

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

In the Matter of the Accusation and Petition to  
Revoke Probation Against:

**MICHAEL'S PHARMACY, INC.,**  
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  
Original Pharmacist License No. RPH 55396

Respondents.

Case No. 5303

OAH No. 201502912

**STIPULATED SURRENDER OF  
LICENSE AND ORDER AS TO  
RESPONDENT MICHAEL'S  
PHARMACY ONLY**

**DECISION AND ORDER**

The attached Stipulated Surrender of License and 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 July 13, 2015.

It is so ORDERED on July 2, 2015.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
AMARYLIS GUTIERREZ  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 THOMAS L. RINALDI  
Supervising Deputy Attorney General  
3 SUSAN MELTON WILSON  
Deputy Attorney General  
4 State Bar No. 106902  
300 So. Spring Street, Suite 1702  
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*Attorneys for Complainant*

7  
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16 **AND**

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19 Respondents.

Case No. 5303  
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**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

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

20  
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
22 entitled proceedings that the following matters are true:

23 PARTIES

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

28 / / /







1 be deemed to be true, correct and admitted by Respondent when the Board determines whether to  
2 grant or deny the application or petition.

3 5. If Respondent should ever apply or reapply for a new license or certification, or  
4 petition for reinstatement of a license, by any other health care licensing agency in the State of  
5 California, all of the charges and allegations contained in Accusation and Petition to Revoke No.  
6 5303 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any  
7 Statement of Issues or any other proceeding seeking to deny or restrict licensure.

8  
9 **ACCEPTANCE**

10 I have carefully read the above Stipulated Surrender of License and Order and have fully  
11 discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it  
12 will have on my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order  
13 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
14 Board of Pharmacy.

15  
16 DATED: 09/28/15

17 MICHAEL'S PHARMACY, INC.  
18 By: NATALYA SKYE  
Respondent

19 I have read and fully discussed with the owner and authorized representative of Respondent  
20 Michael's Pharmacy, Inc., Natalya Skye, the terms and conditions and other matters contained in  
21 this Stipulated Surrender of License and Order. I approve its form and content.

22  
23 DATED:

24 HERBERT L. WEINBERG, ESQ.  
Attorney for Respondent

1 be deemed to be true, correct and admitted by Respondent when the Board determines whether to  
2 grant or deny the application or petition.

3 5. If Respondent should ever apply or reapply for a new license or certification, or  
4 petition for reinstatement of a license, by any other health care licensing agency in the State of  
5 California, all of the charges and allegations contained in Accusation and Petition to Revoke No.  
6 5303 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any  
7 Statement of Issues or any other proceeding seeking to deny or restrict licensure.

8

9

ACCEPTANCE

10

11

12

13

14

I have carefully read the above Stipulated Surrender of License and Order and have fully  
discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it  
will have on my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order  
voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
Board of Pharmacy.

15

16

DATED: \_\_\_\_\_

MICHAEL'S PHARMACY, INC.  
By: NATALYA SKYE  
Respondent

17

18

19

20

21

I have read and fully discussed with the owner and authorized representative of Respondent  
Michael's Pharmacy, Inc., Natalya Skye, the terms and conditions and other matters contained in  
this Stipulated Surrender of License and Order. I approve its form and content.

22

23

DATED: \_\_\_\_\_

4/29/15

HERBERT L. WEINBERG, ESQ.  
Attorney for Respondent

24

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 5-5-15

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
THOMAS L. RINALDI  
Supervising Deputy Attorney General



SUSAN MELTON WILSON  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation and Petition to Revoke Probation No. 5303**

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  
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Original Pharmacist License No. RPH 55396  
19  
20 Respondents.

Case No. 5303

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

21 Complainant alleges:  
22

23 **PARTIES**

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

27 ///  
28 ///

1 MICHAEL'S PHARMACY

2 2. On or about November 7, 2006, the Board of Pharmacy (Board) issued Pharmacy  
3 Permit No. PHY 47549 to Michael's Pharmacy Inc. dba Michael's Pharmacy (Respondent  
4 Pharmacy). The Pharmacy Permit was in full force and effect at all times relevant to the charges  
5 brought herein and will expire on November 1, 2015, unless renewed.

6 3. The Pharmacy Permit held by Michael's Pharmacy Inc., is currently on probation,  
7 per the Board's disciplinary decision "*In The Matter of the Accusation Against Michael's*  
8 *Pharmacy Inc. d.b.a. Michael's Pharmacy and Natalya Skye etc.*" case no. 3824, **effective**  
9 **February 14, 2014**, by which Respondent's permit was revoked. However, the revocation was  
10 stayed and Respondent Pharmacy's permit placed on probation for five (5) years with certain  
11 terms and conditions. A copy of this Decision and Order, of which the Court is asked to take  
12 official notice, is attached to this Petition as **Exhibit A**.

13 NATALYA SKYE

14 4. On or about June 23, 2004, the Board of Pharmacy issued Original Pharmacist  
15 License Number RPH 55396 to Natalya Skye (Respondent Skye). The Original Pharmacist  
16 License expired on March 31, 2014, was renewed on May 1, 2014, and is due to expire on March  
17 31, 2016, unless renewed.

18 5. Respondent Skye's Pharmacist License RPH 55396 is currently on probation, per the  
19 Board's disciplinary decisions "*In The Matter of the Accusation Against Michael's Pharmacy Inc.*  
20 *d.b.a. Michael's Pharmacy and Natalya Skye etc.*" case no. 3824, effective February 14, 2014, in  
21 which Respondent's license was revoked. However, the revocation was stayed and Respondent's  
22 license placed on probation for five (5) years with certain terms and conditions. A copy of this  
23 Decision and Order, of which the Court is asked to take official notice, is attached to this Petition  
24 as **Exhibit B**.

25 6. Natalya Skye is and has been 100% owner of Respondent Michael's Pharmacy as  
26 well as Pharmacist-In-Charge of Respondent Pharmacy at all times since the permit was issued.

27 INTERIM SUSPENSION ORDER(S)

28 7. On or about October 29, 2014, pursuant to petition of Complainant under

1 Government Code section 494, an Ex Parte Interim Suspension Order was issued, suspending  
2 Pharmacy Permit No. PHY 47549 issued to Michael's Pharmacy Inc. dba Michael's Pharmacy  
3 (Respondent Pharmacy) and suspending Pharmacist License Number RPH 55396 issued to  
4 Natalya Skye (Respondent Skye), with an assigned effective date of October 31, 2014.

5 8. On or about November 7, 2014, following noticed hearing of said petition, **Interim**  
6 **Suspension Orders** were issued, suspending both licenses of Respondent Pharmacy (Pharmacy  
7 Permit No. PHY 47549) and Respondent Skye (Pharmacist License Number RPH 55396) until  
8 such time as the instant accusation may be filed and final administrative decision and order made  
9 in this matter,

10 **JURISDICTION AND STATUTORY PROVISIONS FOR ACCUSATION**

11 9. This Accusation is brought before the Board of Pharmacy (Board), Department of  
12 Consumer Affairs, under the authority of the following laws.

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

17 11. Business and Professions Code section 4300.1 provides: "The expiration,  
18 cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or  
19 decision of the board or a court of law, the placement of a license on a retired status, or the  
20 voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to  
21 commence or proceed with any investigation of, or action or disciplinary proceeding against, the  
22 licensee or to render a decision suspending or revoking the license."

23 12. Business and Profession Code section 4300 states:

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

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

28 (1) Suspending judgment.

- 1 (2) Placing him or her upon probation.  
2 (3) Suspending his or her right to practice for a period not exceeding one year.  
3 (4) Revoking his or her license.  
4 (5) Taking any other action in relation to disciplining him or her as the board in its  
5 discretion may deem proper.

6 (c) The board may refuse a license to any applicant guilty of unprofessional conduct.  
7 The board may, in its sole discretion, issue a probationary license to any applicant for a license  
8 who is guilty of unprofessional conduct and who has met all other requirements for licensure.  
9 The board may issue the license subject to any terms or conditions not contrary to public policy,  
10 including, but not limited to, the following:

- 11 (1) Medical or psychiatric evaluation.  
12 (2) Continuing medical or psychiatric treatment.  
13 (3) Restriction of type or circumstances of practice.  
14 (4) Continuing participation in a board-approved rehabilitation program.  
15 (5) Abstention from the use of alcohol or drugs.  
16 (6) Random fluid testing for alcohol or drugs.  
17 (7) Compliance with laws and regulations governing the practice of pharmacy.

18 (d) The board may initiate disciplinary proceedings to revoke or suspend any  
19 probationary certificate of licensure for any violation of the terms and conditions of probation.  
20 Upon satisfactory completion of probation, the board shall convert the probationary certificate to  
21 a regular certificate, free of conditions.

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

27 13. Business and Professions Code section 4301 states:  
28

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

4           . . . .

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

8           . . . .

9           (h) The administering to oneself, of any controlled substance, or the use of any dangerous  
10 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
11 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
12 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
13 practice authorized by the license.

14           . . . .

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

17           . . . .

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

22           . . . .

23           14. Business and Professions Code section 4036 defines the term "pharmacist" to mean  
24 a natural person to whom a license has been issued by the board, under Section 4200 except as  
25 specifically provided otherwise in this chapter. The holder of an unexpired and active pharmacist  
26 license issued by the board is entitled to practice pharmacy as defined by this chapter, within or  
27 outside of a licensed pharmacy as authorized by this chapter.

28           / / /

1           15.    Business and Professions Code section 4306.5 provides that unprofessional  
2 conduct for a pharmacist may include any of the following:

3           . . . .  
4           (b)    Acts or omissions that involve, in whole or in part, the failure to exercise or  
5 implement his or her best professional judgment or corresponding responsibility with regard to  
6 the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or  
7 with regard to the provision of services.  
8

9           . . . .  
10          16.    Business and Professions Code section 4323 states:

11          Any person who, while on duty, sells, dispenses, or compounds any drug while under the  
12 influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor.

13          17.    Business and Professions Code section 4081 provides :

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

23          (b)    The owner, officer, and partner of a pharmacy, wholesaler, or veterinary food-  
24 animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or designated  
25 representative-in-charge, for maintaining the records and inventory described in this section.

26          (c)    The pharmacist-in-charge or designated representative-in-charge shall not be  
27 criminally responsible for acts of the owner, officer, partner, or employee that violate this section  
28 and of which the pharmacist-in-charge or designated representative-in-charge had no knowledge,

1 or in which he or she did not knowingly participate.

2 18. Business and Profession Code section 4113 defines the term "pharmacist-in-  
3 charge" as a pharmacist proposed by a pharmacy and approved by the Board as the supervisor or  
4 manager responsible for ensuring the pharmacy's compliance with all state and federal laws and  
5 regulations pertaining to the practice of pharmacy.

6 19. Health and Safety Code section 11153 provides:

7 (a) A prescription for a controlled substance shall only be issued for a legitimate medical  
8 purpose by an individual practitioner acting in the usual course of his or her professional practice.  
9 The responsibility for the proper prescribing and dispensing of controlled substances is upon the  
10 prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the  
11 prescription. Except as authorized by this division, the following are not legal prescriptions: (1)  
12 an order purporting to be a prescription which is issued not in the usual course of professional  
13 treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of  
14 controlled substances, which is issued not in the course of professional treatment or as part of an  
15 authorized narcotic treatment program, for the purpose of providing the user with controlled  
16 substances, sufficient to keep him or her comfortable by maintaining customary use.

17 (b) Any person who knowingly violates this section shall be punished by imprisonment  
18 pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a county jail not exceeding  
19 one year, or by a fine not exceeding twenty thousand dollars (\$20,000), or by both that fine and  
20 imprisonment.

21 20. Health and Safety Code section 11170 provides:

22 No person shall prescribe, administer, or furnish a controlled substance for himself.

23 **STATE REGULATIONS**

24 21. Title 16 California Code of Regulations section 1714 provides:

25 . . .  
26 (b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and  
27 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.  
28



1 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice  
2 of pharmacy.

3

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

8

9 22. Title 16 California Code of Regulations section 1735 provides:

10 (a) "Compounding" means any of the following activities occurring in a licensed pharmacy,  
11 by or under the supervision of a licensed pharmacist, pursuant to a prescription:

12 (1) Altering the dosage form or delivery system of a drug

13 (2) Altering the strength of a drug

14 (3) Combining components or active ingredients

15 (4) Preparing a drug product from chemicals or bulk drug substances

16 (b) "Compounding" does not include reconstitution of a drug pursuant to a manufacturer's  
17 direction(s) for oral, rectal topical, or injectable administration, nor does it include tablet splitting  
18 or the addition of flavoring agent(s) to enhance palatability.

19 (c) "Compounding" does not include, except in small quantities under limited  
20 circumstances as justified by a specific, documented, medical need, preparation of a compounded  
21 drug product that is commercially available in the marketplace or that is essentially a copy of a  
22 drug product that is commercially available in the marketplace.

23 (d) The parameters and requirements stated by this Article 4.5 (Section 1735 et seq.) apply  
24 to all compounding practices. Additional parameters and requirements applicable solely to sterile  
25 injectable compounding are stated by Article 7 (Section 1751 et seq.):

26 23. Title 16 California Code of Regulations section 1735.2 provides at subdivision (d) .

27 (d) A drug product shall not be compounded until the pharmacy has first prepared a written  
28 master formula record that includes at least the following elements:

- 1 (1) Active ingredients to be used.
- 2 (2) Equipment to be used.
- 3 (3) Expiration dating requirements.
- 4 (4) Inactive ingredients to be used.
- 5 (5) Process and/or procedure used to prepare the drug.
- 6 (6) Quality reviews required at each step in preparation of the drug.
- 7 (7) Post-compounding process or procedures required, if any.
- 8 24. Title 16 California Code of Regulations section 1735.3 provides:
- 9 (a) For each compounded drug product, the pharmacy records shall include:
- 10 (1) The master formula record.
- 11 (2) The date the drug product was compounded.
- 12 (3) The identity of the pharmacy personnel who compounded the drug product.
- 13 (4) The identity of the pharmacist reviewing the final drug product.
- 14 (5) The quantity of each component used in compounding the drug product.
- 15 (6) The manufacturer, expiration date and lot number of each component. If the
- 16 manufacturer name is demonstrably unavailable, the name of the supplier may be
- 17 substituted. Exempt from the requirements in this paragraph are sterile products
- 18 compounded on a one-time basis for administration within seventy-two (72) hours and
- 19 stored in accordance with standards for "Redispensed CSPS" found in Chapter 797 of the
- 20 United States Pharmacopeia - National Formulary (USP-NF) (35th Revision, Effective May
- 21 1, 2012), hereby incorporated by reference, to an inpatient in a health care facility licensed
- 22 under section 1250 of the Health and Safety Code.
- 23 (7) A pharmacy assigned reference or lot number for the compounded drug product.
- 24 (8) The expiration date of the final compounded drug product.
- 25 (9) The quantity or amount of drug product compounded.
- 26 . . .
- 27 / / /
- 28 / / /

1 (d) Pharmacies shall maintain and retain all records required by this article in the  
2 pharmacy in a readily retrievable form for at least three years from the date the record was  
3 created.

4 25. Title 16 California Code of Regulations section 1774 provides:

5 (a) Unless otherwise directed by the Board, any pharmacy permit which is on probation to  
6 the Board shall be subject to the following conditions:

7 (1) Obey all laws and regulations substantially related to the practice of pharmacy;

8 (2) The permit, through its officer, partners or owners, shall report to the Board or its  
9 designees quarterly, either in person or in writing as directed; if the final probation report is  
10 not made as directed, the period of probation shall be extended until such time as the final  
11 report is made;

12 (3) Cooperate with the Board in its inspectional program;

13 (4) Post or circulate notice of conditions of probation so that they are available to all  
14 employees involved in pharmacy operations;

15 (5) Submit the operation of the pharmacy to peer review if deemed necessary by the Board;

16 (6) Provide evidence that owners or officers are knowledgeable in the laws pertaining to  
17 pharmacy if deemed necessary by the Board.

18 (b) When the circumstances of the case so require, the Board may impose conditions of  
19 probation in addition to those enumerated herein by the terms of its decision in an administrative  
20 case or by stipulation of the parties.

21 26. Title 16 California Code of Regulations section 1761 provides :

22 (a) No pharmacist shall compound or dispense any prescription which contains any  
23 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any  
24 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to  
25 validate the prescription.

26 / / /

27 / / /

28

1 (b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense  
2 a controlled substance prescription where the pharmacist knows or has objective reason to know  
3 that said prescription was not issued for a legitimate medical purpose.

4 27. Title 16, California Code of Regulations section 1709.1, subdivision (a) provides that  
5 the person identified as the pharmacist-in-charge of a pharmacy shall be employed at that  
6 location and shall have responsibility for the daily operation of the pharmacy.

#### 7 COST RECOVERY

8 28. Business and Professions Code section 125.3 provides, in pertinent part, that the  
9 Board may request the administrative law judge to direct a licentiate found to have committed a  
10 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
11 investigation and enforcement of the case, with failure of the licentiate to comply subjecting the  
12 license to not being renewed or reinstated. If a case settles, recovery of investigation and  
13 enforcement costs may be included in a stipulated settlement.

#### 14 DRUG CLASSIFICATIONS

15 29. Oxycodone / Oxycontin - Oxycodone is a Schedule II controlled substance  
16 pursuant to Health and Safety Code Section 11055 (b)(1)(M) and a dangerous drug within the  
17 meaning of Business and Professions Code section 4022. Oxycodone is a narcotic analgesic used  
18 for the relief of severe pain and is similar in pharmacology to morphine. Oxycodone is marketed  
19 either alone or in controlled release formulations, or in combination with non-narcotic analgesics  
20 (e.g. aspirin or acetaminophen). Oxycontin (OxyContin) is a brand name for a popular *extended*  
21 *release formulation* of oxycodone.

22 30. Hydrocodone — Hydrocodone is a Schedule II controlled substance pursuant to  
23 Health and Safety Code Section 11055 (b)(1)(J) and is a dangerous drug within the meaning of  
24 Business and Professions Code section 4211(a). Hydrocodone is a narcotic analgesic and used for  
25 the relief of severe pain.

26 31. Hydrocodone /APAP is Schedule III controlled substance pursuant to Health and  
27 Safety Code Section 11056 (e)(2) and is a dangerous drug within the meaning of Business and  
28

1 Professions Code section 4211 (a) Hydrocodone /APAP is a drug product combining  
2 Hydrocodone with Acetaminophen (“APAP”).

3 32. **Buprenorphine** – Buprenorphine, also known by the brand name **Subutex** - is a  
4 Schedule V controlled substance pursuant to Health and Safety Code Section 11058 (d) and is a  
5 dangerous drug within the meaning of Business and Professions Code section 4022, used for pain  
6 relief and in treatment of opioid dependence. **Buprenorphine/Naloxone**, also known by the  
7 brand name **Suboxone**, is a drug product combining Buprenorphine with Naloxone, and is also a  
8 Schedule V drug pursuant to Health and Safety Code Section 11058 (d), used in treatment for  
9 opioid dependence.

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

11 33. The following allegations are common to all causes for discipline in this matter:

12 a. At all times relevant herein, Respondent Natalya Skye (Respondent Skye) was 100%  
13 owner and pharmacist-in-charge of Respondent Michael’s Pharmacy (Respondent Pharmacy) , a  
14 small retail pharmacy located in Pasadena, CA.

15 b. The probationary status of both Respondents, effective February 14, 2014, resulted in  
16 multiple investigatory visits and inspections of the pharmacy between February and August of  
17 2014, as detailed below. Additionally, in approximately April of 2014, the Board commenced  
18 investigation of two anonymous complaints against Respondent Pharmacy which had been posted  
19 on the Board’s internet website in January 2014. The first complaint alleged that the pharmacy  
20 was selling the drug Oxycontin for street use, stating “all sales are cash and no transactions are  
21 shown in (the) database.” The second complaint, similarly alleged that two pharmacy technicians  
22 at Respondent Pharmacy were entering the store when Respondent Skye was not present, and  
23 were conducting large cash-only sales of narcotics “to street drug dealers who routinely stop by  
24 the pharmacy (in the evening).” It was further alleged that Respondent Pharmacy was engaged in  
25 fraudulent billing and falsifying telephone prescriptions.

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1           **Oxycodone/Oxycontin Audit**

2           c.     On April 24, 2014, a Board Inspector collected Respondent Michael's Pharmacy's  
3           biennial inventories, dispensing records and stock on hand records which he then analyzed to  
4           conduct an audit of the pharmacy's Oxycodone/Oxycontin traffic.

5           d.     Oxycodone and Oxycontin are technically the same drug. Oxycontin is an extended  
6           release form of Oxycodone – resulting from a chemical mechanism built into the Oxycontin  
7           tablet which makes the distribution of medication prolonged instead of immediate.

8           e.     Due to poor record keeping practices of the pharmacy, different audit dates were used  
9           (Audit 1: Oxycodone 30mg IR Audit dates : 12/14/2012 to 01/14/2014; Audit 2: Oxycodone  
10           30 mg IR Audit dates: 01/14/2014 to 04/24/2014; Audit 3: Oxycontin Audit dates: 01/16/2013  
11           to 04/24/2014) – so that calculations covered overlapping time periods between approximately  
12           January 2013 and April 2014.

13           f.     **Oxycodone Audit Results** - Using 2 different audit periods, this targeted audit  
14           revealed pharmacy drug stock unaccounted for (not in inventory) as follows:

15                   1.     Oxycodone 30mgIR – For the approximately sixteen month period between  
16                   12/14/2012 and 04/24/2014, Michael's Pharmacy could not account for/ was short  
17                   **7, 300 tablets** of Oxycodone (30 mg IR).

18                   2.     Oxycontin 20 mg and 80 mg – For the approximately fifteen month period  
19                   between 01/16/2013 to 04/24/2014, Michael's Pharmacy could not account/was  
20                   short **60 tablets** of Oxycontin (20 mg) and **410 tablets** of Oxycontin (80 mg).

21           **Hydrocodone Audit**

22           g.     On or about April 25, 2014, a Board Inspector collected Michael's Pharmacy's  
23           purchase, inventory and dispensing records and stock on hand records for a targeted audit of the  
24           pharmacy's Hydrocodone/APAP traffic, following a comment by one of the pharmacy  
25           employees that Respondents "ordered a lot" of Hydrocodone /APAP 10-325..

26           h.     Hydrocodone /APAP is a drug product combining Hydrocodone with  
27           Acetaminophen ("APAP"). Prior to October 2014, Hydrocodone /APAP had been classified as a  
28           Schedule III drug, with a reputation for being easier to divert than higher scheduled drugs.

1 i. The audit period chosen was for the recent four (4) month period between April 1,  
2 2014 and August 1, 2014, and disclosed as follows:

3 Hydrocodone /APAP [5 mg Hydrocodone – 325mg Acetaminophen]

Purchases 4/1 – 8/19/14	Dispensed 4/1 – 8/19/14	Stock on hand 4/1 – 8/19/14	Difference 4/1 – 8/19/14
2000	769	147	-84

7 Hydrocodone /APAP [10 mg Hydrocodone- 325 mg Acetaminophen]

Purchases 4/1 – 8/19/14	Dispensed 4/1 – 8/19/14	Stock on hand 4/1 – 8/19/14	Difference 4/1 – 8/19/14
17,000	5,090	221	-11,739

11 j. **Hydrocodone Audit Results** - This targeted audit revealed pharmacy drug stock  
12 unaccounted for as follows:

13 1. Hydrocodone /APAP [5 mg Hydrocodone – 325 mg Acetaminophen]

14 for the 4 months between April 1 and August 1 of 2014, Michael's Pharmacy could not  
15 account for/ was short **84 tablets** of Hydrocodone /APAP 5-325

16 2. Hydrocodone /APAP [10 mg Hydrocodone – 325 mg Acetaminophen]

17 for the 4 months between April 1 and August 1 of 2014, Michael's Pharmacy could not  
18 account for/ was short **11,739 tablets** of Hydrocodone /APAP 10-325.

19 3. **Hydrocodone /APAP** is a drug product combining Hydrocodone with  
20 Acetaminophen.

21 **Corresponding Responsibility Analysis**

22 k. To investigate controlled substance dispensing practices of Respondents, a Beard  
23 Inspector obtained and analyzed CURES<sup>1</sup> reports for schedule II through IV controlled

24 <sup>1</sup> The CURES (Controlled Substance Utilization, Review and Evaluation System) program  
25 was initiated in 1998, and requires mandatory monthly pharmacy reporting of dispensed schedule  
26 II controlled substances (CII). Enabling statutes were amended in January 2005 to include  
27 mandatory weekly reporting of CII-IVs. The CURES program requires pharmacies to send data  
28 to a data collection company, which then sends the pharmacy confirmation that the data was  
received and informs the pharmacy if any data was rejected. The data is collected statewide and  
can be used by healthcare professionals such as pharmacists and prescribers to evaluate and  
determine whether their patients are utilizing their controlled substances correctly. The data may  
(continued...)

1 substances dispensed (and transmitted to CURES) by Michael's Pharmacy from 01/03/2011 to  
2 02/07/2014 for trends and patterns consistent with diversion activity. These patterns included an  
3 unusually large proportion of cash sales, and that there was an excessive distance between the  
4 locations of the prescriber<sup>2</sup> and Respondent Pharmacy. Reviewing the patient list and dispensed  
5 drug list for each prescriber identified – the Inspectors derived a list of prescribing doctors for  
6 further investigation including **Dr. Choudhury, Dr. Smith and Dr. Swaby.**

7       1.     The Inspector sent **Dr. Choudhury, Dr. Smith and Dr. Swaby** a list of dispensed  
8 controlled substances from Respondent Pharmacy obtained from the CURES data, and asked  
9 whether they had actually written the prescriptions listed. Each provided attestations to the effect  
10 that he **had neither had written nor authorized** any of the prescriptions listed. Dr. Choudhury  
11 and Dr. Swaby further noted that they had changed their DEA registration numbers, but that  
12 prescriptions dispensed from Respondent Pharmacy showed their old/previous DEA registration  
13 numbers.

14       m.     On April 24, 2014 , the Inspector conducted an inspection of Michael's Pharmacy,  
15 during which he requested and obtained **hard copy prescriptions** for each controlled substance  
16 prescription dispensed under the names of Dr. Choudhury, Dr. Smith and Dr. Swaby, totaling 208  
17 prescriptions, as well as inventory records, and dispensing reports to be used in later analysis.  
18 The Inspector further interviewed Respondent Skye about what steps or criteria were used at  
19 Respondent Pharmacy to determine whether a prescription was medically legitimate. During that  
20 interview, Respondent Skye admitted that she had never spoken to Dr. Choudhury, Dr. Smith or  
21 Dr. Swaby.

22 \_\_\_\_\_  
23 (...continued)

24 be used to aid in determining if a patient has been to multiple prescribers and multiple pharmacies  
25 to fill controlled substance prescriptions.

26       <sup>2</sup> A pattern of excessive distance between the locations of physician prescribers and  
27 Michael's Pharmacy was clear from the CURES data analysis. Regarding the 3 physicians  
28 referenced in this accusation - Dr. Choudhury's office was approximately 31 miles from  
Respondent Pharmacy; Dr. Smith's office was approximately 11 miles distant, and Dr. Swaby's  
office was approximately 71 miles distant. With the multitude of pharmacies available in this  
area, the standard trade distance for a pharmacy is approximately five (5) miles.



1 n. Based on evidence thus obtained, the Inspector determined that Respondents did not  
2 routinely follow any protocol for prescription verification in day-to-day operation of Respondent  
3 Pharmacy, and had no written policies regarding dispensing of controlled substances. Of 125 hard  
4 copy prescriptions reviewed for Dr. Choudhury, Dr. Smith and Dr. Swaby, only 8 showed any  
5 notations or written documentation suggesting verification by the pharmacy was attempted.  
6 Respondents routinely filled prescriptions without appropriately scrutinizing their own patient  
7 records to verify medical legitimacy of prescriptions.

8 o. Based on his training and experience, information provided by Respondent Skye, and  
9 his analysis of Respondent Pharmacy records related to prescriptions of Dr. Smith, Choudhury  
10 and Swaby as described here, the Board inspector concluded that Respondents had failed in their  
11 corresponding responsibility to verify the medical legitimacy of prescriptions purportedly written  
12 by Smith, Choudhury and Swaby, having **ignored key objective factors** indicating prescriptions  
13 were not legitimate, including but not limited to :

- 14 1. The payment method for controlled substances for Dr. Smith, Choudhury and Swaby  
15 exhibited a 99% cash payment method.
- 16 2. Irregular pattern of a repeating group of patients exhibiting doctor shopping activity  
17 using prescriptions from Dr. Smith, Choudhury and Swaby.
- 18 3. Irregular pattern of dispensing prescriptions from Dr. Swaby and Choudhury whose  
19 offices were a significant distance away from the pharmacy.
- 20 4. Irregular pattern of nearly all diagnoses involved lumbar issues. The diagnoses were  
21 not varied.
- 22 5. Varying signatures on prescriptions received, especially for Dr. Choundhury.
- 23 6. Lack of specific code signifying a doctor was certified to prescribe buprenorphine for  
24 opioid tolerance/dependence.
- 25 7. Dr. Smith's prescriptions were written with oddly extended void after dates. In  
26 addition, the prescriptions found at Michael's Pharmacy should have not been used after  
27 2006.

28

1 8. Dr. Swaby's prescriptions initiating patients on the highest doses of oxycodone  
2 without any pharmacy records showing upward tapering.

3 9. Respondent Pharmacy filled prescriptions invalid on their face due to warning notices  
4 printed on the forms (e.g. "prescription is void if more than one (1) controlled substance.  
5 prescription is written per blank").

6 p. Looking at the totality of circumstances regarding Dr. Choudhury, Dr. Smith or Dr.  
7 Swaby - including but not limited to the fact that most were cash sales, the location of the  
8 prescriber's practice in relation to the location of Respondent Pharmacy, the volume of the  
9 prescriptions presented from these prescribers, Respondent Pharmacy's dispensing history, the  
10 manner in which these prescriptions were presented to the pharmacy, and the use of invalid or  
11 superseded prescription forms – *Respondents should have questioned the legitimacy of the 208*  
12 *prescriptions presented for these prescribers*. The result of Respondents' omission to do so was  
13 the repeated dispensing of controlled substances to persons diverting controlled substances by use  
14 of falsified prescriptions and/or patients engaged in doctor shopping activity.

15 q. **Buprenorphine Prescriptions** - Respondents' handling of multiple prescriptions for  
16 the drug Buprenorphine provide an example of repeated failure to catch or investigate obvious  
17 prescription errors.

18 1. Under the Drug Addiction Treatment Act of 2000 (DATA), Buprenorphine products  
19 were approved for outpatient treatment for opioid dependence by **specially qualified**  
20 **doctors only**. Buprenorphine alone (Subutex) is recommended for induction therapy (i.e.  
21 the first several days of opioid dependency treatment). Buprenorphine in combination with  
22 naloxone (Subuxone) is recommended for maintenance therapy due to the presence of  
23 naloxone, an opioid antagonist. A pharmacist is reasonably expected to verify that any  
24 Buprenorphine prescriptions received were from specially trained physicians in compliance  
25 with DATA, as indicated by a specific code on the prescription.

26 2. Respondent Pharmacy records show that Buprenorphine was dispensed to patient  
27 Vasily A. 50 (fifty) times from 04/30/2012 to 01/31/2014. Of the 4 prescribers (Abney,  
28 Choudhury, Swaby and "Unknown") – only *one* ("unknown" - identified per DEA number)

1 was DATA qualified. Additionally – since Buprenorphine’s most typical use , as noted  
2 above, is for induction therapy (when a patient initiates weaning off of opioid products) –  
3 this patient’s purported use of this drug for almost two (2) years is suspicious and  
4 reasonably required investigation.

5 3. Hard copy prescriptions obtained by the Inspector (with hand written indications that  
6 these prescriptions were specifically for opioid tolerance/dependence) included: (1)  
7 Choudhury RX 388600 written with 3 refills; and (2) Swaby RX 379427 written with  
8 2 refills and RX 381296 written with 2 refills. Michael’s Pharmacy dispensed these  
9 prescriptions and subsequent refills although the prescriptions were legally invalid, and did  
10 not bear a specific code identifying authorized buprenorphine prescribers.

11 **Practice Without a Valid License (April 2014)**

12 r. Respondent failed to timely submit required paperwork and fees to renew her  
13 pharmacist license, resulting in **expiration** of her license on March 31, 2014. Respondent then  
14 continued working, often as the sole pharmacist at Michael’s Pharmacy - without a current, valid  
15 license – during the **month** between March 31, 2014 and May 1, 2014, when the license was  
16 renewed.

17 s. After Respondent’s delinquent renewal status came to the attention of the Board’s  
18 probation staff, a Board Inspector made an unannounced visit to Michael’s Pharmacy, where she  
19 found Respondent working *as the only pharmacist on duty*, inside the pharmacy.

20 t. Respondent’s license had expired on the last day of March, 2014. The Inspector  
21 discerned that Respondent nevertheless had worked as the *only pharmacist on duty* at Michael’s  
22 nearly **every day** of April prior to April 24, 2014.

23 u. On April 30, 2014, at approximately 1:45 pm the Inspector made a second  
24 unannounced visit, finding (1) Respondent was the only pharmacist on duty ; and (2) Respondent  
25 was observed to be acting in the capacity of a pharmacist

26 **Compounding Violations (Inspection – April 2014)**

27 v. During an inspection of Respondent Pharmacy on April 24, 2014, a Board inspector  
28 observed that Respondents had compounded 89 estradiol/testosterone capsules (1.25/2.5mg)

1 however no compounding record was found, and the pharmacy technician who compounded the  
2 drug admitted that she did not record the capsules she compounded and had poured them into a  
3 previously used vial. A recording log was found indicating this same product had been  
4 compounded on previous dates. However, the pharmacy did not have a written master formula  
5 record for this compounded product. Additionally, the estradiol/testosterone capsules were  
6 contained in a bottle with a label indicating the bottle contained 30 capsules – when, in fact, it  
7 was found to *actually* contain 89 capsules.

8 **Loss of Consciousness While Driving (April 2014)**

9 w. On April 28, 2014, Respondent Skye had an automobile accident, in which she  
10 collided with another vehicle on a freeway exit ramp – then was found passed out at the wheel of  
11 her car. She was arrested at the scene by California Highway patrol officers pursuant to Vehicle  
12 Code section 23152(A) (driving under the influence of alcohol/drug).

13 x. On or about April 30, 2014, during an in-person interview about the incident with a  
14 Board Inspector, Respondent admitted that she had lost consciousness while driving, but stated  
15 that she did not know why. She additionally reported to the inspector that she'd been in eight (8)  
16 car accidents since January, 2014. Subsequent toxicology testing of a fluid sample provided by  
17 Respondent on the day of the accident documented that Lorazepam – a drug with a sedative effect  
18 (for which Respondent had a prescription) – was in her system at the time of the accident.

19 **Overdose at Pharmacy (August 2014)**

20 y. On or about August 1, 2014 at a Pasadena hospital following the apparent drug  
21 overdose of Respondent's 66 year-old mother **on the premises** of Michael's Pharmacy,  
22 Respondent was arrested pursuant to Health and Safety Code section 11550 (Use/Under the  
23 influence of Controlled Substance). Respondent's mother was treated by paramedics and  
24 transported for emergency treatment following a 911 call from the pharmacy. Respondent was  
25 then arrested at approximately 3:50 pm, after a hospital social worker contacted police to report  
26 her observations that Respondent appeared altered and was falling in and out of sleep while  
27 attending her mother. Respondent voluntarily provided a blood sample at the time of her arrest.

28

1 That sample tested positive for both "opiates"<sup>3</sup> and "benzodiazepines"<sup>4</sup>."

2 z. Respondent was working as a pharmacist at Respondent pharmacy on August 1, 2014  
3 prior to the 911 emergency call – though pharmacy employees reported that Respondent was  
4 "acting crazy" and "behaving differently" that day:, and that she "appeared unsteady and had  
5 slurred speech." Pharmacy employee LO stated that she (LO) had arrived late to work that day.  
6 On entering the pharmacy, she observed SR - Respondent's mother - sleeping in a chair. LO  
7 stated that SR appeared pale and "didn't look right." Respondent stated that SR was OK – to just  
8 let her sleep. However, LO noticed that SR's lips were turning blue – so they tried to wake her.  
9 Finding her unresponsive, they called 911.

10 **Discovery of Self-Dispensing**

11 aa. Investigating circumstances leading to the 911 call from Respondent pharmacy on  
12 August 1, 2014 Board Inspectors reviewed **Respondent's Prescription Profile** from 1/1/2012  
13 to 8/19/2014, showed multiple controlled substances, including Lorazepam, dispensed to  
14 Respondent from Michael's Pharmacy as follows:

- 15 1. Oxycodone/APAP 5-325 #20 7/12/2012  
16 2. Oxycodone/APAP 5-325 #30 11/26/2013  
17 3. Alprazolam 0.25mg #30 3/21/2014  
18 4. Lorazepam 2mg #30 4/7/2014  
19 5. Amphetamine 10mg #30 5/22/2014

20 bb. The Inspector was told by pharmacy staff that Respondent Skye "always filled all her  
21 own prescriptions," information corroborated by pharmacy documents.

22 **Passcode Violation**

23 cc. During an August 19, 2014 inspection, which occurred while Respondent Skye was  
24 enrolled in the Maximus diversion program, and *suspended from practice* per program  
25 requirements, the Board inspector inquired of Michael's Pharmacy staff who was ordering  
26 Schedule II controlled drugs in Respondent Skye's absence. An unlicensed employee (LO)

27 <sup>3</sup> From the class of drugs containing opium or substantially similar in effect.

28 <sup>4</sup> This term describes a class of drugs that produce central nervous system depression and  
are typically used to treat insomnia and anxiety. Lorazepam is a benzodiazepine.

1 admitted that she (LO) was ordering drugs – and that Respondent had given her the confidential  
2 CSOS passcode.<sup>5</sup> – and provided documents showing two (2) separate purchases by LO, made  
3 during Respondent’s diversion program suspension

4 **Termination from Diversion (September 2014)**

5 dd. On or about August 13, 2014, she completed a telephonic intake interview and was  
6 accepted into the Board’s Diversion Program (“Maximus”). Twenty-two (22) days later - on or  
7 about September 4, 2014 - Respondent was terminated from the program and deemed a public  
8 risk and “NOT safe to practice” by the Program Manager.

9 **FIRST CAUSE FOR DISCIPLINE**

10 (Failure to Maintain Operational Standards and Security)

11 34. Respondents SKYE and MICHAEL’S PHARMACY are subject to disciplinary  
12 action under Business and Professions Code section 4300 for unprofessional conduct as defined  
13 in section 4301, subdivisions (j) and (o), in conjunction with Title 16, California Code of  
14 Regulations section 1714 subdivision (b ) and/or (d) in that pursuant to Board audits as noted  
15 below Respondents failed to maintain pharmacy security or provide effective controls against  
16 theft or diversion, resulting in massive inventory losses with no records to account for the  
17 whereabouts or disposition of missing drug stock.

18 a. **Hydrocodone/APAP Inventory Losses** - Per Board audit for dates between April 1,  
19 2014 and August 19,2014, Respondents had a shortage of 11,739 tablets of Hydrocodone/APAP  
20 10 -325 tablets and 84 tablets of Hydrocodone /APAP 5-325.

21 b. **Oxycontin/Oxycodone Inventory Losses** - Per Board audits encompassing the  
22 approximately sixteen month period between 12/14/2012 and 04/24/2014 Respondents had a  
23 shortage of 7, 300 tablets of Oxycodone (30 mg IR), 60 tablets of Oxycontin (20 mg) and 410  
24 tablets of Oxycontin (80 mg).

25 / / /

26 <sup>5</sup> Schedule II narcotics can only be ordered by a pharmacy from a wholesaler by two  
27 methods: 1) signing a DEA issued 222 form, or 2) placing the order electronically using a CSOS  
28 passcode. A CSOS passcode is pharmacist specific – and used to order Schedule II drugs  
electronically from a wholesaler.

1 SECOND CAUSE FOR DISCIPLINE

2 (Failure to Assume Corresponding Responsibility to Assure Legitimacy of Prescriptions)

3 35. Respondents SKYE and MICHAEL'S PHARMACY are subject to disciplinary  
4 action under Business and Professions Code section 4300 for unprofessional conduct as defined  
5 in section 4301, subdivisions (j) and (o) in conjunction with Health and Safety Code section  
6 11153, subdivision (a) and Title 16 California Code of Regulations section 1761, in that, between  
7 January 3, 2011 and February 7, 2014, Respondents dispensed controlled substance prescriptions  
8 pursuant to prescriptions which were invalid and/or falsified and/or contained significant errors,  
9 omissions, irregularities, uncertainties and/or ambiguities, which Respondent failed to observe or  
10 address, due to their failure to operate Respondent Pharmacy in a manner compliant with  
11 corresponding responsibility requirements to verify legitimacy of controlled substance  
12 prescriptions, as follows:

- 13 a. **Choudhury, Smith and Swaby Prescriptions** - Respondents failed in their  
14 corresponding responsibility to verify the medical legitimacy of 208 falsified controlled  
15 substance prescriptions purportedly written by Dr. Choudhury, Dr. Smith and Dr. Swaby,  
16 b. **Buprenorphine Prescriptions** - Respondents failed in their corresponding  
17 responsibility to verify the medical legitimacy of prescriptions for the drug Buprenorphine  
18 dispensed on 50 (fifty) instances from 04/30/2012 to 01/31/2014 to patient Vasily A.  
19 c. **No Protocol For Verification** - Respondents failed in their corresponding  
20 responsibility to verify the medical legitimacy of prescriptions due to the failure to use or  
21 establish any protocol or implement routine practices for prescription verification in day-to-  
22 day operation of Respondent Pharmacy

23 THIRD CAUSE FOR DISCIPLINE

24 (Failure of Pharmacist to Exercise Corresponding Responsibility)

25 36. Respondent SKYE is subject to disciplinary action under Business and Professions  
26 Code section 4300 for unprofessional conduct as defined in section 4301, subdivisions (j) and (o)  
27 in conjunction with section 4306.5 subdivision (b) in that between January 3, 2011 and February  
28 7, 2014, Respondent Pharmacy dispensed controlled substance prescriptions pursuant to

1 prescriptions which were invalid and/or falsified and/or contained significant errors, omissions,  
2 irregularities, uncertainties and/or ambiguities, which Respondents failed to observe or address in  
3 a manner compliant with corresponding responsibility requirements (Health and Safety Code  
4 section 11153(a); Title 16 California Code of Regulations section 1761) as described in  
5 paragraphs 33 and 35 above. As owner and pharmacist-in-charge of Respondent Pharmacy,  
6 Respondent Skye's failure to establish and/or implement routine practices for prescription  
7 verification in day-to-day operation of Michael's Pharmacy, or otherwise ensure compliance  
8 with corresponding responsibility requirements - constitutes acts or omissions that involved the  
9 failure to exercise or implement her best professional judgment or corresponding responsibility.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 (Failure to Maintain Records of Acquisition and Disposition)

12 37. Respondents SKYE and MICHAEL'S PHARMACY are subject to disciplinary  
13 action under Business and Professions Code section 4300 for unprofessional conduct as defined  
14 in section 4301, subdivisions (j) and (o), in conjunction with section 4081, subdivisions (a) and  
15 (b) requiring that all records of acquisition or disposition of dangerous drugs shall be preserved  
16 and open to inspection for at least three (3) years for reasons as follows:

17 a. **Hydrocodone/APAP Inventory Losses** - Per Board audit for dates between April 1,  
18 2014 and August 19, 2014, Respondents had a shortage of 11,739 tablets of Hydrocodone/APAP  
19 10-325 tablets and 84 tablets of Hydrocodone /APAP 5-325 - with no records to account for the  
20 whereabouts or disposition of the missing drug stock.

21 b. **Oxycontin/Oxycodone Inventory Losses** - Per Board audits encompassing the  
22 approximately sixteen month period between 12/14/2012 and 04/24/2014 Respondents had a  
23 shortage of 7,300 tablets of Oxycodone (30 mg IR), 60 tablets of Oxycontin (20 mg) and 410  
24 tablets of Oxycontin (80 mg) - with no records to account for the whereabouts or disposition of  
25 the missing drug stock.

26 / / /

27 / / /

28 / / /



1 **FIFTH CAUSE FOR DISCIPLINE**

2 (Operation of Pharmacy With Unlicensed Pharmacist)

3 38. Respondents SKYE and MICHAEL'S PHARMACY are subject to disciplinary  
4 action under Business and Professions Code section 4300 for unprofessional conduct as defined  
5 in section 4301, subdivisions (j) and (o), in conjunction with section 4036 (which requires that  
6 only the holder of an unexpired and active pharmacist license issued by the Board is entitled to  
7 practice within the licensed pharmacy premises) in that on dates between April 1, 2014 and May  
8 1, 2014:

9 a. Respondent Pharmacy employed Respondent Skye as pharmacist-in-charge although  
10 her pharmacist license status was delinquent.

11 b. Respondent Skye maintained her employment as pharmacist-in-charge of Respondent  
12 Pharmacy and in that capacity and otherwise engaged in acts (set forth in Title 16 California Code  
13 of Regulations section 1793.1<sup>6</sup>) requiring an unexpired and active pharmacist license

14 **SIXTH CAUSE FOR DISCIPLINE**

15 (Violations Related to Compounded Drug Products)

16 39. Respondents SKYE and MICHAEL'S PHARMACY are subject to disciplinary  
17 action under Business and Professions Code section 4300 for unprofessional conduct as defined  
18 in Business and Professions Code section 4301, subdivisions (j) and (o), in conjunction with  
19 Title 16 California Code of Regulations (CCR) sections 1735.2 and 1735.3, subdivision (a), in  
20

21 <sup>6</sup> Title 16 California Code of Regulations section 1793.1 provides: Only a pharmacist, or an intern  
pharmacist acting under the supervision of a pharmacist, may:

22 (a) Receive a new prescription order orally from a prescriber or other person authorized by law.  
23 (b) Consult with a patient or his or her agent regarding a prescription, either prior to or after  
dispensing, or regarding any medical information contained in a patient medication record system  
or patient chart.

24 (c) Identify, evaluate and interpret a prescription.

25 (d) Interpret the clinical data in a patient medication record system or patient chart.

26 (e) Consult with any prescriber, nurse or other health care professional or authorized agent  
thereof.

27 (f) Supervise the packaging of drugs and check the packaging procedure and product upon  
completion.

28 (g) Perform all functions which require professional judgment.

1 that during an inspection of Respondent Pharmacy on April 24, 2014, compounded drug products  
2 prepared by the pharmacy were found to be noncompliant with labeling and record-keeping  
3 requirements as follows:

4 a. **16 CCR § 1735.2 (d) (No Master formula Record)** - On or about April  
5 24,2014, Respondents compounded 89 estradiol/testosterone capsules (1.25/2.5mg), and a  
6 recording log was found indicating this same product had been compounded on previous dates.  
7 However, the pharmacy did not have a written master formula record for this compounded  
8 product as required by 16 C.C.R.section 1735.2(d).

9 b. **16 CCR §1735.3 (a)(2)(3)(4)(5)(6) (No Compounding Record)** On or about  
10 April 24,2014, Respondents compounded 89 estradiol/testosterone capsules (1.25/2.5mg),  
11 however no compounding record was found, and the pharmacy technician who compounded the  
12 drug admitted that she did not record the capsules she compounded and had poured them into a  
13 previously used vial.

14 c. **16 CCR §1735.3 (a) (5) (Incorrect Quantity on Label)** – On or about April  
15 24, 2014, a bottle of estradiol/testosterone capsules prepared for a patient, with a label indicating  
16 the bottle contained 30 capsules – was found to *actually* contain 89 capsules.

17 **SEVENTH CAUSE FOR DISCIPLINE**

18 (Self-Furnishing of Controlled Substance(s))

19 40. Respondent SKYE is subject to disciplinary action under Business and Professions  
20 4300 for unprofessional conduct as defined in section 4301, subdivisions (j) and (o), in  
21 conjunction with Health and Safety Code section 11170, in that on dates between January 2012  
22 and August 19, 2014, Respondent filled her own prescriptions (furnished to herself) controlled  
23 substances as follows:

24	1.	Oxycodone/APAP 5-325	#20	7/12/2012
25	2.	Oxycodone/APAP 5-325	#30	11/26/2013
	3.	Alprazolam 0.25mg	#30	3/21/2014
26	4.	Lorazepam 2mg	#30	4/7/2014
	5.	Amphetamine 10mg	#30	5/22/2014

27 / / /

28 / / /

**EIGHTH CAUSE FOR DISCIPLINE**

(Use of Controlled Substance(s) to the Extent That Use Impairs Safety)

1  
2  
3       41.     Respondent SKYE is subject to disciplinary action under Business and  
4 Professions 4300 for unprofessional conduct as defined in section 4301, subdivision (h) in that,  
5 on multiple instances noted below, Respondent used controlled substances to an extent or in a  
6 manner dangerous to herself or any other person or the public, or to the extent that such use  
7 impaired her ability to conduct with safety the practice authorized by her license, by reason of the  
8 following facts:  
9

10       a.     **April 28, 2014** - On April 28, 2014, shortly after leaving work at Respondent  
11 Pharmacy, Respondent Skye had an automobile accident, in which she collided with another  
12 vehicle on a freeway exit ramp – then was found passed out at the wheel of her car. She was  
13 arrested at the scene by California Highway patrol officers pursuant to Vehicle Code section  
14 23152(A) (driving under the influence of alcohol/drug). In an subsequent interview about the  
15 incident with a Board Inspector, Respondent admitted that she had lost consciousness while  
16 driving, but stated that she did not know why. Subsequent toxicology testing of a fluid sample  
17 provided by Respondent on the day of the accident documented that Lorazepam – a drug with a  
18 sedative effect (for which Respondent had a prescription) – was in her system at the time of the  
19 accident.  
20

21  
22       b.     **August 1, 2014** - On August 1, 2014 at a Pasadena hospital following the apparent  
23 drug overdose of Respondent's 66 year-old mother on the premises of Michael's Pharmacy  
24 Respondent was arrested pursuant to Health and Safety Code section 11550 (Use/Under the  
25 influence of Controlled Substance). Respondent's mother was treated by paramedics and  
26 transported for emergency treatment following a 911 call from the pharmacy. Respondent was  
27 then arrested at approximately 3:50 pm, after a hospital social worker contacted police to report  
28 her observations that Respondent appeared altered and was falling in and out of sleep while

1 attending her mother. Respondent voluntarily provided a blood sample at the time of her arrest.

2 That sample tested positive for both "opiates"<sup>7</sup> and "benzodiazepines"<sup>8</sup>.

3 c. Respondent was working as a pharmacist at Respondent Pharmacy on August 1, 2014  
4 prior to the 911 emergency call – though pharmacy employees reported that Respondent was  
5 "acting crazy" and "behaving differently" that day, and that she "appeared unsteady and had  
6 slurred speech."

7 d. **Deemed a Risk to Public Safety** - On or about August 13, 2014, Respondent Skye  
8 was accepted into the Board's Diversion Program for treatment of substance abuse. Twenty-two  
9 (22) days later - on or about September 4, 2014 - Respondent was terminated from the program  
10 and deemed a public risk and "NOT safe to practice" by the Program Manager.

11 **NINTH CAUSE FOR DISCIPLINE**

12 (Practice as Pharmacist While Under the Influence)

13 42. Respondent SKYE is subject to disciplinary action under Business and Professions  
14 Code section 4300 for unprofessional conduct as defined in section 4301, subdivisions (j) and  
15 (o), in conjunction with section 4327, in that Respondent was under the influence of a dangerous  
16 drug while on duty and working as a pharmacist at Respondent Pharmacy on or about April 28,  
17 2014 and on August 1, 2014 (as detailed in paragraphs 33 and 42 above).

18 **TENTH CAUSE FOR DISCIPLINE**

19 (Violation of Federal Pharmacy Regulations)

20 43. Respondent SKYE is subject to disciplinary action under Business and Professions  
21 4300 for unprofessional conduct as defined in section 4301, subdivisions (j) and (o), in  
22 conjunction with Code of Federal Regulations section 1311.30, subdivision (c), in that in August,  
23 2014, Respondent gave her confidential CSOS passcode to an unlicensed employee, in order to  
24 allow the employee to make two controlled substance purchases (on August 15, 2014 and August  
25 18, 2014) during a time when Respondent's license was suspended.

26  
27 <sup>7</sup> From the class of drugs containing opium or substantially similar in effect.

28 <sup>8</sup> This term describes a class of drugs that produce central nervous system depression and are typically used to treat insomnia and anxiety. Lorazepam is a benzodiazepine.



1 a. All allegations supporting the First, Second, Fourth, Fifth and Sixth Causes for  
2 Discipline in the Accusation filed herewith as alleged at paragraphs 33, 34,35,37,38 and 39 above  
3 are re-alleged as though fully set forth.

4 **SECOND CAUSE TO REVOKE PROBATION**

5 (Respondent Skye Only - Failure to Obey all Laws)

6 47. At all times after the effective date of Respondent Natalya Skye's probation,  
7 Condition 2 stated in pertinent part:

8 "Respondent shall obey all state and federal laws and regulations."

9 48.. Respondent Natalya Skye's probation is subject to revocation because she failed to  
10 comply with Probation Condition 2, referenced above. The facts and circumstances regarding this  
11 violation are as follows:

12 a. All allegations supporting the First, Second, Third, Fourth, Fifth, Sixth, Seventh,  
13 Eighth, Ninth and Tenth Causes for Discipline in the Accusation filed herewith as described in  
14 paragraphs 33 – through 47 above are re-alleged as though fully set forth.

15 **THIRD CAUSE TO REVOKE PROBATION**

16 (Respondent Skye Only - Practiced Pharmacy Without a Current, Valid License)

17 49. At all times after the effective date of Respondent Skye's probation, **Condition 10** of  
18 the probation order stated in pertinent part:

19 "**Status of License** - Respondent shall, at all times while on probation, maintain an active,  
20 current license with the board, including any period during which suspension or probation s  
21 is tolled. Failure to maintain an active, current license shall be considered a violation of  
22 probation...."

23 50. Respondent Skye's probation is subject to revocation because she failed to comply  
24 with Probation Condition 10. The facts and circumstances regarding this violation are as follows:

25 a. Respondent failed to timely submit required paperwork and fees to renew her  
26 pharmacist license, resulting in **expiration** of her license on March 31, 2014. Respondent then  
27 continued working without a current, valid license, as pharmacist-in-charge and was often the  
28

1 sole pharmacist at Michael's Pharmacy during the month between March 31, 2014 and May 1,  
2 2014, when the license was renewed.

3 **FOURTH CAUSE TO REVOKE PROBATION**

4 (Respondent Skye Only – Violation of Suspension Order)

5 51. At all times after the effective date of Respondent Skye's probation, Condition 1 of  
6 the probation order stated:

7 " **Suspension** - As part of probation, respondent is suspended from the practice of  
8 pharmacy for forty five (45) days, **beginning the effective date of this decision.**

9 During suspension, respondent shall not enter any pharmacy area or any portion of  
10 the licensed premises of a wholesaler, veterinary food-animal drug retailer or any other  
11 distributor of drugs which is licensed by the board, or any manufacturer, or where  
12 dangerous drugs and devices or controlled substances are maintained. Respondent shall not  
13 practice pharmacy nor do any act involving drug selection, selection of stock,  
14 manufacturing, compounding, dispensing or patient consultation; nor shall respondent  
15 manage, administer, or be a consultant to any licensee of the board, or have access to or  
16 control the ordering, manufacturing or dispensing of dangerous drugs and devices or  
17 controlled substances.

18 Respondent shall not engage in any activity that requires the professional judgment of  
19 a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.  
20 Respondent shall not perform the duties of a pharmacy technician or a designated  
21 representative for any entity licensed by the board.

22 Subject to the above restrictions, respondent may continue to own or hold an interest  
23 in any licensed premises in which he holds an interest at the time this decision becomes  
24 effective unless otherwise specified in this order.

25 Failure to comply with this suspension shall be considered a violation of probation."  
26 (emphasis added)

27 52. Respondent Natalya Skye's probation is subject to revocation because she failed to  
28 comply with Probation Condition 10, which Respondent admitted to her probation monitor during

1 an office conference on March 10, 2014. At that time, Respondent stated that she had violated the  
2 Board's suspension order, and had worked at Michael's Pharmacy for five (5) days - February 14  
3 through 19, 2014. Respondent claimed she was confused about when the suspension began.

4 **OTHER MATTERS**

5 53. In order to determine the degree of discipline, if any, to be imposed on Respondents,  
6 Complainant alleges the following:

7 a. On or about August 22, 2014, Cardinal Health ( a licensed drug wholesaler) notified  
8 the Board that it had suspended Michael's Pharmacy's account from ordering controlled and  
9 monitored substances based in their determination that continued sales to this customer created an  
10 unreasonable risk of potential diversion.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
13 Accusation and Petition to Revoke Probation, and that following the hearing, the Board of  
14 Pharmacy issue a decision:

15 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 3824  
16 and imposing the disciplinary order that was stayed thereby revoking Pharmacy Permit No. PHY  
17 47549 issued to Michael's Pharmacy, Inc. dba Michael's Pharmacy;

18 2. Revoking the probation that was granted by the Board of Pharmacy in Case No. 3824  
19 and imposing the disciplinary order that was stayed thereby revoking Pharmacist License Number  
20 RPH 55396 to Natalya Skye (Respondent Skye).

21 3. Revoking or suspending Pharmacy Permit No. PHY 47549, issued to Michael's  
22 Pharmacy, Inc. dba Michael's Pharmacy;

23 4. Revoking or suspending Pharmacist License Number RPH 55396 issued to Natalya  
24 Skye ;

25 5. Ordering Michael's Pharmacy, Inc. and Natalya Skye to pay the Board of Pharmacy  
26 the reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
27 Professions Code section 125.3; and

28 / . / /



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

DATED: November 21, 2014



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

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**EXHIBIT "A"**

**EXHIBIT A**

Decision and Order as to Respondent Michael's Pharmacy

Board of Pharmacy Case No. 3824

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

In the Matter of the Accusation Against:

Case No. 3824

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

STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER

[AS RESPONDENT MICHAEL'S  
PHARMACY INC. ONLY]

AND

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

Respondents.

DECISION AND ORDER

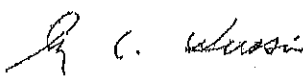
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

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. WEISSNER  
Board President

RECEIVED  
FEBRUARY 10 2014

WIA C/MS/STO

NOT RECORDED FROM THE FILE OF THE BOARD  
IF THESE DOCUMENTS ARE LOST AND CORRECT  
DATED BY THE BOARD AND DO NOT BE RECORDED  
BY THE BOARD TO CORRECT THE RECORDS  
FROM C/MS/STO WIA Y DIA CORRECTED NUMBER

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*

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

10  
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,**  
**PHARMACIST-IN-CHARGE**  
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 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**

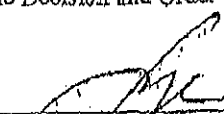
26 Upon written notice by the board or its designee indicating successful completion of  
27 probation, respondent license will be fully restored.

28 **14. Community Services Program**



1 No. PFY 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

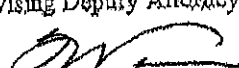
17 ENDORSEMENT

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

21 Respectfully submitted,

22 KAMALA D. HARRIS  
 23 Attorney General of California  
 24 GREGORY J. SALUTE  
 25 Supervising Deputy Attorney General

  
 26 SUSAN MELTON WILSON  
 27 Deputy Attorney General  
 28 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*

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

10  
11 In the Matter of the Accusation Against:

Case No. 3824

12 **MICHAEL'S PHARMACY, INC.,**  
13 **NATALYA SKYE,**  
14 **PHARMACIST-IN-CHARGE**  
15 960 East Green Street  
Pasadena, CA 91106  
16 Pharmacy Permit No. PHY 47549

**ACCUSATION**

17 **AND**  
18 **NATALYA SKYE**  
14569 Benefit St., #102  
Sherman Oaks, CA 91403  
19 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 (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 / / /

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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           "(e) 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  
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27  
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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. Micardles 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 13) 337635
- 2 14) 337614
- 3 15) 340650
- 4 16) 340555
- 5 17) 340549
- 6 18) 340547
- 7 19) 340546
- 8 20) 340545
- 9 21) 340544
- 10 22) 340554

EIGHTH CAUSE FOR DISCIPLINE

**(Failure to Maintain Operational Standards)**

11 25. Respondents MICHAEL'S PHARMACY and NATALYA SKYE are subject to  
12 disciplinary action under section 4300 for unprofessional conduct as defined in section 4301,  
13 subdivision (o), in conjunction with section Title 16, California Code of Regulations section 1714  
14 subdivision "b" (which requires that Respondents maintain the pharmacy facility, and equipment  
15 so that drugs are safely and properly prepared, maintained, secured and distributed) and  
16 subdivision "c" (which requires that equipment shall be maintained in a clean and orderly  
17 condition) in that during a Board inspection on November 19, 2009, the Inspector found  
18 prescription bottles and caps stored on the floor of the small restroom next to and below the toilet.  
19

NINTH CAUSE FOR DISCIPLINE

**(Unauthorized Furnishing)**

20 26. Respondents MICHAEL'S PHARMACY and NATALYA SKYE are subject to  
21 disciplinary action under section 4300 for unprofessional conduct as defined in section 4301,  
22 subdivision (o), in conjunction with section 4163, subdivision (a), and section 4126.5, which  
23 limit the persons or organizations that a pharmacy may legally furnish or transfer drugs to, in that  
24 on or about December 28, 2009, Respondents illegally 'disposed of' pharmaceuticals through  
25 "EnservWest", and unlicensed entity, in violation of pharmacy law, as described more fully in  
26  
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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.

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

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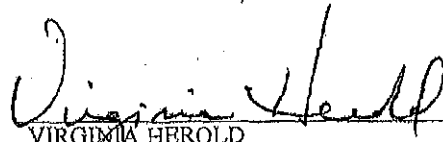
3. Ordering Respondent Michael's Pharmacy to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

4. Ordering Respondent Natalya Skye 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;

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

DATED:

8/31/12



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

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**EXHIBIT "B"**

**EXHIBIT B**

Decision and Order as to Respondent Natalya Skye

Board of Pharmacy Case No. 3824

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

In the Matter of the Accusation Against:

Case No. 3824

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

STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER

[AS AGAINST RESPONDENT  
NATALYA SKYE ONLY]

AND

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

Respondents.

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*  
STAN C. WEISSER  
Board President

APPROVED AND FORWARDED:  
NATALYA SKYE

22271714 J. M. ALBERCAZAR  
AND HYALURONIC ACID  
RECORDED BY THE BOARD  
OF PHARMACY ON FEBRUARY  
14, 2014. THE BOARD HAS  
CONSIDERED THESE  
MATTERS AND HAS  
CONCLUDED THAT  
THESE DOCUMENTS  
CORRECTLY REFLECT  
THE INTENT OF THE  
BOARD.



1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 SUSAN MELTON WILSON  
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:  
12 **MICHAEL'S PHARMACY, INC.,**  
13 **d.b.a. MICHAEL'S PHARMACY**  
14 **NATALYA SKYE,**  
15 **PHARMACIST-IN-CHARGE**  
960 East Green Street  
Pasadena, CA 91106  
Pharmacy Permit No. PHY 47549.

Case No. 3824

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

**[AS AGAINST RESPONDENT  
NATALYA SKYE ONLY]**

16 AND

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

19 Respondents.  
20

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

- 3 • an arrest or issuance of a criminal complaint for violation of any provision of the  
4 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
5 substances laws
- 6 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
7 criminal complaint, information or indictment
- 8 • a conviction of any crime
- 9 • discipline, citation, or other administrative action filed by any state or federal agency  
10 which involves respondent's pharmacist license or which is related to the practice of  
11 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging  
12 for any drug, device or controlled substance,

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

14 **3. Report to the Board**

15 Respondent shall report to the board quarterly, on a schedule as directed by the board or its  
16 designee. The report shall be made either in person or in writing, as directed. Among other  
17 requirements, respondent shall state in each report under penalty of perjury whether there has  
18 been compliance with all the terms and conditions of probation. Failure to submit timely reports  
19 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency  
20 in submission of reports as directed may be added to the total period of probation. Moreover, if  
21 the final probation report is not made as directed, probation shall be automatically extended until  
22 such time as the final report is made and accepted by the board.

23 **4. Interview with the Board**

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

1           **5. Cooperate with Board Staff**

2           Respondent shall cooperate with the board's inspection program and with the board's  
3 monitoring and investigation of respondent's compliance with the terms and conditions of her  
4 probation. Failure to cooperate shall be considered a violation of probation.

5           **6. Continuing Education**

6           Respondent shall provide evidence of efforts to maintain skill and knowledge as a  
7 pharmacist as directed by the board or its designee.

8           **7. Notice to Employers**

9           During the period of probation, respondent shall notify all present and prospective  
10 employers of the decision in case number 3824 and the terms, conditions and restrictions imposed  
11 on respondent by the decision, as follows:

12           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
13 respondent undertaking any new employment, respondent shall cause her direct supervisor,  
14 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
15 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
16 individual(s) has/have read the decision in case number 3824, and terms and conditions imposed  
17 thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s)  
18 submit timely acknowledgment(s) to the board.

19           If respondent works for or is employed by or through a pharmacy employment service,  
20 respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity  
21 licensed by the board of the terms and conditions of the decision in case number 3824 in advance  
22 of the respondent commencing work at each licensed entity. A record of this notification must be  
23 provided to the board upon request.

24           Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
25 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
26 service, respondent shall cause her direct supervisor with the pharmacy employment service to  
27 report to the board in writing acknowledging that she has read the decision in case number 3824  
28

1 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
2 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

3 Failure to timely notify present or prospective employer(s) or to cause that/those  
4 employer(s) to submit timely acknowledgments to the board shall be considered a violation of  
5 probation.

6 "Employment" within the meaning of this provision shall include any full-time,  
7 part-time, temporary, relief or pharmacy management service as a pharmacist or any  
8 position for which a pharmacist license is a requirement or criterion for employment,  
9 whether the respondent is an employee, independent contractor or volunteer.

10 **8. Reimbursement of Board Costs**

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

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

19 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to  
20 reimburse the board its costs of investigation and prosecution.

21 **9. Probation Monitoring Costs**

22 Respondent shall pay any costs associated with probation monitoring as determined by the  
23 board each and every year of probation. Such costs shall be payable to the board on a schedule as  
24 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
25 be considered a violation of probation.

26 **10. Status of License**

27  
28

1 Respondent shall, at all times while on probation, maintain an active, current license with  
2 the board, including any period during which suspension or probation is tolled. Failure to  
3 maintain an active, current license shall be considered a violation of probation.

4 If respondent's license expires or is cancelled by operation of law or otherwise at any time  
5 during the period of probation, including any extensions thereof due to tolling or otherwise, upon  
6 renewal or reapplication respondent's license shall be subject to all terms and conditions of this  
7 probation not previously satisfied.

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

9 Following the effective date of this decision, should respondent cease practice due to  
10 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
11 respondent may tender her license to the board for surrender. The board or its designee shall have  
12 the discretion whether to grant the request for surrender or take any other action it deems  
13 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent  
14 will no longer be subject to the terms and conditions of probation. This surrender constitutes a  
15 record of discipline and shall become a part of the respondent's license history with the board.

16 Upon acceptance of the surrender, respondent shall relinquish her pocket and wall license to  
17 the board within ten (10) days of notification by the board that the surrender is accepted.  
18 Respondent may not reapply for any license from the board for three (3) years from the effective  
19 date of the surrender. Respondent shall meet all requirements applicable to the license sought as  
20 of the date the application for that license is submitted to the board, including any outstanding  
21 costs.

22 **12. Notification of a Change in Name, Residence Address, Mailing Address or**  
23 **Employment**

24 Respondent shall notify the board in writing within ten (10) days of any change of  
25 employment. Said notification shall include the reasons for leaving, the address of the new  
26 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
27 shall further notify the board in writing within ten (10) days of a change in name, residence  
28 address, mailing address, or phone number.



1 Failure to timely notify the board of any change in employer(s), name(s), address(es), or  
2 phone number(s) shall be considered a violation of probation.

3 **13. Tolling of Probation**

4 Except during periods of suspension, respondent shall, at all times while on probation, be  
5 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.  
6 Any month during which this minimum is not met shall toll the period of probation, i.e., the  
7 period of probation shall be extended by one month for each month during which this minimum is  
8 not met. During any such period of tolling of probation, respondent must nonetheless comply  
9 with all terms and conditions of probation.

10 Should respondent, regardless of residency, for any reason (including vacation) cease  
11 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,  
12 respondent must notify the board in writing within ten (10) days of the cessation of practice, and  
13 must further notify the board in writing within ten (10) days of the resumption of practice. Any  
14 failure to provide such notification(s) shall be considered a violation of probation.

15 It is a violation of probation for respondent's probation to remain tolled pursuant to the  
16 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
17 exceeding thirty-six (36) months.

18 "Cessation of practice" means any calendar month during which respondent is  
19 not practicing as a pharmacist for at least forty (40) hours, as defined by Business  
20 and Professions Code section 4000 et seq. "Resumption of practice" means any  
21 calendar month during which respondent is practicing as a pharmacist for at least  
22 forty (40) hours as a pharmacist as defined by Business and Professions Code section  
23 4000 et seq.

24 **14. Violation of Probation**

25 If a respondent has not complied with any term or condition of probation, the board shall  
26 have continuing jurisdiction over respondent, and probation shall automatically be extended, until  
27 all terms and conditions have been satisfied or the board has taken other action as deemed  
28

1 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
2 to impose the penalty that was stayed.

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

10 **15. Completion of Probation**

11 Upon written notice by the board or its designee indicating successful completion of  
12 probation, respondent's license will be fully restored.

13 **16. Community Services Program**

14 Within sixty (60) days of the effective date of this decision, respondent shall submit to the  
15 board or its designee, for prior approval, a community service program in which respondent shall  
16 provide free health-care related services on a regular basis to a community or charitable facility or  
17 agency for at least seventy five (75) hours during the term probation.

18 Within thirty (30) days of board approval thereof, respondent shall submit documentation  
19 to the board demonstrating commencement of the community service program. A record of this  
20 notification must be provided to the board upon request. Respondent shall report on progress  
21 with the community service program in the quarterly reports. Failure to timely submit,  
22 commence, or comply with the program shall be considered a violation of probation.

23 **17. Remedial Education**

24 Within sixty (60) days of the effective date of this decision, respondent shall submit to the  
25 board or its designee, for prior approval, an appropriate program of remedial education related to  
26 the grounds for discipline. The program of remedial education shall consist of at least ten (10)  
27 hours, which shall be completed within the first three (3) years of probation at respondent's own  
28 expense. All remedial education shall be in addition to, and shall not be credited toward,

1 continuing education (CE) courses used for license renewal purposes.

2 Failure to timely submit or complete the approved remedial education shall be considered a  
3 violation of probation. The period of probation will be automatically extended until such  
4 remedial education is successfully completed and written proof, in a form acceptable to the board,  
5 is provided to the board or its designee.

6 Following the completion of each course, the board or its designee may require the  
7 respondent, at her own expense, to take an approved examination to test the respondent's  
8 knowledge of the course. If the respondent does not achieve a passing score on the examination,  
9 this failure shall be considered a violation of probation. Any such examination failure shall  
10 require respondent to take another course approved by the board in the same subject area.

11 **18. No New Ownership of Licensed Premises**

12 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a  
13 manager, administrator, member, officer, director, trustee, associate, or partner of any additional  
14 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or  
15 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,  
16 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently  
17 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold  
18 that interest, but only to the extent of that position or interest as of the effective date of this  
19 decision. Violation of this restriction shall be considered a violation of probation.

20 **19. Consultant for Owner or Pharmacist-In-Charge**

21 During the period of probation, respondent shall not supervise any intern pharmacist or  
22 serve as a consultant to any entity licensed by the board. Respondent may be a pharmacist-in-  
23 charge. However, if during the period of probation respondent serves as a pharmacist-in-charge,  
24 respondent shall retain an independent consultant at her own expense who shall be responsible for  
25 reviewing pharmacy operations on a monthly basis for compliance by respondent with state and  
26 federal laws and regulations governing the practice of pharmacy and for compliance by  
27 respondent with the obligations of a pharmacist-in-charge.

28 After the first year of probation, so long as Respondent is fully compliant with all terms and

1 conditions of probation, the Board or its designee may permit the review of pharmacy operations  
2 by a consultant on a quarterly basis..

3 The consultant shall be a pharmacist licensed by and not on probation with the board and  
4 whose name shall be submitted to the board or its designee, for prior approval, within thirty (30)  
5 days of the effective date of this decision. Respondent shall not be a pharmacist-in-charge at  
6 more than one pharmacy or at any pharmacy of which she is not the sole owner. Failure to timely  
7 retain, seek approval of, or ensure timely reporting by the consultant shall be considered a  
8 violation of probation.

9 **20. Self Assessment Report Must Be Made Quarterly**

10 Respondent shall complete a self assessment report to be submitted quarterly or as directed  
11 by the Board. The report shall be co-signed by the consultant, if any, allowed under Condition 19  
12 as set forth above. The report shall be delivered or mailed to the board no later than ten (10) days  
13 following the end of the reporting period. Failure to timely prepare or submit such reports shall  
14 be considered a violation of probation.

15 **21. Tolling of Suspension**

16 During the period of suspension, respondent shall not leave California for any period  
17 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess  
18 of the (10) days during suspension shall be considered a violation of probation. Moreover, any  
19 absence from California during the period of suspension exceeding ten (10) days shall toll the  
20 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days  
21 respondent is absent from California. During any such period of tolling of suspension,  
22 respondent must nonetheless comply with all terms and conditions of probation.

23 Respondent must notify the board in writing within ten (10) days of departure, and must  
24 further notify the board in writing within ten (10) days of return. The failure to provide such  
25 notification(s) shall constitute a violation of probation. Upon such departure and return,  
26 respondent shall not resume the practice of pharmacy until notified by the board that the period of  
27 suspension has been satisfactorily completed.

28 **22. Administrative Penalty**

1 Respondent shall be jointly and severally liable with co-respondant to Accusation 3824,  
 2 Michael's Pharmacy Inc., to pay an Administrative Penalty in the sum of Twenty Five Thousand  
 3 Dollars (\$25,000.00) Payment of the assessed administrative penalty shall be completed during  
 4 the first four years of probation, in accord with a payment plan approved by the Board or its  
 5 designee. Respondent may pay the full remaining unpaid balance of the assessed administrative  
 6 penalty at any time. It shall be Respondent's responsibility to mail or otherwise deliver each  
 7 payment directly to the Board at the Board's Sacramento address in a timely manner. Failure to  
 8 make any payment when due shall be considered a violation of probation.

9 23. Ethics Course

10 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll  
 11 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.  
 12 Failure to fulfill the course during the first year of probation, and complete it within the second  
 13 year of probation, is a violation of probation.

14 Respondent shall submit a certificate of completion to the board or its designee within five  
 15 days after completing the course.

16 ACCEPTANCE

17 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
 18 discussed it with my attorney, Herbert Weinberg. I understand the stipulation and the effect it  
 19 will have on my Original Pharmacist License. I enter into this Stipulated Settlement and  
 20 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
 21 Decision and Order of the Board of Pharmacy.

22 DATED: 11/15/13

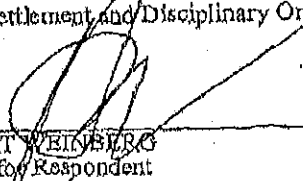
23 NATALYA SKYE  
 Respondent



24 I have read and fully discussed with Respondent Natalya Skye the terms and conditions and  
 25 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its  
 26 form and content.

27 DATED: 11/15/13

28 HERBERT WEINBERG  
 Attorney for Respondent



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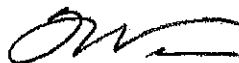
ENDORSEMENT

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

Dated: 11 - 15 - 13

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
GREGORY J. SALUTE  
Supervising Deputy Attorney General



SUSAN MELTON WILSON  
Deputy Attorney General  
*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  
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7 Attorneys for Complainant

8 **BEFORE THE**  
**BOARD OF PHARMACY**  
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960 East Green Street  
15 Pasadena, CA 91106  
Pharmacy Permit No. PHY 47549

**ACCUSATION**

16 AND

17 **NATALYA SKYE**  
18 14569 Benefit St., #102  
Sherman Oaks, CA 91403  
19 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 ///

28



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 licensee 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.

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

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

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

26 d. In later review of prescription records obtained during the July 7 inspection, the  
27 Inspector observed that 22 prescriptions purportedly "original telephone prescriptions" were  
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. Enblix 15 mg
9. Bxforge 5/320 and 5/160
10. Seroquel XR 150mg
11. Micardis HCT 80/12.5
12. Aricept 10mg and 5mg
13. Aricept ODT 5mg.

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7 (2) The Inspector also observed large amber vials of medication – some unlabeled and  
8 containing more than one type of medication – and some which had a sample medication  
9 label taped to the side of the container. Respondent Skye claimed that the medication in  
10 the amber vials had been given to the pharmacy by a patient whose husband had died – for  
11 disposal. However, she was unable to produce a patient profile accounting for the  
12 medications she claimed had been returned.  
13

14 (3) The Inspector also observed a large quantity of drugs stored in plastic baskets and  
15 bags full of drugs to be destroyed and/or credited.  
16

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

20 j. Further investigation disclosed that on or about December 28, 2009, Respondents  
21 illegally transferred pharmaceuticals for “disposal” as medical waste by an unlicensed entity  
22 named “Ensery West” located in Vernon, CA.  
23

#### 24 FIRST CAUSE FOR DISCIPLINE

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

26 18. Respondents MICHAEL’S PHARMACY and NATALYA SKYE are subject to  
27 subject to disciplinary action under section 4300 for unprofessional conduct as defined in section  
28 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 13) 337635
- 2 14) 337614
- 3 15) 340650
- 4 16) 340555
- 5 17) 340549
- 6 18) 340547
- 7 19) 340546
- 8 20) 340545
- 9 21) 340544
- 10 22) 340554

11 EIGHTH CAUSE FOR DISCIPLINE

12 (Failure to Maintain Operational Standards)

13 25. Respondents MICHAEL'S PHARMACY and NATALYA SKYE are subject to  
14 disciplinary action under section 4300 for unprofessional conduct as defined in section 4301,  
15 subdivision (o), in conjunction with section Title 16, California Code of Regulations section 1714  
16 subdivision "b" (which requires that Respondents maintain the pharmacy facility, and equipment  
17 so that drugs are safely and properly prepared, maintained, secured and distributed) and  
18 subdivision "c" (which requires that equipment shall be maintained in a clean and orderly  
19 condition) in that during a Board inspection on November 19, 2009, the Inspector found  
20 prescription bottles and caps stored on the floor of the small restroom next to and below the toilet.

21 NINTH CAUSE FOR DISCIPLINE

22 (Unauthorized Furnishing)

23 26. Respondents MICHAEL'S PHARMACY and NATALYA SKYE are subject to  
24 disciplinary action under section 4300 for unprofessional conduct as defined in section 4301,  
25 subdivision (o), in conjunction with section 4163, subdivision (a), and section 4126.5, which  
26 limit the persons or organizations that a pharmacy may legally furnish or transfer drugs to, in that  
27 on or about December 28, 2009, Respondents illegally 'disposed of' pharmaceuticals through  
28 "Enserv West", and unlicensed entity, in violation of pharmacy law, as described more fully in

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
23 d. Bus. & Prof. Code §4104	24 Procedures to take action when licensed individual is 25 impaired or known to have diverted or used drugs, 26 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 Code/Regulations Violated	Description
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 ;

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3. Ordering Respondent Michael's Pharmacy 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;

4. Ordering Respondent Natalya Skye 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;

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

DATED: 8/31/12



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

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