

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

In the Matter of the Accusation Against:

**TALCA PHARMACEUTICALS INC. DBA TALCA PHARMACEUTICALS
INC., KENNETH JACK AMODEO**

Pharmacy Permit No. PHY 51257;

and

KENNETH JACK AMODEO

Pharmacist License No. RPH 37646,

Respondents

Agency Case No. 6147

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on April 15, 2020.

It is so ORDERED on March 16, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 SHERONDA L. EDWARDS
Deputy Attorney General
4 State Bar No. 225404
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6296
6 Facsimile: (916) 731-2126
E-mail: Sheronda.Edwards@doj.ca.gov
7 *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. 6147

13 **TALCA PHARMACEUTICALS INC. DBA**
14 **TALCA PHARMACEUTICALS INC.,**
15 **KENNETH JACK AMODEO**
768B Calle Plano
Camarillo, CA 93012

STIPULATED SURRENDER OF
LICENSE AND ORDER AS TO
KENNETH JACK AMODEO

16 **Original Permit No. PHY 51257**

17 **and**

18 **KENNETH JACK AMODEO**
19 **29782 Woodbrook Dr.**
Agoura Hills, CA 91301

20 **Pharmacist License No. RPH 37646**

21 Respondents.

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

25 **PARTIES**

26 1. Anne Sodergren (Complainant) is the Interim Executive Officer of the Board of
27 Pharmacy (Board). She brought this action solely in her official capacity and is represented in

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1 this matter by Xavier Becerra, Attorney General of the State of California, by Sheronda L.
2 Edwards, Deputy Attorney General.

3 2. Talca Pharmaceuticals Inc. dba Talca Pharmaceuticals Inc., Kenneth Jack Amodeo
4 and Kenneth Jack Amodeo are represented in this administrative disciplinary proceeding by
5 Michael A. Dowell, Esq., Hinshaw & Culvertson, LLP, 633 West 5th Street, 47th Floor, Los
6 Angeles, CA 90071. Kenneth Jack Amodeo is represented in *People of the State of California v.*
7 *Kenneth Amodeo, et al.*, in Riverside County Superior Court, case number RIF1990023, by
8 Trenton C. Packer, Esq., Law Offices of Grech and Packer, 7095 Indiana Avenue, Suite 200,
9 Riverside, CA 92506.

10 3. On or about August 21, 2013, the Board issued Original Permit No. PHY 51257 to
11 Talca Pharmaceuticals Inc. dba Talca Pharmaceuticals Inc., Kenneth Jack Amodeo (Respondent
12 Talca). The Original Permit was in full force and effect at all times relevant to the charges
13 brought in Accusation No. 6147 and will expire on August 1, 2020, unless renewed.

14 4. On or about April 4, 1983, the Board issued Original Pharmacist License Number
15 RPH 37646 to Kenneth Jack Amodeo (Respondent Amodeo) to practice pharmacy in California.
16 The Original Pharmacist License was in full force and effect at all times relevant to the charges
17 brought here and will expire on February 28, 2021, unless renewed. Respondent Amodeo has
18 been the Pharmacist-in-Charge of Respondent Talca since August 21, 2013.

19 **JURISDICTION**

20 5. Accusation No. 6147 was filed before the Board, and is currently pending against
21 Respondents Talca and Amodeo (collectively Respondents). The Accusation and all other
22 statutorily required documents were properly served on Respondents on September 11, 2018.
23 Respondents timely filed their Notice of Defense contesting the Accusation. On October 8, 2019,
24 First Amended Accusation No. 6147 was filed before the Board, and is currently pending against
25 Respondents. A copy of First Amended Accusation No. 6147 is attached as Exhibit A and
26 incorporated by reference.

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1 **ADVISEMENT AND WAIVERS**

2 6. Respondent Amodeo has carefully read, fully discussed with counsel, and
3 understands the charges and allegations in First Amended Accusation No. 6147. Respondent
4 Amodeo also has carefully read, fully discussed with counsel, and understands the effects of this
5 Stipulated Surrender of License and Order.

6 7. Respondent Amodeo is fully aware of his legal rights in this matter, including the
7 right to a hearing on the charges and allegations in First Amended Accusation No. 6147; the right
8 to confront and cross-examine the witnesses against him; the right to present evidence and to
9 testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of
10 witnesses and the production of documents; the right to reconsideration and court review of an
11 adverse decision; and all other rights accorded by the California Administrative Procedure Act
12 and other applicable laws.

13 8. Respondent Amodeo voluntarily, knowingly, and intelligently waives and gives up
14 each and every right set forth above.

15 **CULPABILITY**

16 9. Respondent Amodeo admits the truth of each and every charge and allegation in First
17 Amended Accusation No. 6147, agrees that cause exists for discipline and hereby surrenders his
18 Original Pharmacy License No. RPH 37646 for the Board's formal acceptance.

19 10. Respondent Amodeo understands that by signing this stipulation he enables the Board
20 to issue an order accepting the surrender of Original Pharmacy License No. RPH 37646 without
21 further process.

22 **CONTINGENCY**

23 11. This stipulation shall be subject to approval by the Board. Respondent Amodeo
24 understands and agrees that counsel for Complainant and the staff of the Board may communicate
25 directly with the Board regarding this stipulation and surrender, without notice to or participation
26 by Respondent Amodeo or his counsel. By signing the stipulation, Respondent Amodeo
27 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
28 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation

1 as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or
2 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
3 and the Board shall not be disqualified from further action by having considered this matter.

4 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
5 copies of this Stipulated Surrender of License and Order, including PDF and facsimile signatures
6 thereto, shall have the same force and effect as the originals.

7 13. This Stipulated Surrender of License and Order is intended by the parties to be an
8 integrated writing representing the complete, final, and exclusive embodiment of his agreement.
9 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
10 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
11 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
12 executed by an authorized representative of each of the parties.

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

15 **ORDER**

16 IT IS HEREBY ORDERED that Pharmacy License No. RPH 37646 issued to Respondent
17 Amodeo is surrendered and accepted by the Board.

18 1. The surrender of Respondent Amodeo's Pharmacist License and the acceptance by
19 the Board shall constitute the imposition of discipline against Respondent Amodeo. This
20 stipulation constitutes a record of the discipline and shall become a part of Respondent's license
21 history with the Board.

22 2. Respondent Amodeo shall lose all rights and privileges as a Pharmacist in California
23 as of the effective date of the Board's Decision and Order.

24 3. Respondent Amodeo shall cause to be delivered to the Board any pocket license and,
25 if issued, his wall certificate on or before the effective date of the Decision and Order.

26 4. If Respondent Amodeo ever applies for licensure or petitions for reinstatement in the
27 State of California, the Board shall treat the application or petition as a new application for
28 licensure. Respondent Amodeo must comply with all the laws, regulations and procedures for

1 licensure in effect at the time the application or petition is filed, and all of the charges and
2 allegations contained in First Amended Accusation No. 6147 shall be deemed to be true, correct
3 and admitted by Respondent Amodeo when the Board determines whether to grant or deny the
4 application or petition.

5 5. Respondent Amodeo shall be liable for paying the agency its costs of investigation
6 and enforcement in the amount of \$16,148 prior to issuance of a new or reinstated license.

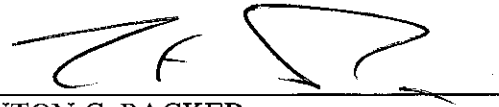
7 6. Respondent Amodeo may not apply, reapply, or petition for any licensure or
8 registration of the Board for three (3) years from the effective date of the Decision and Order.

9 **ACCEPTANCE**

10 I have carefully read the above Stipulated Surrender of License and Order and have fully
11 discussed it with my attorney Trenton C. Packer. I understand the stipulation and the effect it will
12 have on my Pharmacist License. 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: 11-6-19 
17 KENNETH JACK AMODEO
18 Respondent

19 I have read and fully discussed with Respondent Kenneth Jack Amodeo the terms and
20 conditions and other matters contained in this Stipulated Surrender of License and Order. I
21 approve its form and content.

22
23 DATED: 11-8-19 
24 TRENTON C. PACKER
25 Attorney for Respondent

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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: 11/8/19

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General



SHERONDA L. EDWARDS
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 6147

1 XAVIER BECERRA
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 SHERONDA L. EDWARDS
Deputy Attorney General
4 State Bar No. 225404
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6296
6 Facsimile: (213) 897-2804
E-mail: Sheronda.Edwards@doj.ca.gov
7 *Attorneys for Complainant*

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10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

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14 **TALCA PHARMACEUTICALS INC.,**
15 **KENNETH JACK AMODEO**
768B Calle Plano
16 Camarillo, CA 93012

FIRST AMENDED ACCUSATION

17 Pharmacy Permit No. PHY 51257

18 and

19 **KENNETH JACK AMODEO**
20 29782 Woodbrook Drive
21 Agoura Hills, CA 91301

22 Pharmacist License No. RPH 37646

23 Respondents.

24 **PARTIES**

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

27 2. On or about August 21, 2013, the Board of Pharmacy issued Original Permit Number
28 PHY 51257 to Talca Pharmaceuticals Inc. dba Talca Pharmaceuticals Inc., Kenneth Jack Amodeo

///

1 (Respondent Talca). The Original Permit was in full force and effect at all times relevant to the
2 charges brought herein and will expire on August 1, 2020, unless renewed.

3 3. On or about April 4, 1983, the Board of Pharmacy issued Original Pharmacist License
4 Number RPH 37646 to Kenneth Jack Amodeo (Respondent Amodeo) to practice pharmacy in
5 California. The Original Pharmacist License was in full force and effect at all times relevant to
6 the charges brought here and will expire on February 28, 2021, unless renewed. Respondent
7 Amodeo has been the Pharmacist-in-Charge of Respondent Talca since August 21, 2013.

8 **JURISDICTION**

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

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

15 6. Section 4300 of the Code provides, in pertinent part, that every license issued by the
16 Board is subject to discipline, including suspension or revocation.

17 7. Section 118, subdivision (b), of the Code provides:

18 The suspension, expiration, or forfeiture by operation of law of a license issued
19 by a board in the department or its suspension, forfeiture, or cancellation by order of
20 the board or by order of a court of law, or its surrender without the written consent of
21 the board, shall not, during any period in which it may be renewed, restored, reissued,
22 or reinstated, deprive the board of its authority to institute or continue a disciplinary
23 proceeding against the licensee upon any ground provided by law or to enter an order
24 suspending or revoking the license or otherwise taking disciplinary action against the
25 licensee on any such ground.

26 8. Section 4300.1 of the Code provides:

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

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1 **STATUTORY PROVISIONS**

2 9. Section 482 of the Code states:

3 Each board under the provisions of this code shall develop criteria to evaluate the
4 rehabilitation of a person when:

- 5 (a) Considering the denial of a license by the board under Section 480; or
6 (b) Considering suspension or revocation of a license under Section 490.

7 Each board shall take into account all competent evidence of rehabilitation
8 furnished by the applicant or licensee.

9 10. Section 490 of the Code provides, in pertinent part, that a board may suspend or
10 revoke a license on the ground that the licensee has been convicted of a crime substantially related
11 to the qualifications, functions, or duties of the business or profession for which the license was
12 issued.

13 11. Section 493 of the Code states:

14 Notwithstanding any other provision of law, in a proceeding conducted by a board
15 within the department pursuant to law to deny an application for a license or to suspend
16 or revoke a license or otherwise take disciplinary action against a person who holds a
17 license, upon the ground that the applicant or the licensee has been convicted of a crime
18 substantially related to the qualifications, functions, and duties of the licensee in
19 question, the record of conviction of the crime shall be conclusive evidence of the fact
20 that the conviction occurred, but only of that fact, and the board may inquire into the
21 circumstances surrounding the commission of the crime in order to fix the degree of
22 discipline or to determine if the conviction is substantially related to the qualifications,
23 functions, and duties of the licensee in question.

24 As used in this section, "license" includes "certificate," "permit," "authority," and
25 "registration."

26 12. Section 4081 of the Code states:

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

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

5 13. Section 4105 of the Code provides:

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

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

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

15 (d) (1) Any records that are maintained electronically shall be maintained so that
16 the pharmacist-in-charge, or the pharmacist on duty if the pharmacist-in-charge is not
17 on duty, shall, at all times during which the licensed premises are open for business,
18 be able to produce a hardcopy and electronic copy of all records of acquisition or
19 disposition or other drug or dispensing-related records maintained electronically.

20 ...

21 (f) When requested by an authorized officer of the law or by an authorized
22 representative of the board, the owner, corporate officer, or manager of an entity
23 licensed by the board shall provide the board with the requested records within three
24 business days of the time the request was made. The entity may request in writing an
25 extension of this timeframe for a period not to exceed 14 calendar days from the date
26 the records were requested. A request for an extension of time is subject to the
27 approval of the board. An extension shall be deemed approved if the board fails to
28 deny the extension request within two business days of the time the extension request
was made directly to the board.

14. Section 4301 of the Code states:

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:

...

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

...

1 (l) The conviction of a crime substantially related to the qualifications, functions,
2 and duties of a licensee under this chapter. The record of conviction of a violation of
3 Chapter 13 (commencing with Section 801) of Title 21 of the United States Code
4 regulating controlled substances or of a violation of the statutes of this state regulating
5 controlled substances or dangerous drugs shall be conclusive evidence of unprofessional
6 conduct. In all other cases, the record of conviction shall be conclusive evidence only of
7 the fact that the conviction occurred. The board may inquire into the circumstances
8 surrounding the commission of the crime, in order to fix the degree of discipline or, in
9 the case of a conviction not involving controlled substances or dangerous drugs, to
10 determine if the conviction is of an offense substantially related to the qualifications,
11 functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a
12 conviction following a plea of nolo contendere is deemed to be a conviction within the
13 meaning of this provision. The board may take action when the time for appeal has
14 elapsed, or the judgment of conviction has been affirmed on appeal or when an order
15 granting probation is made suspending the imposition of sentence, irrespective of a
16 subsequent order under Section 1203.4 of the Penal Code allowing the person to
17 withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the
18 verdict of guilty, or dismissing the accusation, information, or indictment. . . .

19 ...

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

25 ...

26 (q) Engaging in any conduct that subverts or attempts to subvert an investigation
27 of the board. . . .

28 15. Section 4307 of the Code states:

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

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1 **REGULATORY PROVISIONS**

2 16. California Code of Regulations, title 16, section 1711, subdivision (d), provides:

3 Each pharmacy shall use the findings of its quality assurance program to develop
4 pharmacy systems and workflow processes designed to prevent medication errors. An
5 investigation of each medication error shall commence as soon as is reasonably
6 possible, but no later than 2 business days from the date the medication error is
7 discovered. All medication errors discovered shall be subject to a quality assurance
8 review.

9 17. California Code of Regulations, title 16, section 1769, subdivision (b) states:

10 When considering the suspension or revocation of a facility or a personal license on
11 the ground that the licensee or the registrant has been convicted of a crime, the board, in
12 evaluating the rehabilitation of such person and his present eligibility for a license will
13 consider the following criteria:

14 (1) Nature and severity of the act(s) or offense(s).

15 (2) Total criminal record.

16 (3) The time that has elapsed since commission of the act(s) or offense(s).

17 (4) Whether the licensee has complied with all terms of parole, probation,
18 restitution or any other sanctions lawfully imposed against the licensee.

19 (5) Evidence, if any, of rehabilitation submitted by the licensee.

20 18. California Code of Regulations, title 16, section 1770, states:

21 For the purpose of denial, suspension, or revocation of a personal or facility license
22 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions
23 Code, a crime or act shall be considered substantially related to the qualifications,
24 functions or duties of a licensee or registrant if to a substantial degree it evidences
25 present or potential unfitness of a licensee or registrant to perform the functions
26 authorized by his license or registration in a manner consistent with the public health,
27 safety, or welfare.

28 **COST RECOVERY**

19. 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, with failure of the licentiate to comply subjecting the license to not being
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
included in a stipulated settlement.

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1 **STATEMENT OF FACTS**

2 20. On February 20, 2015, the Board of Pharmacy received a consumer complaint from a
3 third party administrator for an insurance company. During a Board inspection of the pharmacy,
4 the inspector discovered 55 boxes of “returned/refused/undeliverable” patient prescriptions and
5 suspected insurance billing fraud. Respondents failed to produce sufficient patient profile and
6 billing information for the prescriptions.

7 **A. Board Inspection on May 21, 2015**

8 21. On May 21, 2015, a Board inspector arrived at Respondents’ pharmacy to conduct a
9 routine inspection.

10 22. Respondent Amodeo informed the inspector that the pharmacy ceased filling and
11 dispensing prescriptions on February 3, 2015. Respondents’ City of Camarillo Business Tax
12 Certification listed Respondent as a Wholesale Distributor as its business type.

13 23. Respondent Amodeo told the inspector that the pharmacy was a closed door mail
14 order pharmacy servicing only patients of workers’ compensation clinics, and dispensed products
15 manufactured by Fusion Phamaceuticals located next door.

16 24. Respondent Amodeo told the inspector that prescriptions are received by fax or email
17 from the clinics and are filled for only the items the pharmacy has available.

18 25. The inspector observed approximately 55 boxes of “returned/refused/undeliverable”
19 mailing boxes stacked in the pharmacy area. Respondent Amodeo stated the items in the boxes
20 were “reversed/returned” in their system but they did not handle any of the billing. Respondent
21 Amodeo stated they had not destroyed the items because they did not have a reverse distributor.

22 26. The inspector requested a printed patient profile report on one of the patients’
23 prescriptions located in the boxes of the “returned/refused/undeliverable” items. The technician
24 stated she could not print a report from her computer and claimed both her and Respondent
25 Amodeo were currently “locked out” of the main prescription processing computer.

26 27. On May 21, 2015 and June 3, 2015, the inspector requested patient records be
27 produced.

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1 28. On June 4, 2015, the inspector received an email from Respondents' counsel of a
2 report of all of the prescriptions Respondents filled from 1/01/2014 to 5/21/2015, but the patient
3 names and other personal identifiable information were redacted from the report.

4 **B. Board Inspection on August 20, 2015**

5 29. On August 20, 2015, the inspector conducted a second inspection of Respondents
6 pharmacy to acquire the patient names and insurance information for a select group of
7 prescriptions.

8 30. On August 23, 2015 and September 14, 2015, the inspector received emails from
9 Respondents declining to produce the requested patient and insurance information. Respondents
10 stated the patient information falls under "Protected Health Information" and insisted upon a
11 subpoena or warrant before disclosing patient profile information.

12 31. Again, on September 8, 2015, the inspector sent a letter to Respondents requesting the
13 previously requested information and cited to Business and Professions Code sections 4081(a)
14 and 4105(d)(1) and (f).

15 32. On September 14, 2015, the inspector received an emailed letter from Respondents'
16 counsel that states "the request for patient information falls under 'Protected Health Information'
17 and insists upon receiving a subpoena or warrant before disclosing patient profile information."
18 The Respondents denied billing insurance carriers or possessing patient insurance information.
19 However, the Respondents claimed that it voided prescriptions, but were unable to pull the date
20 the prescriptions were voided.

21 33. On September 18, 2015, the Board's attorney sent Respondent's counsel a letter titled
22 "Talca Pharmaceuticals, Inc.'s Duty to Cooperate," which renewed the Board's request submitted
23 on September 8, 2015, for patient profiles, report showing the dates prescriptions were void, and
24 insurance billing information. In a letter dated September 25, 2015, Respondent's attorney
25 claimed the Board required warrants or waivers for any medical information. In a letter on
26 October 7, 2015, Respondent's attorney claimed the Board required a "proper investigative
27 demand statement" for the documents. The requested documents were not provided.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 **(September 27, 2019 Criminal Conviction – Fraudulent Benefit’s Claim)**

3 37. Respondent Amodeo is subject to disciplinary action under code sections 490 and
4 4301, subdivision (l), of the Code in that he was convicted of a crime that is substantially related
5 to the qualifications, duties, and functions of a pharmacist. The circumstances are as follows:

6 a. On or about September 27, 2019, in a criminal proceeding entitled *People of the State*
7 *of California v. Kenneth Amodeo, et al.*, in Riverside County Superior Court, case number
8 RIF1990023, Respondent was convicted on his plea of guilty to violating Penal Code section 550,
9 subdivision (a)(6), fraudulent claim for payment of health care benefit, a felony. In exchange for
10 Respondent Amodeo’s plea, the court dismissed eleven (11) additional counts of fraudulent claim
11 for payment of health care benefit (Pen. Code, § 550, subdivision (a)(6)) and one count of
12 solicit/refer business with intent to violate the Insurance Code (Pen. Code, § 549, a felony).

13 b. As a result of the conviction, on September 27, 2019, the court sentenced Respondent
14 Amodeo to 48 months of formal probation, serve 364 days of county jail with terms and
15 conditions, including term 17, surrender any and all pharmacist licenses during the 4-year term of
16 formal probation and submit license to probation within 30 days.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Commission of Act Involving Moral Turpitude, Dishonesty, Fraud or Deceit)**

19 38. Respondent Amodeo is subject to disciplinary action under code section 4301,
20 subdivision (f), for unprofessional conduct in that his conduct, as described in paragraph 37
21 above, involved moral turpitude, dishonesty, fraud and/or deceit.

22 **OTHER MATTERS**

23 39. Pursuant to section 4307 of the Code, if discipline is imposed on Pharmacy Permit
24 Number PHY 51257 issued to Talca Pharmaceuticals, Inc. shall be prohibited from serving as a
25 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
26 five years if Pharmacy Permit Number PHY 51257 is placed on probation or until Pharmacy
27 Permit Number PHY 51257 is reinstated if it is revoked.

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1 reinstated if Pharmacy Permit Number PHY 51257 issued to Talca Pharmaceuticals Inc. dba
2 Talca Pharmaceuticals Inc. is revoked;

3 5. Ordering Talca Pharmaceuticals Inc. dba Talca Pharmaceuticals Inc. and Kenneth
4 Jack Amodeo to pay the Board of Pharmacy the reasonable costs of the investigation and
5 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

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8 DATED: October 8, 2019



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

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