B. BUEHLER
6 Corte Rivera
San Clemente, CA 92673

Pharmacist License No. RPH 31905

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 12, 1991, the Board issued Pharmacy Permit Number PHY 37415 to Harbor Drug Co. Inc., dba Steven's Pharmacy (Steven's Pharmacy). Charles T. Bonner is, and has been, the President/Treasurer since September 21, 1991. The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on September 1, 2017, unless renewed.

3. On or about October 21, 1986, the Board issued Pharmacist License Number RPH 39398 to Charles Terrence Bonner (BONNER). BONNER was the Pharmacist-in-Charge of Respondent Pharmacy since September 12, 1991. The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2018, unless renewed.

4. On or about June, 21, 1998, the Board issued Pharmacist License Number RPH 41474 to Mervyn Miller (MILLER). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2017, unless renewed.

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5. On or about May 19, 1987, the Board issued Pharmacist License Number RPH 40731 to Leah Bonner (LEAH BONNER). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2018, unless renewed.

6. On or about March 22, 1973, the Board issued Pharmacist License Number RPH 28125 to Warren Jay Kingdon (KINGDON). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2018, unless renewed.

7. On or about July, 31, 1978, the Board issued Pharmacist License Number RPH 31905 to Eric B. Buehler (BUEHLER). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and expired on October 31, 2015, and has not been renewed.

JURISDICTION

8. Code section 4300:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

...

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

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9. Code section 4300.1 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

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

11. Code section 4005 states:

> (a) The board may adopt rules and regulations, not inconsistent with the laws of this state, as may be necessary for the protection of the public. Included therein shall be the right to adopt rules and regulations as follows: for the proper and more effective enforcement and administration of this chapter; pertaining to the practice of pharmacy; relating to the sanitation of persons and establishments licensed under this chapter; pertaining to establishments wherein any drug or device is compounded, prepared, furnished, or dispensed; providing for standards of minimum equipment for establishments licensed under this chapter; pertaining to the sale of drugs by or through any mechanical device; and relating to pharmacy practice experience necessary for licensure as a pharmacist.
>
> (b) Notwithstanding any provision of this chapter to the contrary, the board may adopt regulations permitting the dispensing of drugs or devices in emergency situations, and permitting dispensing of drugs or devices pursuant to a prescription of a person licensed to prescribe in a state other than California where the person, if licensed in California in the same licensure classification would, under California law, be permitted to prescribe drugs or devices and where the pharmacist has first interviewed the patient to determine the authenticity of the prescription.
>
> ...

12. Code section 4033(a)(1) defines "Manufacturer" as "every person who prepares, derives, produces, compounds, or repackages any drug or device except a pharmacy that manufactures on the immediate premises where the drug or device is sold to the ultimate consumer."

13. Code section 4076 provides in part:

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

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(1) Except when the prescriber or the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6 orders otherwise, either the manufacturer's trade name of the drug or the generic name and the name of the manufacturer. Commonly used abbreviations may be used. Preparations containing two or more active ingredients may be identified by the manufacturer's trade name or the commonly used name or the principal active ingredients.

(2) The directions for the use of the drug.

(3) The name of the patient or patients.

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(5) The date of issue.

(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

(7) The strength of the drug or drugs dispensed.

(8) The quantity of the drug or drugs dispensed.

(9) The expiration date of the effectiveness of the drug dispensed.

(10) The condition or purpose for which the drug was prescribed if the condition or purpose is indicated on the prescription.

(11)(A) Commencing January 1, 2006, the physical description of the dispensed medication, including 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.

(B) This paragraph applies to outpatient pharmacies only.

(C) The information required by this paragraph may be printed on an auxiliary label that is affixed to the prescription container.

(D) This paragraph shall not become operative if the board, prior to January 1, 2006, adopts regulations that mandate the same labeling requirements set forth in this paragraph.

...

14. 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 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 by any other state or federal regulatory agency.

...

15. Section 4306.5 states in pertinent part:

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

...

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

...

16. Section 4307 states:

(a) Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner, member, officer, director, associate, or partner of any partnership, corporation, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manager, administrator, owner, member, officer, director, associate, or partner had knowledge of or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from

serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee as follows:

(1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.

(2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.

(b) "Manager, administrator, owner, member, officer, director, associate, or partner," as used in this section and Section 4308, may refer to a pharmacist or to any other person who serves in that capacity in or for a licensee.

(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. However, no order may be issued in that case except as to a person who is named in the caption, as to whom the pleading alleges the applicability of this section, and where the person has been given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision shall be in addition to the board's authority to proceed under Section 4339 or any other provision of law.

17. Title 16, California Code of Regulations (CCR), section 1707.3 states, "Prior to consultation as set forth in section 1707.2, a pharmacist shall review a patient's drug therapy and medication record before each prescription drug is delivered. The review shall include screening for severe potential drug therapy problems."

18. Title 16, CCR, section 1717 states:

(a) No medication shall be dispensed on prescription except in a new container which conforms with standards established in the official compendia.

...

(b) In addition to the requirements of Section 4040, Business and Professions Code, the following information shall be maintained for each prescription on file and shall be readily retrievable:

(1) The date dispensed, and the name or initials of the dispensing pharmacist. All prescriptions filled or refilled by an intern pharmacist must also be initialed by the supervising pharmacist before they are dispensed.

(2) The brand name of the drug or device; or if a generic drug or device is dispensed, the distributor's name which appears on the commercial package label; and

(3) If a prescription for a drug or device is refilled, a record of each refill, quantity dispensed, if different, and the initials or name of the dispensing pharmacist.

(4) A new prescription must be created if there is a change in the drug, strength, prescriber or directions for use, unless a complete record of all such changes is otherwise maintained.

(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.

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

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

(d) A pharmacist may furnish a drug or device pursuant to a written or oral order from a prescriber licensed in a State other than California in accordance with Business and Professions Code Section 4005.

(e) A pharmacist may transfer a prescription for Schedule III, IV, or V controlled substances to another pharmacy for refill purposes in accordance with Title 21, Code of Federal Regulations, section 1306.26.

Prescriptions for other dangerous drugs which are not controlled substances may also be transferred by direct communication between pharmacists or by the receiving pharmacist's access to prescriptions or electronic files that have been created or verified by a pharmacist at the transferring pharmacy. The receiving pharmacist shall create a written prescription; identifying it as a transferred prescription; and record the date of transfer and the original prescription number. When a prescription transfer is accomplished via direct access by the receiving pharmacist, the receiving pharmacist shall notify the transferring pharmacy of the transfer. A pharmacist at the transferring pharmacy shall then assure that there is a record of the prescription as having been transferred, and the date of transfer. Each pharmacy shall maintain inventory accountability and pharmacist accountability and dispense in accordance with the provisions of section 1716 of this Division. Information maintained by each pharmacy shall at least include:

(1) Identification of pharmacist(s) transferring information;

(2) Name and identification code or address of the pharmacy from which the prescription was received or to which the prescription was transferred, as appropriate;

(3) Original date and last dispensing date;

(4) Number of refills and date originally authorized;

(5) Number of refills remaining but not dispensed;

(6) Number of refills transferred.

(f) The pharmacy must have written procedures that identify each individual pharmacist responsible for the filling of a prescription and a corresponding entry of information into an automated data processing system, or a manual record system, and the pharmacist shall create in his/her handwriting or through hand-initializing a

record of such filling, not later than the beginning of the pharmacy's next operating day. Such record shall be maintained for at least three years."

19. Title 16, CCR, section 1735.2 states in pertinent part:

...

(b) A pharmacy may prepare and store a limited quantity of a compounded drug product in advance of receipt of a patient-specific prescription where and solely in such quantity as is necessary to ensure continuity of care for an identified population of patients of the pharmacy based on a documented history of prescriptions for that patient population.

...

20. Title 16, CCR, section 1735.5 states in pertinent part:

(a) Any pharmacy engaged in compounding shall maintain a written policy and procedure manual for compounding that establishes procurement procedures, methodologies for the formulation and compounding of drugs, facilities and equipment cleaning, maintenance, operation, and other standard operating procedures related to compounding.

...

21. Title 16, CCR, section 1761 states:

(a) 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.

(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 that said prescription was not issued for a legitimate medical purpose.

22. Health and Safety (H&S) Code section 11153 states in pertinent part:

(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.

...

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23. H&S Code section 11158 states in pertinent part:

(a) Except as provided in Section 11159 or in subdivision (b) of this section, no controlled substance classified in Schedule II shall be dispensed without a prescription meeting the requirements of this chapter. Except as provided in Section 11159 or when dispensed directly to an ultimate user by a practitioner, other than a pharmacist or pharmacy, no controlled substance classified in Schedule III, IV, or V may be dispensed without a prescription meeting the requirements of this chapter.

(b) A practitioner specified in Section 11150 may dispense directly to an ultimate user a controlled substance classified in Schedule II in an amount not to exceed a 72-hour supply for the patient in accordance with directions for use given by the dispensing practitioner only where the patient is not expected to require any additional amount of the controlled substance beyond the 72 hours. Practitioners dispensing drugs pursuant to this subdivision shall meet the requirements of subdivision (f) of Section 11164.

...

24. H&S Code section 11162.1 states:

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

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

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

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

(4) A feature printed in thermochromic ink.

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

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

(7)(A) Six quantity check off boxes shall be printed on the form so that the prescriber may indicate the quantity by checking the applicable box where the following quantities shall appear:

1-24

25-49

50-74

75-100

101-150

151 and over.

(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, and address 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.

(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.

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

(c) (1) A prescriber designated by a licensed health care facility, a clinic specified in 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 paragraph (9) of subdivision (a) or paragraph (3) of this subdivision.

(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 of the licensed health care facility the clinic specified in Section 1200, or the clinic specified in Section 1206 that has 25 or more physicians or surgeons preprinted on the form. Licensed health care facilities or clinics exempt under Section 1206 are not required to preprint the category of licensure and license number of their facility or clinic.

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

(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 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 each prescriber. The record shall be maintained in the health facility for three years.

(B) Forms ordered pursuant to this subdivision that are printed by a computerized prescription generation system shall not be subject to subparagraph (A) or 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 professional licensure, license number, federal controlled substance registration number, and the date of the prescription.

(d) This section shall become operative on January 1, 2012. Prescription forms not in compliance with this division shall not be valid or accepted after July 1, 2012.

25. H&S Code section 11164 states:

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

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

(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the prescriber's address and telephone number; the name of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services; refill information, such as the number of refills ordered and whether the prescription is a first-time request or a refill; and the name, quantity, strength, and directions for use of the controlled substance prescribed.

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

(b)(1) Notwithstanding paragraph (1) of subdivision (a) of Section 11162.1, any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be produced in hard copy form and signed and dated by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code. Any person who transmits, maintains, or receives any electronically transmitted prescription shall ensure the security, integrity, authority, and confidentiality of the prescription.

(2) The date of issue of the prescription and all the information required for a written prescription by subdivision (a) shall be included in the written record of the prescription; the pharmacist need not include the address, telephone number, license classification, or federal registry number of the prescriber or the address of

the patient on the hard copy, if that information is readily retrievable in the pharmacy.

(3) Pursuant to an authorization of the prescriber, any agent of the prescriber on behalf of the prescriber may orally or electronically transmit a prescription for a controlled substance classified in Schedule III, IV, or V, if in these cases the written record of the prescription required by this subdivision specifies the name of the agent of the prescriber transmitting the prescription.

(c) The use of commonly used abbreviations shall not invalidate an otherwise valid prescription.

(d) Notwithstanding any provision of subdivisions (a) and (b), prescriptions for a controlled substance classified in Schedule V may be for more than one person in the same family with the same medical need.

(e) This section shall become operative on January 1, 2005.

26. H&S Code section 11164.1 states in pertinent part:

(a)(1) 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.

...

(b) Pharmacies may dispense prescriptions for Schedule III, Schedule IV, and Schedule V controlled substances from out-of-state prescribers pursuant to Section 4005 of the Business and Professions Code and Section 1717 of Title 16 of the California Code of Regulations.

27. H&S Code section 11200 states in pertinent part:

(a) No person shall dispense or refill a controlled substance prescription more than six months after the date thereof.

(b) No prescription for a Schedule III or IV substance may be refilled more than five times and in an amount, for all refills of that prescription taken together, exceeding a 120-day supply.

...

28. H&S Code section 110290 states:

In determining whether the labeling or advertisement of a food, drug, device, or cosmetic is misleading, all representations made or suggested by statement, word, design, device, sound, or any combination of these, shall be taken into account. The extent that the labeling or advertising fails to reveal facts concerning the food, drug, device, or cosmetic or consequences of customary use of the food, drug, device, or cosmetic shall also be considered.

29. H&S Code section 111330 states, "Any drug or device is misbranded if its labeling is false or misleading in any particular."

30. H&S Code section 111335 states, "Any drug or device is misbranded if its labeling or packaging does not conform to the requirements of Chapter 4 (commencing with Section 110290)."

31. H&S Code section 111440 states, "It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded."

32. H&S Code section 111615 states:

> No person shall manufacture any drug or device in this state unless he or she has a valid license from the department. The license is valid for two calendar years from the date of issue, unless it is revoked. The license is not transferable.
>
> The department may require any manufacturer, wholesaler, or importer of any prescription ophthalmic device in this state to obtain a license.

33. Nevada Revised Statutes (NRS) section 453.431 states:

> 1. A pharmacist shall not knowingly fill or refill any prescription for a controlled substance for use by a person other than the person for whom the prescription was originally issued.
>
> 2. A person shall not furnish a false name or address while attempting to obtain a controlled substance or a prescription for a controlled substance. A person prescribing, administering or dispensing a controlled substance may request proper identification from a person requesting controlled substances.
>
> 3. A pharmacist shall not fill a prescription for a controlled substance if the prescription shows evidence of alteration, erasure or addition, unless the pharmacist obtains approval of the practitioner who issued the prescription.
>
> 4. A pharmacist shall not fill a prescription for a controlled substance classified in schedule II unless it is tendered on or before the 14th day after the date of issue. This subsection does not prohibit a practitioner from issuing a prescription on which the practitioner indicates that the prescription may not be filled until the date indicated on the prescription, which must not be later than 6 months after the date the prescription is issued.
>
> 5. A person who violates this section is guilty of a category C felony and shall be punished as provided in NRS 193.130.

34. Title 21, United States Code Annotated (U.S.C.A.), section 360 states in pertinent part:

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(a) Definitions

As used in this section--

(1) the term "manufacture, preparation, propagation, compounding, or processing" shall include repackaging or otherwise changing the container, wrapper, or labeling of any drug package or device package in furtherance of the distribution of the drug or device from the original place of manufacture to the person who makes final delivery or sale to the ultimate consumer or user; and

(2) the term "name" shall include in the case of a partnership the name of each partner and, in the case of a corporation, the name of each corporate officer and director, and the State of incorporation.

(b) Annual registration

(1) During the period beginning on October 1 and ending on December 31 of each year, every person who owns or operates any establishment in any State engaged in the manufacture, preparation, propagation, compounding, or processing of a drug or drugs shall register with the Secretary [of the United States Department of Health and Human Services] the name of such person, places of business of such person, all such establishments, the unique facility identifier of each such establishment, and a point of contact e-mail address.

...

DRUGS

35. The following drugs are designated as dangerous drugs pursuant to Code section 4022:

BRAND NAME	GENERIC NAME	INDICATION FOR USE
Dyclonine	Dyclonine	Pain
Flexeril	Cyclobenzaprine	Pain
Florinef	Fludricortisone	Addison's Disease
Flurbiprofen	Flurbiprofen	Inflammation
Ketoprofen	Ketoprofen	Inflammation
Lidocaine	Lidocaine	Pain
Neurontin	Gabapentin	Nerve Pain
Prilocaine	Prilocaine	Pain
Prometrium	Progesterone	Hormone deficiency
Tetracaine	Tetracaine	Pain
Voltaren	Diclofenac	Inflammation

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36. The following drugs are neither dangerous drugs pursuant to Code section 4022 nor controlled substances:

BRAND NAME	GENERIC NAME	INDICATION FOR USE
Capsaicin	Capsaicin	Pain
Menthol	Menthol	Pain
Camphor	Camphor	Pain

36. The following drugs are both dangerous drugs pursuant to Code section 4022 and are controlled substances:

BRAND NAME	GENERIC NAME	CONTROLLED SUBSTANCE PER H & SC	INDICATION FOR USE
	testosterone/oil	per H&SC 11056	injectable hormone replacement
Testred	methyltestosterone	per H&SC 11056	oral hormone replacement
Marinol	dronabinol	per H&SC 11056	anorexia with AIDS diagnosis and nausea in cancer patients
Adderall	dextro-amphetamine salts	per H&SC 11055	ADHD and ADD in adults
Anadrol	oxymetholone	per H&SC 11056	anabolic steroid – anemia associated with red cell deficiencies
Androxy	fluoxymesterone	per H&SC 11056	Anabolic steroid-replacement of endogenous testosterone
Soma	carisoprodol	per H&SC 11057	muscle relaxant
	ketamine powder	per H&SC 11056	anesthetic prior to surgery to produce loss of consciousness
Provigil	modafinil	per H&SC 11057	narcolepsy
MS Contin	morphine sulfate extended release	per H&SC 11055	chronic pain
	oxycodone immediate release	per H&SC 11055	chronic pain
Oxandrin	oxandrolone	per H&SC 11056	regain weight post-surgery
Testim gel	testosterone gel	per H&SC 11056	hormone replacement
Intermezzo	zolpidem SL	per H&SC 11057	Sleep
Fycompa	perampanel	per H&SC 11056	Grand mal seizures
Xanax	alprazolam	per H&SC 11057	anxiety
Ativan	lorazepam	per H&SC 11057	anxiety
Valium	diazepam	per H&SC 11057	anxiety or muscle spasms
MS Contin	morphine sulfate ER	per H&SC 11055	chronic pain
	oxycodone	per H&SC 11055	chronic pain
Restoril	temazepam	per H&SC 11057	sleep
Ambien	zolpidem	per H&SC 11057	sleep
Klonopin	clonazepam	per H&SC 11057	anxiety, restless legs
Lunesta	eszopiclone	per H&SC 11057	sleep
Halcion	triazolam	per H&SC 11057	sleep

Fiorinal	butalbital/asa	per H&SC 11056	pain, headaches
Vicodin	hydrocodone/apap	per H&SC 11056 (related to this case)	pain
	phenobarbital	per H&SC 11057	seizures

COST RECOVERY

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

FACTS

38. On December 5, 2006, the Food and Drug Administration (FDA) issued a general news release warning five firms to stop compounding and distributing standardized versions of topical anesthetic creams, which were marketed for general distribution rather than responding to the unique medical needs of individual patients. The FDA warned of serious public health risks related to compounded anesthetic creams, exposure to high concentrations of which may cause grave reactions including seizures and irregular heartbeats. According to the FDA warning, compounded topical anesthetic creams contain high doses of local anesthetics including lidocaine, tetracaine, benzocaine and prilocaine. When different anesthetics are combined into one product, each anesthetic's potential for harm is increased. The FDA warned that the potential for harm may also increase if the product is left on the body for long periods of time or applied to broad areas of the body, particularly if an area is then covered by a bandage, plastic or other dressing.

39. On November 12, 2008, the FDA issued a warning letter to Steven's Pharmacy following the FDA's inspection of the pharmacy on June 23-25, 2008. The warning letter stated that Steven's Pharmacy, although purported to be a compounding pharmacy, exceeded "the practices associated with traditional extemporaneous compounding and is more akin to that of a drug manufacturer ." Specifically, the FDA found that Steven's Pharmacy manufactured large volumes of drugs including standardized topical anesthetic drugs ("Profound Gel" and "Profound Gel Light") in anticipation of receiving prescriptions rather than compounding a medication based upon a specific medical need of an individually-identified patient. "Profound Gel" contained a combination of prilocaine, lidocaine, and tetracaine. The FDA found Steven's Pharmacy to be in

violation of the Federal Food, Drug, and Cosmetic Act (FD&C Act) in Steven's Pharmacy's compounding of unapproved new drug products and misbranding of drug products.

40. In October, 2015, the FDA published guidance related to pharmacies that compound patient-specific medications on an individual basis. These pharmacies were classified under section 503A of the FD&C Act. According to section 503A of the FD&C Act, a compounded medication is one that was:

a. compounded for an identified individual patient based on the receipt of a valid prescription order; and,

b. compounded by a licensed pharmacist:

(i) in a state licensed pharmacy or a Federal facility, or by a licensed physician on the prescription order for an individual patient; or,

(ii) or licensed physician in limited quantities before receipt of a valid prescription order for such individual patient.

c. compounded in a state that has entered into a memorandum of understanding with the FDA that addresses the distribution of inordinate amounts of compounded drug products interstate and provides for appropriate investigation by a state agency of complaints relating to compounded drug products distributed outside such state; or, in states that have not entered into such a memorandum with FDA, such as California, the licensed pharmacist, licensed pharmacy, or licensed physician does not distribute, or cause to be distributed, compounded drug products out of the state in which they were compounded, more than 5 percent of the total prescription orders dispensed or distributed by such pharmacy.

APRIL 23, 2015 and JULY 7, 2015 INSPECTIONS

41. On April 23, 2015, Board inspectors conducted an inspection of Steven's Pharmacy. BONNER was present during the inspection and showed the Board inspectors the different areas of the pharmacy, including the pharmacy dispensing area, the compounding lab, and the shipping area. BONNER stated that Steven's Pharmacy shipped "very little" compounded preparations to out-of-state residents. BONNER stated Steven's Pharmacy was licensed in 30 states and that some states did not require the pharmacy to be licensed. Steven's Pharmacy had prescriptions

from Illinois, West Virginia, Texas, Connecticut, Nevada, New York, Florida, Maryland, Kansas and Minnesota. Steven's Pharmacy did not have an active license in Illinois, West Virginia, Maryland and Minnesota.

42. The compounding area was separated into three compartments by plastic curtains. Board inspectors observed various hormone and pain creams in the first compartment. There were multiple 300-gram jars of various stock creams on the shelves, as well as scales and powder hoods.

43. The second compartment of the compounding area contained various 300-gram jars labeled "PFG." A group of labels with the letters "PFG" printed on them were paper-clipped together. None of these labels were patient specific. According to the label, PFG was the compound of lidocaine 10%/ prilocaine 10%/ tetracaine 1%. In addition, there was a bin of about 20-30 syringes filled with a green-colored substance. When asked why the syringes were not labeled, MILLER explained that they normally label the syringes after they are made and that the syringes were going to be labeled before the end of the day. However, the inspectors noted that the compounds in the syringes had been made the day before the inspection. MILLER was the pharmacist involved in the verification, supervising and compounding of nonsterile products.

44. The Board inspectors also observed a large plastic unlabeled tub of a reddish compound found in a cabinet in the second area of the lab. MILLER and C.H. identified the reddish compound as PFG gel. According to C.H., the PFG gel needed time to solidify and was made a day prior to the Board's inspection. A bag of chips was found next to the container of the unidentified red compound. This was not an appropriate practice of a compounding pharmacy. Another large plastic unlabeled tub of a green colored compound was found in a cabinet in the third area of the lab.

45. According to MILLER, "PFG" was often ordered by dentists to use as an analgesic prior to a dental procedure. There were multiple small plastic containers labeled "PFG-D," "PFG – Mint," and "PFG – Tutti Frutti." MILLER explained different dentists wanted different formulations. As an example, MILLER said the "D" in "PFG-D" stood for "phenylephrine." The containers were not labeled for specific patients.

46. In the third compartment, Board inspectors observed two 30-gallon containers on stands, such as those that typically contain drinking water. One of the containers was labeled "Water for Compounds," and was about two-thirds full. The other 30-gallon container was labeled, "DYC [Dyclonine] Rinse DO NOT DRINK!!!" and was empty except for a dry, white residue. The use of such large containers implied the manufacturing of large amounts of dyclonine solution for general distribution, rather than for compounded medication on a patient-specific basis.

47. In addition, Board inspectors found several 480 milliliter amber bottles in the compounding area. Some of the bottles were labeled "dyclonine 0.5%" and "dyclonine 1%." Approximately 10-12 bottles were unlabeled. Some of the bottle caps bore the writing "L1%," which was explained to denote "lemon flavored dyclonine 1%."

48. Board inspectors found large plastic tubs of an unidentified cream stacked on top of one another in a section of the compounding room. There were no labels or signs identifying the contents. The use of such large containers to store or compound medications implied the manufacturing of products for a large patient population rather than the compounding for individual patient-specific needs.

49. Steven's Pharmacy obtained their compounding formulas from Professional Compounding Centers of America (PCCA), a pharmacy consulting company and out of state wholesale distributor licensed with the Board. According to pharmacy staff, when a particular formula was needed, Steven's Pharmacy would call PCCA for a formula that was similar to the drug it desired to compound. Steven's Pharmacy would then change the formula percentages and/or add other components to fit the specific formula they desired. This practice raised concerns about documentation of beyond use dates (BUD) and the maintenance of the integrity, potency, quality, and strength of the finished product. PCCA's formulas had BUD recommendations that were specific to the particular components and strengths present in the final preparation. Any deviation from the specific formula would alter the ratio of ingredients used in the product and therefore a new BUD would have to be determined. However, Steven's

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Pharmacy did not provide documentation that a new BUD was determined but rather referenced the BUD given by PCCA.

50. For some formulations, Steven's Pharmacy did not provide references to the BUD noted in the compounding logs. Steven's Pharmacy used the general 180-day BUD guideline in the regulations when more specific, applicable BUD guidelines were referred to in its compounding logs. For example, Steven's Pharmacy's compounded PFG 10%/10%/4% used by a dentist as an oral anesthetic; this compounded drug contained water. In the compounding logs obtained from Steven's Pharmacy, there was no stability information referenced about this compounded drug but there was a reference to the United States Pharmacopeia (USP) Chapter 795. According to USP 795, in the absence of stability information, this compound should have been given a BUD of "not later than 30 days." Steven's Pharmacy disregarded the BUD noted on their compounding logs and indicated the BUD on the compounded PFG 10%/10%/4% was 180 days.

51. The rear area of the pharmacy housed an Accutek SVF series, or Semi-Automatic Volumetric Filler, machine (Accutek machine). According to Accutek, the Accutek machine "deliver[s] a measured volume of product to each container. The accuracy of these machines ensures bottom line savings by reducing the amount of product that is used as overfill." According to Accutek, the recommended products to be used with the Accutek machine include the following:

> Water, Fruit Juices & Extracts, Liquid Tea, Liquid Coffee, Food Coloring, Tooth Paste, Peanut Butter, Vegetable Oil, Milk, Honey, Mayonnaise, Sour Cream, Cheese, Tomato juice, Fruit toppings, Jellies, Jams, Syrup, Molasses, Yogurt, Salsa, Salad Dressings, Soup, Chili, Perfumes, Essential Oils, Nail Polish, Nail Polish Remover, Ink, Lip Balms, Soap, Sun Tan Lotions, Shampoo's, Hair Conditioners, Hair Styling Gels ..."

52. Below the Accutek machine were cabinets that contained totes of large amounts of 120-gram pain creams. The Board inspector found 706 120-gram tubes of various pain creams and 199 30-gram tubes of compounded drugs, which, according to MILLER, were sold to the individual physicians to be given to the patient as a "starter" or initial therapy while the patient waited for receipt of their initial shipment of the prescribed medication.

53. The following 120-gram tubes of compounded creams were found during the Board's inspection:

Compound	Date Made	BUD	Lot	# of 120-gm Tubes
Flurbiprofen 15%/gabapentin 7%/lidocaine 5%	3/19/15	9/15/15	PH-21644(LE)	70
Gabapentin 7%/ketoprofen 10%/lidocaine 5%	3/25/15	9/21/15	PH-21659(LE)	54
Flurbiprofen 15%/cyclobenzaprine 3%/capsaicin 0.0375%/menthol 2%/camphor 1%	4/9/15	10/6/15	PH-21715	79
Flurbiprofen 20%	1/8/15	7/7/15	PH-20413	30
Flurbiprofen 20%	3/31/15	9/27/15	PH-21668	86
Flurbiprofen 15%/cyclobenzaprine 3%/capsaicin 0.0375%/menthol 2%/camphor 1%	4/9/15	10/6/15	PH-21713 PH-21715	178
Diclofenac 5%/fluocinonide 0.05%/tetracaine 5%	3/5/15	9/1/15	PH-21598	30
Flurbiprofen 15%/cyclobenzaprine 3%/capsaicin 0.0375%/menthol 2%/camphor 1%	1/13/15 2/17/15	7/12/15 8/16/15	PH-21434 PH-21518	95
Flurbiprofen 15%/cyclobenzaprine 3%/capsaicin 0.0375%/menthol 2%/camphor 1%	3/13/15	8/30/15	PH-21580	52
Flurbiprofen 15%/gabapentin 7%/lidocaine 5%	3/31/15	9/27/15	PH-21674	28
Ketoprofen 20%	12/12/14	6/10/15	PH-21355	4

54. The following 30-gram tubes were found at the pharmacy. According to MILLER, the 30-gram tubes were sold to the physician and given by the physician in the physician's office to initiate treatment until the patient received a 120-gram tube from the pharmacy.

Compound	Date Made	BUD	Lot	# of 120gm Tubes
Diclofenac 5%/fluocinonide 0.05%/tetracaine 5%	3/5/15	9/1/15	PH-21598	45
Ketoprofen 20%	4/9/15	10/6/15	PH-21709	82
Cyclobenzaprine	3/6/15	9/2/15	PH-21601	72

3%/ketoprofen 10%/ lidocaine 5%				

55. Steven's Pharmacy's compounding logs for 2012, 2013 and 2014 were obtained. The logs show that large volumes of compounded products were made by Steven's Pharmacy. For example, Steven's Pharmacy compounded eight lots of cyclobenzaprine/ketoprofen/lidocaine 3%/10%/5% cream one month, January, 2012. Each lot made was for 15,000 grams. Therefore, in January, 2012, Steven's Pharmacy compounded a total of 120,000 grams of cyclobenzaprine/ketoprofen/lidocaine 3%/10%/5% cream. This quantity made approximately 10,000 120-gram tubes of cyclobenzaprine/ketoprofen/lidocaine 3%/10%/5% cream. Typically, Steven's Pharmacy dispenses one 120-gram tube of a particular compound to individual patients. If so, then Steven's Pharmacy distributed 10,000 120-gram tubes of cyclobenzaprine/ketoprofen/lidocaine 3%/10%/5% cream in January, 2012.

56. The following table illustrates the amount Steven's Pharmacy compounded versus the amount dispensed of flurbiprofen 15%/cyclobenzaprine 3%/capsaicin 0.0375%/menthol 2%/camphor 1% and flurbiprofen 15%/gabapentin 7%/lidocaine 5% creams from January 1, 2015 to April 23, 2015:

Month 2015	Quantity Made (Grams)	# of 120gm Tubes	Quantity Dispensed (Grams)	# of 120gm Tubes	Difference between Compounded and Dispensed (120gm Tubes)
January	30,000	250	3,240	27	223
February	30,000	250	34,440	287	-37
March	60,000	500	29,610	247	253
April	30,000	250	23,460	196	54

57. The following table illustrates the amount Steven's Pharmacy compounded versus the amount dispensed of flurbiprofen 15%/gabapentin 7%/lidocaine 5% from January 1, 2015 to April 23, 2015:

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Month 2015	Quantity Made (Grams)	# of 120gm Tubes	Quantity Dispensed (Grams)	# of 120gm Tubes	Difference between Compounded and Dispensed (120gm Tubes)
January	20,000	167	1,080	9	158
February	20,000	167	17,850	149	18
March	20,000	167	19,530	163	4
April	10,000	83	10,530	88	-5

58. Steven's Pharmacy regularly compounded large volumes of product. In 2012, 15.61% of all compounds were greater than 1000 milliliters or 1000 grams. In 2013, 11.42% of all compounds were greater than 1000 milliliters or 1000 grams. In 2014, 11.24% of all compounds were greater than 1000 milliliters or 1000 grams.

59. The large quantities of product found are common of a manufacturer and are not normally found in a compounding pharmacy, which compounds products specific to individual patient needs. The observations of the Board inspectors indicated that Steven's pharmacy failed to comply with the FDA's warning letter issued on 11/12/2008, and acted as a manufacturer in the production of compounded preparations.

60. Steven's Pharmacy's website and preprinted order forms also demonstrate that Steven's Pharmacy manufactured compounded products instead of compounding products for an individual patient's needs. Steven's Pharmacy's website had a list of products offered "for the Health Care Professional." For example, Steven's Pharmacy offered standardized products such as "PFG & PF Lite," "PFP," "DGB," and "Dental Lollipop" under "Steven's Dentistry Compounds." Each product had a link to a preprinted order form with a list of compounds, many with predetermined strengths and quantities. Printed on the bottom of each order sheet was the following acknowledgment to be signed by the physician:

> Federal regulations require that all compounded prescriptions be patient specific. I attest that this compound is not commercially available and is custom compounded to my specifications and prescription order.

61. The website also had a form patient log with rows to fill in the date, patient name, date of birth (DOB), quantity used, practitioner signature, and RX#. The use of such a log implies the use of one container of a particular compounded formulation for multiple patients, rather than

use of a product compounded specifically for an individual patient. Material Safety Data Sheets (MSDS) for the ingredients used in each of the compounds Steven's Pharmacy made were included on Steven's Pharmacy's website. The availability of MSDS, which are typically made available by product manufacturers, is not typical in a compounding pharmacy.

62. Steven's Pharmacy's policies and procedures regarding engaging in anticipatory compounding states that Steven's Pharmacy would only compound up to three weeks of anticipated compounded prescriptions. However, during the inspection on April 23, 2015, Board inspectors observed cabinets containing compounds that were made in January 2014. Therefore, Steven's Pharmacy was not following its policy and procedures.

63. Board inspectors conducted a second inspection of Steven's Pharmacy on July 7, 2015. During the inspection, the Board inspectors noted that bottles of dyclonine 0.5% solution, lot number PH-21849, were labeled with a "1/2016" BUD. According to the compounding log for this lot number, the BUD was "November 30, 2015."

64. The inspectors reviewed the PFG compounds on the pharmacy shelves. PFG containers bearing lot number PH-21859 were labeled with a different BUD from the BUD on the stock bottle. The stock PFG container had a BUD of "12/06/2015. However, the labels on the individual PFG containers had a BUD of "01/2016." According to the compounding log for PFG, lot number PH-21859, the BUD was "December 6, 2015."

FIRST CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Miller, Charles Bonner, and Leah Bonner Only

(Unlawful Manufacturing)

65. Respondents Steven's Pharmacy, MILLER, BONNER, and LEAH BONNER are subject to disciplinary action under Code sections 4301(j) and (o) in conjunction with H&S Code section 111615 for unprofessional conduct for manufacturing drugs without a valid license, in that from about January 3, 2012 to July 7, 2015, Respondents manufactured large amounts of standardized compounds for general distribution, as more fully set forth in paragraphs 41- 61 and incorporated by this reference as though set forth in full herein.

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SECOND CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Miller, Charles Bonner, and Leah Bonner

(Misbranded Drugs)

66. Respondents Steven's Pharmacy, MILLER, BONNER, and LEAH BONNER are subject to disciplinary action under Code sections 4301(j) and (o) in conjunction with H&S Code section 111440 for unprofessional conduct in that on or about April 23, 2015, Respondents manufactured, sold, delivered, held, or offered for sale misbranded drugs in that multiple syringes of lidocaine 10%/prilocaine 10%/tetracaine 1% and bottles of dyclonine solution were not labeled, as more fully set forth in paragraphs 42 – 47 and incorporated by this reference as though set forth in full herein.

THIRD CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Miller, Charles Bonner, and Leah Bonner Only

(Policy and Procedure Regarding Anticipatory Compounding)

67. Respondents Steven's Pharmacy, MILLER, BONNER, and LEAH BONNER are subject to disciplinary action under Code sections 4301(j) and (o) in conjunction with title 16, CCR, section 1735.5(a) for unprofessional conduct in that Respondents failed to comply with Steven's Pharmacy's policy and procedure regarding anticipatory compounding of preparations up to three weeks of anticipated compounded prescriptions. During the Board's inspection on April 23, 2015, compounded products that were compounded in January, 2014, were stored in the pharmacy, as more fully set forth in paragraph 62 and incorporated by this reference as though set forth in full herein.

FOURTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Miller, Charles Bonner, and Leah Bonner Only

(Compounding Limitations and Requirements)

68. Respondents Steven's Pharmacy, MILLER, BONNER, and LEAH BONNER are subject to disciplinary action under Code section 4301(o) in conjunction with title 16, CCR, section 1735.2(b), for unprofessional conduct in that Steven's Pharmacy compounded and stored large amounts of compounded products rather than preparing and storing a limited quantity of a

compounded products in advance of receipt of a patient-specific prescription where such a quantity was necessary to ensure continuity of care for an identified population of patients of the pharmacy, as more fully set forth in paragraphs 41 - 61 and incorporated by this reference as though set forth in full herein.

FIFTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Miller, Charles Bonner, and Leah Bonner Only

(Misbranded Drugs – Incorrect BUD)

69. Respondents Steven's Pharmacy, MILLER, BONNER, and LEAH BONNER are subject to disciplinary action under Code section 4301(o) in conjunction with Health and Safety Code section 111330 for unprofessional conduct for misbranding drugs with false labeling in that on July 7, 2015, dyclonine 0.5% solution, lot number PH-21849, and PFG, lot number PH-21859 were falsely labeled with beyond use dates of "1/2016" when the compounding logs showed a beyond use date of "11/30/2015" for dyclonine 0.5% solution, PH-21849 and a beyond use date of "12/6/2015" for PFG, PH-21859, as more fully set forth in paragraphs 63 - 64 and incorporated by this reference as though set forth in full herein.

SIXTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Charles Bonner, and Leah Bonner Only

(Registration of Producers of Drugs or Devices)

70. Respondents Steven's Pharmacy, BONNER, and LEAH BONNER are subject to disciplinary action under Code section 4301(o) in conjunction with title 21, U.S.C.A. section 360(b)(1) for unprofessional conduct for violating or attempting to violate federal laws regarding pharmacy in that Respondents owned or operated Steven's Pharmacy and engaged in the manufacture, preparation, propagation, compounding, or processing of drug or drugs but was not registered as a manufacturer with the Secretary [of Health and Human Services], as more fully set forth in paragraphs 41 - 61 and incorporated by this reference as though set forth in full herein.

INVESTIGATION RELATED TO PRESCRIPTIONS FOR J.T.

71. The Board received a complaint from J.T. about pharmacy A.P., a California pharmacy, that J.T. believed wrongfully refused to dispense a prescription written in Nevada to

J.T. at J.T.'s California address. During the Board's investigation of J.T.'s complaint, J.T. stated a California pharmacy had previously dispensed a prescription written in Nevada to him in California. The Board inspector ran J.T.'s Controlled Substance Utilization Review and Evaluation System (CURES) report to determine which pharmacy filled a Nevada prescription and dispensed it in California. The CURES report, which covered the period from January 1, 2012 through April 23, 2015, identified Steven's Pharmacy. The CURES report showed that J.T. received Schedule II controlled substances and three benzodiazepines from prescribers in California and also Schedule II controlled substance prescriptions from Nevada. During the investigation, Board inspectors learned that J.T. was 39 years old and was a bodybuilder.

72. On July 17, 2015, the Board inspector contacted BONNER and requested original prescriptions for J.T., Steven's Pharmacy's dispensing history for J.T. (patient profile) from December 31, 2012 through April 23, 2015, a pharmacy audit report showing who filled each of the prescriptions and signature logs showing who picked up each of the prescriptions.

73. Although the Board inspector requested Steven's Pharmacy provide J.T.'s patient profile, BONNER provided J.T.'s expense report. After a second request for J.T.'s patient profile, the Board received the profile on or about January 6, 2016. This profile did not contain the quantity dispensed, refills, and prescriber name.

74. The prescriptions and patient profile for J.T. showed that J.T. received multiple controlled substances from multiple prescribers located in Nevada and California:

Date Rx written/Rx number:	Drug:	Quantity/Days supply indicated:	Prescriber and location:	Address of patient on prescription:
1/7/14 Rx2225475 Bonner	morphine 30mg IR	225/ 15 days	Dr. S.K.-Las Vegas	Costa Mesa, CA
1/7/14 Rx2225476 Buehler	MS Contin 200mg	240/ 30 days	Dr. S.K.-Las Vegas	Costa Mesa, CA
3/10/14 Rx4501814 Buehler	depo-Testosterone 200mg/ml	15ml each week-1 month supply. Pharmacy dispensed 12 bottles	Physician Assistant (PA) J.M. – Pacific Palasades	None
3/10/14 Rx4501810 Buehler	Xanax 2mg (alprazolam)	120/ 30 days	J.M. PA – Pacific Palasades	None

3/10/14 Rx4501812	Marinol 10mg	360/ 30 days	J.M. PA – Pacific Palasades	None
2/21/14 Rx4501626 Kingdon	lorazepam 2mg	90/ 30 days	L.A. PA- Pacific Palasades	Costa Mesa, CA
4/2/14 Rx4502084 Buehler	Oxandrine 10mg (Oxandrolone)	180/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
4/2/14 Rx4502085 Buehler	Xanax 2mg (alprazolam)	120/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
4/2/14 Rx4502086 Buehler	depo-Testosterone 200mg/ml	20ml: inject 5ml weekly/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
5/1/14 Rx4502304 Kingdon*	Androxy 10mg	60/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
5/1/14 Rx4502305 Kingdon	Anadrol 50mg	300/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
5/1/14 Rx4502306 Kingdon	Oxandrin 10mg	180/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
5/1/14 Rx4502307 Buehler	Xanax 2mg (alprazolam)	120/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
5/1/14 Rx4502308 Not found on profile	depo-Testosterone 200mg/ml	20ml/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
5/28/14 Rx4502630 Buehler	depo-Testosterone 200mg/ml	20ml/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
5/28/14 Rx4502631 Kingdon*	Oxandrin 10mg	180/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
5/28/14 Rx4502632 Buehler	Androxy 10mg	60/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
5/28/14 Rx4502633 Buehler	Xanax 2mg (alprazolam)	120/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
5/28/14 Rx4502634 Buehler	Anadrol 50mg	300/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
6/26/14 Rx4502892 Not found on profile	Oxandrin 10mg	180/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
6/26/14 Rx4502893 Bonner	Xanax 2mg (alprazolam)	120/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
6/26/14 Rx4502894 Kingdon*	depo-Testosterone 200mg/ml	20ml/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV

6/26/14 Rx4502895 Not found on profile	Androxy 10mg	60/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
6/26/14 Rx4502896 Kingdon*	Anadrol 50mg	300/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
6/26/14 Rx2226393 Kingdon	MS Contin 200mg	240/ 30 days	Dr. S.K.-Las Vegas	Las Vegas, NV
6/26/14 Rx2226394 Kingdon	oxycodone IR 30mg	315/ 15 days	Dr. S.K.-Las Vegas	Las Vegas, NV
7/24/14 Rx4503067 Kingdon	depo-Testosterone 200mg/ml	20ml/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
7/24/14 Rx4503066 Kingdon	Xanax 2mg (alprazolam)	120/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
6/26/14 Rx2226395 Kingdon	oxycodone IR 30mg	315/ 15 days	Dr. S.K.-Las Vegas	Las Vegas, NV
5/28/14 Rx2226562 Kingdon	MS Contin 200mg	240/ 30 days	Dr. S.K.-Las Vegas	Las Vegas, NV
8/21/14 4503317 Kingdon*	depo-Testosterone 200mg/ml	20ml/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
8/21/14 4503318 Kingdon	Xanax 2mg (alprazolam)	120/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
9/5/14 Rx4503435 Kingdon	diazepam 10mg	60/ 30 days	Dr. D.P. - Irvine, CA	Costa Mesa, CA
5/28/14 Rx2226561 Kingdon	oxycodone IR 30mg	630/ 15 days	Dr. S.K.-Las Vegas, NV	Las Vegas, NV
9/18/14 Rx4503583 Kingdon	Xanax 2mg (alprazolam)	120/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
9/18/14 Rx4503584 Kingdon*	Depo-Testosterone 200mg/ml	20ml/ 30 days	A.T. PA – Las Vegas, NV : supervised by Dr. S.K.	Las Vegas, NV
7/24/15 Rx2226492 Kingdon	MS Contin 200mg	240/ 30 days	Dr. S.K.-Las Vegas, NV	Las Vegas, NV
10/31/14 Rx2227089 Kingdon	Norco 5/325mg	6/ 2 days	Dr. R. – Orange, CA	Costa Mesa, CA
10/31/14 Rx2227090 Kingdon	Dilaudid 2mg	6/ 2 days	Dr. B. – Orange, CA	Costa Mesa, Ca
7/24/14	oxycodone IR	315/ 15 days	Dr. S.K.-Las	Las Vegas, NV

Rx2226493 Kingdon	30mg		Vegas, CA	
9/18/14 Rx2226781 Kingdon	MS Contin 200mg	240/ 30 days	PA A.T. under Dr. S.K.-Las Vegas, NV	Las Vegas, NV
10/20/14 Rx4503856 Not on profile	depo-testosterone 200mg/ml	20ml/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
10/20/14 Rx4503857 Kingdon	Xanax 2mg (alprazolam)	120/ 30 days	Dr. S.K. – Las Vegas, NV	Las Vegas, NV
11/4/14 Rx4503966-refill request Kingdon	diazepam 10mg	60/ 30 days	Dr. D.P.- Irvine, CA	Costa Mesa, CA
8/21/14 Rx2226653 Kingdon	MS Contin 200mg	240/ 30 days	Dr. S.K.-Las Vegas, NV	Las Vegas, NV
11/20/14 Rx4504193 Kingdon	Xanax 2mg (alprazolam)	120/ 30 days	PA A.T. under Dr. S.K.-Las Vegas, NV	Las Vegas, NV
8/21/14 Rx2226652 Kingdon	oxycodone IR 30mg	315/ 15 days	Dr. S.K.-Las Vegas, CA	Las Vegas, NV
12/8/14 Rx4504244-refill request +1 Kingdon	diazepam 10mg	60/ 30 days	Dr. D.P.- Irvine, CA	Costa Mesa, CA
12/19/14 Rx4504353 Kingdon	Xanax 2mg (alprazolam)	120/ 30 days	PA A.T. under Dr. S.K.-Las Vegas, NV	Las Vegas, NV
9/18/14 Rx2226782 Kingdon	oxycodone IR 30mg	315/ 15 days	Dr. S.K.-Las Vegas, CA	Las Vegas, NV
10/20/14 Rx2227003 Kingdon	MS Contin 200mg	240/ 30 days	Dr. S.K.-Las Vegas, NV	Las Vegas, NV
1/2/15 Rx4504427 Kingdon	diazepam 10mg	60/ 30 days	Dr. D.P.- Irvine, CA	Costa Mesa, CA
5/28/14 Rx2226562 Kingdon	MS Contin 200mg	240/ 30 days	Dr. S.K.-Las Vegas, NV	Las Vegas, NV

An "*" indicates that the patient profile had an incorrect prescription date. Doctors S.K. and D.P. were previously disciplined and Physician's Assistant A.T. had no current supervising physician identified.

75. A pharmacy may fill Schedule CIII-V prescriptions from out-of-state prescribers if the secure prescription is in compliance with California law. There were 28 out-of-state prescriptions that did not comply with the requirements for filling a controlled substance prescription in

California as follows: (a) there were no check off boxes for quantities; (b) the statement, "Prescription is void if the number of drugs prescribed is not noted" was not printed on the bottom of the prescription; (c) the prescriptions were not dated in ink by the prescribers; and, (d) none of the out-of-state prescriptions had any notation that demonstrated a pharmacist contacted the prescriber to verify each prescription.

76. If the prescription does not comply with California regulations the pharmacist must verify the prescription with the prescriber. There was no indication on the Schedule III-IV prescriptions the pharmacists at Steven's Pharmacy verified the prescriptions. The prescriptions were filled by BONNER, BUEHLER and KINGDON. In addition, a log of J.T.'s medical expenses provided by Steven's Pharmacy to the Board inspector showed that other controlled substances, such as amphetamine salts and carisoprodol, were dispensed to J.T.

77. J.T. was dispensed the following duplicative medications by Steven's Pharmacy:

Pain medications:	Benzodiazepines/muscle relaxants:	Stimulants:	Testosterone/anabolic steroids:
morphine sulfate ER 200mg 240/month Dr. S.K. in NV oxycodone 30mg 315/month PA A.T. in CA	alprazolam 2mg #120 By Dr. S.K. in NV diazepam 10mg #60 Dr. D.P.: CA carisoprodol 350mg #60 Dr. M.K. in CA	amphetamine salts #120/month By Dr. S.S. in CA	Anadrol-50 Testred 10mg depo-testosterone 60ml testosterone enan 200mg 60ml oxandrolone 10mg Anadrol -50 testosterone 50mg topical All by Dr. M.K. in CA

78. The CURES report for J.T. showed the following examples of duplicative therapy:

a. On June 8, 2015 and June 30, 2015, diazepam 10mg #60 was filled as written by Dr. D.P. in California. On June 26, 2015 and July 2, 2015, alprazolam 2mg #120 was filled as written by prescribers PA A.T. and Godfrey in Nevada.

b. On May 4, 2015, diazepam 10mg #60 was filled as written by Dr. D.P. in California. On May 28, 2015, alprazolam 2mg #120 was filled as written by prescriber PA A.T. in Nevada.

c. On April 2, 2015, diazepam 10mg #60 was filled as written by Dr. D.P. in California. On April 4, 2015 and April 30, 2015, alprazolam 2mg #120 was filled as written by prescribers PA A.T. and Dr. S.K. in Nevada.

d. On March 3, 2015, diazepam 10mg #60 was filled as written by Dr. D.P. in California. On March 3, 2015, alprazolam 2mg #120 was filled as written by prescriber Dr. S.K. in Nevada.

e. On February 4, 2015, diazepam 10mg #60 was filled as written by Dr. D.P. in California. On February 4, 2015, alprazolam 2mg #120 was filled as written by prescriber Dr. S.K. in Nevada.

f. Between January 13, 2014 and March 21, 2014, Steven's pharmacy filled both lorazepam 2mg and alprazolam 2mg for JT. The prescriptions were written by PA L.A. and PA J.M. in California

79. In cases with multiple therapeutic duplications, the pharmacist should contact the prescriber to question the legitimacy of the medical necessity of the duplicative therapy. BONNER was asked to provide his understanding of the medical justification for J.T. taking multiple pain medications, several benzodiazepines, a muscle relaxant and a stimulant. Although BONNER stated he would provide an explanation, he has not done so.

80. The duplication in therapy described in paragraphs 76 and 77 above, may result in drug interaction that could cause deterioration of J.T.'s clinical status such as increasing the analgesic effect of opioid, increasing the potential for addiction, enhancing the central nervous system (CNS) effect of CNS depressants, and/or enhancing the adverse/toxic effect of other CNS depressants.

81. J.T.'s patient profile for April 2015 alone showed he was dispensed 42 medications and that he could be taking as many as two to three benzodiazepines with carisoprodol at the same time and was on multiple testosterone drugs with an anabolic steroid at the same time. A reasonable pharmacist should have questioned these combinations. The prescriptions did not have any explanation for the duplicative therapy or documentation of contact with prescriber offices.

82. A review of the signature logs provided by Steven's Pharmacy showed that J.T. picked up his Nevada prescriptions from Steven's Pharmacy instead of Steven's Pharmacy mailing the prescribed medication to J.T.'s Nevada address, as required by the Board's

regulations. The signature logs also showed that J.T. picked up amphetamine salts, alprazolam 2mg, and clomiphene in addition to the medication on the prescription. Clomiphene is a drug used mainly for fertility in women. Rarely, it is used for hypogonadism in males to increase testosterone levels.

83. A CURES report was obtained for Steven's Pharmacy. The CURES report showed the following refills were dispensed to the following patients that exceeded the number of refills allowed by the Board's regulations and/or were refilled more than six months after the date of the prescription:

Drug/Rx number:	Quantity:	Day supply:	Patient initials:	Number of total fills/ Fills in excess of regulation	Date range (first and last fill):
temazepam 30mg/ Rx4493983	30	30	RK	Seven/Two	1/4/12 -7/2/12 7- cash
lorazepam 1mg/ Rx4494349	60	30	TW	Six/one	2/6/12 – 7/3/12 6- ins
Lunesta 3mg/ Rx4493909	30	30	RB	Six/one	1/1/12 – 5/22/12 6 – ins
zolpidem 5mg/ Rx4494664	30	30	JB	Six/one	3/6/12 – 8/2/12 6- ins
clonazepam .5mg/ Rx4494574	45	30	JC	Six/one	2/27/12 – 7/16/12 (6:MC)
lorazepam 2mg/ Rx4494550	30	30	GS	Six/one	2/24/12 – 8/25/12 6- cash
alprazolam .5mg/ Rx4494458	60	30	LA	Six/one	2/18/12 – 6/25/12 6- cash
zolpidem 10mg/ Rx4494218	30	30	KH	Six/one	1/24/12 – 6/7/12 6- cash
Axiron 30mg soln/ Rx4495395	90	30	JV	Six/one	5/18/12 – 10/3/12 6-ins
Fiorinal 325/50mg/ Rx4495284	60	30	AA	Six/one	5/7/12 – 9/27/12 6 cash
Vicodin ES 750mg/7.5mg/ Rx4495282	60 30 (on one fill)	30 30	AA	Six/one	5/7/12 – 9/27/12 6 cash
zolpidem 10mg/ Rx4495134	30	30	RS	Six/one	4/21/12 – 9/13/12 6 cash

temazepam 15mg/ Rx4495099	30	30	JS	Six/one	4/18/12 – 9/6/12 6 cash
triazolam .125mg/ Rx4495071	30	30	IY	Six/one	4/16/12 – 9/18/12 6 cash 95 y.o female
zolpidem 10mg/ Rx4497562	30	30	PS Note: Patient address is in NH; MD in CA	Six/one	12/31/12 – 5/28/13 6 cash
diazepam 10mg/ Rx4495013	60	30	PS Note: Patient address is in NH; MD in CA	Six/one	4/9/12 – 9/24/12 6 ins
lorazepam .5mg/ Rx4494906	110	28	CN	Six/one (about)	4/20/12 – 8/23/12 (15 day early fills) 6 cash
zolpidem 5mg/ Rx4494886	30	30	NC	Six/one	3/27/12 – 8/20/12 6 ins
clonazepam .5mg/ Rx4496202	45	30	JC	Six/one	8/13/12 – 12/10/12 (over 30 day early fill) 6 MC
hydrocod/apap 10/325mg/ Rx4496129	60	4	SH	11/five	8/3/12 – 9/19/12 (660 tabs in 45 days= 14+ per day) 11-cash
Lunesta 3mg/ Rx4496098	30	30	NP	Six/one	8/6/12 – 12/31/12 6 ins
temazepam 15mg/ Rx4495646	30	30	RR	Six/one	6/27/12 – 11/30/12 6 cash
zolpidem 5mg/ Rx4495631	60	30	ST	Six/one	6/14/12 – 11/13/12 6 ins
Provigil 200mg/ Rx4495574	30	30	AA	Six/one	6/8/12 – 10/29/12 6 ins
temazepam 15mg/ Rx4495528	30	30	AK	Six/one	6/4/12 – 11/6/12 6 cash
phenobarbital 32.4mg/ Rx4495521	90	30	DW	Six/one	6/15/12 -10/28/12 6 ins
temazepam 15mg/ Rx4495460	30	30	BL	Six/one	5/29/12 – 10/19/12 6 cash
temazepam 15mg/ Rx4497491	30	30	JT Note: pt address in CA. MD	Six/one	1/15/13 -6/17/13 6 cash

			address in PA.		
temazepam 15mg/ Rx4497442	30	30	BL	Six/one	12/13/12 – 5/11/13 6 cash
temazepam 30mg/ Rx4497338	30	30	JU	Six/one	12/31/12 -5/22/13 6 ins
hydrocod/apap 5/500mg/ Rx4497324	90	30	AM	Six/one	12/19/12 – 5/16/13 6 ins
clonazepam 1mg/ Rx4497220	90	30	KH	Six/one	11/21/12 -4/25/13 6 cash
zolpidem 10mg/ Rx4497219	30	30	KH	Six/one	11/21/12 – 4/25/13 6 cash
temazepam 30mg/ Rx4497198	30	30	DD	Six/one	11/19/12 – 4/16/13 6 cash
temazepam 30mg/ Rx4497130	30	30	MM	Six/one	11/13/12 – 4/10/13 (two, 30-day fills in one month) 6 cash
zolpidem 10mg/ Rx4497052	30	30	EB	Six/one	11/5/12 – 5/14/13 (two, 30-day fills in one month 6 ins.
Fiorinal 325/50mg/ Rx4496935	60	30	AA	Six/one	10/23/12 – 3/4/13 6 cash
Norco 10/325mg/ Rx4496933	60	30	AA	Six/one	10/23/12 – 3/4/13 6 cash
zolpidem 5mg/ Rx4496924	30	30	NC	Six/one	10/22/12 – 3/20/13 3 cash; 3 ins
temazepam 30mg/ Rx4496914	30	30	FI	Six/one	10/22/12 – 4/9/13 6 cash
lorazepam .5mg/ Rx4496864	120	30	CN	Six/one	10/16/12 -3/5/13 6 cash
clonazepam 1mg/ Rx4496829	60	30	MM	Six/one	10/12/12 – 3/8/13 6 cash
Nuvigil 150mg/ Rx4496801	30	30	JA	Six/one	10/10/12 – 3/11/13 6 ins
temazepam 30mg/ Rx4496759	30	30	PS	Six/one	10/15/12 – 2/19/13 6 cash
temazepam 30mg/ Rx4496705	30	30	ED	Six/one	9/28/12 – 2/27/13 6 cash

Lunesta 2mg/ Rx4496652	30	30	AM	Six/one	10/1/12 – 3/7/13 6 ins
zolpidem 10mg/ Rx4496648	30	30	SI	Six/one	9/25/12 – 2/18/13 6 cash
Lunesta 3mg/ Rx4497600	30	30	RB	Six/one	1/3/13 – 6/3/13 6 ins
zolpidem 10mg/ Rx4497919	30	30	JB	Six/one	2/4/13 – 7/5/13 6 cash
Lunesta 3mg/ Rx4497915	30	30	NP	Six/one	2/28/13 – 6/6/13 (60 day overall early fills) 5 ins 1 cash
clonazepam .5mg/ Rx4497915	45	30	NP	Six/one	2/4/13 – 6/6/13 5 ins; 1 cash
temazepam 30mg/ Rx4497828	30	30	JP	Six/one	1/24/13-5/28/13 (two fills on 1/24/13) 6 ins
zolpidem 10mg/ Rx4497710	30	30	RS	six/one	1/12/13 – 6/10/13 6 cash
clonazepam .5mg/ Rx4497625	30	30	TW	Six/one	1/5/13 – 5/30/13 6 ins
zolpidem 5mg/ Rx4500491	30	30	NC	Six/one	10/17/13 – 3/21/14 6 cash
alprazolam 1mg/ Rx4500363	30	30	LJA	Six/one	10/7/13 – 3/3/14 6 ins
hydrocod/apap 5/500mg/ Rx4500191	90	30	AM	Six/one	9/20/13 – 2/13/14 4 ins; 2 cash
clonazepam 2mg/ Rx4500015	60	30	DR	Six/one	9/4/13 – 1/15/14 (early fills = 30 days) 4 cash; 2 ins
phenobarbital 32.4mg/ Rx4500007	120	30	RM	Seven/two	9/3/13 – 1/31/14 7 cash
clonazepam .5mg/ Rx4499976	60	30	LM	Six/one	8/29/13 – 1/28/14 6 cash
lorazepam .5mg/ Rx4499911	90	30	JG	Six/one	8/22/13 – 1/22/14 6 cash
lorazepam .5mg/ Rx4499720	60	30	DB	Six/one	8/6/13 – 12/30/13 6 ins
zolpidem 10mg/ Rx4499716	30	30	JB	Six/one	8/5/13 – 1/23/14 6 cash
clonazepam .5mg/	30	30	SH	Six/one	8/5/13 – 12/30/13 6 cash

Rx4499706					
lorazepam 1mg/ Rx4499616	90	30	WS	Seven/two	7/29/13 – 12/31/13 (7 fills in 5 months) 7 cash
zolpidem 10mg/ Rx4499607	30	30	MM	Six/one	7/26/13 – 11/27/13 (six fills in 5 months) 6 cash
zolpidem 5mg/ Rx4499486	30	30	IN	Six/one	7/12/13 – 12/30/13 6 cash
Lunesta 2mg/ Rx4499167	30	30	AM	Six/one	6/7/13 – 10/29/13 6 ins
zolpidem 10mg/ Rx4499158	30	30	JD	Six/one	6/6/13 – 10/25/13 6 ins
Provigil 200mg/ Rx4499056	45	30	AA	Six/one	6/16/13 – 11/20/13 6 ins
temazepam 30mg/ Rx4498941	30	30	DD	Six/one	5/16/13 – 10/16/13 6 cash
temazepam 15mg/ Rx4498892	30	30	EB	Six/one	5/13/13 – 10/15/13 6 cash
lorazepam .5mg/ Rx4499866	30	30	BM	Six/one	5/10/13 – 9/27/13 (six fills in 4 months; 3 of 6 cash) 3 cash; 3 ins
diazepam 10mg/ Rx4498803	30	30	CM	Six/one	5/3/13 – 9/26/13 6 cash *urgent care MD
zolpidem 5mg/ Rx4498648	30	30	NC	Six/one	4/17/13 – 9/17/13 6 cash
temazepam 15mg/ Rx4498452	30	30	AG	Seven/two	3/28/13 – 8/26/13 (7 fills in 5 months) 7 cash
zolpidem 10mg/ Rx4498442	30	30	SI	Six/one	3/27/13 – 8/19/13 6 cash
temazepam 15mg/ Rx4498199	30	30	DG	Six/one	4/3/13 – 8/28/13 6 cash
clonazepam .5mg/ Rx4498172	109	30	CM	Six/one	2/26/13 – 9/3/13 Filled past 6 months 6 ins
phenobarbital 32.4mg/ Rx4498086	120	30	RM	Six/one	3/20/13 – 8/2/13 6 cash
zolpidem 10mg/ Rx4501876	30	30	JB	Six/one	3/18/14 – 8/18/14 6 cash
zolpidem 10mg/ Rx4501859	30	30	SI	Six/one	3/15/14 – 8/15/14 6 cash

phenobarbital 32.4mg/ Rx4501731	120	30	RM	Six/one	3/4/14 – 7/24/14 6 cash
temazepam 15mg/ Rx4501706	30	30	TJ	Six/one	3/3/14 – 7/30/14 6 ins
clonazepam .5mg/ Rx4501693	60	30	LM	Six/one	2/28/14 – 7/24/14 6 ins
lorazepam .5mg/ Rx4501634	90	30	JG	Six/one	2/21/14 – 7/23/14 6 cash
Nuvigil 250mg/ Rx4501524	30	30	KS	Six/one	2/10/14 – 6/27/14 (19 days early fills) 6 ins
zolipidem 10mg/ Rx4501403	30	30	JL	Six/one	1/30/14 – 6/14/14 6 cash
Provigil 200mg/ Rx4501396	45	30	AA	Six/one	2/22/14 – 7/7/14 (15 day early fills) 6 ins
Lunesta 3mg/ Rx4501393	30	30	RB	Six/one	1/29/14 – 6/26/14 6 ins
zolpidem 5mg/ Rx4501365	35	30	PS	Six/one	1/27/14 – 6/9/14 – 6 cash; 22 day early fills
clonazepam .5mg/ Rx4501359	30	30	SH	Six/one	1/24/14 – 6/17/14 6 ins
temazepam 15mg/ Rx4501346	30	30	BL	Six/one	1/23/14 – 6/13/14 6 cash
zolpidem 10mg/ Rx4501304	30	30	PS	Six/one	1/20/14 – 6/20/14 (Pt has NH address) 6 cash
Intermezzo 1.75mg/ Rx4501092	30	30	SS	Six/one	12/23/13 – 6/11/14 (15 day early fills) 6 ins
temazepam 15mg/ Rx4502379	30	30	GM	Six/one	5/13/14 – 9/30/14 6 cash
Fycompa 6mg	30	30	CI	Six/one	5/5/14 – 9/27/14 6 ins
diazepam 10mg/ Rx4502202	30	30	CM	Six/one	4/23/14 – 9/19/14 (urgent care) 6 cash
clonazepam 1mg/ Rx4502141	60	30	CB	Six/one	4/23/14 – 8/29/14 6 cash
temazepam 15mg/ Rx4501978	30	30	EW	Six/one	3/28/14 – 8/29/14 6 ins
zolpidem 5mg/ Rx4503785	30	30	PS	Seven/two	10/13/14 -3/30/14 (20 day early fills also) 7 cash

clonazepam 2mg/ Rx4503676	60	30	DR	Six/one	10/24/14 – 3/9/15 (15 day early fills) 4 cash; 2 ins
lorazepam 1mg/ Rx4503535	60	30	GF	Six/one	9/15/14 – 2/11/15 4 ins; 2 cash
Lunesta 3mg/ Rx4503091	30	30	RB	Six/one	7/30/14 – 12/17/14 (24 day early fills) 6 ins
alprazolam 1mg/ Rx4502975	120	30	LR	Six/one	7/31/14 – 12/19/14 6 ins
alprazolam .5mg/ Rx4502566	30	30	GH	Six/one	5/31/14 – 9/27/14 6 cash
zolipidem 5mg/ Rx4502501	60	30	ST	Six/one	5/24/14 – 10/23/14 6 cash
diazepam 10mg/ Rx4502438	60	30	PS	Six/one	5/16/14 – 10/10/14 6 cash
alprazolam .5mg/ Rx4498376	60	30	KH	Six/one	3/19/13 – 10/10/13- 6 cash// filled past 6 months

SEVENTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Charles Bonner, KINGDON AND BUEHLER Only

(Failure to Exercise Best Professional Judgment or Corresponding Responsibility)

84. Respondents Steven's Pharmacy, BONNER, KINGDON and BUEHLER are subject to disciplinary action under Code sections 4306.5(b) in conjunction with H&S Code section 11153(a) for unprofessional conduct for failure to exercise or implement his best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services as follows, and as more fully set forth in paragraphs 71- 83 and incorporated by this reference as though set forth in full herein.

85. Respondents Steven's Pharmacy, BONNER, KINGDON and BUEHLER dispensed dangerous drugs which were categorized in a duplicate therapeutic class to J.T. without regard of multiple drug interactions and risk of toxicity and further harm to J.T. and without taking steps to verify the legitimacy of the duplicative therapeutic prescriptions.

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86. Respondents Steven's Pharmacy, BONNER, KINGDON and BUEHLER dispensed out-of-state controlled substances in conjunction with in-state controlled substances from multiple prescribers without taking steps to verify the legitimacy of the prescriptions.

87. Respondents Steven's Pharmacy, BONNER, KINGDON and BUEHLER repeatedly dispensed controlled substances in excess of allowed refills by law.

88. Respondents Steven's Pharmacy, BONNER, KINGDON and BUEHLER filled and dispensed multiple Nevada Schedule II controlled substance prescriptions without delivery to the state of origin, Nevada.

89. Respondents Steven's Pharmacy, BONNER, KINGDON and BUEHLER dispensed filled and dispensed multiple out of state controlled substance prescriptions in Schedules III and IV which did not meet the requirements of California law.

EIGHTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Charles Bonner, and KINGDON Only

(Drug Therapy Review)

90. Respondents Steven's Pharmacy, BONNER, and KINGDON are subject to disciplinary action under Code section 4301 (o) in conjunction with title 16, CCR, sections 1761 and 1707.3 for unprofessional conduct for failing to contact the prescriber to obtain the information needed to validate prescriptions containing irregularities or uncertainties and failing to review J.T.'s drug therapy and medication record before each prescription drug is delivered, as more fully set forth in paragraphs 74 -83 and incorporated by this reference as though set forth in full herein.

91. The circumstances are that Respondents Steven's Pharmacy, BONNER, and KINGDON dispensed medications prescribed for J.T. that contained irregularities or uncertainties in that the prescriptions were for duplicative drug classes, which required verification with the prescriber, in that, co-administration of medications prescribed for J.T. had the potential to increase the risk of severe drug interactions. Respondents Steven's Pharmacy, BONNER, KINGDON and BUEHLER failed to review J.T.'s drug therapy for problems associated with multiple drug therapy and failed to contact the individual prescribers.

NINTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Charles Bonner, KINGDON AND BUEHLER Only

(Controlled Substance Prescriptions Issued for Delivery to Patient in Another State)

92. Respondents Steven's Pharmacy, BONNER, KINGDON and BUEHLER are subject to disciplinary action under Code sections 4301 (j) and (o) in conjunction with H&S Code section 11164.1 in that Respondents received and dispensed at least 17 controlled substance prescriptions from prescribers in Nevada for J.T. but delivered to J.T. in California and not Nevada, which was the state of issue as more fully set forth in paragraph 74 and incorporated by this reference as though set forth in full herein.

TENTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy and Charles Bonner Only

(Out of State Prescription Requirements)

93. Respondents Steven's Pharmacy and BONNER are subject to disciplinary action under Code sections 4301 (j) and (o) in conjunction with H&S Code section 11164.1 and NRS 453.431 in that Respondents dispensed two controlled substance prescriptions received past the 14th day after the date the prescription was issued. On August 11, 2014, Respondents received and dispensed two Nevada prescriptions for controlled substances for J.T. that were issued on May 28, 2014:

Drug	Date written by NV prescriber:	Date received by pharmacy:	Variance:
MS Contin RX2226562 RPH Kingdon	5/28/14	8/11/14	Greater than 14 days
oxycodone 30mg IR RX2226561 RPH Kingdon	5/28/14	8/11/14	Greater than 14 days

ELEVENTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy, Charles Bonner, KINGDON AND BUEHLER Only

(Schedule III and IV Out-of-State Prescription Requirements)

94. Respondents Steven's Pharmacy, BONNER, KINGDON and BUEHLER are subject to disciplinary action under Code sections 4301 (j) and (o) in conjunction with H&S Code

sections 11164.1(b) and 11158, and, title 16, CCR, section 1717 in that Respondents dispensed Schedule III and IV controlled substance prescriptions issued by Nevada prescribers that did not meet the requirements of Schedule III and IV controlled substance prescriptions as more fully set forth in paragraphs 74 - 76 and incorporated by this reference as though set forth in full herein.

TWELVETH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy and Charles Bonner Only

(Excessive Refills)

95. Respondents Steven's Pharmacy and BONNER are subject to disciplinary action under Code sections 4301 (j) and (o) in conjunction with H&S Code section 11200(b) in that between January 1, 2012 and April 25, 2104, Respondents refilled, and/or allowed to be refilled, 111 prescriptions for Schedule III or IV substances more than five times and in which all refills of that prescription taken together, exceeded a 120-day supply, as more fully set forth in paragraph 83 and incorporated by this reference as though set forth in full herein.

THIRTEENTH CAUSE FOR DISCIPLINE

As to Steven's Pharmacy and Charles Bonner Only

(Refills In Excess of Six Months from Date of Prescription)

96. Respondents Steven's Pharmacy and BONNER are subject to disciplinary action under Code sections 4301 (j) and (o) in conjunction with H&S Code section 11200(a) in that between January 1, 2012 and April 25, 2104, Respondents refilled, and/or allowed to be refilled, prescriptions for Schedule III or IV substances more than six months from the date of the prescription, as more fully set forth in paragraph 83 and incorporated by this reference as though set forth in full herein.

OTHER MATTERS

97. Pursuant to Code section 4307, if Pharmacy Permit Number PHY 37415 issued to Harbor Drug Co. Inc., dba Steven's Pharmacy, is suspended, revoked or placed on probation, and BONNER, while acting as the manager, administrator, owner, member, officer, director, associate, or partner, had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY 37415 was revoked, suspended, or placed on probation,

BONNER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board.

98. Pursuant to Section 4307, if Pharmacist License Number RPH 39398 issued to BONNER is suspended or revoked, BONNER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

99. Pursuant to Code section 4307, if Pharmacy Permit Number PHY 37415 issued to Harbor Drug Co. Inc., dba Steven's Pharmacy, is suspended, revoked or placed on probation, and MILLER, while acting as the manager, administrator, owner, member, officer, director, associate, or partner, had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY 37415 was revoked, suspended, or placed on probation, MILLER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board.

100. Pursuant to Section 4307, if Pharmacist License Number RPH 41474 issued to MILLER is suspended or revoked, MILLER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

101. Pursuant to Code section 4307, if Pharmacy Permit Number PHY 37415 issued to Harbor Drug Co. Inc., dba Steven's Pharmacy, is suspended, revoked or placed on probation, and LEAH BONNER, while acting as the manager, administrator, owner, member, officer, director, associate, or partner, had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY 37415 was revoked, suspended, or placed on probation, LEAH BONNER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board.

102. Pursuant to Section 4307, if Pharmacist License Number RPH 40731 issued to LEAH BONNER is suspended or revoked, LEAH BONNER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

103. Pursuant to Code section 4307, if Pharmacy Permit Number PHY 37415 issued to Harbor Drug Co. Inc., dba Steven's Pharmacy, is suspended, revoked or placed on probation, and KINGDON, while acting as the manager, administrator, owner, member, officer, director,

associate, or partner, had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY 37415 was revoked, suspended, or placed on probation, KINGDON shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board.

104. Pursuant to Section 4307, if Pharmacist License Number RPH 28125 issued to KINGDON is suspended or revoked, KINGDON shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

105. Pursuant to Code section 4307, if Pharmacy Permit Number PHY 37415 issued to Harbor Drug Co. Inc., dba Steven's Pharmacy, is suspended, revoked or placed on probation, and BUEHLER, while acting as the manager, administrator, owner, member, officer, director, associate, or partner, had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY 37415 was revoked, suspended, or placed on probation, BUEHLER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board.

106. Pursuant to Section 4307, if Pharmacist License Number RPH 31905 issued to BUEHLER is suspended or revoked, BUEHLER shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

DISCIPLINE CONSIDERATIONS

107. To determine the degree of discipline, if any, to be imposed on Respondent Steven's Pharmacy, Complainant alleges that on or about May 24, 2010, in a prior disciplinary action entitled *In the Matter of the Accusation Against Steven's Pharmacy and Charles Terrance Bonner*, before the Board of Pharmacy, in Case Number 2008-3279. Respondent Pharmacy's permit was revoked, revocation stayed and placed on probation for three years with terms and conditions. Respondent Pharmacy's pharmacy permit was disciplined for violations of Code sections 4301(o), in conjunction with title 16, CCR, section 1714(b), and Code sections 4301(j) and (o) in conjunction with Code section 4081(a). That decision is now final and is incorporated by reference as if fully set forth.

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108. To determine the degree of discipline, if any, to be imposed on Respondent Steven's Pharmacy, Complainant alleges that on or about May 5, 2016, the Board issued Citation Number CI 2015 67360 against Respondent Pharmacy for violations of title 16, CCR, sections 1707.2(a)(2), 1707.3, 1761(a) and Code section s 4076(a)(4) and 4104(c). The citation is now final and is incorporated by reference as if fully set forth.

109. To determine the degree of discipline, if any, to be imposed on Respondent BONNER, Complainant alleges that on or about May 24, 2010, in a prior disciplinary action entitled *In the Matter of the Accusation Against Steven's Pharmacy and Charles Terrance Bonner*, before the Board of Pharmacy, in Case Number 2008-3279, BONNER's Pharmacist license number RPH 39398 was revoked, revocation stayed, and placed on probation for three years with terms and conditions. BONNER's Pharmacist license number RPH 39398 was disciplined for violations of Code sections 4301(o), in conjunction with title 16, CCR, section 1714(d) and Code sections 4301(j) and (o) in conjunction with Code section 4113(b). That decision is now final and is incorporated by reference as if fully set forth.

110. To determine the degree of discipline, if any, to be imposed on Respondent BONNER, Complainant alleges that on or about May 5, 2016, the Board issued Citation and Fine Number CI 2015 70236 against BONNER for violations of Code section 4104(c) and title 16, CCR, section 1711(d). The amount of the assessed fine was $500.00, which has been paid. The citation is now final and is incorporated by this reference as if fully set forth.

111. To determine the degree of discipline, if any, to be imposed on Respondent KINGDON, Complainant alleges:

a. On or about December 19, 1991, in a prior disciplinary action entitled *In the Matter of the Accusation Against Warren Jay Kingdon*, before the Board of Pharmacy, in Case Number 1361, KINGDON's Pharmacist license number RPH 28125 was revoked, revocation stayed, and placed on probation for three years with terms and conditions. KINGDON's Pharmacist license number RPH 28125 was disciplined for violations of Code section 4350.5(a), (b) and (d) in conjunction with title 16, California Administrative Code (CAC), section 1761; Code section 4350.5(a), (b), (c) and (d) in conjunction with Health and Safety Code sections 11158, 11172,

11173(a)(1) and (a)(2) and 11173(b); Code section 4350.5(a), (b), (c) and (d) in conjunction with Code sections 4036 and 4227, Health and Safety Code sections 11152 and 11165, and title 16, CAC, section 1761; Code section 4350.5(a), (b), (c) and (d) in conjunction with Code sections 4036 and 4227(a), 4229, Health and Safety Code sections 11152 and 11166, and title 16, CAC, section 1761; Code section 4350.5(a), (b), (c) and (d) in conjunction with Code sections 4036 and 4227(a), 4229, 4351 and 4390, Health and Safety Code sections 11150, 11152, 11153(a), 11154, 11157, 11158, 11164(a), 11171, 11173(b), and title 16, CAC, section 1761; and, Code sections 4350.5(c), 4354 and 4363.. That decision is now final and is incorporated by reference as if fully set forth.

b. On or about March 29, 2002, in a prior disciplinary action entitled *In the Matter of the Accusation Against Warren Jay Kingdon*, before the Board of Pharmacy, in Case Number AC 2362, KINGDON's Pharmacist license number RPH 28125 was revoked, revocation stayed, and placed on probation for five years with terms and conditions and license number RPH 28125 was suspended for 60 days. KINGDON's Pharmacist license number RPH 28125 was disciplined for violations of Code section 4301(o) in conjunction with section 4060; Code section 4301(o) in conjunction with section 4059; Code section 4301(j) in conjunction with Health and Safety Code sections 11158 and 11170. That decision is now final and is incorporated by reference as if fully set forth.

c. On or about March 29, 2002, in a prior disciplinary action entitled *In the Matter of the Petition to Revoke Probation Against Warren Jay Kingdon*, before the Board of Pharmacy, in Case Number 2642, KINGDON's Pharmacist license number RPH 28125 was revoked, revocation stayed, and placed on probation for five years with terms and conditions.KINGDON's Pharmacist license number RPH 28125 was disciplined for violation of Probation Term Number 19. That decision is now final and is incorporated by reference as if fully set forth.

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:

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1. Revoking or suspending Pharmacy Permit Number PHY 27415 issued to Harbor Drug Co. Inc. dba Steven's Pharmacy;

2. Prohibiting Harbor Drug Co. Inc. from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board;

3. Revoking or suspending Pharmacist License No. RPH 39398 issued to Charles Terrence Bonner;

4. Prohibiting Charles Terrence Bonner from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board;

5. Revoking or suspending Pharmacist License No. RPH 41474 issued to Mervyn Miller;

6. Prohibiting Mervyn Miller from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board;

7. Revoking or suspending Pharmacist License No. RPH 40731 issued to Leah Bonner;

8. Prohibiting Leah Bonner from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board;

9. Revoking or suspending Pharmacist License No. RPH 28125 issued to Warren Jay Kingdon;

10. Prohibiting Warren Jay Kingdon from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board;

11. Revoking or suspending Pharmacist License No. RPH 31905 issued to Eric B. Buehler;

12. Prohibiting Eric B. Buehler from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board;

13. Ordering Harbor Drug Co. Inc. dba Steven's Pharmacy, Charles Terrence Bonner, Mervyn Miller, Leah Bonner, Warren Jay Kingdon, and Eric B. Buehler, jointly and severally, 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,

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

DATED: 2/9/17

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

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