1 2 3 4 5 6 7 8	XAVIER BECERRA Attorney General of California DIANN SOKOLOFF Supervising Deputy Attorney General TIMOTHY FROEHLE Deputy Attorney General State Bar No. 279337 1515 Clay Street, 20th Floor P.O. Box 70550 Oakland, CA 94612-0550 Telephone: (510) 879-0004 Facsimile: (510) 622-2270 E-mail: Tim.Froehle@doj.ca.gov Attorneys for Complainant	
9	BEEOD	
10	BEFOR BOARD OF F	HARMACY
10	DEPARTMENT OF CO STATE OF C	
11		
12	In the Matter of the Statement of Issues	Case No. 6854
13	Against:	
14	DUET PHARMACY	STATEMENT OF ISSUES
	Community Pharmacy Permit Applicant	
16 17	Respondent.	
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18		
19 20		
20	PAR	TIFS
21		
22	1. Anne Sodergren (Complainant) brings this Statement of Issues solely in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.	
23 24		ard of Pharmacy, Department of Consumer
24	Affairs received an application for a Community	
25 26	(Respondent). On or about January 11, 2019, Res	
26 27	truthfulness of all statements, answers, and repres	
27 28	the application on October 8, 2019.	and approvion. The bound defied
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	1	STATEMENT OF ISSUES (Case No. 6854)

1	JURISDICTION			
2	3. This Statement of Issues is brought before the Board of Pharmacy (Board),			
3	Department of Consumer Affairs, under the authority of the following laws. All section			
4	references are to the Business and Professions Code (Code) unless otherwise indicated.			
5	4. Section 118, subdivision (a), of the Code states:			
6	"(a) The withdrawal of an application for a license after it has been filed with a board in			
7	the department shall not, unless the board has consented in writing to such withdrawal, deprive			
8	the board of its authority to institute or continue a proceeding against the applicant for the denial			
9	of the license upon any ground provided by law or to enter an order denying the license upon any			
10	such ground."			
11	STATUTORY PROVISIONS			
12	5. Section 480 of the Code states, in relevant part:			
13	"(a) A board may deny a license regulated by this code on the grounds that the applicant			
14	has one of the following:			
15				
16	"(3)(A) Done any act that if done by a licentiate of the business or profession in			
17	question, would be grounds for suspension or revocation of license.			
18	"			
19	6. Section 4301 of the Code states:			
20	"The board shall take action against any holder of a license who is guilty of unprofessional			
21	conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but			
22	is not limited to, any of the following:			
23				
24	"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or			
25	corruption, whether the act is committed in the course of relations as a licensee or otherwise, and			
26	whether the act is a felony or misdemeanor or not.			
27	"			
28	7. Section 4302 of the Code states:			
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	STATEMENT OF ISSUES (Case No. 6854)			

1	"The board may deny, suspend, or revoke any license where conditions exist in relation to				
2	any person holding 10 percent or more of the ownership interest or where conditions exist in				
3	relation to any officer, director, or other person with management or control of the license that				
4	would constitute grounds for disciplinary action against a licensee."				
5	DEFINITIONS				
6	8. Genvoya is the brand name for a drug containing a combination of cobicistat,				
7	elvitegravir, emtricitabine, and tenofovir. It is used to treat HIV and is a dangerous drug under				
8	Code section 4022.				
9	9. Prograf is the brand name for tacrolimus, which is used to prevent rejection in organ				
10	transplant patients and is a dangerous drug under Code section 4022.				
11	10. Sensipar is the brand name for cinacalcet, which treats hyperparathyroidism in				
12	dialysis and is a dangerous drug under Code section 4022.				
13	11. Triumeq is the brand name for a drug containing a combination of abacavir,				
14	dolutegravir, and lamivudine. It is used to treat HIV and is a dangerous drug under Code section				
15	4022.				
16	12. Truvada is the brand name for a drug containing a combination of tenofovir				
17	disoproxil fumerate, and emtricitabine. It is used to treat HIV and is a dangerous drug under				
18	Code section 4022.				
19	FACTUAL ALLEGATIONS				
20	13. Russell Alexander Zukin signed Respondent's application as Respondent's				
21	CEO/President/Treasurer/Secretary/Director and Jonathan Yoonhee Han signed as Respondent's				
22	Chief Operating Officer. Mr. Zukin and Mr. Han were the only listed officers for Respondent on				
23	its application.				
24	14. Mr. Zukin is also currently listed in the Board's records as the				
25	CEO/President/Secretary/Treasurer/CFO/Director of Alphascript Inc., Original Permit No. PHY				
26	56162. Mr. Han is also listed as COO of Alphascript Inc. Alphascript Inc. currently operates a				
27	pharmacy located at 420 Industrial Road, San Carlos, California.				
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	15. Alphascript	Inc. previously	operated a pharmacy	located at 1160 In	ndustrial Road #17,
	San Carlos, California, under Original Permit Number PHY 50690, until that license was				
	cancelled on or about September 22, 2018, due to change of ownership and location. At the time				
	of cancellation, Mr. Zukin was listed in the Board's records as Alphascript Inc.'s CEO and 100-				.'s CEO and 100-
	percent shareholder. Mr. Han was listed in the Board's records as COO and pharmacist-in-				
5	charge.				
,	16. Mr. Zukin i	s also currently	listed in the Board's re	ecords as the CEO	O and 100-percent
3	shareholder of Medical	Plaza Pharmacy	y, Original Permit Nun	nber PHY 45166.	Mr. Han is
)	currently listed as the pl	narmacist-in-ch	arge at Medical Plaza	Pharmacy.	
)	17. On March 2	25, 2019, the Bo	oard's inspector obtained	ed records of disp	ensed prescriptions
	and purchases of certain	medications b	etween April 11, 2016	and March 25, 2	2019, for
2	Alphascript Inc. and Medical Plaza Pharmacy. The Board's inspector conducted an audit to			ed an audit to	
	determine whether certain drug stock was properly maintained. The inspector compared the			compared the	
	difference between quantities dispensed and quantities purchased. Under proper pharmacy				
	operations, these amounts would be close to the same.				
	18. The Board's inspector analyzed purchase and dispense records of Alphascript (PHY				
	56162) between September 22, 2018 and March 25, 2019, and determined substantial				
	discrepancies in the following drugs:				
	Drug	Amount Purchased	Amount Dispensed/Billed to Insurance	Total Cost to Pharmacy	Overage Billed to Insurance
	Sensipar	14,670	24,786	\$1,005,052	\$410,195
	Prograf (tacrolimus) ¹	357,150 mg	405,526 mg	\$2,637,143	>\$300,000
	19. The Board's inspector analyzed purchase and dispense records of Medical Plaza				
4	Pharmacy between March 25, 2016, through March 25, 2019, and determined substantial				
5	discrepancies in the foll	owing drugs:			
5	///				
7 3	¹ Because Alpha tacrolimus, the Board's drugs dispensed as com	inspector conve		nis drug to millig	d the generic rams to account for
			4		
			ST	ATEMENT OF ISS	UES (Case No. 6854)

Drug	Amount Purchased	Amount Dispensed/Billed to Insurance	Total Cost to Pharmacy	Overage Bill to Insuranc
Genvoya	39,210	47,351	\$5,317,086	>\$900,000
Prograf (tacrolimus)	3,177,500 mg	4,005,166 mg	\$18,092,664	>\$3,800,000
Triumeq	35,790	45,844	\$4,862,296	>\$1,000,000
Truvada	24,690	39,989	\$2,480,508	>\$900,000
Sensipar	28,560	41,335	\$2,051,491	>\$600,000

10 At the March 25, 2018 inspection, the Board's inspector was informed that 20. 11 Alphascript Inc. frequently dispensed prescriptions using drugs from its inventory, but that those 12 prescriptions were billed to insurance companies as coming from Medical Plaza Pharmacy. This 13 practice could potentially cause an inventory shortage of the dispensed drugs for Alphascript Inc. 14 and an overage for Medical Plaza Pharmacy, based upon purchase and dispensing records. The 15 Board's inspector combined the purchase and dispense records between the two pharmacies and 16 found that discrepancies persisted that are not explained by the practice of moving prescriptions 17 between the two pharmacies.

18 21. The Board's inspector analyzed records of Alphascript Inc. (PHY 50690) from
19 between September 22, 2018, and March 25, 2019, and compared purchases and dispersions in
20 that time period with those of Medical Plaza Pharmacy from the same time period. The following
21 discrepancies persisted:

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1 2		Drug	Discrepancy - Positive # reflects overage	Total Cost to Pharmacy
3		Genvoya	(10,590)	(\$1,016,184)
4		Sensipar 30 mg	10,389	\$267,759
5		Sensipar 60 mg	4,740	\$244,141
6		Sensipar 90 mg	150	\$11,742
7		Triumeq	(1,132)	(\$103,287)
8		Truvada	(8,853)	(\$469,788)
9		Prograf/tacrolimus mg total	155,281	\$2,637,144
10 11			1 1	
11		he Board's inspector further an	•	
12	-	1 11, 2016, and August 31, 201		-
13		those of Medical Plaza Pharm	acy from the same t	ime period. The f
15	discrepancies	persisted:		
				[
		Drug	Discrepancy - Positive # reflects overage	Total Cost
16		Drug Genvoya	Positive #	Total Cost \$787,384
l6 l7			Positive # reflects overage	
16 17 18		Genvoya	Positive # reflects overage 7,012	\$787,384
16 17 18 19		Genvoya Sensipar 30 mg	Positive # reflects overage 7,012 3,258	\$787,384 \$102,317
16 17 18 19 20		Genvoya Sensipar 30 mg Sensipar 60 mg	Positive # reflects overage 7,012 3,258 375	\$787,384 \$102,317 \$23,559
16 17 18 19 20 21		Genvoya Sensipar 30 mg Sensipar 60 mg Sensipar 90 mg	Positive # reflects overage 7,012 3,258 375 1,489	\$787,384 \$102,317 \$23,559 \$140,602
 16 17 18 19 20 21 22 		Genvoya Sensipar 30 mg Sensipar 60 mg Sensipar 90 mg Triumeq	Positive # reflects overage 7,012 3,258 375 1,489 2711	\$787,384 \$102,317 \$23,559 \$140,602 \$287,533
 16 17 18 19 20 21 22 23 		Genvoya Sensipar 30 mg Sensipar 60 mg Sensipar 90 mg Triumeq Truvada Prograf/tacrolimus mg total	Positive # reflects overage 7,012 3,258 375 1,489 2711 10,445 1,110,952	\$787,384 \$102,317 \$23,559 \$140,602 \$287,533 \$647,901 \$5,216,923
 16 17 18 19 20 21 22 23 24 		Genvoya Sensipar 30 mg Sensipar 60 mg Sensipar 90 mg Triumeq Truvada Prograf/tacrolimus mg total	Positive # reflects overage 7,012 3,258 375 1,489 2711 10,445 1,110,952	\$787,384 \$102,317 \$23,559 \$140,602 \$287,533 \$647,901 \$5,216,923
16 17 18 19 20 21 22 23 24 25 26		Genvoya Sensipar 30 mg Sensipar 60 mg Sensipar 90 mg Triumeq Truvada Prograf/tacrolimus mg total CAUSE FOR DEI (Fra	Positive # reflects overage 7,012 3,258 375 1,489 2711 10,445 1,110,952	\$787,384 \$102,317 \$23,559 \$140,602 \$287,533 \$647,901 \$5,216,923 ATION
 16 17 18 19 20 21 22 23 24 25 26 27 		Genvoya Sensipar 30 mg Sensipar 60 mg Sensipar 90 mg Triumeq Truvada Prograf/tacrolimus mg total CAUSE FOR DEN (Fra espondent has subjected its app	Positive # reflects overage 7,012 3,258 375 1,489 2711 10,445 1,110,952 NIAL OF APPLIC nudulent Act) Dilication to denial units	\$787,384 \$102,317 \$23,559 \$140,602 \$287,533 \$647,901 \$5,216,923 ATION ader Code section
10 16 17 18 19 20 21 22 23 24 25 26 27 28		Genvoya Sensipar 30 mg Sensipar 60 mg Sensipar 90 mg Triumeq Truvada Prograf/tacrolimus mg total CAUSE FOR DEI (Fra espondent has subjected its app a)(3)(A), in reference to Code s	Positive # reflects overage 7,012 3,258 375 1,489 2711 10,445 1,110,952 NIAL OF APPLIC udulent Act) plication to denial unections 4301 and 43	\$787,384 \$102,317 \$23,559 \$140,602 \$287,533 \$647,901 \$5,216,923 ATION ader Code section
 16 17 18 19 20 21 22 23 24 25 26 27 		Genvoya Sensipar 30 mg Sensipar 60 mg Sensipar 90 mg Triumeq Truvada Prograf/tacrolimus mg total CAUSE FOR DEI (Fra espondent has subjected its app a)(3)(A), in reference to Code s	Positive # reflects overage 7,012 3,258 375 1,489 2711 10,445 1,110,952 NIAL OF APPLIC udulent Act) olication to denial unections 4301 and 43 6	\$787,384 \$102,317 \$23,559 \$140,602 \$287,533 \$647,901 \$5,216,923 ATION ader Code section

1	relation to	Respondent's CEO/President/Treasurer/Secretary/Director and COO that would	
2	constitute grounds for disciplinary action against them and related entities Alphascript Inc. and		
3	Medical Plaza Pharmacy due to acts involving fraud, deceit, or corruption and that such acts, if		
4	done by a licentiate pharmacy would be grounds for suspension or revocation of license. The		
5	circumstances are described above in paragraphs 13 through 22.		
6	PRAYER		
7	WHEREFORE, Complainant requests that a hearing be held on the matters alleged, and		
8	that follow	ring the hearing, the Board of Pharmacy issue a decision:	
9	1.	Denying the application of Duet Pharmacy for a Community Pharmacy Permit;	
10	2.	Taking such other and further action as deemed necessary and proper.	
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12	DATED:	9/3/2020 Anne Sodergren	
13		ANNE SODERGREN Executive Officer	
14		Board of Pharmacy Department of Consumer Affairs	
15		State of California Complainant	
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