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

12 In the Matter of the Accusation Against:

Case No. 6466

13 **KARE FOOD INC. DBA STUDIO**  
14 **PHARMACY, VARTAN V. TABAKIAN**  
15 **11309 Ventura Boulevard**  
16 **Studio City, CA 91604**

**DEFAULT DECISION AND ORDER AS**  
**TO KARE FOOD, INC. DBA STUDIO**  
**PHARMACY AND VARTAN V.**  
**TABAKIAN ONLY**

17 **Pharmacy Permit No. PHY 51656,**

18 **and**

[Gov. Code, §11520]

19 **FAUZIA RIASAT KHAN**  
20 **16901 Rinaldi Street**  
21 **Granada Hills, CA 91344**

22 **Pharmacist License No. RPH 65823**

23 Respondents.

24 **FINDINGS OF FACT**

25 1. On or about September 11, 2020, Complainant Anne Sodergren, in her official  
26 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs,  
27 filed Accusation No. 6466 against Kare Food Inc. dba Studio Pharmacy, Vartan V. Tabakian,  
28

1 Owner, (Respondent Studio Pharmacy) before the Board of Pharmacy. (Accusation attached as  
2 Exhibit A.)

3 2. On or about October 23, 2013, the Board of Pharmacy (Board) issued Pharmacy  
4 Permit No. PHY 51656 to Respondent Studio Pharmacy. The Pharmacy Permit was in full force  
5 and effect at all times relevant to the charges brought in Accusation No. 6466 and was cancelled  
6 on or about December 31, 2018. This lapse in licensure, however, pursuant to Business and  
7 Professions Code section 118(b) a does not deprive the Board of its authority to institute or  
8 continue this disciplinary proceeding.

9 3. On or about September 22, 2020, Respondent Studio Pharmacy was served by  
10 Certified and First Class Mail copies of the Accusation No. 6466, Statement to Respondent,  
11 Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections  
12 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business  
13 and Professions Code section 4100, is required to be reported and maintained with the Board.  
14 Respondent's address of record was and is: 11309 Ventura Boulevard Studio City, CA 91604.

15 4. Service of the Accusation was effective as a matter of law under the provisions of  
16 Government Code section 11505(c) and/or Business and Professions Code section 124.

17 5. Government Code section 11506(c) states, in pertinent part:

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

23 6. The Board takes official notice of its records and the fact that Respondent Studio  
24 Pharmacy failed to file a Notice of Defense within 15 days after service upon them of the  
25 Accusation, and therefore waived their right to a hearing on the merits of Accusation No. 6466.

26 7. California Government Code section 11520(a) states, in pertinent part:

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

8. Pursuant to its authority under Government Code section 11520, the Board finds Respondent Studio Pharmacy is in default. The Board will take action without further hearing and, based on the relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter, as well as taking official notice of all the investigatory reports, exhibits and statements contained therein on file at the Board's offices regarding the allegations contained in Accusation No. 6466, finds that the charges and allegations in Accusation No. 6466, are separately and severally, found to be true and correct by clear and convincing evidence.

9. The Board finds that the actual costs for Investigation and Enforcement are \$85,799 as of July 6, 2021.

## DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Studio Pharmacy has subjected its Pharmacy Permit No. PHY 51656 to discipline.

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

3. The Board of Pharmacy is authorized to revoke Respondent's Studio Pharmacy's pharmacy permit based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

a. Acts involving dishonesty, fraud, and/or deceit corruption. (Business and Professions Code section 4301, subdivision (f));

b. Insurance fraud (Business and Professions Code section 810, subdivision (b), and Penal Code section 550, subdivisions (a)(6) and (a)(7));

c. Making/signing documents misrepresenting facts (Business and Professions Code section 4301, subdivision (g));

d. Violating pharmacy and dangerous drug laws (Business and Professions Code section 4301, subdivisions (j) and (o), and sections 4022 and 2242, subdivision (a));

e. Furnishing dangerous drugs without a prescription (Business and Professions Code section 4301, subdivisions (j) and (o), Business and Professions Code section 4059, subdivision (a), and Health and Safety Code section 11150);

1 f. Forgery of prescriptions (Business and Professions Code section 4301, subdivisions  
2 (j) and (o), and section 4324, subdivision (a));

3 g. Filling of erroneous or uncertain prescriptions (Business and Professions Code  
4 section 4301, subdivision (o), and California Code of Regulations, title 16, sections 1761,  
5 subdivision (a));

6 h. Possession of a key by non-pharmacist personnel and operation of pharmacy without  
7 a pharmacist present (Business and Professions Code section 4301, subdivision (o), and  
8 California Code of Regulations, title 16, sections 1714, subdivision (d));

9 i. Lack of acquisition records for current inventory (Business and Professions Code  
10 section 4301, subdivisions (j) and (o), Business and Professions Code sections 4081, subdivision  
11 (a) and 4105, subdivision (a), and California Code of Regulations, title 16, section 1718);

12 j. Operational standards and security—cleanliness (Business and Professions Code  
13 section 4301, subdivision (o), and California Code of Regulations, title 16, section 1714,  
14 subdivision (c));

15 k. Misbranded Drugs (Business and Professions Code section 4301, subdivisions (j) and  
16 (o) and Health and Safety Code sections 111340 and 111440);

17 l. Variation from prescription (Business and Professions Code section 4301, subdivision  
18 (o), and California Code of Regulations, title 16, section 1716);

19 m. Failure to comply with compounding record requirements (Business and Professions  
20 Code section 4301, subdivision (o), and California Code of Regulations, title 16, section 1735.3,  
21 subdivision (a)(2)(H));

22 n. Subverting an investigation (Business and Professions Code section 4301, subdivision  
23 (q); and

24 o. Failure to supervise a pharmacy technician (Business and Professions Code section  
25 4301, subdivisions (j) and (o), and section 4115, subdivision (a)).

26 **ORDER**

27 IT IS SO ORDERED that Pharmacy Permit No. PHY 51656, issued to Respondent Kare  
28 Food Inc. dba Studio Pharmacy, Vartan V. Tabakian, owner, is revoked.

1 IT IS FURTHER ORDERED that Respondent Kare Food Inc. dba Studio Pharmacy and  
2 Vartan V. Tabakian shall be prohibited from serving as manager, administrator, owner, members,  
3 officer, director, associate, or partner of a licensee until Pharmacy Permit Number PHY 51656 is  
4 reinstated.

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

9 This Decision shall become effective at 5:00 p.m. on September 29, 2021.

10 It is so ORDERED on August 30, 2021.

11  
12 FOR THE BOARD OF PHARMACY  
13 DEPARTMENT OF CONSUMER AFFAIRS

14  
15 By



16 DOJ Matter ID:LA2018501487

17 Attachment:  
18 Exhibit A: Accusation

19 Seung W. Oh, Pharm D  
20 Board President  
21  
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# Exhibit A

Accusation

1 XAVIER BECERRA  
Attorney General of California  
2 SHAWN P. COOK  
Supervising Deputy Attorney General  
3 MICHELLE NIJM  
Deputy Attorney General  
4 State Bar No. 297168  
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5 Los Angeles, CA 90013  
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E-mail: Michelle.Nijm@doj.ca.gov  
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15 **11309 Ventura Boulevard**  
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**ACCUSATION**

16 **Pharmacy Permit No. PHY 51656,**

17 **and**

18 **FAUZIA RIASAT KHAN**  
19 **16901 Rinaldi Street**  
**Granada Hills, CA 91344**

20 **Pharmacist License No. RPH 65823**

21 Respondents.  
22

23 **PARTIES**

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

26 2. On or about October 23, 2013, the Board of Pharmacy (Board) issued Pharmacy  
27 Permit Number PHY 51656 to Kare Food Inc. dba Studio Pharmacy, Vartan V. Tabakian, Owner  
28

(Respondent Studio Pharmacy). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein. The Pharmacy Permit expired on December 31, 2018.

3. On or about August 17, 2011, the Board of Pharmacy issued Pharmacist License Number RPH 65823 to Fauzia Riasat Khan (Respondent Khan). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2020, unless renewed.

### **JURISDICTION**

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

5. Section 4300 of the Code states, in pertinent part:

(a) Every license issued may be suspended or revoked.  
(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

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

...

6. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license 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.

7. Section 118, subdivision (b), of the Code provides that the suspension/expiration/surrender/cancellation of a license shall not deprive the Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period within which the license may be renewed, restored, reissued or reinstated.

### **STATUTORY PROVISIONS**

8. Section 810 of the Code states, in pertinent part:

(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

- (1) Knowingly present or cause to be presented any false or fraudulent claim for the



payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code.

...

(d) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

9. Section 2242 of the Code states, in pertinent part:

(a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct. An appropriate prior examination does not require a synchronous interaction between the patient and the licensee and can be achieved through the use of telehealth, including, but not limited to, a self-screening tool or a questionnaire, provided that the licensee complies with the appropriate standard of care.

...

10. Section 4022 of the Code states:

“Dangerous drug” or “dangerous device” means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: “Caution: federal law prohibits dispensing without prescription,” “Rx only,” or words of similar import.

(b) Any device that bears the statement: “Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_,” “Rx only,” or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

11. Section 4059 of the Code states, in pertinent part:

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

...

12. Section 4081 of the Code states, in pertinent part:

(a) All records of manufacture and of sale, acquisition, receipt, shipment, or disposition of 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, third-party logistics provider, pharmacy, veterinary food-animal drug retailer, outsourcing facility, 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.

13. Section 4105 of the Code states, in pertinent part:

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

(b) The licensee may remove the original records or documentation from the licensed

premises on a temporary basis for license-related purposes. However, a duplicate set of those records or other documentation shall be retained on the licensed premises.

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

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

...

14. Section 4113, subdivision (c), states that “[t]he pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.”

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

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been 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.

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

...

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

...

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

...

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

...

16. Section 4306.5 of the Code states:

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

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

...

17. Section 4307 of the Code states, in pertinent part:

(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

1 been placed on probation, and while acting as the manager, administrator, owner, member,  
2 officer, director, associate, partner, or any other person with management or control had  
3 knowledge of or knowingly participated in any conduct for which the license was denied,  
4 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,  
5 administrator, owner, member, officer, director, associate, partner, or in any other position with  
6 management or control of a licensee as follows:

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

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

(b) "Manager, administrator, owner, member, officer, director, associate, partner, or any  
other person with management or control of a license" as used in this section and Section 4308,  
may refer to a pharmacist or to any other person who serves in such capacity in or for a licensee.

...

18. Section 4324 of the Code states, in pertinent part:

(a) Every person who signs the name of another, or of a fictitious person, or falsely makes,  
drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment  
pursuant to subdivision (h) of Section 1170 of the Penal Code, or by imprisonment in a county  
jail for not more than one year.

...

19. Section 11150 of the Health and Safety Code states:

No person other than a physician, dentist, podiatrist, or veterinarian, or naturopathic doctor  
acting pursuant to Section 3640.7 of the Business and Professions Code, or pharmacist acting  
within the scope of a project authorized under Article 1 (commencing with Section 128125) of  
Chapter 3 of Part 3 of Division 107 or within the scope of Section 4052.1, 4052.2, or 4052.6 of  
the Business and Professions Code, a registered nurse acting within the scope of a project  
authorized under Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division  
107, a certified nurse-midwife acting within the scope of Section 2746.51 of the Business and  
Professions Code, a nurse practitioner acting within the scope of Section 2836.1 of the Business  
and Professions Code, a physician assistant acting within the scope of a project authorized under  
Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 or Section  
3502.1 of the Business and Professions Code, a naturopathic doctor acting within the scope of  
Section 3640.5 of the Business and Professions Code, or an optometrist acting within the scope of  
Section 3041 of the Business and Professions Code, or an out-of-state prescriber acting pursuant  
to Section 4005 of the Business and Professions Code shall write or issue a prescription.

20. Section 111340 of the Health and Safety Code states:

Any drug or device is misbranded unless it bears a label containing all of the following  
information:

(a) The name and place of business of the manufacturer, packer, or distributor.

(b) An accurate statement of the quantity of the contents in terms of weight, measure, or  
numerical count.

Reasonable variations from the requirements of subdivision (b) shall be permitted.  
Requirements for placement and prominence of the information and exemptions as to small  
packages shall be established in accordance with regulations adopted pursuant to Section 110380.

21. Section 111440 of the Health and Safety Code states:

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

22. Section 550 of the Penal Code states:

(a) It is unlawful to do any of the following, or to aid, abet, solicit, or conspire with any  
person to do any of the following:

- ...
- 1 (5) Knowingly prepare, make, or subscribe any writing, with the intent to present or use it,  
or to allow it to be presented, in support of any false or fraudulent claim.
- 2 (6) Knowingly make or cause to be made any false or fraudulent claim for payment of a  
health care benefit.
- 3 ...

## 4 **REGULATORY PROVISIONS**

5 23. California Code of Regulations, title 16, section 1714, states, in pertinent part:

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

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

10 ...

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

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

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

14 25. California Code of Regulations, title 16, section 1718, states:

15 "Current Inventory" as used in Sections 4081 and 4332 of the Business and Professions  
Code shall be considered to include complete accountability for all dangerous drugs handled by  
16 every licensee enumerated in Sections 4081 and 4332.

17 The controlled substances inventories required by Title 21, CFR, Section 1304 shall be  
available for inspection upon request for at least 3 years after the date of the inventory.

18 26. California Code of Regulations, title 16, section 1735.3, states, in pertinent part:

19 (a) For each compounded drug preparation, pharmacy records shall include:

20 (1) The master formula document.

(2) A compounding log consisting of a single document containing all of the following:

21 (H) The beyond use date or beyond use date and time of the final compounded drug  
preparation, expressed in the compounding document in a standard date and time format.

22 (d) Pharmacies shall maintain and retain all records required by this article in the pharmacy  
in a readily retrievable form for at least three years from the date the record was last in effect. If  
23 only recorded and stored electronically, on magnetic media, or in any other computerized form,  
the records shall be maintained as specified by Business and Professions Code section 4070  
24 subsection (c).

## 25 **COST RECOVERY**

26 27. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
27 administrative law judge to direct a licensee 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  
28

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.

### **DEFINITIONS**

28. “DermacinRx/Lexitral PharmaPak” (generic name—diclofenac, topical capsaicin) is categorized as a dangerous drug pursuant to Code section 4022 and consists of a Non-Steroidal Anti-Inflammatory Drug (NSAID) and a topical analgesic. It is used to treat osteoarthritis of the knee.

29. “DermacinRx Purefolix” (generic name—folic acid, vitamin D3) is a dietary supplement for advanced folate and vitamin D replacement.

30. “DermacinRx/Silapak” (generic name—topical triamcinolone cream, dimethicone skin repair complex, and silicon tape) is categorized as a dangerous drug pursuant to Code section 4022 and is used to treat skin irritation or inflammation and for wound or scar care.

31. “DermacinRx/Surgical Pharmapak” (generic name—Mupirocin/Chlorhexidine, dimethicone skin repair complex, and silicone tape) is categorized as a dangerous drug pursuant to Code section 4022 and is used for impetigo/nasal infection, skin cleansing, wound, or scar care.

32. “Dicloflex DC” (generic name—Diclofenac, topical capsaicin) is categorized as a dangerous drug pursuant to Code section 4022 and is an NSAID. It is used to treat osteoarthritis of the knee.

33. “Flexeril” (generic name—Cyclobenzaprine) is categorized as a dangerous drug pursuant to Code section 4022 and is a muscle relaxant.

34. “Gablofen” (generic name—Baclofen) is categorized as a dangerous drug pursuant to Code section 4022 and is a muscle relaxant.

35. “Inflammacin” (generic name—Topical diclofenac, topical capsaicin) is categorized as a dangerous drug pursuant to Code section 4022 and is used to treat osteoarthritis of the knee.

36. “Inflammation Reduction Pak” (generic name—Difclofenac tablet, ranitidine tablet, topical prilocaine/lidocaine) is categorized as a dangerous drug pursuant to Code section 4022 and consists of an NSAID, acid reducer, and topical anesthetic combination.

37. “Mebolic” (generic name—prescription folate supplement, multivitamin) is a dietary supplement used for advanced folate replacement.

38. “Migranow” (generic name—Sumatriptan, topical methol/camphor) is categorized as a dangerous drug pursuant to Code section 4022 and is used to treat migraines.

39. “Neurontin” (generic name—Gabapentin) is categorized as a dangerous drug pursuant to Code section 4022 and is used to treat seizures and nerve pain.

40. “Xelital Kit” (generic name—Diclofenac with topical capsaicin) is categorized as a dangerous drug pursuant to Code section 4022 and consists of an NSAID and a topical analgesic.

41. “Xylocaine/Lidoderm” (generic name—Lidocaine) is categorized as a dangerous drug pursuant to Code section 4022 and is a topical anesthetic.

42. “Voltaren” (generic name—Diclofenac) is categorized as a dangerous drug pursuant to Code section 4022 and is an NSAID.

### **FACTUAL ALLEGATIONS**

43. At all times relevant to the allegations contained herein, Respondent Khan was the pharmacist-in-charge of Respondent Studio Pharmacy. Respondent Khan was also the pharmacist-in-charge of Excel Care Pharmacy, Inc., dba Excel Care Pharmacy, Pharmacy Permit No. PHY 54610 (Excel Care) from approximately September 12, 2016 to June 4, 2018.

44. On or about April 15, 2016, the Board received a complaint from J.Z., a Pharmacy Integrity Manager at the National Pharmaceutical Services (NPS). The complaint alleged that Respondent Studio Pharmacy had altered a prescription for Patient J.D. and had submitted insurance claims not authorized by the prescriber. J.Z. also advised Board Inspector Mutrux that Patient E.B. had complained to NPS regarding a high cost lidocaine ointment received from Respondent Studio Pharmacy without Patient E.B.’s authorization.

45. On or about March 7, 2017, Board Inspectors Mutrux and Woo conducted an inspection at Respondent Studio Pharmacy. Respondent Khan stated that she was the sole pharmacist working daily and only had a per diem pharmacist to cover when she could not work.

46. Inspector Mutrux asked Respondent Khan for the prescription for Patient J.D. The prescription was a preprinted check box form with 3 medications, a quantity, directions, and 5

1 refills checked. Respondent Khan said she thought the initially prescribed compounded  
2 medication may not have been covered and that lidocaine patches may have been prescribed later.  
3 To document changes to a prescription, Respondent Khan stated that she would fax a prescription  
4 to the prescriber and have the prescriber fax it back. Respondent Khan stated that she did not  
5 typically document changes on the prescription herself. However, the prescriptions produced for  
6 Patient J.D. did not have a fax header. The pharmacy computer profile notes for Patient J.D.  
7 indicated that his daughter had called, was difficult, and not to fill anything for the patient.

8 47. Inspector Mutrux also asked Respondent Khan about Patient E.B. Respondent Khan  
9 printed out a profile showing \$2,705.25 had been billed to Patient E.B.'s insurance for 3 fills of  
10 lidocaine 5% ointment. Profile notes indicated that Patient E.B. was a Medicare audit patient  
11 who had requested her prescription be cancelled and reversed. The prescription document  
12 appeared to be a prescription the pharmacy created and sent to the prescriber to be authorized, as  
13 it had Respondent Studio Pharmacy's information on it with a note to fax the prescription back.

14 48. Inspector Mutrux then had Respondent Khan supply prescriptions and patient profiles  
15 for several other patients with prescriber Amos Yi (P.A. Yi). For 4 out of the 5 patients selected,  
16 the notes on the pharmacy computer indicated that either the patient or the prescriber had  
17 requested that the prescriptions be cancelled. All of the prescriptions for these patients used  
18 preprinted prescription forms, and multiple prescriptions lacked a fax header. Prescriptions for  
19 Patient L.L. and Patient H.H. contained purported verbal orders and the initials "FK."

20 49. Respondent Khan stated that compounds were billed using average wholesale price  
21 (AWP) and "usual and customary." Respondent Khan stated that all compounds were billed to  
22 insurance. Respondent Khan also stated that most patients had their medications shipped and  
23 were automatically placed on auto-refill. Respondent Khan stated that "Darcy" (later identified  
24 as Darcy Mendoza) called the patient to let them know when a new medication was coming.

25 50. Respondent Khan provided written statements to Inspector Mutrux on or about March  
26 22, 2017. Respondent Khan claimed that Patient J.D. was provided with a compounded pain  
27 cream (Gabapentin 15%) and lidocaine patches as an alternate form of medication after his  
28 insurance did not cover the compound originally prescribed. With regard to Patient E.B.,

1 Respondent Khan stated that the patient called her insurance after receiving the medication and  
2 stated that she did not want it and did not recognize the prescriber. Respondent Khan stated that  
3 Patient E.B. called Respondent Studio Pharmacy to inform the pharmacy that she did not want the  
4 medication and to reverse the charges. Respondent Khan stated that Patient E.B. asked who the  
5 prescriber was and then recognized the prescriber but said she did not want the medication.  
6 Respondent Khan claimed that Respondent Studio Pharmacy attempted to but could not reverse  
7 the charges but and instead contacted the insurer to have the insurer manually do so.

8 51. In her written statements, Respondent Khan stated that some prescribers requested the  
9 medication formulas and that other formulas such as pain creams were suggested to prescribers,  
10 often as an alternative treatment modality to oral administration of the same or similar drugs.  
11 Respondent Khan stated that patients were called and informed about the prescriptions, asked if  
12 and how they desired to receive the prescriptions, and asked if they wanted to receive the  
13 prescriptions automatically each month. Respondent Khan stated that some doctors also  
14 requested that the medication be sent to the patient automatically. Respondent Khan stated that  
15 patients who declined medications would not have them sent and that patients who did not want  
16 the medications after having received them would have the charges reversed and the medications  
17 discontinued. Respondent Khan stated that the pharmacy would not take the medications back.

18 52. In her written statements, Respondent Khan also stated that patients were informed of  
19 copays through invoices sent with the medications and that follow up calls were made if the  
20 copays were not paid within a reasonable time. If a copay remained unpaid, Respondent Khan  
21 stated that another invoice would be sent and that a note would be put in the patient's file so the  
22 patient would not receive a refill unless and until copayment was received for the prior order.

23 53. On or about April 21, 2017, the Board received a complaint from The Regents of the  
24 University of California (UC) alleging that Respondent Studio Pharmacy was involved in a  
25 fraudulent billing scheme that had resulted in millions of dollars in losses to the University of  
26 California Student Health Insurance Plan (UCSHIP). The complaint alleged that the scheme used  
27 phony clinical trials and job fairs to obtain students' UCSHIP billing information, which was then  
28 used to fraudulently bill millions of dollars in medications. The medications generally consisted



1 of convenience kits containing non-steroidal anti-inflammatory drugs (NSAIDS) combined with  
2 other analgesics, migraine medication, or prescription multi-vitamins or supplements.

3 54. Between approximately May 30, 2017 and May 31, 2017, Inspector Mutrux mailed  
4 letters to select patients of Respondent Studio Pharmacy. In August of 2017, Inspector Mutrux  
5 mailed a second set of letters to the same patients with a questionnaire attached.

- 6 a. Patient S.B. stated that she had been shocked at the price of her prescription when she  
7 received her Explanation of Benefits (EOB). Patient S.B. did not pay a copay or sign  
8 for the medication but did note that her EOB showed she had paid a copay. Patient S.B.  
9 called Respondent Studio Pharmacy and was told she would receive a call back but  
10 never did. Patient S.B. did not request a refill or authorize auto-refills, but she received  
11 medications on or about January 5, 2017 and February 3, 2017.
- 12 b. Inspector Mutrux sent letters to Patients H.L. and J.M., respectively, at the addresses on  
13 file with Respondent Studio Pharmacy. The letters were returned for insufficient  
14 addresses. It is unclear how either patient could have received his or her medication.
- 15 c. Patient J.W. did not pay a copay or sign for the medication. J.W. stated that she had not  
16 been to see Dr. Marans, the prescriber, for over a year when she received the  
17 medication. Dr. Marans did not examine Patient J.W. for the prescription, did not alert  
18 her to it, and did not offer a physical prescription.
- 19 d. Patient S.T. received prescriptions from Respondent Studio Pharmacy but had never  
20 spoken with anyone from the pharmacy. Patient S.T. said he had called Respondent  
21 Studio Pharmacy when he received “huge” bills, but no one answered. Patient S.T.  
22 received compounded creams, liquid anti-inflammatories, and xylocaine cream. Patient  
23 S.T. did not sign for the medications and did not pay a copay. Patient S.T. received  
24 refills but did not sign up for automatic refills and did not recall requesting refills.
- 25 e. Patient H.H. stated that she had not visited or spoken with anyone from Respondent  
26 Studio Pharmacy. She stated that she had received medication through her insurance  
27 and had not seen a prescriber for it. Patient H.H. did not pay a copay.
- 28

- 1 f. Patient T.R. asked Inspector Mutrux to investigate Respondent Studio Pharmacy.  
2 Patient T.R. stated she did not know how Respondent Studio Pharmacy had obtained  
3 her Tricare information but that she received lidocaine 5% ointment for which the  
4 pharmacy had billed over \$1000 to Tricare. Patient T.R. called the prescriber who  
5 stated he would not use Respondent Studio Pharmacy anymore. Patient T.R. did not  
6 sign for the medication or pay a copay. She called the pharmacy, was told that she  
7 could send the medication back, and did so.
- 8 g. Patient C.E. not recall ever having been contacted by the pharmacy. Patient C.E.  
9 received creams on approximately 3 occasions but did not ask for refills or sign up for  
10 automatic refills. Patient C.E. did not pay a copay. Patient C.E. called Respondent  
11 Studio Pharmacy and asked them to stop sending the medication.
- 12 h. Patient J.D.'s daughter stated that they had not been expecting the medication they  
13 received from Respondent Studio Pharmacy. She stated that they called the pharmacy  
14 and offered to return the medication but were told to keep it. Patient J.D.'s daughter  
15 stated that they were not familiar with Respondent Studio Pharmacy, did not pay a  
16 copay, and did not sign for the prescription.

17 55. At the time of the prescriptions in question, P.A. Yi worked at OC Brain and Spine  
18 (OCBS). Inspector Mutrux requested a copy of original prescription for Patient J.D. from OCBS.  
19 The prescription showed that PA Yi had checked off only "Pain Option 1" for flurbiprofen  
20 20%/baclofen 4%/cyclobenzaprine 2%/gabapentin 6%/ lidocaine 5%. "Pain Option 2"  
21 (gabapentin 15%/lidocaine 4%) and "Pain Option 3" (lidocaine patches) were not checked off.  
22 Additionally, the prescription lacked directions, a quantity, or refill amount, which made filling it  
23 a violation of California Code of Regulations, title 16, section 1761, subdivision (a).

24 56. Inspector Mutrux requested that OCBS verify additional prescriptions billed by  
25 Respondent Studio Pharmacy. OCBS indicated that 2 prescriptions for Patient H.H., 3  
26 prescriptions for Patient L.L, 1 prescription for Patient C.E., and 1 prescription for Patient C.T.  
27 were not authorized. In addition, OCBS indicated that it had no record of Patient T.R.  
28

1           57. Inspector Mutrux compared patient prescriptions provided by Respondent Studio  
2 Pharmacy with patient profiles. Multiple patients had more prescriptions checked off on their  
3 prescription forms as prescribed than prescriptions listed as dispensed on their patient profiles,  
4 including Patient C.E., Patient T.R., Patient L.L, and Patient H.H. It appeared that Respondent  
5 Studio Pharmacy had attempted to bill complicated creams with more ingredients first, that  
6 insurance had not covered those medications, and that Respondent Studio Pharmacy had then  
7 opted to fill prescriptions for which the insurance would pay the most money.

8           58. On or about April 11, 2018, Inspector Mutrux spoke with PA Yi. PA Yi stated that  
9 he had met with a marketer who had provided preprinted prescription forms for products like  
10 topical lidocaine and gabapentin from Respondent Studio Pharmacy. PA Yi stated that the  
11 marketer had claimed the medications would be covered by insurance and would only cost  
12 patients \$10 to \$15. PA Yi stated that he did not know and had not spoken with the pharmacist at  
13 Respondent Studio Pharmacy. When asked if anyone at Respondent Studio Pharmacy had ever  
14 contacted him to change prescriptions, PA Yi stated that they had not. PA Yi stated that patients  
15 had complained about the exorbitant amounts Respondent Studio Pharmacy charged. PA Yi  
16 stated that he had attempted to contact the marketer to no avail.

17           59. On or about July 11, 2017, Board Inspectors Brandon Mutrux and Christopher Woo  
18 visited the premises of Respondent Studio Pharmacy. They entered the pharmacy at  
19 approximately 10:08 AM and were met by Pharmacy Clerk Ricardo Urizar (Urizar). When the  
20 inspectors asked to meet with Respondent Khan, Urizar stated that she had stepped out. A sign  
21 was then placed in the lobby indicating that a pharmacist was not on duty, that prescriptions could  
22 be dropped off, and that prescriptions requiring a consultation could not be picked up.

23           60. The Board inspectors then met Pharmacy Clerk Darcy Mendoza, a.k.a. Darcy  
24 Moldavon, (Mendoza) a few minutes later. Per Mendoza, Respondent Khan had not yet been to  
25 the pharmacy that day. The inspectors noticed that the key to the front door of the pharmacy was  
26 still in the lock. They asked Mendoza who had a key to the front door, and Mendoza stated that  
27 she did but that her key did not open the pharmacy upstairs.

61. The inspectors proceeded to walk up the stairs. They located a locked room which Mendoza had referred to as the “pharmacy.” Outside of that room, the inspectors observed compounding equipment and ingredients, filled compounded prescription products in jars, compounded prescription products for office use, and prescription records. The compounding equipment was dirty, and the compounding surfaces were in poor shape, with the table surface peeling. Some compounding ingredients were in open top beakers with plastic wrap stretched across. The beakers were only labeled with abbreviations. None of the labels included the expiration date, lot number, manufacturer or full name. There was a pot sitting on a hot plate, dirty with what was presumably drug residue. The inspectors also observed computers in the upstairs room outside of the locked pharmacy as well as in the downstairs lobby.

62. Respondent Khan arrived at the premises of Respondent Studio Pharmacy around 10:22 AM. Respondent Khan informed the inspectors that there were Board inspectors at Respondent Khan’s other pharmacy, Excel Care, Inc. (Excel Care). Respondent Khan stated that the pharmacist at Excel Care had quit. Inspectors Mutrux and Woo informed Respondent Khan that they would expedite their inspection of Respondent Studio Pharmacy on the condition that Respondent Khan would travel to Excel Care to meet with the Board inspectors who were there.

63. The inspectors confirmed with Respondent Khan that the computer record generated by Micro Merchant software was a complete and accurate record of Respondent Studio Pharmacy. The inspectors had Respondent Khan provide drug utilization reports for select medications and prescriber reports for select prescribers. The inspectors chose a sample of approximately thirty patients from those prescribers’ reports and obtained patient reports for those individuals.

64. The prescriber profiles showed extensive prescribing of DermacinRx type kit medications and compounded creams, but little, if any, other medications. Patient profiles revealed that the patients often each received multiple prescriptions for DermacinRx type kit medications as well as therapeutic duplications. Respondent Studio Pharmacy was dispensing medications with the same active ingredient and instructions that placed patients at risk of using more than the recommended amount of that ingredient.

1           65. For instance, patients L.G., M.R., J.L., and M.M. all received both Inflammacin and  
2 Lexital. Inflammacin contains oral diclofenac (an NSAID) and a topical capsaicin (a penetral  
3 cream); Lexital contains topical diclofenac and a topical capsaicin. The concomitant use of both  
4 oral and topical diclofenac poses an increased risk of side effects. An interaction check returned a  
5 strong risk rating of “D,” meaning that therapy modification should have been considered. Any  
6 such patients should have been closely monitored, as NSAIDs increase the risk of potentially fatal  
7 cardiac events and gastrointestinal events such as ulceration and bleeding. The Lexital  
8 prescribing information contained an FDA black box warning and a recommendation to avoid  
9 oral NSAIDs at the same time as topical ones. Furthermore, by dispensing both Lexital and  
10 Inflammacin concurrently, Respondent Studio Pharmacy placed patients at risk of using twice the  
11 amount of penetral cream recommended, thus increasing the risk of burns and skin irritation.

12           66. Patients L.G., M.R., J.L., and M.M. also all received both Surgical Pharma Pak and  
13 Silapak. Surgical Pharma Pak and Silapak each contain dimethicone skin repair cream and  
14 silicon tape for wound and scar management. There would be no need for the patient to receive  
15 both of these products, as the therapies are duplicative and the other medications in the kits are  
16 available separately. Moreover, if patients were to use the silicon tape over locations where they  
17 had applied capsaicin or topical diclofenac, they would increase their risk of adverse reactions.

18           67. During the inspection, Respondent Khan stated that Respondent Studio Pharmacy  
19 received its prescriptions via fax. Respondent Khan stated that all patients were called by  
20 Mendoza or Urizar to let them know that a package was coming. Respondent Khan stated that  
21 Respondent Studio Pharmacy did not often receive calls from patients about why they were  
22 receiving their medications but that the pharmacy had stopped auto-refilling prescriptions.  
23 Respondent Khan said that, if patients asked why they were receiving a medication, she would  
24 explain the medication, consult with the patient, and direct the patient to the prescriber for further  
25 information. Respondent Khan claimed that, with perhaps one exception, patients did not say  
26 they did not know the prescribers. Respondent Khan confirmed that the medications were  
27 indicated for osteoarthritis of the knee but said she believed the doctors were using them for pain.

1           68. Respondent Khan stated that Mendoza would type prescriptions, bill the  
2 prescriptions, and then bring them upstairs to be filled. Respondent Khan stated that prescribers  
3 would send over the patients' billing information with the prescription and that all billing was  
4 handled in house. Respondent Khan stated that Respondent Studio Pharmacy did not have  
5 contracts with physicians and that she was not sure how the marketers' contracts worked.

6           69. On the shelf in the pharmacy stock, the Board inspectors saw two labeled  
7 prescriptions for patient L.G. One prescription was for DermacinRx Lexitral PharmaPak (Rx #  
8 9019324) and one was for DermacinRx Silapak (Rx # 9019327). Both prescriptions were labeled  
9 as having been dispensed on January 3, 2017, i.e. over six months prior to the inspection, and  
10 appeared to have been returned to the pharmacy. L.G.'s patient profile showed that L.G. had been  
11 billed for Inflammacin, Surgical PharmaPak, Lexitral PharmaPak, Migranow Pak, Mebolic, and  
12 Silapak on January 3, 2017. With the exception of Migranow, the same prescriptions were billed  
13 again to L.G. on February 3, 2017. This indicated that Respondent Studio Pharmacy had billed  
14 the prescriptions to the patient but had failed to provide the medication to the patient.

15           70. Despite the fact that Inspectors Mutrux and Woo had expedited their inspection of  
16 Respondent Studio Pharmacy so Respondent Khan could attend the inspection of Excel Care,  
17 Respondent Khan did not appear at Excel Care as requested on July 11, 2017.

18           71. Between July 11, 2017 and July 25, 2017, Inspector Mutrux communicated with  
19 Respondent Khan regarding records requests. On or about July 25, 2017, Inspector Mutrux  
20 received Respondent Studio Pharmacy's purported original prescription documents. They  
21 consisted entirely of pre-printed, multiple check box forms titled "PRESCRIPTION REQUEST  
22 FOR SPECIALTY FORMULATIONS." The documents had multiple individual boxes that  
23 contained the prescription kit name, the medications or products included in the prescription kit,  
24 the directions, the quantity, and the refills authorized. The prescriptions from Dr. Henry Tseng  
25 appeared to have been stamped rather than signed. All of the prescriptions also appeared to be  
26 copies or faxes as none appeared to have an original signature in ink. Some of the prescriptions  
27 already had 5 refills marked for each prescription option, despite the fact that some of the  
28

1 medications had not been prescribed for that patient. This indicated that the pharmacy had  
2 selected the number of refills rather than the provider.

3 72. Inspector Mutrux requested records from Respondent Studio Pharmacy on multiple  
4 occasions, including original prescription documents, proof of delivery for selected prescriptions,  
5 and invoices. Respondent Studio Pharmacy did not provide proof of delivery for all medications  
6 billed to the patients, including the prescriptions Rx # 9019324 and Rx # 9019327 billed to L.G.  
7 on January 3, 2017. None of the records indicated that the patient was charged a copay or how  
8 that copay was collected for mailed prescriptions.

9 73. Board Inspectors Bayley and Delune inspected Excel Care on or about July 12, 2017.  
10 The Daily Log Report for July 12, 2017 for Excel Care showed that 72 prescriptions were entered  
11 on July 12, 2017. Inspectors Bayley and Delune were with Respondent Khan and pharmacy  
12 manager Anthony Peraino during the July 12, 2017 inspection of Excel Care and did not see  
13 anyone processing the prescriptions. The July 12, 2017 Daily Log Report contained a column  
14 entitled "PH/Tech," which listed the initials "DM." Respondent Khan and Mr. Peraino identified  
15 the initials "DM" as belonging to Mendoza. When asked if Mendoza typed and billed the  
16 prescriptions from Respondent Studio Pharmacy, Mr. Peraino agreed that Mendoza had done so.

17 74. Inspector Woo contacted select UCSHIP patients to obtain information regarding  
18 Respondent Studio Pharmacy and received the following responses:

- 19 a. Patient M.B. stated that she had learned about Respondent Studio Pharmacy  
20 from a girl in her Spanish class. M.B. stated that she had met with Dr. Tseng  
21 but did not know who had provided the prescription to Respondent Studio  
22 Pharmacy. M.B. did not sign up for automatic refills, was never contacted by  
23 Respondent Studio Pharmacy, and did not pay a copay.
- 24 b. Patient J.L. stated that he had received 2 prescriptions from Respondent Studio  
25 Pharmacy but had never used either one. J.L. learned about Respondent Studio  
26 Pharmacy at a job fair at UC Riverside. J.L. stated that he was not familiar with  
27 the prescriber, did not know who provided the prescriptions to the pharmacy,  
28

1 was not contacted by the pharmacy, did not sign up for automatic refills, did not  
2 pay a copay, and did not sign for the prescriptions.

3 c. Patient M.K. learned about Respondent Studio Pharmacy through a Facebook  
4 post and email contact. M.K. met with Dr. Tseng. M.K. did not sign up for  
5 automatic refills, had never been contacted by Respondent Studio Pharmacy,  
6 did not pay a copay for the prescriptions, and did not sign for the prescriptions.

7 d. Patient A.A. did not receive medications from Respondent Studio Pharmacy.  
8 A.A. lived in San Jose and was concerned with how Respondent Studio  
9 Pharmacy had obtained A.A.'s information. A.A. had not met the prescriber,  
10 had not been contacted by the pharmacy, did not sign up for automatic refills,  
11 did not pay a copay, and did not sign for the prescriptions.

12 e. Patient M.M. had met Dr. Laura Williams at a career fair and then received  
13 prescriptions with Dr. Williams' name on the box. M.M. contacted Respondent  
14 Studio Pharmacy and asked what the medications were and why they were sent.  
15 M.M. was told that the prescriptions were received from Dr. Williams. M.M.  
16 did not sign for the prescriptions and did not sign up for automatic refills.

17 f. Patient M.R. learned about Respondent Studio Pharmacy at a table set up on  
18 UC Riverside's campus. M.R. met the prescriber at the table who helped sign  
19 him up for a "free sample of a new cream in the mail to ease his pain." M.R.  
20 was not contacted by Respondent Studio Pharmacy, did not pay a copay, and  
21 did not sign up for automatic refills. M.R. stated that he had a very negative  
22 reaction to the cyclobenzaprine. M.R. contacted Respondent Studio Pharmacy  
23 and requested that the pharmacy stop shipping him medication. M.R. stated  
24 that he was told the shipments would stop, but they did not. M.R. also stated  
25 that he subsequently received a letter requesting his home address so  
26 Respondent Studio Pharmacy could ship directly to his residence.

27 75. Inspector Mutrux also mailed patient surveys to 16 patients for whom Respondent  
28 Studio Pharmacy had billed Migranow migraine cream prescribed by Dr. Tseng, a podiatrist.



Inspector Mutrux used the addresses for those patients that were in Respondent Studio Pharmacy's records. Inspector Mutrux received nine of the sixteen surveys back from the United States Postal Service (USPS) marked return to sender. Four of the letters were marked as being "Undeliverable as Addressed," meaning that the addresses were incorrect or incomplete. Medications mailed to these addresses would have been returned as undeliverable, which would have alerted Respondent Studio Pharmacy that patients were not receiving the prescriptions.

76. Data regarding the prescribers involved in the UC complaint showed that those providers had prescribed almost exclusively topical compounded medications, manufactured topical medications, or medication kits. From approximately October 23, 2013 to July 11, 2017, the providers in question only prescribed a few typical oral prescriptions. The almost exclusive prescribing of expensive topical compounds and medication kits was a red flag that the prescriptions were not being issued for a legitimate medical purpose.

77. A review of Dr. Tseng's prescriptions at Respondent Studio Pharmacy revealed be his most commonly prescribed medications to be those listed in the UC complaint. Dr. Tseng is a podiatrist who was previously placed on probation for diagnosing, prescribing, and treating patients beyond the scope of his license. Respondents should have recognized that Dr. Tseng was prescribing medications beyond his scope of practice, including as follows:

- a. Mebolic: Respondent Studio Pharmacy dispensed Mebolic approximately 795 times on Dr. Tseng's prescription. Mebolic is a prescription folate dietary supplement indicated for the clinical dietary management of suboptimal nutritional status in patients.
- b. Purefolix: Respondent Studio Pharmacy dispensed Purefolix 62 times on Dr. Tseng's prescription. Purefolix is indicated for the dietary management of patients with unique nutritional needs requiring increased folate levels and Vitamin D supplementation.
- c. Migranow: Respondent Studio Pharmacy dispensed Migranow 15 times on Dr. Tseng's prescription. Migranow is a kit consisting of sumatriptan tablets along with a pain-relieving gel. Sumatriptan is indicated for the treatment of acute migraine headaches.

78. The Medical Board lists Dr. Christopher Ninh's specialty as Sports Medicine and Orthopedic Surgery. Respondent Studio Pharmacy billed approximately 2,760 prescriptions

1 written by Dr. Ninh for a total of over \$4 million dollars. Nearly every prescription was for a  
2 compounded or commercial topical medication, lidocaine patch, medication kit, or multivitamin.  
3 Dr. Ninh's prescriptions did not include any standard oral medications such as NSAIDS, pain  
4 relievers, steroids, or antibiotics that he might expected to prescribe.

5 79. Per the Osteopathic Medical Board, Dr. Gregory Maddex is an osteopathic physician.  
6 Dr. Maddex previously entered into a stipulated settlement with the Osteopathic Medical Board  
7 and was placed on probation. The accusation in the case alleged that Dr. Maddex was found to be  
8 an impaired physician due to drug use and mental illness. Respondent Studio Pharmacy billed  
9 approximately 908 medications prescribed by Dr. Maddex. His prescriber profile consisted  
10 almost exclusively of compounded and commercial topical medications, lidocaine patches, and  
11 medication kits. Studio Pharmacy dispensed only one oral medication prescribed by Maddex.

12 80. The Medical Board lists Dr. Howard Marans' specialty as Sports Medicine and  
13 Orthopedic Surgery. Dr. Marans' license was previously placed on probation for gross  
14 negligence patient and unprofessional conduct. Respondent Studio Pharmacy billed  
15 approximately 3,654 medications prescribed by Dr. Marans. Out of those prescriptions, only 4  
16 were for oral medications, 3 of which went to one person and were likely a combination. Nearly  
17 every prescription Respondent Studio Pharmacy billed from Dr. Marans appeared to be a  
18 compounded or commercial topical medication, lidocaine patch, medication kit, or multivitamin.  
19 The prescriptions did not include standard oral medications such as NSAIDS, pain relievers,  
20 steroids, or antibiotics Dr. Marans would be expected to prescribe.

21 81. James Lauerman (P.A. Lauerman) is a licensed physician assistant. Respondent  
22 Studio Pharmacy billed approximately 654 prescriptions from P.A. Lauerman. Those  
23 prescriptions consisted solely of multivitamins, topical medications, and medication kits. P.A.  
24 Lauerman's dispensing profile did not appear to include any standard oral medications.

25 82. The Medical Board lists Dr. Laura Williams' specialty as general practice and family  
26 medicine. On or about June 16, 2017, the Medical Board issued an interim suspension order  
27 preventing Dr. Williams from prescribing controlled substances. On or about July 7, 2017, an  
28 accusation was filed against Dr. Williams for numerous causes of action, including gross

1 negligence, incompetence, unprofessional conduct, and prescribing medication without an  
2 adequate physical examination and/or medical indication. Dr. Williams ultimately stipulated to  
3 surrender of her medical license in 2019. A review of records showed that Respondent Studio  
4 Pharmacy billed approximately 170 prescriptions from Dr. Williams. Those prescriptions did not  
5 include any standard oral prescriptions. Rather, they consisted entirely of commercial and  
6 compounded topical medications, multivitamins, and medication kits.

7 83. The Osteopathic Medical Board lists Dr. Maryam Rahimi's specialty as pain  
8 medicine with a secondary specialty of physical medicine and rehabilitation. Respondent Studio  
9 Pharmacy billed approximately 1,441 prescriptions from Dr. Rahimi for a total of over \$5.6  
10 million. Those prescriptions did not include any standard oral prescriptions; they consisted  
11 entirely of commercial and compounded topical medications, multivitamins, and medication kits.

12 84. Sandra Stewart (N.P. Stewart) is a furnishing nurse practitioner. Respondent Studio  
13 Pharmacy billed approximately 1,652 prescriptions from N.P. Stewart for a total of over \$3.6  
14 million. Those prescriptions did not include any standard oral prescriptions; they consisted  
15 entirely of commercial and compounded topical medications, multivitamins, and medication kits.

16 85. Dr. Terry Lee's licensing verification lists family medicine as his area of practice.  
17 Respondent Studio Pharmacy billed approximately 29 prescriptions from Dr. Lee for a total of  
18 over \$85,000. Those prescriptions did not include any standard oral prescriptions; they consisted  
19 of commercial and compounded topical medications and medication kits.

20 86. Further review of Respondent Studio Pharmacy's records revealed additional red  
21 flags, including the high cost and frequency of dispensing compounded medications.

22 a. Stretch Mark Cream: A "stretch mark cream" was billed approximately 27 times, with  
23 a price ranging from \$3,676.27 to \$27,113.31 *per cream*. On approximately 20  
24 occasions, the amount billed was over \$26,000 per fill. Some patients received this  
25 cream refilled monthly for three months.

26 b. ANTI-BAC/ANTI-FUNG—GMPPFI CREAM: This cream was billed approximately  
27 75 times, ranging in price from \$1,687.27 to \$19,786.31 per prescription. The most  
28 commonly billed price for this cream was \$9,554.18.

c. UIMFC/ WOUND CRM: This cream was billed approximately 53 times, with a price of \$15,761.53 per prescription.

d. SCAR UTPIHC CREAM: This cream was billed approximately 189 times, with prices from \$665.21 to \$5,421.43. The average price billed per prescription was \$2,561.48.

e. SPDL-ST MIGRAINE CREAM: This cream was billed 184 times, with a price range of \$761.30 to \$6,278.16. The average price billed per prescription was \$2,665.22.

87. Inspector Mutrux performed an audit of Mebolic, Dicloflex, DermacinRx Pak Lexitral, and Inflammacin for time of Respondent Studio Pharmacy's opening through the inspection date of July 11, 2017. Respondent Studio Pharmacy did not provide an accurate opening inventory despite instructions to Respondent Khan to provide all records of acquisition and disposition. The audit revealed the following discrepancies:

Medication	Acquisition	Disposition	Expected	Actual Stock on Hand	Total Disposition	Variance
Dicloflex	163 kits	151 kits	12	0	151 kits	12 (loss)
Mebolic	76,320 tablets	76,980 tablets	-660	180 tablets	77,160 tablets	-840 tablets (lack of records of acquisition)
DermacinRx Lexitral	1042	1034	8	3 (plus 2 additional damaged)	1037 (1039) kits	5 (3) (loss)
Inflammacin	1048	1049	-1	2	1051 kits	-3 (lack of records of acquisition)

88. The variance in Mebolic equates to 28 bottles and is significant. Mebolic began being marketed on 7/18/2016, suggesting that Respondent Studio Pharmacy billed for 28 bottles of Mebolic more than it purchased within a time frame of approximately one year. This suggests that Respondent Studio Pharmacy either billed for medication it did not actually purchase and provide or that it recycled medications that were returned to it.

89. Inspector Mutrux also reviewed records of the investigation conducted by UC Regents. The records included at least 75 Facebook and Craigslist advertisements for a "clinical trial" that required participants to have UCSHIP and offered payments of "easy cash." Multiple

1 advertisements claimed that preliminary results indicated that 81% of participants in the trial  
2 reported reduced pain with the use of the non-addictive pain creams being tested.

3 90. The records from UC Regents also included documents showing the billed cost some  
4 students had incurred. Student 1 was billed a total of \$120,206.02 for medications prescribed by  
5 N.P. Stewart. The medications prescribed included DermacinRx Surgical Pharm, DermacinRx  
6 Lexitral Pharm, DermacinRx Silapak, Migranow, Inflammacin, and Dermacin Rx Purefolix.  
7 Some combination of these medications was billed on October 31, 2016, November 23, 2016,  
8 December 21, 2016, January 24, 2017, February 28, 2017, and April 11, 2017. Mebolic was also  
9 billed on December 1, 2016, December 28, 2016, January 24, 2017, February 28, 2017, and April  
10 11, 2017. The medications represent obvious duplications in therapy with both the DermacinRx  
11 Purefolix and Mebolic being folate supplements, the DermacinRx Surgical and DermacinRx  
12 Silapak containing the same skin protectant and silicone tape, and the DermacinRx Lexitral and  
13 Inflammacin both containing diclofenac. It is highly unlikely that the patient would require  
14 duplicates of these medications, especially being repeatedly billed. The duplications in therapy  
15 and repeated billings demonstrate that the pharmacist did not adequately review the prescriptions  
16 and suggest deliberate billing to maximize profit.

17 91. Student 2 was billed a total of \$97,759.74 for medications prescribed by P.A.  
18 Lauerman. The medications prescribed included DermacinRx Surgical Pharm, DermacinRx  
19 Lexitral Pharm, DermacinRx Silapak, Migranow, Inflammacin, and Mebolic. This combination  
20 of medications was billed on December 1, 2016, December 28, 2016, January 27, 2017, February  
21 28, 2017, and March 31, 2017, except that Migranow was not billed on January 27, 2017. The  
22 duplications in therapy and repeated billings demonstrate that the pharmacist did not adequately  
23 review the prescriptions before dispensing and suggest deliberate billing to maximize profit.

24 92. Student 3 was billed a total of \$13,748.16 for medications prescribed by Dr. Lee.  
25 Those medications included DermacinRx Lexitral Pharm on November 3, 2016, November 28,  
26 2016, and December 27, 2016.

27 93. Student 4 was billed a total of \$27,650.28 for medications prescribed by Dr. Tseng.  
28 The medications included the combination of DermacinRx Lexitral Pharm or Dicloflex DC,

1 Inflammacin, and Mebolic on January 9, 2017, February 7, 2017, and March 15, 2017.

2 Diclofenac is the active ingredient of DermacinRx Lexitral, Dicloflex DC, and Inflammacin.

3 Mebolic is a prescription folate supplement. As previously noted, Dr. Tseng is a podiatrist and  
4 was likely prescribing outside his scope of practice. Furthermore, by prescribing duplications in  
5 therapy, Dr. Tseng put the patient at serious risk of adverse drug reactions.

6 94. Student 5 was billed a total of \$27,650.28 for medications prescribed by Dr. Tseng.  
7 Those medications included the combination of DermacinRx Lexitral Pharm or Dicloflex DC,  
8 Inflammacin, and Mebolic on January 17, 2017, February 15, 2017, and March 15, 2017. The  
9 prescriptions were the same as for Student 4 but simply occurred on different dates.

10 95. Some of the students were interviewed during the UC investigation. Student 3 stated  
11 that he participated in a “clinical trial” after he saw an ad on Facebook. Student 3 stated that he  
12 received a one-time brief examination and was not told about any risks associated with the  
13 medicine. Student 3 never received a paper prescription nor was he asked to select a pharmacy.

14 96. Student 4 stated that he participated in a “clinical trial” after responding to a  
15 Facebook ad. Student 4 went to a “foot doctor” in Hacienda Heights. Several other were there,  
16 and an employee took Student 4’s UCSHIP information. The doctor told the students that the  
17 medication was an herbal topical cream. The doctor did not ask the students about their medical  
18 history, allergies, or other medications. Student 4 received a package containing DermacinRx,  
19 vitamins, and a small bottle of a solution. Student 4 used the DermacinRx once, but it burned and  
20 his back turned red so he ceased use. Student 4 continued to receive shipments from Respondent  
21 Studio Pharmacy every 3 weeks with the same contents until mid-March.

22 97. Student 5 participated in a “clinical trial” after he saw a Facebook post. He was  
23 driven with other students to a “Chinese foot doctor.” The driver told Student 5 not to rate his  
24 pain as zero o on the questionnaire at the medical office even if he did not have pain that day.  
25 Student 5 provided his UCSHIP number. Dr. Tseng spent a total of about five minutes with  
26 Student 5 and two other students at the same time. Dr. Tseng did not physically examine Student  
27 5 or ask him any questions specifically. Student 5 received shipments of medication from  
28 Respondent Studio Pharmacy. The first shipment contained a package of Inflammacin, one

1 package of DermacinRx Lexitral, and Mebolic tablets. No one had told Student 5 that he would  
2 receive pills, and he was surprised to see them. Student 5 never used any of the medications and  
3 never completed the survey included with them. No one followed up with Student 5.

4 98. In his declaration, Patient M.R. (another UC student) stated he believed he had been  
5 deceived into providing his UCSHIP number to people posing as pharmaceutical representatives  
6 on the UC Riverside campus. These individuals told Patient M.R. he needed to provide his  
7 UCSHIP number in order to receive a free sample of a new prescription pain relief product.  
8 Patient M.R. received a box from Respondent Studio Pharmacy containing pills, topical creams,  
9 and surgical packs. Patient M.R. called Respondent Studio Pharmacy and left a voicemail stating  
10 he had not requested the medications and not to send him unwanted drugs. Approximately two  
11 weeks later, Patient M.R. received another box from Respondent Studio Pharmacy containing a  
12 mix of prescription drug kits consisting of creams and pills. Patient M.R. called Respondent  
13 Studio Pharmacy again, but the shipments continued. Patient M.R. did not want the medication  
14 and did not use it. Respondent Studio Pharmacy sent Patient M.R. three shipments and then  
15 called him to request his permanent address rather than his P.O. Box. Patient M.R. told the  
16 employee who called to stop sending him medications.

17 99. The UC investigation documents also included responses patients sent to OptumRx.

- 18 a. Patient K.W. marked that he had not been seen by Dr. Tseng, had not received 2  
19 prescriptions each of Inflammacin, DermacinRx Pak, and Mebolic, and did not pay a  
20 copay. K.W. included a written statement that read as follows, "This is not me. I have  
21 never visited this place. I believe this was part of the UCSHIP fraud scandal. Please  
22 ask for ID next time. Thank you."
- 23 b. Patient M.K.2 marked that he had not been seen by Dr. Maddex, had not received  
24 Inflammacin, DermacinRx Pak, or Mebolic, and did not pay a copay. M.K.2 included a  
25 written statement that read as follows, "I have never been to Studio Pharmacy, seen Dr.  
26 Maddex, or received any of these medications, nor do I have a plan with OptumRx."
- 27 c. Patient A.L. marked that he had not seen Dr. Tseng, had not received two shipments of  
28 Inflammacin, two shipments of Mebolic, or one shipment each of DermacinRx Pak or

1           Dicloflex. A.L. included a written statement that read as follows, “I have never been to  
2           this site before nor saw this doctor.”

3           100. The UC records also included an email from Patient H.P. in which he stated that he  
4           had not requested the medications he received from Respondent Studio Pharmacy, had not paid a  
5           copay, had not seen the prescriber, and had not requested an appointment.

6           101. Inspector Mutrux sent additional patient surveys and received responses from Patients  
7           A.L. and M.K.2. Patient A.L. wrote that he had not requested or received prescriptions from  
8           Respondent Studio Pharmacy, had not met or been examined by Dr. Tseng, had not been  
9           contacted by Respondent Studio Pharmacy, did not sign for or pay a copay for the medications  
10          billed, did not suffer from arthritis, and did not suffer from foot-related problems. Patient M.K.2  
11          wrote that he had not requested or received prescriptions from Respondent Studio Pharmacy, had  
12          not met or been examined by Dr. Maddex, was not contacted by Respondent Studio Pharmacy,  
13          did not sign for or pay a copay for the medications billed, and did not suffer from arthritis.

14          102. The subpoenaed records from UC Regents contained a number of declarations,  
15          including that of Zina Slaughter, Director for UCSHIP. Director Slaughter reviewed UCSHIP  
16          claims data for prescriptions by Dr. Maddex, Dr. Tseng, P.A. Lauerman, Dr. Lee, Dr. Marans, Dr.  
17          Ninh, Dr. Rahimi, N. P. Stewart, and Dr. Williams. From approximately July 1, 2015 to  
18          September 1, 2016, five of the prescribers did not write any prescription paid for by UCSHIP, and  
19          three wrote prescriptions for a single student. From approximately September 1, 2016 to April  
20          19, 2017, the aforementioned prescribers wrote 3,725 prescriptions for 542 students, for which  
21          Respondent Studio Pharmacy billed over \$10 million. Of the 542 students, 336 students received  
22          6 or more prescriptions. Respondent Studio Pharmacy was located 13 miles from UCLA, more  
23          than 60 miles from UC Riverside, and more than 200 miles from UC San Diego.

24          103. The declaration of Brad Buchman, M.D., Medical Director for the University of  
25          California’s Student Health and Counsel and UCSHIP stated that every UCSHIP prescription for  
26          DermacinRx and Inflammacin filled between approximately September 1, 2016 and April 13,  
27          2017 was filled by Respondent Studio Pharmacy. Dr. Buchman stated that DermacinRx and  
28          other topical anti-inflammatories are most commonly prescribed to geriatric patients with



1 osteoarthritis and that DermacinRx is rarely prescribed to students. Almost immediately after  
2 OptumRx blocked the DermacinRx kits, Dr. Tseng and Dr. Maddex switched to Dicloflex,  
3 another unusually prescribed high cost drug. Dr. Buchman stated that he had never before  
4 encountered a situation in which hundreds of UCSHIP members obtained the same prescriptions  
5 for unusually high cost drugs, students all saw the same set of prescribers, and the prescriptions  
6 all came from a single, distant pharmacy.

7 104. OptumRx claims data showed that between approximately October 14, 2016 and  
8 April 11, 2017, Respondent Studio Pharmacy billed approximately 3,262 prescriptions to  
9 UCSHIP and was paid out over \$10 million dollars. Respondent Studio Pharmacy did not bill  
10 UCSHIP for any standard prescriptions one would expect college students to be receiving.

11 105. OptumRx claims data also showed that no Dicloflex was billed prior to March 15,  
12 2017, the date on which UCSHIP blocked DermacinRx Lexitral from being billed. On that date,  
13 Respondent Studio Pharmacy billed 125 prescriptions for Dicloflex, 132 for Inflammacin and 138  
14 for Mebolic. In total, Respondent Studio Pharmacy billed 410 claims on a single day, 385 of  
15 which were purportedly written by Dr. Tseng on that day. The timing of these claims indicates  
16 that the prescriptions were billed in response to the OptumRx block to maximize reimbursement  
17 before more medications were blocked.

18 106. OptumRx claims data further indicated that Respondent Studio Pharmacy submitted  
19 the 3,262 claims to OptumRx stating that the copay had been paid by the member. However,  
20 only one patient surveyed indicated that he had paid a copay to Respondent Studio Pharmacy.

21 107. On or about December 24, 2018, the Board received a discontinuance of business  
22 form (DOB) from Respondent Studio Pharmacy, indicating that its last day of business was  
23 December 31, 2018. The DOB indicated that prescription medications were returned to Return  
24 Solutions and that the records were stored at Excel Care.

### 25 **FIRST CAUSE FOR DISCIPLINE**

26 (Unprofessional Conduct—Dishonesty, Fraud, and/or Deceit)

27 108. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
28 4301, subdivision (f), in that Respondent Studio Pharmacy submitted approximately 3,261

1 fraudulent prescriptions to UCSHIP that it had reason to know were not legitimately prescribed  
2 and that at least some of the patients would not be using or did not receive. Respondent Studio  
3 Pharmacy also forged prescriptions, dispensed prescriptions without prescriber authorization,  
4 solicited and dispensed prescriptions without an appropriate prescriber exam or medical  
5 justification, auto-filled and dispensed prescriptions to patients without their knowledge or  
6 authorization, and billed patients' insurance without authorization. In addition, Respondent  
7 Studio Pharmacy made false statements indicating that patient J.D.'s prescriptions were  
8 authorized, that copays were charged, and that patients were called and informed about their  
9 prescriptions. Complainant realleges paragraphs 42 to 106.

## 10 **SECOND CAUSE FOR DISCIPLINE**

11 (Insurance Fraud)

12 109. Respondent Studio Pharmacy is subject to disciplinary action under Code section 810,  
13 subdivision (b), in conjunction with Penal Code section 550, subdivisions (a)(6) and (a)(7), in that  
14 Respondent Studio Pharmacy submitted approximately 3,261 fraudulent prescriptions to UCSHIP  
15 Respondent Studio Pharmacy had reason to know were not legitimately prescribed and that at  
16 least some of the patients would not be using or did not receive. Complainant realleges  
17 paragraphs 42 to 106.

## 18 **THIRD CAUSE FOR DISCIPLINE**

19 (Unprofessional Conduct—Making/Signing Documents Misrepresenting Facts)

20 110. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
21 4301, subdivision (g), in that Respondent Studio Pharmacy submitted approximately 3,261  
22 fraudulent prescriptions to UCSHIP that it had reason to know were not legitimately prescribed.  
23 Respondent Studio Pharmacy also forged prescriptions and billed patients' insurance without  
24 authorization. In addition, Respondent Studio Pharmacy made false statements indicating that  
25 patient J.D.'s prescriptions were authorized, that copays were charged, and that patients were  
26 called and informed about their prescriptions. Complainant realleges paragraphs 42 to 106.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct—Violating Pharmacy and Dangerous Drug Laws)

3 111. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
4 4301, subdivisions (j) and (o), in conjunction with Code sections 4022 and 2242, subdivision (a),  
5 in that Respondent Studio Pharmacy submitted approximately 3,261 fraudulent prescriptions to  
6 UCSHIP that Respondent Studio Pharmacy had reason to know were not legitimately prescribed  
7 and that at least some of the patients would not be using or did not receive. Respondent Studio  
8 Pharmacy also forged prescriptions, dispensed prescriptions without prescriber authorization,  
9 dispensed prescriptions without an appropriate prescriber exam or medical justification, varied  
10 from prescriptions, signed documents that misrepresented facts, and failed to keep complete  
11 compounding records. Complainant realleges paragraphs 42 to 106.

12 **FIFTH CAUSE FOR DISCIPLINE**

13 (Furnishing Dangerous Drugs without a Prescription)

14 112. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
15 4301, subdivisions (j) and (o), in conjunction with Code section 4059, subdivision (a), and Health  
16 & Safety Code section 11150, in that Respondent Studio Pharmacy acted as the prescriber by  
17 checking off prescriptions on a preprinted check off box prescription form for prescription  
18 numbers 9007990 and 9007991 for patient J.D. and by dispensing prescription number 9007904  
19 to patient H.H. without prescriber authorization. Complainant realleges paragraphs 42 to 106.

20 **SIXTH CAUSE FOR DISCIPLINE**

21 (Forgery of Prescriptions)

22 113. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
23 4301, subdivisions (j) and (o), in conjunction with Code section 4324, subdivision (a), in that  
24 Respondent Studio Pharmacy forged prescription numbers 9007990 and 9007991 by checking off  
25 prescription options on a preprinted check-off box that were not authorized by the prescriber and  
26 by dispensing prescription number 9007904 to patient H.H. without prescriber authorization.  
27 Complainant realleges paragraphs 42 to 106.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 (Erroneous or Uncertain Prescriptions)

3 114. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
4 4301, subdivision (o), in conjunction with California Code of Regulations, title 16, section 1761,  
5 subdivision (a), in that Respondent Studio Pharmacy filled approximately 3,261 fraudulent  
6 prescriptions that contained significant red flags that they were not legitimate. Those red flags  
7 included, but were not limited to: large numbers of the same prescriptions; frequent prescribing of  
8 unusual, high dollar medication kits to college students; therapeutic duplications; prescriptions  
9 outside providers' scope of practice; providers not prescribing any typical oral medications; large  
10 numbers of prescriptions written on the same day; prescribers with previous license discipline;  
11 not collecting the required copays; prescribers and patients located out of area; patients never  
12 having been to the pharmacy; patients requesting the pharmacy not send them medications;  
13 prescriptions not having been delivered by the patient; and UCSHIP blocking coverage of  
14 medications, prescribers, and the pharmacy. Complainant realleges paragraphs 42 to 106.

15 **EIGHTH CAUSE FOR DISCIPLINE**

16 (Operational Standards and Security—Possession of a Pharmacy Key)

17 115. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
18 4301, subdivision (o), in conjunction with California Code of Regulations, title 16, section 1714,  
19 subdivision (d), in that, on or about July 11, 2017, Board inspectors found Respondent Studio  
20 Pharmacy to be open with non-pharmacist personnel having access to dangerous drugs,  
21 prescription records, and filled prescriptions without a licensed pharmacist present. The key to  
22 the front door was in the interior lock, and Mendoza admitted to having possession of the key.  
23 Complainant realleges paragraphs 42 to 106.

24 **NINTH CAUSE FOR DISCIPLINE**

25 (Current Inventory—Lack of Acquisition Records)

26 116. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
27 4301, subdivisions (j) and (o), in conjunction with Code sections 4081, subdivision (a), and 4105,  
28 subdivision (a), and California Code of Regulations, title 16, section 1718, in that an audit for the

1 period commencing on October 23, 2013 and ending on July 11, 2017 revealed discrepancies for  
2 twenty-eight (28) bottles of Mebolic. Complainant realleges paragraphs 42 to 106.

3 **TENTH CAUSE FOR DISCIPLINE**

4 (Operational Standards and Security—Cleanliness)

5 117. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
6 4301, subdivision (o), in conjunction California Code of Regulations, title 16, section 1714,  
7 subdivision (c), in that, on or about July 11, 2017, Board inspectors found fixtures and  
8 compounding equipment at Respondent Studio Pharmacy to be dirty and in poor repair.  
9 Complainant realleges paragraphs 42 to 106.

10 **ELEVENTH CAUSE FOR DISCIPLINE**

11 (Misbranded Drugs)

12 118. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
13 4301, subdivisions (j) and (o), in conjunction with Health and Safety Code sections 111340 and  
14 111440, in that, on or about July 11, 2017, Board inspectors found compounding ingredients at  
15 Respondent Studio Pharmacy stored in beakers lacking the manufacturer, lot number, expiration  
16 date, and/or full name. Complainant realleges paragraphs 42 to 106.

17 **TWELFTH CAUSE FOR DISCIPLINE**

18 (Variation from Prescription)

19 119. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
20 4301, subdivision (o), in conjunction with California Code of Regulations, title 16, section 1716,  
21 in that Respondent Studio Pharmacy dispensed lidocaine patches (prescription number 9007990)  
22 and gabapentin cream (prescription number 9007991) when the prescriber authorized a  
23 flurbiprofen/baclofen/ cyclobenzaprine/gabapentin/lidocaine topical prescription. Respondent  
24 Studio Pharmacy also substituted Inflammacin for Inflammatral without prescriber authorization  
25 on prescription 9008243 for patient LL. Complainant realleges paragraphs 42 to 106.

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1 **THIRTEENTH CAUSE FOR DISCIPLINE**

2 (Compounding Record Requirements—Beyond Use Date)

3 120. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
4 4301, subdivision (o), in conjunction with California Code of Regulations, title 16, section  
5 1735.3, subdivision (a)(2)(H), in that Respondent Studio Pharmacy compounded prescription  
6 medications without documenting the beyond use date on the compounding record, including  
7 prescription numbers 9008246, 9007990, 9007529, 9008242, and 9007904. Complainant  
8 realleges paragraphs 42 to 106.

9 **FOURTEENTH CAUSE FOR DISCIPLINE**

10 (Unprofessional Conduct--Subverting an Investigation)

11 121. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
12 4301, subdivision (q), in that it made false statements to Board inspectors and in writing and  
13 failed to provide requested records. Complainant realleges paragraphs 42 to 106.

14 **FIFTEENTH CAUSE FOR DISCIPLINE**

15 (Pharmacy Technician Supervision and Operating a Pharmacy without a Pharmacist)

16 122. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
17 4301, subdivisions (j) and (o), in conjunction with Code section 4115, subdivision (a), in  
18 conjunction with Code section 4116, subdivision (a), in that Respondent Studio Pharmacy  
19 permitted an unsupervised technician to enter data and bill 72 prescriptions from its location  
20 without pharmacist supervision. Complainant realleges paragraphs 42 through 106.

21 **SIXTEENTH CAUSE FOR DISCIPLINE**

22 (Unprofessional Conduct—Dishonesty, Fraud, and/or Deceit)

23 123. Respondent Khan is subject to disciplinary action under Code section 4301,  
24 subdivision (f), in that, while Respondent Khan was pharmacist-in-charge, Respondent Studio  
25 Pharmacy submitted approximately 3,261 fraudulent prescriptions to UCSHIP that Respondents  
26 had reason to know were not legitimately prescribed and that at least some of the patients would  
27 not be using or did not receive. While Respondent Khan was pharmacist-in-charge, Respondents  
28 also forged prescriptions, dispensed prescriptions without prescriber authorization, solicited and

1 dispensed prescriptions without an appropriate prescriber exam or medical justification, auto-  
2 filled and dispensed prescriptions to patients without their knowledge or authorization, billed  
3 patients' insurance without authorization. In addition, Respondents made false statements that  
4 patient J.D.'s prescriptions were authorized, that patient copays were charged, and that patients  
5 were called and informed about their prescriptions. Complainant realleges paragraphs 42 to 106.

6 **SEVENTEENTH CAUSE FOR DISCIPLINE**

7 (Insurance Fraud)

8 124. Respondent Khan is subject to disciplinary action under Code section 810,  
9 subdivision (b), in conjunction with Penal Code section 550, subdivisions (a)(6) and (a)(7), in  
10 that, while Respondent Khan was pharmacist-in-charge, Respondent Studio Pharmacy submitted  
11 approximately 3,261 fraudulent prescriptions to UCSHIP that Respondents had reason to know  
12 were not legitimately prescribed and that at least some of the patients would not be using or did  
13 not receive. Complainant realleges paragraphs 42 to 106.

14 **EIGHTEENTH CAUSE FOR DISCIPLINE**

15 (Unprofessional Conduct—Making/Signing Documents Misrepresenting Facts)

16 125. Respondent Khan is subject to disciplinary action under Code section 4301,  
17 subdivision (g), in that, while Respondent Khan was pharmacist-in-charge, Respondent Studio  
18 Pharmacy submitted approximately 3,261 fraudulent prescriptions to UCSHIP that Respondents  
19 had reason to know were not legitimately prescribed and that at least some of the patients would  
20 not be using or did not receive. While Respondent Khan was pharmacist-in-charge, Respondents  
21 also forged prescriptions, dispensed prescriptions without prescriber authorization, solicited and  
22 dispensed prescriptions without an appropriate prescriber exam or medical justification, auto-  
23 filled and dispensed prescriptions to patients without their knowledge or authorization, and billed  
24 patients' insurance without authorization. In addition, Respondents made false statements  
25 indicating that patient J.D.'s prescriptions were authorized, that patient copays were charged, and  
26 that patients were called and informed about their prescriptions. Complainant realleges  
27 paragraphs 42 to 106.

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1 **NINETEENTH CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct—Violating Pharmacy and Dangerous Drug Laws)

3 126. Respondent Khan is subject to disciplinary action under Code section 4301,  
4 subdivisions (j) and (o), in conjunction with Code sections 4022 and 2242, subdivision (a), in  
5 that, while Respondent Khan was pharmacist-in-charge, Respondent Studio Pharmacy submitted  
6 approximately 3,261 fraudulent prescriptions to UCSHIP that Respondents had reason to know  
7 were not legitimately prescribed and that at least some of the patients would not be using or did  
8 not receive. While Respondent Khan was pharmacist-in-charge, Respondents also forged  
9 prescriptions, dispensed prescriptions without prescriber authorization, dispensed prescriptions  
10 without an appropriate prescriber exam or medical justification, varied from prescriptions, signed  
11 documents that misrepresented facts, and failed to keep complete compounding records.  
12 Complainant realleges paragraphs 42 to 106.

13 **TWENTIETH CAUSE FOR DISCIPLINE**

14 (Furnishing Dangerous Drugs without a Prescription)

15 127. Respondent Khan is subject to disciplinary action under Code section 4301,  
16 subdivisions (j) and (o), in conjunction with Code section 4059, subdivision (a), and Health &  
17 Safety Code section 11150, in that, while Respondent Khan was pharmacist-in-charge,  
18 Respondent Studio Pharmacy acted as the prescriber by checking off prescriptions on a preprinted  
19 check off box prescription form for prescription numbers 9007990 and 9007991 for patient J.D.  
20 and by dispensing prescription number 9007904 to patient H.H. without prescriber authorization.  
21 Complainant realleges paragraphs 42 to 106.

22 **TWENTY FIRST CAUSE FOR DISCIPLINE**

23 (Forgery of Prescriptions)

24 128. Respondent Khan is subject to disciplinary action under Code section 4301,  
25 subdivisions (j) and (o), in conjunction with Code section 4324, subdivision (a), in that, while  
26 Respondent Khan was pharmacist-in-charge, Respondent Studio Pharmacy forged prescription  
27 numbers 9007990 and 9007991 by checking off prescription options on a preprinted check-off  
28



1 box that were not authorized by the prescriber and by dispensing prescription number 9007904 to  
2 patient H.H. without prescriber authorization. Complainant realleges paragraphs 42 to 106.

3 **TWENTY SECOND CAUSE FOR DISCIPLINE**

4 (Erroneous or Uncertain Prescriptions)

5 129. Respondent Khan is subject to disciplinary action under Code section 4301,  
6 subdivision (o), in conjunction with California Code of Regulations, title 16, section 1761,  
7 subdivision (a), in that, while Respondent Khan was pharmacist-in-charge, Respondent Studio  
8 Pharmacy filled approximately 3,261 fraudulent prescriptions that contained significant red flags  
9 to indicate they were not legitimate. Complainant realleges paragraphs 42 to 106.

10 **TWENTY THIRD CAUSE FOR DISCIPLINE**

11 (Operational Standards and Security—Possession of a Pharmacy Key)

12 130. Respondent Khan is subject to disciplinary action under Code section 4301,  
13 subdivision (o), in conjunction with California Code of Regulations, title 16, section 1714,  
14 subdivision (d), in that, on or about July 11, 2017, while Respondent Khan was pharmacist-in-  
15 charge, Board inspectors found Respondent Studio Pharmacy to be open with non-pharmacist  
16 personnel having access to dangerous drugs, prescription records, and filled prescriptions without  
17 a licensed pharmacist present. The key to the front door was in the interior lock and Mendoza  
18 admitted to having possession of the key. Complainant realleges paragraphs 42 to 106.

19 **TWENTY FOURTH CAUSE FOR DISCIPLINE**

20 (Current Inventory—Lack of Acquisition Records)

21 131. Respondent Khan is subject to disciplinary action under Code section 4301,  
22 subdivisions (j) and (o), in conjunction with Code sections 4081, subdivision (a), and 4105,  
23 subdivision (a), and California Code of Regulations, title 16, section 1718, in that an audit of  
24 Respondent Studio Pharmacy's records revealed discrepancies for twenty-eight (28) bottles of  
25 Mebolic that occurred while Respondent Khan was pharmacist-in-charge. Complainant realleges  
26 paragraphs 42 to 106.

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1 **TWENTY FIFTH CAUSE FOR DISCIPLINE**

2 (Operational Standards and Security—Cleanliness)

3 132. Respondent Studio Pharmacy is subject to disciplinary action under Code section  
4 4301, subdivision (o), in conjunction California Code of Regulations, title 16, section 1714,  
5 subdivision (c), in that, while Respondent Khan was pharmacist-in-charge, Board inspectors  
6 found fixtures and compounding equipment at Respondent Studio Pharmacy to be dirty and in  
7 poor repair. Complainant realleges paragraphs 42 to 106.

8 **TWENTY SIXTH CAUSE FOR DISCIPLINE**

9 (Misbranded Drugs)

10 133. Respondent Khan is subject to disciplinary action under Code section 4301,  
11 subdivisions (j) and (o), in conjunction with Health and Safety Code sections 111340 and 111440,  
12 in that, while Respondent Khan was pharmacist-in-charge, Board inspectors found compounding  
13 ingredients at Respondent Studio Pharmacy stored in beakers lacking the manufacturer, lot  
14 number, expiration date, and/or full name. Complainant realleges paragraphs 42 to 106.

15 **TWENTY SEVENTH CAUSE FOR DISCIPLINE**

16 (Variation from Prescription)

17 134. Respondent Khan is subject to disciplinary action under Code section 4301,  
18 subdivision (o), in conjunction with California Code of Regulations, title 16, section 1716, in that,  
19 while Respondent Khan was pharmacist-in-charge, Respondent Studio Pharmacy dispensed  
20 lidocaine patches (prescription number 9007990) and gabapentin cream (prescription number  
21 9007991) when the prescriber authorized a flurbiprofen/baclofen/cyclobenzaprine/gabapentin/  
22 lidocaine topical prescription. While Respondent Khan was pharmacist-in-charge, Respondent  
23 Studio Pharmacy also substituted Inflammacin for Inflammatral without prescriber authorization  
24 on prescription 9008243 for patient LL. Complainant realleges paragraphs 42 to 106.

25 **TWENTY EIGHTH CAUSE FOR DISCIPLINE**

26 (Compounding Record Requirements—Beyond Use Date)

27 135. Respondent Khan is subject to disciplinary action under Code section 4301,  
28 subdivision (o), in conjunction with California Code of Regulations, title 16, section 1735.3,

subdivision (a)(2)(H), in that, while Respondent Khan was pharmacist-in-charge, Respondent Studio Pharmacy compounded prescription medications without documenting the beyond use date on the compounding record, including prescription numbers 9008246, 9007990, 9007529, 9008242, and 9007904. Complainant realleges paragraphs 42 to 106.

#### **TWENTY NINTH CAUSE FOR DISCIPLINE**

(Unprofessional Conduct--Subverting an Investigation)

136. Respondent Khan is subject to disciplinary action under Code section 4301, subdivision (q), in that, while Respondent Khan was the pharmacist-in-charge, Respondents made false statements to Board inspectors and in writing and failed to provide requested records. Complainant realleges paragraphs 42 to 106.

#### **THIRTIETH CAUSE FOR DISCIPLINE**

(Unprofessional Conduct—Misuse of Education)

137. Respondent Khan is subject to disciplinary action under Code sections 4301 and 4306.5, subdivision (a), in that, while Respondent Khan was pharmacist-in-charge of Respondent Studio Pharmacy, she inappropriately exercised her education, training, and experience as a pharmacist. Respondent Khan participated in an insurance fraud scheme that billed prescriptions without appropriate prescriber exams or medical justification, billed patients' insurance without authorization, dispensed prescriptions to patients without their knowledge or authorization, filled prescriptions outside providers' scope of practice, and filled prescriptions containing therapeutic duplications. In addition, Respondent Khan forged prescriptions and/or dispensed prescriptions without prescriber authorization and made false statements to Board inspectors and in writing. These actions represented an extreme departure from the standard of practice and the education involved in being a pharmacist. Complainant realleges paragraphs 42 to 106.

#### **THIRTY FIRST CAUSE FOR DISCIPLINE**

(Pharmacy Technician Supervision and Operating a Pharmacy without a Pharmacist)

138. Respondent Khan is subject to disciplinary action under Code section 4301, subdivisions (j) and (o), in conjunction with Code sections 4115, subdivision (a), and 4116, subdivision (a), in that, while Respondent Khan was pharmacist-in-charge of Respondent Studio

1 Pharmacy, Respondents permitted an unsupervised technician to enter data and bill 72  
2 prescriptions without pharmacist supervision. Complainant realleges paragraphs 42 through 106.

3 **OTHER MATTERS**

4 139. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number  
5 PHY 51656 issued to Respondent Studio Pharmacy, Kare Food Inc. shall be prohibited from  
6 serving as manager, administrator, owner, members, officer, director, associate, or partner of a  
7 licensee for five years if Pharmacy Permit Number PHY 51656 is placed on probation or until  
8 Pharmacy Permit Number PHY 51656 is reinstated if it is revoked.

9 140. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number  
10 PHY 51656 issued to Respondent Studio Pharmacy for conduct that occurred while Vartan V.  
11 Tabakian was a manager, administrator, owner, member, officer, director, associate, partner or  
12 other person with management or control of Respondent Studio Pharmacy and had knowledge of  
13 or knowingly participated in any conduct for which the license was disciplined, Vartan V.  
14 Tabakian shall be prohibited from serving as manager, administrator, owner, members, officer,  
15 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 51656  
16 is placed on probation or until Pharmacy Permit Number PHY 51656 is reinstated if it is revoked.

17 141. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number  
18 PHY 51656 issued to Respondent Studio Pharmacy for conduct that occurred while Respondent  
19 Khan was a manager, administrator, owner, member, officer, director, associate, partner or other  
20 person with management or control of Respondent Excel Care and had knowledge of or  
21 knowingly participated in any conduct for which the license was disciplined, Respondent Khan  
22 shall be prohibited from serving as manager, administrator, owner, members, officer, director,  
23 associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 51656 is placed  
24 on probation or until Pharmacy Permit Number PHY 51656 is reinstated if it is revoked.

25 **PRAYER**

26 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
27 and that following the hearing, the Board of Pharmacy issue a decision:  
28

- 1           1.     Revoking or suspending Pharmacy Permit Number PHY 51656, issued to Kare Food  
2 Inc. dba Studio Pharmacy, Vartan V. Tabakian, Owner;
- 3           2.     Revoking or suspending Pharmacist License Number RPH 65823, issued to Fauzia  
4 Riasat Khan;
- 5           3.     Prohibiting Kare Food Inc. from serving as a manager, administrator, owner, member,  
6 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number  
7 PHY 51656 is placed on probation or until Pharmacy Permit Number PHY 51656 is reinstated if  
8 Pharmacy Permit Number PHY 51656 issued to Kare Food Inc. dba Studio Pharmacy is revoked;
- 9           4.     Prohibiting Vartan V. Tabakian from serving as a manager, administrator, owner,  
10 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
11 Number PHY 51656 is placed on probation or until Pharmacy Permit Number PHY 51656 is  
12 reinstated if Pharmacy Permit Number PHY 51656 issued to Kare Food Inc. dba Studio Pharmacy  
13 is revoked;
- 14          5.     Prohibiting Fauzia Riasat Khan from serving as a manager, administrator, owner,  
15 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
16 Number PHY 51656 is placed on probation or until Pharmacy Permit Number PHY 51656 is  
17 reinstated if Pharmacy Permit Number PHY 51656 issued to Kare Food Inc. dba Studio Pharmacy  
18 is revoked;
- 19          6.     Ordering Kare Food Inc. and Fauzia Riasat Khan to pay the Board of Pharmacy the  
20 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
21 Professions Code section 125.3; and,
- 22          7.     Taking such other and further action as deemed necessary and proper.

23  
24  
25       DATED:     9/11/2020

*Anne Sodergren*  
\_\_\_\_\_  
ANNE SODERGREN  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*