

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

In the Matter of the Accusation Against:

**MICHAEL'S PHARMACY, INC.,  
d.b.a. MICHAEL'S PHARMACY**  
NATALYA SKYE,  
PHARMACIST-IN-CHARGE  
960 East Green Street  
Pasadena, CA 91106  
Pharmacy Permit No. PHY 47549

AND

**NATALYA SKYE**  
14569 Benefit St., #102  
Sherman Oaks, CA 91403  
Pharmacist License No. RPH 55396

Respondents.

Case No. 3824

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

**[AS RESPONDENT MICHAEL'S  
PHARMACY INC. ONLY]**

**DECISION AND ORDER**

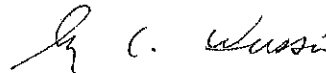
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on February 14, 2014.

It is so ORDERED on February 7, 2014.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



\_\_\_\_\_  
STAN C. WEISSER  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
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7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 3824

12 **MICHAEL'S PHARMACY, INC.,**  
13 **d.b.a. MICHAEL'S PHARMACY**  
14 NATALYA SKYE,  
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15 960 East Green Street  
Pasadena, CA 91106  
16 Pharmacy Permit No. PHY 47549

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

**[RESPONDENT MICHAEL'S  
PHARMACY INC. ONLY ]**

17 **AND**

18 **NATALYA SKYE**  
14569 Benefit St., #102  
19 Sherman Oaks, CA 91403  
Original Pharmacist License No. RPH 55396

20 Respondents.  
21

22 **IT IS HEREBY STIPULATED AND AGREED** by and between the parties to the above-  
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
26 She brought this action solely in her official capacity and is represented in this matter by Kamala  
27 D. Harris, Attorney General of the State of California, by Susan Melton Wilson, Deputy Attorney  
28 General.



1 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
2 every right set forth above.

3 CULPABILITY

4 9. Respondent admits the truth of each and every charge and allegation in Accusation  
5 No. 3824.

6 10. Respondent agrees that its Original Pharmacy Permit is subject to discipline and they  
7 agree to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

8 CONTINGENCY

9 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent  
10 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may  
11 communicate directly with the Board regarding this stipulation and settlement, without notice to  
12 or participation by Respondent or its counsel. By signing the stipulation, Respondent understands  
13 and agrees that they may not withdraw its agreement or seek to rescind the stipulation prior to the  
14 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its  
15 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or  
16 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,  
17 and the Board shall not be disqualified from further action by having considered this matter.

18 12. The parties understand and agree that facsimile copies of this Stipulated Settlement  
19 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and  
20 effect as the originals.

21 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
26 writing executed by an authorized representative of each of the parties.

1 14. In consideration of the foregoing admissions and stipulations, the parties agree that  
2 the Board may, without further notice or formal proceeding, issue and enter the following  
3 Disciplinary Order:

4 **DISCIPLINARY ORDER**

5 IT IS HEREBY ORDERED that Original Pharmacy Permit No. PHY 47549 issued to  
6 Respondent Michael's Pharmacy, Inc.; IS REVOKED. However, the revocation is stayed and  
7 Respondent is placed on probation for five (5) years on the following terms and conditions.

8 **1. Obey All Laws**

9 Respondent owner shall obey all state and federal laws and regulations.

10 Respondent owner shall report any of the following occurrences to the board, in writing,  
11 within seventy-two (72) hours of such occurrence:

- 12  an arrest or issuance of a criminal complaint for violation of any provision of the  
13 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
14 substances laws
- 15  a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
16 criminal complaint, information or indictment
- 17  a conviction of any crime
- 18  discipline, citation, or other administrative action filed by any state or federal agency  
19 which involves respondent's pharmacy license or which is related to the practice of  
20 pharmacy or the manufacturing, obtaining, handling or distributing, billing, or  
21 charging for any drug, device or controlled substance.

22 Failure to timely report any such occurrence shall be considered a violation of probation.

23 **2. Report to the Board**

24 Respondent owner shall report to the board quarterly, on a schedule as directed by the board  
25 or its designee. The report shall be made either in person or in writing, as directed. Among other  
26 requirements, respondent owner shall state in each report under penalty of perjury whether there  
27 has been compliance with all the terms and conditions of probation. Failure to submit timely  
28 reports in a form as directed shall be considered a violation of probation. Any period(s) of

1 delinquency in submission of reports as directed may be added to the total period of probation.  
2 Moreover, if the final probation report is not made as directed, probation shall be automatically  
3 extended until such time as the final report is made and accepted by the board.

4 **3. Interview with the Board**

5 Upon receipt of reasonable prior notice, respondent owner shall appear in person for  
6 interviews with the board or its designee, at such intervals and locations as are determined by the  
7 board or its designee. Failure to appear for any scheduled interview without prior notification to  
8 board staff, or failure to appear for two (2) or more scheduled interviews with the board or its  
9 designee during the period of probation, shall be considered a violation of probation.

10 **4. Cooperate with Board Staff**

11 Respondent owner shall cooperate with the board's inspection program and with the board's  
12 monitoring and investigation of respondent's compliance with the terms and conditions of their  
13 probation. Failure to cooperate shall be considered a violation of probation.

14 **5. Reimbursement of Board Costs**

15 Respondent shall be jointly and severally liable with co-respondent to Accusation 3824,  
16 Natalya Skye for reimbursement to the Board of its costs of investigation and prosecution in the  
17 total sum of Eleven Thousand Dollars (\$11, 000.00). Payment of the total sum shall be a  
18 condition precedent to successful completion of probation. Respondent shall make said payment  
19 within sixty (60) days of the effective date of this decision.

20 There shall be no deviation from this schedule absent prior written approval by the board or  
21 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of  
22 probation.

23 The filing of bankruptcy by respondent owner shall not relieve respondent of their  
24 responsibility to reimburse the board its costs of investigation and prosecution.

25 **6. Probation Monitoring Costs**

26 Respondent owner shall pay any costs associated with probation monitoring as determined  
27 by the board each and every year of probation. Such costs shall be payable to the board on a  
28 schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as

1 directed shall be considered a violation of probation.

2 **7. Status of License**

3 Respondent owner shall, at all times while on probation, maintain current licensure with the  
4 board. If respondent owner submits an application to the board, and the application is approved,  
5 for a change of location, change of permit or change of ownership, the board shall retain  
6 continuing jurisdiction over the license, and the respondent shall remain on probation as  
7 determined by the board. Failure to maintain current licensure shall be considered a violation of  
8 probation.

9 If respondent owner's license expires or is cancelled by operation of law or otherwise at any  
10 time during the period of probation, including any extensions thereof or otherwise, upon renewal  
11 or reapplication respondent owner's license shall be subject to all terms and conditions of this  
12 probation not previously satisfied.

13 **8. License Surrender While on Probation/Suspension**

14 Following the effective date of this decision, should respondent owner discontinue  
15 business, respondent owner may tender the premises license to the board for surrender. The  
16 board or its designee shall have the discretion whether to grant the request for surrender or take  
17 any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of  
18 the license, respondent will no longer be subject to the terms and conditions of probation.

19 Upon acceptance of the surrender, respondent owner shall relinquish the premises wall and  
20 renewal license to the board within ten (10) days of notification by the board that the surrender is  
21 accepted. Respondent owner shall further submit a completed Discontinuance of Business form  
22 according to board guidelines and shall notify the board of the records inventory transfer.

23 Respondent owner shall also, by the effective date of this decision, arrange for the  
24 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written  
25 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that  
26 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating  
27 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five  
28 days of its provision to the pharmacy's ongoing patients, Respondent owner shall provide a copy

1 of the written notice to the board. For the purposes of this provision, "ongoing patients" means  
2 those patients for whom the pharmacy has on file a prescription with one or more refills  
3 outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60)  
4 days.

5 Respondent owner may not apply for any new licensure from the board for three (3) years  
6 from the effective date of the surrender. Respondent owner shall meet all requirements applicable  
7 to the license sought as of the date the application for that license is submitted to the board.

8 Respondent owner further stipulates that he or she shall reimburse the board for its costs of  
9 investigation and prosecution prior to the acceptance of the surrender.

#### 10 **9. Notice to Employees**

11 Respondent owner shall, upon or before the effective date of this decision, ensure that all  
12 employees involved in permit operations are made aware of all the terms and conditions of  
13 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.  
14 If the notice required by this provision is posted, it shall be posted in a prominent place and shall  
15 remain posted throughout the probation period. Respondent owner shall ensure that any  
16 employees hired or used after the effective date of this decision are made aware of the terms and  
17 conditions of probation by posting a notice, circulating a notice, or both. Additionally,  
18 respondent owner shall submit written notification to the board, within fifteen (15) days of the  
19 effective date of this decision, that this term has been satisfied. Failure to submit such  
20 notification to the board shall be considered a violation of probation.

21 "Employees" as used in this provision includes all full-time, part-time,  
22 volunteer, temporary and relief employees and independent contractors employed or  
23 hired at any time during probation.

#### 24 **10. Owners and Officers: Knowledge of the Law**

25 Respondent shall provide, within thirty (30) days after the effective date of this decision,  
26 signed and dated statements from its owners, including any owner or holder of ten percent (10%)  
27 or more of the interest in respondent or respondent's stock, and any officer, stating under penalty  
28 of perjury that said individuals have read and are familiar with state and federal laws and



1 regulations governing the practice of pharmacy. The failure to timely provide said statements  
2 under penalty of perjury shall be considered a violation of probation.

3 **11. Posted Notice of Probation**

4 Respondent owner shall prominently post a probation notice provided by the board in a  
5 place conspicuous and readable to the public. The probation notice shall remain posted during  
6 the entire period of probation.

7 Respondent owner shall not, directly or indirectly, engage in any conduct or make any  
8 statement which is intended to mislead or is likely to have the effect of misleading any patient,  
9 customer, member of the public, or other person(s) as to the nature of and reason for the probation  
10 of the licensed entity.

11 Failure to post such notice shall be considered a violation of probation.

12 **12. Violation of Probation**

13 If a respondent owner has not complied with any term or condition of probation, the board  
14 shall have continuing jurisdiction over respondent license, and probation shall be automatically  
15 extended until all terms and conditions have been satisfied or the board has taken other action as  
16 deemed appropriate to treat the failure to comply as a violation of probation, to terminate  
17 probation, and to impose the penalty that was stayed.

18 If respondent owner violates probation in any respect, the board, after giving respondent  
19 owner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary  
20 order that was stayed. Notice and opportunity to be heard are not required for those provisions  
21 stating that a violation thereof may lead to automatic termination of the stay and/or revocation of  
22 the license. If a petition to revoke probation or an accusation is filed against respondent during  
23 probation, the board shall have continuing jurisdiction and the period of probation shall be  
24 automatically extended until the petition to revoke probation or accusation is heard and decided.


25 **13. Completion of Probation**

26 Upon written notice by the board or its designee indicating successful completion of  
27 probation, respondent license will be fully restored.

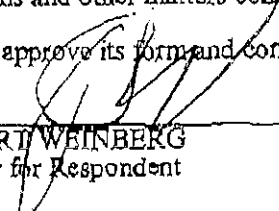
28 **14. Community Services Program**



1 No. PHY 47549. On behalf of Respondent Michael's Pharmacy Inc. I enter into this Stipulated  
 2 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree that  
 3 Michael's Pharmacy Inc. will be bound by the Decision and Order of the Board of Pharmacy.


4  
 5 DATED: 11/10/13   
 6 NATALIYA SKYE  
 7 Authorized Representative of  
 8 MICHAEL'S PHARMACY, INC.  
 9 d.b.a. MICHAEL'S PHARMACY  
 10 Respondent

11 I have read and fully discussed with the legally authorized representative(s) of Respondent  
 12 Michael's Pharmacy, Inc., all terms and conditions and other matters contained in the above  
 13 Stipulated Settlement and Disciplinary Order. I approve its form and content.

14 DATED: 11/17/13   
 15 HERBERT WEINBERG  
 16 Attorney for Respondent

17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
 19 submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

20 Dated: 11-15-13 Respectfully submitted,  
 21 KAMALA D. HARRIS  
 22 Attorney General of California  
 23 GREGORY J. SALUTE  
 24 Supervising Deputy Attorney General  
  
 25 SUSAN MELTON WILSON  
 26 Deputy Attorney General  
 27 Attorneys for Complainant

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**Exhibit A**

**Accusation No. 3824**

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 SUSAN MELTON WILSON  
Deputy Attorney General  
4 State Bar No. 106902  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-4942  
6 Facsimile: (213) 897-2804  
E-mail: Susan.Wilson@doj.ca.gov  
7 Attorneys for Complainant

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15 960 East Green Street  
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16 Pharmacy Permit No. PHY 47549

**ACCUSATION**

17 **AND**

18 **NATALYA SKYE**  
14569 Benefit St., #102  
19 Sherman Oaks, CA 91403  
Original Pharmacist License No. RPH 55396

20 Respondents.

21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about November 7, 2006, the Board of Pharmacy (Board) issued Pharmacy  
26 Permit No. PHY 47549 to Michael's Pharmacy (Respondent Pharmacy). Natalya Skye is and has  
27 been Pharmacist-In-Charge of Respondent Pharmacy since November 7, 2006. The Pharmacy  
28

1 Permit was in full force and effect at all times relevant to the charges brought herein and will  
2 expire on November 1, 2012, unless renewed.

3 3. On or about June 23, 2004, the Board of Pharmacy issued Original Pharmacist  
4 License Number RPH 55396 to Natalya Skye (Respondent Skye). The Original Pharmacist  
5 License was in full force and effect at all times relevant to the charges brought herein and will  
6 expire on March 31, 2014, unless renewed.

### 7 JURISDICTION

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

### 11 STATUTORY PROVISIONS

12 5. Section 118, subdivision (b), provides that the suspension, expiration, surrender, or  
13 cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary  
14 action during the period within which the license may be renewed, restored, reissued or  
15 reinstated.

16 6. Section 4300 of the Code states:

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

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

21 "(1) Suspending judgment.

22 "(2) Placing him or her upon probation.

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

24 "(4) Revoking his or her license.

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

27 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The  
28 board may, in its sole discretion, issue a probationary license to any applicant for a license who is

1 guilty of unprofessional conduct and who has met all other requirements for licensure. The board  
2 may issue the license subject to any terms or conditions not contrary to public policy, including,  
3 but not limited to, the following:

4 "(1) Medical or psychiatric evaluation.

5 "(2) Continuing medical or psychiatric treatment.

6 "(3) Restriction of type or circumstances of practice.

7 "(4) Continuing participation in a board-approved rehabilitation program.

8 "(5) Abstention from the use of alcohol or drugs.

9 "(6) Random fluid testing for alcohol or drugs.

10 "(7) Compliance with laws and regulations governing the practice of pharmacy.

11 "(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary  
12 certificate of licensure for any violation of the terms and conditions of probation. Upon  
13 satisfactory completion of probation, the board shall convert the probationary certificate to a  
14 regular certificate, free of conditions.

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

20 7. Section 4301 of the Code states:

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

24 . . .

25 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
26 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
27 whether the act is a felony or misdemeanor or not.

28 . . .





- 1 (3) The name of the patient or patients.
- 2 (4) The name of the prescriber or, if applicable, the name of certified nurse-midwife who  
3 functions pursuant to a standardized procedure or protocol described in Section 2746.51, the  
4 nurse practitioner who functions pursuant to a standardized procedure described in Section  
5 2836.1, or protocol, the physician assistant who functions pursuant to Section 3502.1., the  
6 naturopathic doctor who functions pursuant to a standardized procedure or protocol described in  
7 Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol  
8 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of  
9 paragraph (5) of, subdivision (a) of Section 4052.
- 10 (5) The date of issue.
- 11 (6) The name and address of the pharmacy, and prescription number or other means of  
12 identifying the prescription.
- 13 (7) The strength of the drug or drugs dispensed.
- 14 (8) The quantity of the drug or drugs dispensed.
- 15 (9) The expiration date of the effectiveness of the drug dispensed.
- 16 (10) The condition for which the drug was prescribed if requested by the patient and the  
17 condition is indicated on the prescription.
- 18 (11)(A) Commencing January 1, 2006, the physical description of the dispensed  
19 medication, including its color, shape, and any identification code that appears on the tablets or  
20 capsules, except as follows:
- 21 (i) Prescriptions dispensed by a veterinarian.
- 22 (ii) An exemption from the requirements of this paragraph shall be granted to a new drug  
23 for the first 120 days that the drug is on the market and for the 90 days during which the national  
24 reference file has no description on file.
- 25 (iii) Dispensed medications for which no physical description exists in any commercially  
26 available database.
- 27 (B) This paragraph applies to outpatient pharmacies only.
- 28 / / /

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

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

5 "(b) If a pharmacist dispenses a prescribed drug by means of a unit dose medication system,  
6 as defined by administrative regulation, for a patient in a skilled nursing, intermediate care, or  
7 other health care facility, the requirements of this section will be satisfied if the unit dose  
8 medication system contains the aforementioned information or the information is otherwise  
9 readily available at the time of drug administration.

10 "(c) If a pharmacist dispenses a dangerous drug or device in a facility licensed pursuant to  
11 Section 1250 of the Health and Safety Code, it is not necessary to include on individual unit dose  
12 containers for a specific patient, the name of the certified nurse-midwife who functions pursuant  
13 to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who  
14 functions pursuant to a standardized procedure described in Section 2836.1, the physician  
15 assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions  
16 pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist  
17 who functions pursuant to a policy, procedure, or protocol pursuant to either subparagraph (D) of  
18 paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section  
19 4052,

20 "(d) If a pharmacist dispenses a prescription drug for use in a facility licensed pursuant to  
21 Section 1250 of the Health and Safety Code, it is not necessary to include the information  
22 required in paragraph (11) of subdivision (a) when the prescription drug is administered to a  
23 patient by a person licensed under the Medical Practice Act (Chapter 5 (commencing with  
24 Section 2000), the Nursing Practice Act (Chapter 6 (commencing with Section 2700), or the  
25 Vocational Nursing Act (Chapter 6.5 (commencing with Section 2840), who is acting within his  
26 or her scope of practice."

27 10. Section 4081 of the Code states:

28 / / /

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

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

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

17           11. Section 4126.5 of the Code states:

18           "(a) A pharmacy may furnish dangerous drugs only to the following:

19           (1) A wholesaler owned or under common control by the by the wholesaler from whom the  
20 dangerous drug was acquired.

21           (2) The pharmaceutical manufacturer from whom the dangerous drug was acquired.

22           (3) A licensed wholesaler acting as a reverse distributor.

23           (4) Another pharmacy or wholesaler to alleviate a temporary shortage of a dangerous drug  
24 that could result in the denial of health care. A pharmacy furnishing dangerous drugs pursuant to  
25 this paragraph may only furnish a quantity sufficient to alleviate the temporary shortage.

26           (5) A patient or to another pharmacy pursuant to a prescription or as otherwise authorized  
27 by law.

28           / / /

1 (6) A health care provider that is not pharmacy but that is authorized to purchase dangerous  
2 drugs.

3 (7) To another pharmacy under common control.

4 ...

5 (d) For purpose of this section, "common control" means the power to direct or cause the  
6 direction of the management and policies of another person whether by ownership, by voting  
7 rights, by contract, or by other means.

8 12. Section 4105 of the Code states:

9 "(a) All records or other documentation of the acquisition and disposition of dangerous  
10 drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed  
11 premises in a readily retrievable form.

12 "(b) The licensee may remove the original records or documentation from the licensed  
13 premises on a temporary basis for license-related purposes. However, a duplicate set of those  
14 records or other documentation shall be retained on the licensed premises.

15 "(c) The records required by this section shall be retained on the licensed premises for a  
16 period of three years from the date of making.

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

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

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

28 / / /

1 13. California Code of Regulations, title 16, section 1714 states:

2 (a) All pharmacies (except hospital inpatient pharmacies as defined by Business and  
3 Professions Code section 4029 which solely or predominantly furnish drugs to inpatients of the  
4 hospital) shall contain an area which is suitable for confidential patient counseling.

5 (b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and  
6 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.  
7 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice  
8 of pharmacy.

9 (c) The pharmacy and fixtures and equipment shall be maintained in a clean and orderly  
10 condition. The pharmacy shall be dry, well-ventilated, free from rodents and insects, and properly  
11 lighted. The pharmacy shall be equipped with a sink with hot and cold running water for  
12 pharmaceutical purposes.

13 (d) Each pharmacist while on duty shall be responsible for the security of the prescription  
14 department, including provisions for effective control against theft or diversion of dangerous  
15 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy  
16 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.

17 (e) The pharmacy owner, the building owner or manager, or a family member of a  
18 pharmacist owner (but not more than one of the aforementioned) may possess a key to the  
19 pharmacy that is maintained in a tamper evident container for the purpose of 1) delivering the key  
20 to a pharmacist or 2) providing access in case of emergency. An emergency would include fire,  
21 flood or earthquake. The signature of the pharmacist-in-charge shall be present in such a way that  
22 the pharmacist may readily determine whether the key has been removed from the container.

23 (f) The board shall require an applicant for a licensed premise or for renewal of that  
24 license to certify that it meets the requirements of this section at the time of licensure or renewal.

25 (g) A pharmacy shall maintain a readily accessible restroom. The restroom shall contain  
26 a toilet and wash basin supplied with running water.

27 / / /

1           14.       California Code of Regulations, title 16, section 1718 states:  
2       "Current Inventory' as used in Sections 4081 and 4332 of the Business and Professions Code  
3       shall be considered to include complete accountability for all dangerous drugs handled by every  
4       licensee enumerated in Sections 4081 and 4332. "The controlled substances inventories required  
5       by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years  
6       after the date of the inventory."

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

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

10          "Notwithstanding the above, a pharmacist may dispense and refill a prescription for  
11       non-liquid oral products in a clean multiple-drug patient medication package (patient med pak),  
12       provided:

- 13           (1)    a patient med pak is reused only for the same patient;  
14           (2)    no more than a one-month supply is dispensed at one time; and  
15           (3)    each patient med pak bears an auxiliary label which reads, store in a cool, dry place.

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

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

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

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

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

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

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

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

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

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

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

- 26           (1) Identification of pharmacist(s) transferring information;  
27           (2) Name and identification code or address of the pharmacy from which the prescription  
28 was received or to which the prescription was transferred, as appropriate;

- 1 (3) Original date and last dispensing date;
- 2 (4) Number of refills and date originally authorized;
- 3 (5) Number of refills remaining but not dispensed;
- 4 (6) Number of refills transferred.

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

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

14 **FACTS COMMON TO ALL CAUSES FOR DISCIPLINE**

15 17. The following allegations are common to all causes for discipline in this matter:

16 a. At all times relevant herein, Respondent Natalya Skye was an owner and the  
17 pharmacist-in-charge of Michael's Pharmacy, Inc., located in Pasadena, CA.

18 **BOARD INSPECTION - JULY 7, 2009**

19 b. On or about July 7, 2009, a representative of the Board inspected Respondent  
20 Pharmacy.

21 c. The Inspector observed that Respondent pharmacy had no self-assessment form,  
22 and found three prescriptions ready to be dispensed which had no description of the drugs on the  
23 label. She also collected records from the pharmacy for later analysis.

24 d. In later review of prescription records obtained during the July 7 inspection, the  
25 Inspector observed that 22 prescriptions purportedly "original telephone prescriptions" were  
26  
27  
28



1 documented on a telephonic prescription document with a computer print out. The pharmacist did  
2 not reduce the telephonic prescription to writing.

3 **BOARD INSPECTION - NOVEMBER 19, 2009**

4 e. On or about November 19, 2009, a second inspection was conducted at the  
5 pharmacy.

6 f. Arriving at 9:00 am, the Inspector observed that a pharmacy technician was  
7 already inside the Pharmacy – but that the doors were locked and the lights were off. The  
8 Inspector asked the Tech to leave and wait with her outside the pharmacy. A second Tech then  
9 arrived and let herself into the pharmacy. Again, the Inspector asked the Tech to leave and wait  
10 with her outside the pharmacy. A third Tech then arrived. Respondent Skye did not arrive at the  
11 pharmacy until approximately 10:00 am. Later, two of the pharmacy technicians admitted that  
12 they had a key to the pharmacy  
13

14 g. When asked about routine procedures for drug deliveries at Respondent  
15 pharmacy, all three pharmacy technicians claimed only the pharmacist on duty signed for drug  
16 deliveries. However after later review of records obtained from vendors making deliveries to  
17 Respondent pharmacy, the Inspector found non-pharmacists had signed for deliveries on at least  
18 twenty nine (29) occasions.  
19

20 h. Once inside the pharmacy, the Inspector observed large quantities of drugs in  
21 odd containers throughout the pharmacy:

22 (1) The Inspector noticed a paper shopping bag filled with drugs - which Respondent  
23 Skye identified as expired “sample” medications which had been given to Respondent  
24 pharmacy by a physician for disposal. The Inspector documented numerous dangerous  
25 drugs in the bag which were not expired, including:  
26

- 27 1. Tektuna HCT 300/25
- 28 2. Imitrex 100mg

3. Relpax 40mg
4. Maxalt 10mg
5. Micardies 40mg and 80mg
6. Aggrenox 25/200
7. Simcor 500/20
8. Enablex 15 mg
9. Exforge 5/320 and 5/160
10. Seroquel XR 150mg
11. Micardis HCT 80/12.5
12. Aricept 10mg and 5mg
13. Aricept ODT 5mg.

(2) The Inspector also observed large amber vials of medication – some unlabeled and containing more than one type of medication – and some which had a sample medication label taped to the side of the container. Respondent Skye claimed that the medication in the amber vials had been given to the pharmacy by a patient whose husband had died – for disposal. However, she was unable to produce a patient profile accounting for the medications she claimed had been returned.

(3) The Inspector also observed a large quantity of drugs stored in plastic baskets and bags full of drugs to be destroyed and/or credited.

i. The Inspector further observed that the small restroom in the facility had storage shelves immediately adjacent to the toilet, and that pharmacy bottles and caps were stored on the floor next to the toilet.

j. Further investigation disclosed that on or about December 28, 2009, Respondents illegally transferred pharmaceuticals for “disposal” as medical waste by an unlicensed entity named “EnservWest” located in Vernon, CA.

#### FIRST CAUSE FOR DISCIPLINE

#### **(Failure to Comply with Records Requirements)**

18. Respondents MICHAEL’S PHARMACY and NATALYA SKYE are subject to subject to disciplinary action under section 4300 for unprofessional conduct as defined in section 4301, subdivisions (j) and (o), in conjunction with section 4059, subdivision “b” in that during an

1 inspection of the Pharmacy on or about November 19, 2009, a representative of the Board  
2 discovered a bag of sample medications and drugs allegedly returned from a physician and/or a  
3 deceased patient - however, Respondent did not have or could not otherwise show documents  
4 required by pharmacy law (e.g. sales and purchase records) to establish where and how the  
5 pharmacy acquired the drugs, as described more fully in paragraph 17 above.

6 SECOND CAUSE FOR DISCIPLINE

7 **(Failure to Maintain Complete Acquisition/Disposition Records)**

8 19. Respondents MICHAEL'S PHARMACY and NATALYA SKYE are subject  
9 disciplinary action under section 4300 for unprofessional conduct as defined in section 4301,  
10 subdivisions (j) and (o), in conjunction with sections 4081, subdivision (a), and 4105 for failure to  
11 maintain all records of acquisition and disposition for three (3) years from date of making and to  
12 keep a current inventory of dangerous drugs, in that at the time of a Board inspection on or about  
13 November 19, 2009, Respondents were found to have haphazard and disorganized storage of  
14 medications, with no organized, accurate and immediately accessible inventory records, as  
15 described more fully in paragraph 17 above.

16 THIRD CAUSE FOR DISCIPLINE

17 **(Allowing a Non-Pharmacist to Order and Receive Controlled Substances)**

18 20. Respondents MICHAEL'S PHARMACY and NATALYA SKYE are subject to  
19 disciplinary action under section 4300 for unprofessional conduct as defined in section 4301,  
20 subdivision (o), in conjunction with section 4059.5, subdivision (a), which requires that only a  
21 pharmacist may sign for the delivery of controlled substances and dangerous drugs, in that on  
22 each of the following dates, Respondents allowed a non-pharmacist to sign for deliveries at  
23 Respondent Pharmacy:

24	1) 1/8/2009
25	2) 1/16/2009
26	3) 1/21/2009
27	4) 1/16/2009
28	5) 4/6/2009

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6) 4/7/2009
7) 4/9/2009
8) 4/28/2009
9) 4/29/2009
10) 11/2/2009
11) 11/30/2009
12) 11/3/2009
13) 11/4/2009
14) 11/5/2009
15) 4/13/2009
16) 4/15/2009
17) 4/20/2009
18) 4/10/2009
19) 11/13/2009
20) 11/16/2009
21) 11/18/2009
22) 11/10/2009
23) 11/11/2009
24) 11/12/2009
25) 11/6/2009
26) 4/21/2009
27) 4/23/2009
28) 1/5/2009
29) 1/7/2009

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1 dispensed incorrectly labeled medication as follows:

- 2 a. **Prescription 343671**  
3 No description of medication  
4 b. **Prescription 341530**  
5 No description of medication  
6 c. **Prescription 342438**  
7 No description of medication

8 SEVENTH CAUSE FOR DISCIPLINE

9 **(Telephone Order Not Reduced to Writing)**

10 24. Respondents MICHAEL'S PHARMACY and NATALYA SKYE are subject to  
11 disciplinary action under section 4300 for unprofessional conduct as defined in section 4301,  
12 subdivision (o), in conjunction with section Title 16, California Code of Regulations section 1717  
13 subdivision "c" which requires that an orally transmitted prescription must be promptly reduced  
14 to writing and initialed, in that during a Board inspection on July 7, 2009, the inspector found  
15 that prescriptions which had originated as oral prescriptions, had been filled – but had not been  
16 reduced to writing in at least 22 instances, as follows:

- 17 1) 340550  
18 2) 337639  
19 3) 337633  
20 4) 340553  
21 5) 340551  
22 6) 337638  
23 7) 337636  
24 8) 337634  
25 9) 337640  
26 10) 337628  
27 11) 337637  
28 12) 337636



1 paragraph 17 above.

2 **DISCIPLINARY CONSIDERATIONS**

3 27. To determine the degree of penalty to be imposed on Respondent(s), if any,  
4 Complainant makes the following additional allegations:

5 **Prior Citation – Respondent Michael’s Pharmacy**

6 a. On or about November 13, 2008 a representative of the Board inspected  
7 Respondent Michael’s Pharmacy. Pursuant to that inspection, on April 23, 2009, Administrative  
8 Citation/Assessment of Fine No. CI 200839793 was issued to Respondent for violating Codes and  
9 Regulations as set forth below, resulting in the issuance of a \$ 5,000.00 fine, which Respondent  
10 paid in full. The citation is now final.

Code/Regulations Violated	Description
11 a. Bus. & Prof. Code §4342	12 <u>Stocking dangerous drugs lacking quality or strength</u> 13 Medication containers were found containing 14 compounded drugs lacking expiration dates 15 (Progesterone 100mg #15 and 50mg #76 Supp.) or drugs 16 that had been expired (Estradiol 250 Vag. Supp #16 17 expired 3/21/07, Progesterone 400mg #9 Supp expired 18 7/7/05 and 25mg #46 Supp expired 8/4/05, Boric acid 19 Vag. Supp #16 expired in 10/21/06)
20 b. CCR, title 16, §1716	21 Variation from Prescription 22 On 12/06/2006, Respondent furnished prescription 23 301673 for Hydrocodone/APAP 10/500mg #120 to LC 24 when the instructions on the face of the prescription 25 stated “Do not dispense before 12/12/06”. Specifically, 26 on 4/2/08, Michael’s Pharmacy furnished Rx 324777 27 Oxycontin 80mg #90, Rx 324778 Oxycontin 40mg #50 28 to LC when the prescription was dated 4/3/08.
21 c. CCR, title 16, §1716.2	22 Failure to comply with Records requirements for 23 compounded medications
22 d. Bus. & Prof. Code §4104	23 Procedures to take action when licensed individual is 24 impaired or known to have diverted or used drugs, 25 written policies; Report; Immunity
24 e. Health & Safety Code §11165 25 sub (d)(1-10)	26 For each prescription for a Schedule II or Schedule III 27 controlled substance, the dispensing pharmacy shall 28 report to the Department of Justice . . . Data required . . .
26 f. CCR, title 16, §1745/ Title 21 27 CFR §1306.13 subd. (a)	28 Partial filling of Schedule II prescriptions/Partial filling of prescriptions.



1 **Prior Citation – Respondent Skye**

2 b. On or about November 13, 2008 a representative of the Board inspected Respondent  
3 Michael's Pharmacy Pursuant to that inspection, on April 23, 2009, Administrative  
4 Citation/Assessment of Fine No. CI 200839793 was issued to Respondent for violating Codes and  
5 Regulations as set forth below, resulting in the issuance of a \$ 5,000.00 fine, which Respondent  
6 paid in full. The citation is now final.

7

8 <b>Code/Regulations Violated</b>	<b>Description</b>
9 a. Bus. & Prof. Code §4342	Action by board to prevent sale of 10 preparations or drugs lacking quality or 11 strength; penalties for knowing or willful violation of regulations governing those sales.
12 b. CCR, title 16, §1716	Variation from Prescription
13 c. CCR, title 16, §1716.2	Record requirements—compounding for future furnishing
14 d. Bus. & Prof. Code §4104	Procedures to take action when licensed 15 individual is impaired or known to have diverted or used drugs, Written policies; 16 Report; Immunity
17 e. Health & Safety Code §11165	For each prescription for a Schedule II or 18 Schedule III controlled substance, the dispensing pharmacy shall report to the Department of Justice . . . Data required.
19 f. CCR, title 16, §1745/Title 21 CFR 20 §1306013 subd. (a)	Partial filling of Schedule II prescriptions/Partial filling of prescriptions.

21

22 **PRAYER**

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

25 1. Revoking or suspending Pharmacy Permit No. PHY 47549 issued to Respondent  
26 Michael's Pharmacy;

27 2. Revoking or suspending Original Pharmacist License Number RPH 55396, issued  
28 to Respondent Natalya Skye ;

1           3.     Ordering Respondent Michael's Pharmacy to pay the Board of Pharmacy the  
2 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
3 Professions Code section 125.3;

4           4.     Ordering Respondent Natalya Skye to pay the Board of Pharmacy the reasonable  
5 costs of the investigation and enforcement of this case, pursuant to Business and Professions  
6 Code section 125.3;

7           5.     Taking such other and further action as deemed necessary and proper.

8  
9 DATED: \_\_\_\_\_

8/31/12



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

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