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

In the Matter of the Accusation Against:

Case No. 5361

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

**DEFAULT DECISION AND ORDER**

**Pharmacy Permit No. PHY 47699**

[Gov. Code, §11520]

**SAV-ON PHARMACY LTD,  
DBA SAV-ON PHARMACY #6763  
12475 Rancho Bernardo Road  
San Diego, CA 92128**

**Pharmacy Permit No. PHY 51402**

Respondents.

FINDINGS OF FACT

1. On or about June 12, 2015, Complainant Virginia K. Herold, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 5361 against Sav On Corporation, dba SAV On #6763, and Sav-On Pharmacy Ltd., dba Sav-On Pharmacy #6763 (Respondents) before the Board. (Accusation attached as Exhibit A.)

1. On or about September 22, 2006, the Board issued Pharmacy Permit Number PHY 47699 to Sav On Corporation, doing business as SAV On #6763 (Respondent SAV On #6763).

1 The Pharmacy Permit was in full force and effect at all times relevant to the charges brought  
2 herein, and was cancelled on March 22, 2013. This lapse in licensure, however, pursuant to  
3 Business and Professions Code section 4300.1, does not deprive the Board of its authority to  
4 institute or continue this disciplinary proceeding.

5 2. On or about March 22, 2013, the Board of Pharmacy issued Pharmacy Permit  
6 Number PHY 51402 to Sav-On Pharmacy Ltd, doing business as Sav-On Pharmacy #6763  
7 (Respondent Sav-On Pharmacy). The Pharmacy Permit was in full force and effect at all times  
8 relevant to the charges brought herein, and expired on March 1, 2015. This lapse in licensure,  
9 however, pursuant to Business and Professions Code section 4300.1, does not deprive the Board  
10 of its authority to institute or continue this disciplinary proceeding.

11 3. On or about June 23, 2015, Respondents were served by Certified and First Class  
12 Mail copies of the Accusation No. 5361, Statement to Respondent, Notice of Defense, Request  
13 for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and  
14 11507.7) at Respondents' address of record which, pursuant to Business and Professions Code  
15 section 4100, is required to be reported and maintained with the Board. Respondents' address of  
16 record was and is: 12475 Rancho Bernardo Road, San Diego, CA 92128.

17 4. Service of the Accusation was effective as a matter of law under the provisions of  
18 Government Code section 11505, subdivision (c) and/or Business & Professions Code section  
19 124.

20 5. Government Code section 11506 states, in pertinent part:

21 ...

22 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
23 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
24 of the accusation not expressly admitted. Failure to file a notice of defense shall  
25 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
26 may nevertheless grant a hearing.

25 ....

26 6. Respondents failed to file a Notice of Defense within 15 days after service upon them  
27 of the Accusation, and therefore waived their right to a hearing on the merits of Accusation No.  
28 5361.

1 7. California Government Code section 11520 states, in pertinent part:

2 (a) If the respondent either fails to file a notice of defense or to appear at the  
3 hearing, the agency may take action based upon the respondent's express admissions  
4 or upon other evidence and affidavits may be used as evidence without any notice to  
5 respondent.

6 . . . .

7 8. Pursuant to its authority under Government Code section 11520, the Board finds  
8 Respondents are in default. The Board will take action without further hearing and, based on the  
9 relevant evidence contained in the Default Decision Evidence Packet in this matter, as well as  
10 taking official notice of all the investigatory reports, exhibits and statements contained therein on  
11 file at the Board's offices regarding the allegations contained in Accusation No. 5361, finds that  
12 the charges and allegations in Accusation No. 5361, are separately and severally, found to be true  
13 and correct by clear and convincing evidence.

14 9. Taking official notice of its own internal records, pursuant to Business and  
15 Professions Code section 125.3, it is hereby determined that the reasonable costs for Investigation  
16 and Enforcement is \$11,599.00.

17 DETERMINATION OF ISSUES

18 1. Based on the foregoing findings of fact, Respondents Sav On Corporation, doing  
19 business as SAV On #6763, has subjected its Pharmacy Permit No. PHY 47699 to discipline, and  
20 Sav-On Pharmacy Ltd, doing business as Sav-On Pharmacy #6763, has subjected its Pharmacy  
21 Permit No. PHY 51402 to discipline.

22 2. The agency has jurisdiction to adjudicate this case by default.

23 3. The Board of Pharmacy is authorized to revoke Respondents' Pharmacy Permits  
24 based upon the following violations alleged in the Accusation which are supported by the  
25 evidence contained in the Default Decision Evidence Packet in this case:

26 a. Respondents are subject to disciplinary action under Code section 4301(o), for  
27 violating title 16, California Code of Regulations, section 1761(a), in that they dispensed  
28 prescriptions for dangerous drugs and controlled substances, which contained significant errors,  
omissions, irregularities, uncertainties, ambiguities or alterations;

1           b. Respondents are subject to disciplinary action under Code section 4301(o) for  
2 violating Pharmacy Law, in that from November 22, 2009 through March 22, 2013, Respondent  
3 SAV On #6763 furnished dangerous drugs and controlled substances without valid prescriptions,  
4 and from March 27, 2013 through September 1, 2013, Respondent Sav-On Pharmacy #6763  
5 furnished dangerous and controlled substances without valid prescriptions in violation of  
6 Business and Professions Code section 4059(a);

7           c. Respondents are subject to disciplinary action under Business and Professions Code  
8 section 4301(j), for violating statutes regulating controlled substances and dangerous drugs,  
9 including Health & Safety Code section and 11171, in that they furnished controlled substances  
10 not in conditions and the manner provided by the Health & Safety Code;

11           d. Respondents are subject to disciplinary action under Business and Professions Code  
12 section 4301(j), for violating statutes regulating controlled substances and dangerous drugs,  
13 including Health & Safety Code section and 11164.1, in that they delivered controlled substances  
14 to in-state patients in connection with prescriptions for controlled substances issued by  
15 prescribers in another state; and

16           e. Respondents are subject to disciplinary action under Business and Professions Code  
17 section 4301 for unprofessional conduct. Respondents furnished a total of 1,450 tablets of  
18 hydrocodone/acetaminophen 10/500mg, 7,350 tablets of hydrocodone/acetaminophen 10/325mg,  
19 505 tablets of alprazolam 0.5mg, 320 tablets of erythromycin 333mg, 246 tablets of erythromycin  
20 500mg and 60 tablets of atenolol mg to one patient without valid prescriptions. Respondents  
21 furnished a total of 1,270 tablets of hydrocodone/acetaminophen 10/500mg, 6,700 tablets of  
22 hydrocodone/acetaminophen 10/325mg, 20 tablets of sulfamethaxazole/trimethoprim DS, 40  
23 tablets of erythromycin 250mg, 20 tablets of erythromycin 500mg and 30 tablets of atenolol  
24 30mg to one patient without valid prescriptions. Respondents' pharmacists admitted to  
25 dispensing and furnishing fraudulent prescriptions for dangerous drugs and controlled substances  
26 to two patients.

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ORDER

IT IS SO ORDERED that Pharmacy Permit No. PHY 47699, heretofore issued to Respondent Sav On Corporation, dba SAV On #6763, and Pharmacy Permit No. PHY 51402, heretofore issued to Respondent Sav-On Pharmacy Ltd. dba Sav-On Pharmacy #6763, are revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondents may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondents. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on January 8, 2016.

It is so ORDERED December 9, 2015.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By \_\_\_\_\_

Amy Gutierrez, Pharm.D.  
Board President

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DOJ Matter ID:SD2014708369

Attachment:  
Exhibit A: Accusation

# Exhibit A

Accusation

(SAV-ON PHARMACY LTD. DBA SAV-ON PHARMACY #6763)

1 KAMALA D. HARRIS  
Attorney General of California  
2 GREGORY J. SALUTE  
Supervising Deputy Attorney General  
3 ANTOINETTE B. CINCOTTA  
Deputy Attorney General  
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P.O. Box 85266  
6 San Diego, CA 92186-5266  
Telephone: (619) 645-2095  
7 Facsimile: (619) 645-2061  
*Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 5361

13 **SAV ON CORPORATION,**  
**DBA SAV ON #6763**  
14 **12475 Rancho Bernardo Road**  
**San Diego, CA 92128**

**A C C U S A T I O N**

15 **Pharmacy Permit No. PHY 47699**

16 **SAV-ON LTD,**  
17 **DBA SAV-ON PHARMACY #6763**  
**12475 Rancho Bernardo Road**  
18 **San Diego, CA 92128**

19 **Pharmacy Permit No. PHY 51402**

20 Respondents.  
21

22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about September 22, 2006, the Board issued Pharmacy Permit Number PHY  
27 47699 to Sav On Corporation, doing business as SavOn #6763 (Respondent Sav On #6763). The  
28

1 Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein,  
2 and was cancelled on March 22, 2013.

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

### 7 JURISDICTION

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

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

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

16 7. Section 4300.1 of the Code states:

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

### 21 STATUTORY AND REGULATORY PROVISIONS

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

23 A person may not furnish any dangerous drug, except upon the prescription of a  
24 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
pursuant to Section 3640.7. A person may not furnish any dangerous device, except  
25 upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or  
naturopathic doctor pursuant to Section 3640.7.

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9. Section 4301 of the Code states in pertinent part:

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

...

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

...

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

...

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

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

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

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

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

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

**COST RECOVERY**

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

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1 **DRUGS**

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

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

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

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

12 **FACTUAL ALLEGATIONS**

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

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

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

23 21. Respondents furnished a total of 1,450 tablets of hydrocodone/acetaminophen  
24 10/500mg, 7,350 tablets of hydrocodone/acetaminophen 10/325mg, 505 tablets of alprazolam  
25 0.5mg, 320 tablets of erythromycin 333mg, 246 tablets of erythromycin 500mg and 60 tablets of  
26 atenolol mg to L.C. without valid prescriptions.

27 22. Respondents furnished a total of 1,270 tablets of hydrocodone/acetaminophen  
28 10/500mg, 6,700 tablets of hydrocodone/acetaminophen 10/325mg, 20 tablets of

1 sulfamethaxazole/trimethoprim DS, 40 tablets of erythromycin 250mg, 20 tablets of erythromycin  
2 500mg and 30 tablets of atenolol 30mg to B.G. without valid prescriptions.

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

5 **FIRST CAUSE FOR DISCIPLINE**

6 **(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions,  
7 Irregularities, Uncertainties, Ambiguities or Alterations)**

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

13 **SECOND CAUSE FOR DISCIPLINE**

14 **(Violations of Pharmacy Law)**

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

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Violations of Drug Laws)**

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

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Violations of Drug Laws)**

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

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Unprofessional Conduct)**

10 28. Respondents are subject to disciplinary action under Code section 4301 for  
11 unprofessional conduct in that they engaged in the activities described in paragraphs 18 through  
12 22 above, which are incorporated herein by reference.

13 **PRAYER**

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

16 1. Revoking or suspending Pharmacy Permit Number PHY 47699, issued to Sav On  
17 Corporation, doing business as Sav On #6763;

18 2. Revoking or suspending Pharmacy Permit Number PHY 51402, issued to Sav-On  
19 Pharmacy Ltd., doing business as Sav-On Pharmacy #6763;

20 3. Ordering Pharmacy Permit Number PHY 47699, issued to Sav On Corporation, doing  
21 business as Sav On #6763 and Pharmacy Permit Number PHY 51402, issued to Sav-On  
22 Pharmacy Ltd., doing business as Sav-On Pharmacy #6763 to pay the Board of Pharmacy the  
23 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
24 Professions Code section 125.3; and

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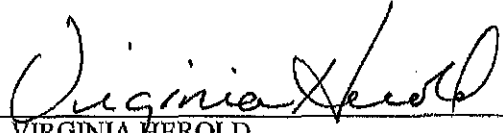
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4. Taking such other and further action as deemed necessary and proper.

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

*6/12/15*



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

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