

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

In the Matter of the Accusation Against:

**SENIOR CARE PHARMACY SERVICES FAIRFIELD, INC., KIM E.
BANERJEE, SAMITENDU BANERJEE, ANTONY P. THEKKEK, and
PREMA P. THEKKEK, OWNERS AND OFFICERS
Pharmacy Permit No. PHY 50619,**

**SAMINTENDU BANERJEE,
Pharmacist License No. RPH 45184,**

**VAN THAO MY NGUYEN,
Pharmacist License No. RPH 66472,**

**KALI WONG,
Pharmacist License No. RPH 73152,**

Respondents

Case No. 6161

OAH No. 2020110031

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 at 5:00 p.m. on November 5, 2021.

It is so ORDERED on October 6, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" being clearly legible.

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 JOSHUA A. ROOM
Supervising Deputy Attorney General
3 MICHAEL B. FRANKLIN
Deputy Attorney General
4 State Bar No. 136524
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 510-3455
6 Facsimile: (415) 703-5480
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

13 **SENIOR CARE PHARMACY SERVICES**
14 **FAIRFIELD INC., KIM E. BANERJEE,**
15 **SAMITENDU BANERJEE, ANTONY P.**
16 **THEKKEK, and PREMA P. THEKKEK,**
17 **OWNERS AND OFFICERS**
18 4950 Fulton Avenue, Suites A & B
Fairfield, CA 94534,

19 **Pharmacy License No. PHY 50619,**

20 **SAMITENDU BANERJEE**
21 P.O. Box 27638
22 Anaheim, CA 92809,

23 **Pharmacist License No. RPH 45184,**

24 **VAN THAO MY NGUYEN**
25 2044 Malden Avenue
26 San Jose, CA 95122,

27 **Pharmacist License No. RPH 66472,**

28 **KALI WONG**
3046 Bradshaw Drive
San Jose, CA 95148,

Pharmacist License No. RPH 73152,

Respondents.

Case No. 6161

OAH No. 2020110031

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

AS TO VAN THAO MY NGUYEN ONLY

1 In the interest of a prompt and speedy settlement of this matter, consistent with the public
2 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
3 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
4 be submitted to the Board for approval and adoption as the final disposition of the Accusation
5 solely with respect to Van Thao My Nguyen. It does not apply to any other Respondent.

6 **PARTIES**

7 1. Anne Sodergren (Complainant), Executive Officer of the Board of Pharmacy (Board),
8 brought this action solely in her official capacity and is represented in this matter by Rob Bonta,
9 Attorney General of the State of California, by Michael B. Franklin, Deputy Attorney General.

10 2. Respondent Van Thao My Nguyen (Respondent) is represented in this proceeding by
11 attorney Luis Andre P. Vizcocho, R.Ph., J.D., Of Counsel – California Pharmacy Lawyers, whose
12 address is: Law Office of Tony J. Park, Inc., APC, 9090 Irvine Center Drive, Irvine, CA 92618.

13 3. On or about October 27, 2011, the Board issued Pharmacist License No. RPH 66472
14 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the
15 charges brought in Accusation No. 6161, and will expire on October 31, 2023, unless renewed.

16 **JURISDICTION**

17 4. Accusation No. 6161 was filed before the Board, and is currently pending against
18 Respondent. The Accusation and all other statutorily required documents were properly served
19 on Respondent on or about March 19, 2020. Respondent timely filed her Notice of Defense
20 contesting the Accusation. On or about March 14, 2020, the First Amended Accusation and all
21 other statutorily required documents were properly served on Respondent. A copy of First
22 Amended Accusation No. 6161 is attached as exhibit A and incorporated herein by reference.

23 **ADVISEMENT AND WAIVERS**

24 5. Respondent has carefully read, discussed with counsel, and understands the charges
25 and allegations in Accusation No. 6161. Respondent has also carefully read, discussed with
26 counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

27 6. Respondent is fully aware of her legal rights in this matter, including the right to a
28 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine

1 the witnesses against her; the right to present evidence and to testify on her own behalf; the right
2 to the issuance of subpoenas to compel the attendance of witnesses and the production of
3 documents; the right to reconsideration and court review of an adverse decision; and all other
4 rights accorded by the California Administrative Procedure Act and other applicable laws.

5 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
6 every right set forth above.

7 **CULPABILITY**

8 8. Respondent understands and agrees that the charges and allegations in First Amended
9 Accusation No. 6161, if proven at a hearing, constitute cause for imposing discipline upon her
10 Pharmacist License. Respondent agrees that, at a hearing, Complainant could establish a factual
11 basis for the charges in the Accusation, and that Respondent hereby gives up her right to contest
12 those charges. Respondent agrees that her Pharmacist License is subject to discipline and she
13 agrees to be bound by the Board's probation terms as set forth in the Disciplinary Order below.

14 **CONTINGENCY**

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

24 10. The parties understand and agree that Portable Document Format (PDF) and facsimile
25 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
26 signatures thereto, shall have the same force and effect as the originals.

27 ///

28 ///

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 66472, issued to Respondent Van Thao My Nguyen, is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

1 **2. Report to the Board**

2 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
3 designee. The report shall be made either in person or in writing, as directed. Among other
4 requirements, Respondent shall state in each report under penalty of perjury whether there has
5 been compliance with all the terms and conditions of probation.

6 Failure to submit timely reports in a form as directed shall be considered a violation of
7 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
8 period of probation. Moreover, if a final probation report is not made as directed, probation shall
9 be automatically extended until such time as the final report is made and accepted by the board.

10 **3. Interview with the Board**

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

16 **4. Cooperate with Board Staff**

17 Respondent shall timely cooperate with the board's inspection program and with the board's
18 monitoring and investigation of respondent's compliance with the terms and conditions of her
19 probation, including but not limited to: timely responses to requests for information by board
20 staff; timely compliance with directives from board staff regarding requirements of any term or
21 condition of probation; and timely completion of documentation pertaining to a term or condition
22 of probation. Failure to timely cooperate shall be considered a violation of probation.

23 **5. Letter of Apology to the Board**

24 Within sixty (60) days of the effective date of this decision, Respondent shall author, sign
25 under penalty of perjury, and submit to the board, a letter of apology regarding her conduct in this
26 case. This letter must be approved in advance of submission by the board or its designee. Failure
27 to submit a letter that is satisfactory to the board or its designee to meet this requirement within
28 the specified time period shall be considered a violation of probation.

1 The board or its designee may publish this letter, including in *The Script*, or make other use
2 thereof, and may edit the letter for length or clarity for any use made of the letter.

3 The letter shall be written in such manner that it may serve to educate and prepare other
4 board licensees, including those who have taken on Pharmacist in Charge or other managerial
5 positions, or are considering doing so, particularly early in their careers. The letter shall include,
6 at least: (a) a full accounting of Respondent's culpability for the conduct in this case; (b) a full
7 accounting of the culpability of any others for the conduct in this case; (c) an accounting of why
8 or how the conduct in this case took place while Respondent served as Pharmacist in Charge; (d)
9 an explanation of the proper role of a Pharmacist in Charge; and (e) a description of lessons
10 learned by Respondent from the conduct at issue in this case and her participation therein.

11 **6. Continuing Education**

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

14 **7. Remedial Education**

15 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
16 board or its designee, for prior approval, a program of remedial education related to pharmacy
17 law and operations and the conduct in this case, consisting of at least fifteen (15) hours per year
18 of probation, completed at Respondent's own expense. At least 50% of these hours shall be live
19 instruction, either in-person or by live webinar. All remedial education shall be in addition to,
20 and not be credited toward, continuing education courses used for license renewal purposes.

21 Failure to timely submit for approval or complete the approved remedial education shall be
22 considered a violation of probation. The period of probation will be automatically extended until
23 such remedial education is successfully completed and written proof, in a form acceptable to the
24 board, is provided to the board or its designee. Following completion of each course, the board or
25 its designee may require Respondent, at her own expense, to take an approved examination to test
26 Respondent's knowledge of the course. If Respondent does not achieve a passing score on the
27 examination, that course shall not count towards satisfaction of this term. Respondent shall take
28 another course approved by the board in the same subject area.

1 **8. Reporting of Employment and Notice to Employers**

2 During the period of probation, Respondent shall notify all present and prospective
3 employers of the decision in case number 6161 and the terms, conditions and restrictions imposed
4 on respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
6 undertaking any new employment, Respondent shall report to the board in writing the name,
7 physical address, and mailing address of each of her employer(s), and the name(s) and telephone
8 number(s) of all of her direct supervisor(s), as well as any pharmacist(s)-in-charge, designated
9 representative(s)-in-charge, responsible manager(s), or other compliance supervisor(s), and her
10 work schedule, if known. Respondent shall also include the reason(s) for leaving the prior
11 employment. Respondent shall sign and return to the board a written consent authorizing the
12 board or its designee to communicate with all of Respondent's employer(s) and supervisor(s), and
13 authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,
14 concerning Respondent's work status, performance, and monitoring. Failure to comply with the
15 requirements or deadlines of this condition shall be considered a violation of probation.

16 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
17 respondent undertaking any new employment, Respondent shall cause (a) her direct supervisor,
18 (b) her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
19 compliance supervisor, and (c) the owner or owner representative of her employer, to report to the
20 board in writing acknowledging that the listed individual(s) has/have read the decision in case
21 number 6161, and terms and conditions imposed thereby. If one person serves in more than one
22 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be Respondent's
23 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
24 event of a change in the person(s) serving in the role(s) described in (a), (b), or (c) during the term
25 of probation, Respondent shall cause the person(s) taking over the role(s) to report to the board in
26 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
27 in case number 6161, and the terms and conditions imposed thereby.

28 ///

1 If Respondent works for or is employed by or through an employment service, Respondent
2 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
3 of the decision in case number 6161, and the terms and conditions imposed thereby in advance of
4 Respondent commencing work at such licensed entity. A record of this notification must be
5 provided to the board upon request.

6 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
7 (15) days of Respondent undertaking any new employment by or through an employment service,
8 Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment
9 service to report to the board in writing acknowledging that he or she has read the decision in case
10 number, and the terms and conditions imposed thereby. It shall be Respondent's responsibility to
11 ensure that these acknowledgment(s) are timely submitted to the board.

12 Failure to timely notify present or prospective employer(s) or failure to cause the identified
13 person(s) with that/those employer(s) to submit timely written acknowledgments to the board
14 shall be considered a violation of probation.

15 "Employment" within the meaning of this provision includes any full-time, part-time,
16 temporary, relief, or employment/management service position as a Pharmacist, or any position
17 for which a Pharmacist License is a requirement or criterion for employment, whether the
18 Respondent is an employee, independent contractor or volunteer.

19 **9. Practice Requirement – Extension of Probation**

20 Except during periods of suspension, Respondent shall, at all times while on probation, be
21 employed as a Pharmacist in California for a minimum of one hundred (100) hours per calendar
22 month. Any month during which this minimum is not met shall extend the period of probation by
23 one month. During any such period of insufficient employment, Respondent must nonetheless
24 comply with all terms and conditions of probation, unless Respondent receives a waiver in
25 writing from the board or its designee.

26 If Respondent does not practice as a Pharmacist in California for the minimum number of
27 hours in any calendar month, for any reason (including vacation), Respondent shall notify the
28 board in writing within ten (10) days of the conclusion of that calendar month.

1 This notification shall include at least: the date(s), location(s), and hours of last practice; the
2 reason(s) for the interruption or reduction in practice; and the anticipated date(s) on which
3 respondent will resume practice at the required level. Respondent shall further notify the board in
4 writing within ten (10) days following the next calendar month during which respondent practices
5 as a Pharmacist in California for the minimum of hours. Any failure to timely provide such
6 notification(s) shall be considered a violation of probation.

7 The board or its designee may post a notice of the extended probation period on its website.

8 It is a violation of probation for Respondent's probation to be extended pursuant to the
9 provisions of this condition for a total period, counting consecutive and non-consecutive months,
10 exceeding thirty-six (36) months.

11 **10. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

12 Respondent shall notify the board in writing within ten (10) days of any change in name,
13 residence or mailing address, e-mail address, or phone number. Failure to timely notify the board
14 of any change in name, address, or phone number shall be considered a violation of probation.

15 **11. No Ownership or Management of Licensed Premises**

16 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
17 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
18 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
19 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
20 days following the effective date of this decision and shall immediately thereafter provide written
21 proof thereof to the board.

22 Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof
23 shall be considered a violation of probation.

24 **12. Status of License**

25 Respondent shall, at all times while on probation, maintain an active, current Pharmacist
26 License with the board, including any period during which suspension or probation is tolled.
27 Failure to maintain an active, current Pharmacist License shall be considered a violation of
28 probation.

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

5 **13. Restrictions on Supervision and Oversight**

6 During the period of probation, Respondent shall not supervise any intern pharmacist, be
7 the pharmacist-in-charge, designated representative-in-charge, responsible manager or other
8 compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption
9 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

10 **14. Ethics Course**

11 Within sixty (60) days of the effective date of this decision, Respondent shall enroll in a
12 course in ethics, at Respondent's expense, approved in advance by the board or its designee, that
13 complies with Title 16 California Code of Regulations section 1773.5. Respondent shall provide
14 proof of enrollment upon request. Within five (5) days of completion, Respondent shall submit a
15 copy of the certificate of completion to the board or its designee. Failure to timely enroll in an
16 approved ethics course, to initiate the course during the first year of probation, to successfully
17 complete it before the end of the second year of probation, or to timely submit proof of
18 completion to the board or its designee, shall be considered a violation of probation.

19 **15. Reimbursement of Board Costs**

20 As a condition precedent to successful completion of probation, Respondent shall pay to the
21 board its costs of investigation and prosecution of \$5,000.00 (five thousand dollars). Respondent
22 shall be permitted to pay these costs in a payment plan approved by the board or its designee, so
23 long as full payment is completed no later than one (1) year prior to the end date of probation.

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

27 ///

28 ///

1 **16. Probation Monitoring Costs**

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

6 **17. License Surrender While on Probation/Suspension**

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

15 Upon acceptance of the surrender, Respondent shall relinquish her pocket and/or wall
16 license, including any indicia of licensure not previously provided to the board within ten (10)
17 days of notification by the board that the surrender is accepted if not already provided.
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, including any outstanding costs.

21 **18. Violation of Probation**

22 If Respondent has not complied with any term or condition of probation, the board shall
23 have continuing jurisdiction over Respondent, and the board shall provide notice to Respondent
24 that probation shall automatically be extended, until all terms and conditions have been satisfied
25 or the board has taken other action as deemed appropriate to treat the failure to comply as a
26 violation of probation, to terminate probation, and to impose the penalty that was stayed.

27 The board or its designee may post a notice of the extended probation period on its website.

28 ///

1 If Respondent violates probation in any respect, the board, after giving Respondent notice
2 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
3 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
4 probation, or the preparation of an accusation or petition to revoke probation is requested from
5 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
6 probation shall be automatically extended until the petition to revoke probation or accusation is
7 heard and decided, and the charges and allegations in First Amended Accusation No. 6161 shall
8 be deemed true and correct.

9 **19. Completion of Probation**

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

12
13 **ACCEPTANCE**

14 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
15 discussed it with my attorney, Luis Andre P. Vizcocho. I understand the stipulation and the effect
16 it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
17 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
18 of the Board of Pharmacy.

19 DATED: _____

20 VAN THAO MY NGUYEN
21 *Respondent*

22 I have read and fully discussed with Respondent Van Thao My Nguyen the terms and
23 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
24 I approve its form and content.

25 DATED: _____

26 LUIS ANDRE P. VIZCOCHO, R.PH., J.D.,
27 Of Counsel – California Pharmacy Lawyers
28 Law Office of Tony J. Park, Inc., APC
Attorneys for Respondent

1 If Respondent violates probation in any respect, the board, after giving Respondent notice
2 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
3 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
4 probation, or the preparation of an accusation or petition to revoke probation is requested from
5 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
6 probation shall be automatically extended until the petition to revoke probation or accusation is
7 heard and decided, and the charges and allegations in First Amended Accusation No. 6161 shall
8 be deemed true and correct.

9 **19. Completion of Probation**

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

12
13 **ACCEPTANCE**

14 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
15 discussed it with my attorney, Luis Andre P. Vizcocho. I understand the stipulation and the effect
16 it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
17 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
18 of the Board of Pharmacy.

19 DATED: 8/26/21



VAN THAO MY NGUYEN
Respondent

22 I have read and fully discussed with Respondent Van Thao My Nguyen the terms and
23 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
24 I approve its form and content.

25 DATED: _____

LUIS ANDRE P. VIZCOCHO, R.PH., J.D.,
Of Counsel – California Pharmacy Lawyers
Law Office of Tony J. Park, Inc., APC
Attorneys for Respondent

1 If Respondent violates probation in any respect, the board, after giving Respondent notice
2 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
3 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
4 probation, or the preparation of an accusation or petition to revoke probation is requested from
5 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
6 probation shall be automatically extended until the petition to revoke probation or accusation is
7 heard and decided, and the charges and allegations in First Amended Accusation No. 6161 shall
8 be deemed true and correct.

9 **19. Completion of Probation**

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

12
13 **ACCEPTANCE**

14 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
15 discussed it with my attorney, Luis Andre P. Vizcocho. I understand the stipulation and the effect
16 it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
17 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
18 of the Board of Pharmacy.

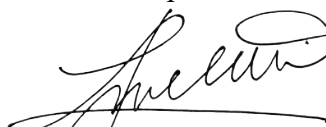
19 DATED: _____

20 VAN THAO MY NGUYEN
21 *Respondent*

22 I have read and fully discussed with Respondent Van Thao My Nguyen the terms and
23 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

24 I approve its form and content.

25 DATED: _____

26 
27 LUIS ANDRE P. VIZCOCHO, R.PH., J.D.,
28 Of Counsel – California Pharmacy Lawyers
Law Office of Tony J. Park, Inc., APC
Attorneys for Respondent

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

ENDORSEMENT

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

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
JOSHUA A. ROOM
Supervising Deputy Attorney General

MICHAEL B. FRANKLIN
Deputy Attorney General
Attorneys for Complainant

SF2017203866
42841191.docx

ENDORSEMENT

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

DATED: 8/26/2021

Respectfully submitted,

ROB BONTA
Attorney General of California
JOSHUA A. ROOM
Supervising Deputy Attorney General

Michael B. Franklin

MICHAEL B. FRANKLIN
Deputy Attorney General
Attorneys for Complainant

SF2017203866
42841191.docx

Exhibit A

First Amended Accusation No. 6161

XAVIER BECERRA
Attorney General of California
JOSHUA A. ROOM
Supervising Deputy Attorney General
MICHAEL B. FRANKLIN
Deputy Attorney General
State Bar No. 136524
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3455
Facsimile: (415) 703-5480
E-mail: Michael.franklin@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against:

Case No. 6161

**SENIOR CARE PHARMACY SERVICES
FAIRFIELD INC., KIM E. BANERJEE,
SAMITENDU BANERJEE, ANTONY P.
THEKKEK, and PREMA P. THEKKEK,
OWNERS AND OFFICERS**
4950 Fulton Avenue, Suites A & B
Fairfield, CA 94534,

FIRST AMENDED ACCUSATION

Pharmacy License No. PHY 50619,

SAMITENDU BANERJEE
P.O. Box 27638
Anaheim, CA 92809,

Pharmacist License No. RPH 45184,

VAN THAO MY NGUYEN
2044 Malden Avenue
San Jose, CA 95122,

Pharmacist License No. RPH 66472,

KALI WONG
3046 Bradshaw Drive
San Jose, CA 95148,

Pharmacist License No. RPH 73152,

Respondents.¹

¹ The Accusation in this matter named additional Respondents Xiao Zhao (RPH 78051), Jenny Dinh (RPH 69736), Jennifer Chan (RPH 67353), Rebecca Heran aka Rebecca Elaine Wild (RPH 73324), and Caroline Nguyen (RPH 71478). Those Respondents are hereby dismissed.

PARTIES

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

2. On or about April 28, 2011, the Board issued Original Permit (Pharmacy License) Number PHY 50619 to Senior Care Pharmacy Services Fairfield Inc., Kim E. Banerjee, President and 50% shareholder, Samitendu Banerjee, Chief Executive Officer and 5% shareholder, Antony P. Thekkekk, Vice President and 22% shareholder, Prema P. Thekkekk, Vice President and 22% shareholder (Respondent SCPS Fairfield). The Pharmacy License was in full force and effect at all times relevant to the charges brought herein and will expire on April 1, 2021, unless renewed.

3. On or about March 12, 1992, the Board issued Pharmacist License Number RPH 45184 to Samitendu Banerjee (Respondent Banerjee). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2022, unless renewed. Between on or about April 28, 2011 and on or about March 1, 2015, Respondent Banerjee served as Pharmacist in Charge (PIC) for Respondent SCPS Fairfield.

4. On or about October 27, 2011, the Board issued Pharmacist License Number RPH 66472 to Van Thao My Nguyen (Respondent Van Nguyen). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2021, unless renewed. Between on or about March 1, 2015 and on or about July 28, 2016, Respondent Van Nguyen served as PIC for Respondent SCPS Fairfield.

5. On or about August 27, 2015, the Board issued Pharmacist License Number RPH 73152 to Kali Wong (Respondent Wong). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2020, unless renewed. Between on or about August 15, 2016 and on or about February 2, 2018, Respondent Wong served as PIC for Respondent SCPS Fairfield.

JURISDICTION

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

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

8. Section 4300, subdivision (a), of the Code provides that every license issued by the Board may be suspended or revoked.

9. Section 4300.1 of the Code provides that the expiration, cancellation, forfeiture, or suspension of a Board-issued license, 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.

STATUTORY PROVISIONS

10. Section 733, subdivision (a), of the Code states:

(a) A licentiate shall not obstruct a patient in obtaining a prescription drug or device that has been legally prescribed or ordered for that patient. A violation of this section constitutes unprofessional conduct by the licentiate and shall subject the licentiate to disciplinary or administrative action by his or her licensing agency.

11. Section 4037, subdivision (a), of the Code states:

“Pharmacy” means an area, place or premises licensed by the board in which the profession of pharmacy is practiced and where prescriptions are compounded. “Pharmacy” includes, but is not limited to, any area, place or premises described in a license issued by the board wherein controlled substances, dangerous drugs, or dangerous devices are stored, possessed, prepared, manufactured, derived, compounded, or repackaged, and from which the controlled substances, dangerous drugs, or dangerous devices are furnished, sold or dispensed at retail.

12. Section 4076, subdivision (a)(2), of the Code states:

(a) A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

• • •

(2) The directions for the use of the drug.

1 13. Section 4081, subdivisions (a), (b) and (d), of the Code state, in pertinent part:

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

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

14 ...

15 (d) Pharmacies that dispense nonprescription diabetes test devices pursuant to prescriptions
16 shall retain records of acquisition and sale of those nonprescription diabetes test devices for at
17 least three years from the date of making. The records shall be at all times during business hours
18 open to inspection . . .

19 14. Section 4113, subdivision (c), of the Code states:

20 (c) The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all
21 state and federal laws and regulations pertaining to the practice of pharmacy.

22 15. Section 4169, subdivisions (a)(2)-(a)(5), of the Code state:

23 (a) A person or entity shall not do any of the following:

24 ...

25 (2) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices that the person
26 knew or reasonably should have known were adulterated, as set forth in Article 2 (commencing
27 with Section 111250) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

28 ///

1 (3) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices that the person
2 knew or reasonably should have known were misbranded, as defined in Section 111335 of the
3 Health and Safety Code.

4 (4) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices after the beyond
5 use date on the label.

6 (5) Fail to maintain records of acquisition or disposition of dangerous drugs or dangerous
7 devices for at least three years.

8 16. Section 4301 of the Code states, in pertinent part:

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

12 ...

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

16 ...

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

19 ...

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

24 ...

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

27 ...

28 ///

1 (t) The acquisition of a nonprescription diabetes test device from a person that the licensee
2 knew or should have known was not the nonprescription diabetes test device's manufacturer or
3 the manufacturer's authorized distributors as identified in Section 4160.5.

4 (u) The submission of a reimbursement claim for a nonprescription diabetes test device to a
5 pharmaceutical benefit manager, health insurer, government agency, or other third-party payor
6 when the licensee knew or reasonably should have known that the diabetes test device was not
7 purchased either directly from the manufacturer or from the nonprescription diabetes test device
8 manufacturer's authorized distributors as identified in section 4160.5.

9 17. Section 4306.5, subdivisions (a) and (c), of the Code state:

10 Unprofessional conduct for a pharmacist may include any of the following:

11 (a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or
12 her education, training, or experience as a pharmacist, whether or not the act or omission arises in
13 the course of the practice of pharmacy or the ownership, management, administration, or
14 operation of a pharmacy or other entity licensed by the board.

15 ...

16 (c) Acts or omissions that involve, in whole or in part, the failure to consult appropriate
17 patient, prescription, and other records pertaining to the performance of any pharmacy function.

18 18. Section 4307, subdivision (a), of the Code states:

19 Any person who has been denied a license or whose license has been revoked or is under
20 suspension, or who has failed to renew his or her license while it was under suspension, or who
21 has been a manager, administrator, owner member, officer, director, associate, or partner of any
22 partnership, corporation, firm, or association whose application for a license has been denied or
23 revoked, is under suspension or has been placed on probation, and while acting as the manger,
24 administrator, owner, member, officer, director, associate, or partner had knowledge or
25 knowingly participated in any conduct for which the license was denied, revoked, suspended, or
26 placed on probation, shall be prohibited from serving as a manger, administrator, owner, member,
27 officer, director, associate, or partner of a licensee as follows:

28 ///

1 (1) Where a probationary license is issued or where an existing license is placed on
2 probation, this prohibition shall remain in effect for a period not to exceed five years.

3 (2) Where the license is denied or revoked, the prohibition shall continue until the license
4 is issued or reinstated.

5 19. Section 4332 of the Code states:

6 Any person who fails, neglects, or refuses to maintain the records required by Section 4081
7 or who, when called upon by an authorized officer or a member of the board, fails, neglects, or
8 refuses to produce or provide the records within a reasonable time, or who willfully produces or
9 furnishes records that are false, is guilty of a misdemeanor.

10 20. Health and Safety Code section 111260 states:

11 Any drug or device is adulterated if the methods, facilities, or controls used for its
12 manufacture, processing, packing, or holding do not conform to, or are not operated or
13 administered in conformity with current good manufacturing practice to assure that the drug or
14 device meets the requirements of this part as to safety and has the identity and strength, and meets
15 the quality and purity characteristics that it purports or is represented to possess.

16 21. Health and Safety Code section 111295 states:

17 It is unlawful for any person to manufacture, sell, deliver, hold or offer for sale any drug or
18 device that is adulterated.

19 22. Health and Safety Code section 111330 states:

20 Any drug or device is misbranded if its labeling is false or misleading in any particular.

21 23. Health and Safety Code section 111335 states:

22 Any drug or device is misbranded if its labeling or packaging does not conform with the
23 requirements of Chapter 4.

24 24. Health and Safety Code section 111395, subdivision (c), states:

25 Any drug is misbranded in any of the following cases:

26 ...

27 (c) The contents of the original package have been, wholly or partly, removed and replaced
28 with other material in the package.

1 (3) The patient is provided with written information, either on the prescription label or with
2 the prescription container, that describes which pharmacy to contact if the patient has any
3 questions about the prescription or medication.

4 (4) Both pharmacies maintain complete and accurate records of the refill, including:

5 (A) the name of the pharmacist who refilled the prescription;

6 (B) the name of the pharmacy refilling the prescription; and

7 (C) the name of the pharmacy that received the refill request.

8 (5) The pharmacy which refills the prescription and the pharmacy to which the refilled
9 prescription is provided for dispensing to the patient shall each be responsible for ensuring the
10 order has been properly filled.

11 (6) The originating pharmacy is responsible for compliance with the requirements set forth
12 in Section 1707.1, 1707.2 and 1707.3 of the California Code of Regulations.

13 (b) Nothing in this section shall be construed as barring a pharmacy from also filling new
14 prescriptions presented by a patient or patient's agent or transmitted to it by a prescriber.

15 28. California Code of Regulations, title 16, section 1711, subdivision (e), states:

16 (e) The primary purpose of the quality assurance review shall be to advance error
17 prevention by analyzing, individually and collectively, investigative and other pertinent data
18 collected in response to a medication error to assess the cause and any contributing factors such
19 as system or process failures. A record of the quality assurance review shall be immediately
20 retrievable in the pharmacy. The record shall contain at least the following:

21 1. the date, location, and participants in the quality assurance review;

22 2. the pertinent data and other information relating to the medication error(s) reviewed and
23 documentation of any patient contact required by subdivision (c);

24 3. the findings and determinations generated by the quality assurance review; and,

25 4. recommend changes to pharmacy policy, procedure, systems, or processes, if any.

26 29. California Code of Regulations, title 16, section 1714, subdivisions (b) and (d), state:

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

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 30. California Code of Regulations, title 16, section 1716, states:

9 Pharmacists shall not deviate from the requirements of a prescription except upon the prior
10 consent of the prescriber or to select the drug product in accordance with Section 4073 of the
11 Business and Professions Code.

12 Nothing in this regulation is intended to prohibit a pharmacist from exercising commonly-
13 accepted pharmaceutical practice in the compounding or dispensing of a prescription.

14 31. California Code of Regulations, title 16, section 1717.1, subdivision (a), states:

15 (a) For dangerous drugs other than controlled substances: Two or more pharmacies may
16 establish and use a common electronic file to maintain required dispensing information.
17 Pharmacies using such a common file are not required to transfer prescriptions or information for
18 dispensing purposes between or among pharmacies participating in the same common
19 prescription file.

20 32. California Code of Regulations, title 16, section 1718, states:

21 “Current Inventory” as used in Section 4081 and 4332 of the Business and Professions
22 Code shall be considered to include complete accountability for all dangerous drugs handled by
23 every licensee enumerated in Section 4081 and 4332.

24 The controlled substances inventories required by Title 21, CFR, Section 1304 shall be
25 available for inspection upon request for at least three years.

26 33. California Code of Regulations, title 16, section 1793.3, subdivision (a), states:

27 (a) In addition to employing a pharmacy technician to perform the tasks specified in section
28 1793.2, a pharmacy may employ a non-licensed person to type a prescription label or otherwise

1 enter prescription information into a computer record system, but the responsibility for the
2 accuracy of the prescription information and the prescription as dispensed lies with the registered
3 pharmacist who initials the prescription or prescription record. At the direction of the registered
4 pharmacist, a non-licensed person may also request and receive refill authorization.

5 34. California Code of Regulations, title 22, section 72353, subdivision (d), states:

6 (d) Arrangements shall be made to assure that pharmaceutical services are available to
7 provide patients with prescribed drugs and biologicals.

8 35. California Code of Regulations, title 22, section 72355, subdivision (a)(1), states:

9 (a) Pharmaceutical service shall include, but is not limited to, the following:

10 (1) Obtaining necessary drugs including the availability of 24-hour prescription service on
11 a prompt and timely basis . . .

12 36. 21 C.F.R. § 1301.75, subdivision (b), states:

13 (b) Controlled substances listed in Schedules II, III, IV, and V shall be stored in a securely
14 locked, substantially constructed cabinet. However, pharmacies and institutional practitioners
15 may disperse such substances throughout the stock of noncontrolled substances in such a manner
16 as to obstruct the theft or diversion of the controlled substances.

17 **COST RECOVERY**

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

22 **FACTUAL ALLEGATIONS**

23 38. Respondent SCPS Fairfield is one of three pharmacies licensed with the Board which
24 include the words “Senior Care” in their names, and which share some or all owners or officers.
25 The other Senior Care pharmacies are located in Sun Valley, CA and Garden Grove, CA.

26 39. At all times relevant herein, Respondent SCPS Fairfield was a closed-door pharmacy
27 that contracted to provide pharmacy services to long-term-care facilities including skilled nursing
28 facilities (SNFs) and assisted living facilities (ALFs) in the San Francisco Bay Area. At least

1 some of these facilities were subject to regulations promulgated under Title 22 of the California
2 Code of Regulations, relating to circumstances and timelines for provision of patient care, and by
3 contracting to perform pharmacy services for these facilities, Respondent SCPS Fairfield shared
4 the responsibility to comply with Title 22 regulations governing delivery of pharmacy services.

5 40. Between 2016 and 2018, Respondent SCPS Fairfield and its operations were the
6 subjects of several inspections and investigations. These inspections and investigations found
7 numerous violations of state and federal laws and regulations governing pharmacies. These
8 violations are grouped by type under the following sub-headings. Under each sub-heading are the
9 causes for discipline alleged on the basis of those alleged facts, and the alleged respondents.

10 **Using Unlicensed Entity to Dispense Drugs**

11 41. Novasys Health Systems Private Limited (Novasys) is located in Hyderabad, India
12 and is not licensed with the Board. In or about May 2018, and for an unknown period of time
13 prior to this date, Respondent SCPS Fairfield utilized Novasys to dispense dangerous drugs to
14 patients. It provided Novasys with access to confidential patient medical information in
15 Respondent SCPS Fairfield's computer software systems (QS1) and its patient profiles which
16 contained patients' medical, contact and insurance information, including patient prescription
17 history. Novasys accessed common electronic files shared with Respondent SCPS Fairfield to
18 update information relevant to the dispensing of dangerous drugs.

19 42. With Respondent SCPS Fairfield's knowledge and consent, Novasys processed new
20 prescriptions to be dispensed when Respondent SCPS Fairfield was short-staffed. With
21 Respondent SCPS Fairfield's knowledge and consent, Novasys also initiated the process of re-
22 filling prescriptions for dangerous drugs.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Aiding and Abetting Unlicensed Practice of Pharmacy**
25 **Against Respondents SCPS Fairfield and Banerjee)**

26 43. Respondents SCPS Fairfield and Banerjee are subject to disciplinary action under
27 Code section 4301, subdivision (o), Code section 4037, subdivision (a), and/or California Code of
28 Regulations, title 16, section 1707.4, subdivision (a), section 1717.1, subdivision (a), and/or

1 section 1793.3 subdivision (a), in that Respondents aided and abetted Novasys, an entity not
2 licensed by the Board, to act as a pharmacy licensed by the Board, by allowing Novasys to access
3 Respondent SCPS Fairfield's electronic files, to process prescription refills and to allow non-
4 licensed individuals to enter prescription information as set forth above in paragraphs 41-42.

5
6 **Inadequate Records of Diabetic Test Strips**

7 44. On or about December 6, 2017, Board Inspectors conducted an audit of all records of
8 acquisition and disposition of all Respondent SCPS Fairfield's FreeStyle Lite diabetic test strips
9 from April 1, 2015 to December 6, 2017. Records showed that Respondent SCPS Fairfield
10 dispensed a total of 726,600 test strips, but only purchased a total of 4,750 test strips from
11 wholesale dealers. This resulted in a negative variance of 721,850 test strips.

12 45. Between April 1, 2015 and July 28, 2016, when Respondent Van Nguyen was the
13 PIC of Respondent SCPS Fairfield, the audit of all records of acquisition and disposition of all
14 Respondent SCPS Fairfield's FreeStyle Lite diabetic test strips that Respondent SCPS Fairfield
15 dispensed a total of 512,850, but only purchased a total of 750 test strip from wholesale dealers.
16 A total of 750 test strips were returned during this time period. This resulted in a negative
17 variance of 512,850 test strips.

18 46. Between August 15, 2016 and December 6, 2017, when Respondent Wong was the
19 PIC of Respondent SCPS Fairfield, the audit of all records of acquisition and disposition of all
20 Respondent SCPS Fairfield's FreeStyle Lite diabetic test strips showed that Respondent SCPS
21 Fairfield dispensed a total of 197,450 but only purchased a total of 4,000 test strips from
22 wholesale dealers. A total of 3,900 test strips were returned during this time period. This
23 resulted in a negative variance of 197,400 test strips.

24 47. On July 17, 2017, an amendment of Code section 4081, subdivision (d), required
25 pharmacies to retain records of acquisition and sale of nonprescription diabetes test devices and to
26 have those records available at all times during business hours. Records reviewed by Board
27 investigators established that from July 17, 2017 to December 6, 2017, Respondent SCPS
28 Fairfield dispensed a total of 63,250 test strips and had an inventory of 50 test strips on December

6, 2017. Respondent SCPS Fairfield provided no records of purchasing any test strips from any wholesale dealer during this time period.

SECOND CAUSE FOR DISCIPLINE

(Failure to Maintain Diabetes Test Device Records

Against Respondents SCPS Fairfield and Wong)

48. Respondents SCPS Fairfield and Wong are subject to disciplinary action under Code section 4301, subdivision (o), and/or Code section 4081, subdivision (d), in that Respondent SCPS Fairfield failed to maintain records for nonprescription diabetes test devices dispensed pursuant to prescriptions, as set forth above in paragraphs 44-47.

THIRD CAUSE FOR DISCIPLINE

(Acts Involving Dishonesty, Fraud, Deceit, or Corruption

Against Respondents SCPS Fairfield, Van Nguyen, Wong and Banerjee)

49. Respondents SCPS Fairfield, Van Nguyen, Wong and Banerjee are subject to disciplinary action under Code section 4301, subdivision (f), in that Respondents dispensed more diabetic test strips than were purchased from wholesale dealers. Respondents billed and dispensed test strips without inventory, as set forth above in paragraphs 44-47.

Inconsistent Expiration Dates – Misbranded Products

50. On December 6, 2017, Board Inspectors conducted an inspection of Respondent SCPS Fairfield. Inspectors observed prepacked medications ready to be dispensed and found:

a. Labeling for 29 packages of Proponol 10mg had two different expiration dates. The expiration date on the patient labels was June 3, 2018, but the pharmacy's own labels listed December 31, 2018 as the expiration date. Inclusion of two different expiration dates on each of the 29 packages could cause confusion for patients and could lead to the continued use of the medication longer than the appropriate expiration date.

b. Labeling for 68 packages of Clozapine ODT 100mg had two different expiration dates. The expiration date on the patient labels was June 5, 2019, but the pharmacy's own labels listed May 31, 2018 as the expiration date. Inclusion of two different expiration dates on each of the 68

1 packages could cause confusion for patients and could lead to the continued use of the medication
2 longer than the appropriate expiration date.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Misbranded and/or Expired Products**

5 **Against Respondents SCPS Fairfield and Wong)**

6 51. Respondents SCPS Fairfield and Wong are subject to disciplinary action under Code
7 section 4301, subdivision (j) and/or (o), Health and Safety Code section 111330 and/or 111440,
8 and/or Code section 4169, subdivisions (a)(3) and/or (a)(4), in that they sold, delivered, held, or
9 offered for sale dangerous drugs that were misbranded per Health and Safety Code sections
10 111335 and 111395, subdivision (c), or expired, as set forth in paragraph 50 above.

11
12 **Inaccurate Inventory - June 15, 2017 Inspection**

13 52. On June 15, 2017, Board Inspectors conducted an inspection of Respondent SCPS
14 Fairfield to audit its inventory of gabapentin 300mg capsules, metformin 500mg tablets and
15 risperidone 1mg tablets. A drug utilization report was requested for a time period of October 1,
16 2014 to June 14, 2017. Based on the records obtained, an audit revealed the following negative
17 variance, meaning that Respondent SCPS Fairfield dispensed a greater amount of medications
18 than were purchased from wholesalers, for each of the three audited medications as follows:

- 19 a. Gabapentin 300mg, an overage of 48,874 capsules.
20 b. Metformin 500mg, an overage of 4,417.5 tablets.
21 c. Risperidone 1mg, an overage of 6,238.5 tablets.

22 **FIFTH CAUSE FOR DISCIPLINE**

23 **(Failure to Maintain Current Inventory and Records**

24 **Against Respondents SCPS Fairfield, Van Nguyen, Wong and Banerjee)**

25 53. Respondents SCPS Fairfield, Nguyen, Wong and Banerjee are subject to disciplinary
26 action under Code section 4301, subdivision (j) and/or (o), Code section 4081, subdivision (a),
27 and/or California Code of Regulations, title 16, section 1718, in that from October 1, 2014 to June
28

1 14, 2017, overages of 48,874 capsules of gabapentin 300mg, 4,417.5 tablets of metformin 500mg
2 and 6,238.5 tablets of risperidone 1mg as set forth in paragraph 52 above.

3
4 **Security, Inventory, Misbranding, Insurance - February 3 and 11, 2016 Inspections**

5 54. During inspections on February 3, 2016, and again on February 11, 2016, Board
6 Inspectors found cabinets that stored controlled medications, ranging from Schedule II to
7 Schedule V. These cabinets had no locking mechanism to adequately secure the cabinets.

8 55. On February 3, 2016, Board Inspectors observed medication waste disposal bins,
9 containing partially used and expired medications, located throughout the pharmacy, accessible to
10 unlicensed personnel. Controlled and non-controlled drugs were commingled. No records were
11 located or provided regarding any of the medications found in the waste containers.

12 56. During the inspections on February 3 and February 11, 2016, Board Inspectors found
13 various medication tablets cut in half. Medications that were halved included: meloxicam 15mg;
14 Uloric 80mg; Fanapt 10mg; Crestor 20mg; and Crestor 5mg. Cutting these tablets could alter the
15 intended delivery system, and Inspectors observed uneven splitting of tablets, which would alter
16 the intended doses of the medications.

17 57. During the inspections on February 3 and February 11, 2016, Board Inspectors
18 observed multiple stock bottles which contained a greater quantity than indicated on the bottle.
19 There were no records or documentation kept or provided that indicated lot numbers or expiration
20 dates were checked prior to overfilling the bottles. Specific examples included:

- 21 a. Uloric 80mg, 2 containers, bottle indicated 30 each (60 total), total 84 tablets/capsules.
22 b. Fanapt 10mg, 1 container, bottle indicated 60, total 109 tablets/capsules.
23 c. Fanapt 8mg, 1 container, bottle indicated 60, total 90 tablets/capsules.
24 d. Valproic Acid 250mg, 2 containers, bottle indicated 200 each (400 total), total 276 .
25 e. Geodon 60mg, 1 container, bottle indicated 60, total 73.
26 f. Geodon 20mg, bottle indicated 60, total 121.
27 g. Toviaz 8mg, bottle indicated 30, total 84.
28 h. Viread 300mg, bottle indicated 30, total 35.

- i. Crestor 20mg, bottle indicated 90, total 122.
- j. Crestor 10mg, 2 containers, bottle indicated 90 each (180 total), total 227.
- k. Crestor, 5mg, bottle indicated 90, 95 tablets/capsules found.

58. Based on records obtained and observations from the inspections on February 3 and February 11, 2016, Board Inspectors performed an audit of five drugs: Fanapt 8mg; Fanapt 10mg; Valproic Acid 250mg; Geodone 20mg; and Geodone 60mg. Based on the records obtained, an audit revealed the following negative variance, meaning that Respondent SCPS Fairfield dispensed a greater amount of each medication than was purchased from wholesalers:

- a. Fanapt 8mg, an overage of 42 tablets.
- b. Fanapt 10mg, an overage of 125 tablets.
- c. Valproic Acid 250mg, an overage of 3,408 tablets.
- d. Geodone 20mg, an overage of 231 tablets.
- e. Geodone 60mg, an overage of 62 tablets.

59. Based on records obtained and observations from the inspections on February 3 and February 11, 2016, Board Inspectors sampled four patients to determine if insurance claims were reversed when medications were refused at the time of delivery. Records indicated that the medications for the four patients listed below were refused upon delivery and never accepted by the health care facility. Accordingly, the insurance claims should have been reversed. Instead, the following insurance claims had been paid and not subsequently reversed.

- a. Patient HK, Rx # 26172666, Risperidone 0.5mg, filled 8/19/15.
- b. Patient NO, Rx # 26150913, Divalproex 50mg, filled 5/11/15.
- c. Patient KR, Rx # 26172418, Benzotropine 1mg, filled 5/8/15.
- d. Patient LM, Rx # 26176280, Medroxyprogesterone 10mg, filled 4/30/15.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate Security

Against Respondents SCPS Fairfield and Van Nguyen)

60. Respondents SCPS Fairfield and Van Nguyen are subject to disciplinary action under Code section 4301, subdivision (j) and/or (o), California Code of Regulations, title 16, section

1 1714, subdivision (b) and/or (d), and/or 21 C.F.R. § 1301.75(b), in that, as set forth in paragraphs
2 54-55 above, cabinets and bins used to store / dispose of controlled substances were not secured.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Maintain Current Inventory and Records**

5 **Against Respondents SCPS Fairfield and Van Nguyen)**

6 61. Respondents SCPS Fairfield and Van Nguyen are subject to disciplinary action under
7 Code section 4301, subdivision (j) and/or (o), Code section 4081, subdivision (a), and/or
8 California Code of Regulations, title 16, section 1718, in that multiple waste bins were observed
9 without records of the disposed medications, as set forth in paragraph 55 above.

10 **EIGHTH CAUSE FOR DISCIPLINE**

11 **(Adulterated and/or Misbranded Drugs**

12 **Against Respondents SCPS Fairfield and Van Nguyen)**

13 62. Respondents SCPS Fairfield and Van Nguyen are subject to disciplinary action under
14 Code section 4301, subdivisions (j) and (o), Health and Safety Code sections 111260, 111295,
15 111330, and/or 111440, and/or Code section 4169, subdivision (a)(2) and/or (a)(3), in that they
16 sold, delivered, held or offered for sale dangerous drugs that were not intended to be halved that
17 were cut in half. Medications identified include: meloxicam 15mg; Uloric 80mg; Fanapt 10mg;
18 Crestor 20mg; and Crestor 5mg, as set forth in paragraph 56 above.

19 **NINTH CAUSE FOR DISCIPLINE**

20 **(Adulterated and/or Misbranded Drugs**

21 **Against Respondents SCPS Fairfield and Van Nguyen)**

22 63. Respondents SCPS Fairfield and Van Nguyen are subject to disciplinary action under
23 Code section 4301, subdivisions (j) and (o), Health and Safety Code sections 111260, 111295,
24 111330, and/or 111440, and/or Code section 4169, subdivision (a)(2) and/or (a)(3), in that they
25 sold, delivered, held or offered for sale dangerous drugs that were adulterated and/or misbranded
26 when medication stock bottles were found with a greater amount of medication than was
27 indicated on the manufacturer labels, as set forth in paragraph 57 above.

28 ///

1 **TENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Maintain Current Inventory and Records**

3 **Against Respondents SCPS Fairfield and Van Nguyen)**

4 64. Respondents SCPS Fairfield and Van Nguyen are subject to disciplinary action under
5 Code section 4301, subdivision (j) and/or (o), Code section 4081, subdivision (a), and/or
6 California Code of Regulations, title 16, section 1718, in that, as set forth in paragraph 58 above,
7 between January 15, 2015 and February 11, 2016, an audit revealed inventory overages of 42
8 tablets of Fanapt 8mg, 125 tablets of Fanapt 10mg, 3408 tablets of Valproic Acid 250mg, 231
9 tablets of Geodone 20mg, and 62 tablets of Geodone 60mg.

10 **ELEVENTH CAUSE FOR DISCIPLINE**

11 **(Failure to Reverse Insurance Claims for Medications Refused Upon Delivery**

12 **Against Respondents SCPS Fairfield, Van Nguyen and Banerjee)**

13 65. Respondents SCPS Fairfield, Van Nguyen and Banerjee are subject to disciplinary
14 action under Code section 4301, subdivision (f), for acts involving dishonesty, fraud, deceit, or
15 corruption, in that Respondents failed to reverse insurance claims for medications refused upon
16 delivery and returned to the pharmacy, as set forth in paragraph 59 above.

17
18 **Medication Error and Quality Assurance**

19 66. The Board received a complaint that Respondent SCPS Fairfield had filled a
20 prescription that was supposed to be valproic acid 250mg/5 ml syrup with metoclopramide 5mg/5
21 ml syrup. Evidence obtained established that on June 9, 2016, prescription Rx#26241298 for
22 patient LF² was entered into the pharmacy system correctly as valproic acid 250mg/5ml syrup but
23 was incorrectly dispensed with metoclopramide 5mg/5ml syrup on June 14, 2016.

24 67. During the course of the investigation, the Board Inspector requested a quality
25 assurance report pertaining to the acknowledged medication error on October 12, October 20,
26 October 28 and November 4, 2016. Respondent SCPS Fairfield finally provided the quality
27 assurance report on November 8, 2016, 27 days after it was first requested.

28 ² Full names will be revealed to Respondents, if requested, during discovery.

1 **TWELFTH CAUSE FOR DISCIPLINE**

2 **(Variation from a Prescription**

3 **Against Respondent SCPS Fairfield)**

4 68. Respondent SCPS Fairfield is subject to disciplinary action under Code section 4301,
5 subdivision (j) and/or (o), and/or California Code of Regulations, title 16, section 1716, in that on
6 or about June 9, 2016, a prescription was entered into the pharmacy system as valproic acid
7 250mg/5ml syrup but was incorrectly dispensed with metoclopramide 5mg/5ml syrup on June 14,
8 2016, as set forth in paragraph 66 above.

9 **THIRTEENTH CAUSE FOR DISCIPLINE**

10 **(Failure to Comply with Quality Assurance Requirements**

11 **Against Respondent SCPS Fairfield)**

12 69. Respondent SCPS Fairfield is subject to disciplinary action under Code section 4301,
13 subdivision (j) and/or (o), and/or California Code of Regulations, title 16, section 1711,
14 subdivision (e), in that, as set forth in paragraph 67 above, Respondent failed to maintain an
15 immediately retrievable quality assurance report in the pharmacy, as required.

16
17 **Medication Errors; Delays in Delivery; and Withholding Narcotic Medications**

18 70. Between January 25, 2016 and July 20, 2016, the Board received several complaints
19 against Respondent SCPS Fairfield regarding providing the wrong medications and/or the wrong
20 dosages, delays in the delivery of medications, and withholding narcotic medications. Following
21 an investigation of all complaint items, the Board Inspectors found the following.

22 71. On or about June 30, 2015, zolpidem 5mg was ordered for patient MC. Respondent
23 SCPS Fairfield incorrectly filled with zolpidem 10mg (RX#24018142). MC ingested eight (8)
24 days of the wrong dose.

25 72. On or about August 15, 2015, Respondent SCPS Fairfield dispensed Depakote DR
26 [divalproex] 500mg tablets without prescriber authorization for patient SSa. On July 8, 2015, SSa
27 was prescribed Depakote DR 500mg tablets, which were properly filled by Respondent SCPS
28 Fairfield. On July 22, 2015, SSa was admitted to a hospital, then discharged back to Creekside

1 Behavioral Health on August 6, 2015, with new orders, but no new orders for Depakote DR
2 500mg tablets. The orders from the previous stay at Creekside should have been removed when
3 the new orders were entered. In addition, the blister packs for divalproex dispensed October 4,
4 2015, October 29, 2015 and November 24, 2015, were each misbranded with an incorrect
5 expiration date. The expiration date for repackaged bubble cards should either be one year from
6 the date of fill or the actual expiration date of the stock bottle, whichever is less. For the
7 divalproex dispensed October 4, 2015, the expiration date was December 31, 2017. For the
8 divalproex dispensed October 29, 2015, the expiration date was January 31, 2018. For the
9 divalproex dispensed November 24, 2015, the expiration date was December 31, 2017.

10 73. On or about December 23, 2015, Respondent SCPS Fairfield received a refill request
11 for Ativan 2mg for patient SSm at Creekside. Respondent SCPS Fairfield did not deliver the
12 drug until January 28, 2016. Patient SSm missed one dose of medication as a result.

13 74. On or about February 8, 2016, Respondent SCPS Fairfield received a prescription
14 order for Pristiq for patient AAP. Respondent SCPS Fairfield contacted the prescriber late in the
15 evening at home and made a recommendation to change the prescriber's order from Pristiq to
16 Effexor because the insurance required AAP to have tried and failed Effexor before Pristiq.
17 AAP's patient profile indicated that AAP had already tried and failed Effexor from November
18 2014 to August 2015.

19 75. On or about May 9, 2013, Respondent SCPS Fairfield dispensed a partial fill for
20 carbamazepine ER 300mg for patient IS because Respondent SCPS Fairfield did not have enough
21 of the product on hand to fill the entire prescription. Respondent SCPS Fairfield failed to deliver
22 the balance of the drug until May 14, 2013, causing patient IS to miss three doses.

23 76. On or about June 5, 2013, Respondent SCPS Fairfield dispensed a partial fill for
24 diazepam 2mg tablets [9 tablets out of 84] for patient RT. Respondent SCPS Fairfield failed to
25 timely order diazepam 2mg tablets from its wholesaler on June 5 or June 6, 2013, which would
26 have arrived before RT ran out of medication. Respondent SCPS Fairfield failed to deliver the
27 balance of the drug until June 10, 2013, causing patient RT to miss five doses.

28 ///

1 77. Between January 20, 2015 and March 16, 2016, Respondent SCPS Fairfield
2 dispensed Abilify Maintena ER 400 mg to patient GA. The prescription was written for Abilify
3 Maintena Injection 400 mg intramuscularly every four weeks. The label prepared by Respondent
4 SCPS Fairfield stated to inject 1ml (400mg) every four weeks. However, 1ml is equivalent to
5 200mg, not 400mg. These prescriptions were labeled incorrectly, resulting in a half dose.

6 78. On or about April 12, 2016, Respondent SCPS Fairfield received a verbal order for
7 Ativan for patient ERL. Respondent SCPS Fairfield refused the verbal order and required the
8 physician to submit a triplicate order instead. As a result, patient ERL went without Ativan until
9 April 13, 2016 and attacked another patient at Creekside.

10 79. On or about May 6, 2016, Respondent SCPS Fairfield dispensed clozapine 25mg
11 tablets with directions for patient WB to take three tablets with one tablet of clozapine 100mg
12 twice daily. One bubble in the bubble pack contained two clozapine 25mg instead of three.

13 80. On or about May 4, 2016, Respondent SCPS Fairfield received an order from LB's
14 physician to discontinue a prescription for levothyroxine 50mcg for patient LB. Despite this
15 order to discontinue, Respondent SCPS Fairfield filled an order for levothyroxine 50mcg for
16 patient LB on May 5, 2016 and delivered it to Creekside for patient LB on May 11, 2016.

17 81. On or about January 11, 2016, Respondent SCPS Fairfield's contracted transporters
18 delivered medications to Creekside and left a 30 gallon bag of medications unattended in the
19 hallway of the lockdown Behavior Health Unit for approximately 20 minutes.

20 **FOURTEENTH CAUSE FOR DISCIPLINE**

21 **(Variation from a Prescription**

22 **Against Respondent SCPS Fairfield)**

23 82. Respondent SCPS Fairfield is subject to disciplinary action under Code section 4301,
24 subdivision (j) and/or (o), and/or California Code of Regulations, title 16, section 1716, in that on
25 or about June 30, 2015, as set forth in paragraph 71 above, a prescription was entered correctly as
26 zolpidem 5mg but was incorrectly dispensed with zolpidem 10mg.

27 ///

28 ///

FIFTEENTH CAUSE FOR DISCIPLINE

(Variation from a Prescription

Against Respondents SCPS Fairfield and Van Nguyen)

83. Respondents SCPS Fairfield and Van Nguyen are subject to disciplinary action under Code section 4301, subdivision (j) and/or (o), and/or California Code of Regulations, title 16, section 1716, in that on or about August 15, 2015, as set forth in paragraph 72 above, Respondent SCPS Fairfield dispensed Depakote DR 500mg tablets without authorization from the prescriber.

SIXTEENTH CAUSE FOR DISCIPLINE

(Misbranded and/or Expired Products

Against Respondents SCPS Fairfield and Van Nguyen)

84. Respondents SCPS Fairfield and Van Nguyen are subject to disciplinary action under Code section 4301, subdivision (j) and/or (o), Health and Safety Code section 111330 and/or 111440, Code section 4169, subdivisions (a)(3) and/or (a)(4), and/or 21 U.S.C. § 352, in that, as set forth in paragraph 72 above, they sold, delivered, held or offered for sale dangerous drugs with incorrect expiration dates; blister packs for divalproex dispensed October 4, 2015, October 29, 2015, and November 24, 2015, for patient SSa, each bore an incorrect expiration date.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Failure to Timely Dispense Prescription Drugs

Against Respondents SCPS Fairfield and Van Nguyen)

85. Respondents SCPS Fairfield and Van Nguyen are subject to disciplinary action under Code section 733, subdivision (a), 4301, subdivisions (j) and (o), and/or California Code of Regulations, title 22, section 72353, subdivision (a), and/or 72355, subdivision (a)(1), in that they failed to timely provide Ativan 2mg for patient SSm as set forth in paragraph 73 above.

///

///

///

///

///

EIGHTEENTH CAUSE FOR DISCIPLINE

(Failure to Consult Appropriate Patient Records

Against Respondent SCPS Fairfield)

86. Respondent SCPS Fairfield is subject to disciplinary action under Code section 4306.5, subdivision (c), in that, as set forth in paragraph 74 above, it failed to review patient AAP's patient profile prior to making a recommendation to change a medication.

NINETEENTH CAUSE FOR DISCIPLINE

(Failure to Timely Dispense Prescription Drugs

Against Respondents SCPS Fairfield and Banerjee)

87. Respondents SCPS Fairfield and Banerjee are subject to disciplinary action under Code section 733, subdivision (a), 4301, subdivisions (j) and (o), and/or California Code of Regulations, title 22, section 72353, subdivision (a), and/or 72355, subdivision (a)(1), in that, as set forth in paragraph 75 above, they failed to timely provide carbamazepine to patient IS.

TWENTIETH CAUSE FOR DISCIPLINE

(Failure to Timely Dispense Prescription Drugs

Against Respondents SCPS Fairfield and Banerjee)

88. Respondents SCPS Fairfield and Banerjee are subject to disciplinary action under Code section 733, subdivision (a), 4301, subdivisions (j) and (o), and/or California Code of Regulations, title 22, section 72353, subdivision (a), and/or 72355, subdivision (a)(1), in that, as set forth in paragraph 76 above, they failed to timely provide diazepam 2mg tablets to patient RT.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Improperly Labeled Prescription Container

Against Respondents SCPS Fairfield and Van Nguyen)

89. Respondents SCPS Fairfield and Van Nguyen are subject to disciplinary action under Code section 4301, subdivisions (j) and/or (o), and/or Code section 4076(a)(2), in that they failed to properly label prescriptions dispensed to patient GA from January 20, 2015 to March 16, 2016, as set forth in paragraph 77 above.

///

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Failure to Timely Dispense Prescription Drugs

Against Respondents SCPS Fairfield and Van Nguyen)

90. Respondents SCPS Fairfield and Van Nguyen are subject to disciplinary action under Code section 733, subdivision (a), 4301, subdivisions (j) and (o), and/or California Code of Regulations, title 22, section 72353, subdivision (a), and/or 72355, subdivision (a)(1), in that, as set forth in paragraph 78 above, they failed to accept a verbal order for Ativan for patient ERL, unnecessarily delaying delivery of medication pursuant to a valid verbal order.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Variation from a Prescription

Against Respondents SCPS Fairfield and Wong)

91. Respondents SCPS Fairfield and Wong are subject to disciplinary action under Code section 4301, subdivision (j) and/or (o), and/or California Code of Regulations, title 16, section 1716, in that on that on May 6, 2016, as set forth in paragraph 85 above, Respondents SCPS Fairfield and Wong dispensed the prescription for Clozapine 25mg for patient WB incorrectly.

TWENTY-FOURTH CAUSE FOR DISCIPLINE

(Variation from a Prescription

Against Respondents SCPS Fairfield and Van Nguyen)

92. Respondents SCPS Fairfield and Van Nguyen are subject to disciplinary action under Code section 4301, subdivision (j) and/or (o), and/or California Code of Regulations, title 16, section 1716, in that they filled a prescription for levothyroxine 50mcg for patient LB on May 5, 2016 and delivered it to Creekside for patient LB on May 11, 2016, despite the fact that LB's physician had discontinued the prescription on May 4, 2016, as set forth in paragraph 80 above.

TWENTY-FIFTH CAUSE FOR DISCIPLINE

(Failure to Maintain Adequate Security

Against Respondents SCPS Fairfield and Van Nguyen)

93. Respondents SCPS Fairfield and Van Nguyen are subject to disciplinary action under Code section 4301, subdivision (j) and/or (o), California Code of Regulations, title 16, section

1 1714, subdivision (b) and/or (d), in that, as set forth in paragraph 81 above, on or about January
2 11, 2016, transporters contracted by Respondent SCPS Fairfield left a 30 gallon bag of
3 medications unattended in the hallway of the lockdown Behavior Health Unit.

4
5 **PRAYER**

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

8 1. Revoking or suspending Pharmacy Permit Number PHY 50619, issued to Senior Care
9 Pharmacy Services Fairfield, Inc.;

10 2. Prohibiting Senior Care Pharmacy Services Fairfield, Inc., from serving as a manager,
11 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
12 Pharmacy Permit Number PHY 50619 is placed on probation or until Pharmacy Permit Number
13 PHY 50619 is reinstated if Pharmacy Permit Number PHY 50619 issued to Senior Care
14 Pharmacy Services Fairfield, Inc. is revoked;

15 3. Revoking or suspending Original Pharmacist License Number RPH 45184, issued to
16 Samitendu Banerjee;

17 4. Prohibiting Samitendu Banerjee from serving as a manager, administrator, owner,
18 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
19 Number RPH 45184 is placed on probation or until Pharmacist License Number RPH 45184 is
20 reinstated if Pharmacist License Number RPH 45184 issued to Samitendu Banerjee is revoked;

21 5. Revoking or suspending Original Pharmacist License Number RPH 66472, issued to
22 Van Thao My Nguyen;

23 6. Prohibiting Van Thao My Nguyen from serving as a manager, administrator, owner,
24 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
25 Number RPH 66472 is placed on probation or until Pharmacist License Number RPH 66472 is
26 reinstated if Pharmacist License Number RPH 66472 issued to Van Thao My Nguyen is revoked;


27 7. Revoking or suspending Original Pharmacist License Number RPH 73152, issued to
28 Kali Wong;

1 8. Prohibiting Kali Wong from serving as a manager, administrator, owner, member,
2 officer, director, associate, or partner of a licensee for five years if Pharmacist License Number
3 RPH 73152 is placed on probation or until Pharmacist License Number RPH 73152 is reinstated
4 if Pharmacist License Number RPH 73152 issued to Kali Wong is revoked;

5 9. Ordering Senior Care Pharmacy Services Fairfield, Inc, Samitendu Banerjee, Van
6 Thao Nguyen and Kali Wong to pay the Board of Pharmacy the reasonable costs of the
7 investigation and enforcement of this case, pursuant to Business and Professions Code section
8 125.3; and,

9 10. Taking such other and further action as deemed necessary and proper.

10
11 DATED: April 14, 2020



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

12
13
14
15 SF2017203866
42144221.docx