

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

**In the Matter of the Petitions for Early Termination of
Probation of:**

**CLINTON & CLINTON INC., dba APOTHECARY PHARMACY,
and RONALD K. CLINTON, Petitioners**

Agency Case No. 6477

OAH Case No. 2023030209

DECISION

This matter was heard before a quorum of the Board of Pharmacy (Board) by videoconference on March 15, 2023. Jessica Wall, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, presided.

Nicole R. Trama, Deputy Attorney General, appeared pursuant to Government Code section 11522.

Ronald K. Clinton (petitioner Clinton) represented himself and Clinton & Clinton Inc., doing business as (dba) Apothecary Pharmacy (petitioner Apothecary) (collectively, petitioners).

Evidence was received, the record closed, and the matter submitted for decision on March 15, 2023.

FACTUAL FINDINGS

License and Disciplinary History

1. On October 7, 1993, the Board issued petitioner Clinton Registered Pharmacist License No. RPH 46778 (license). The license will expire on March 31, 2025, unless renewed.

2. On January 27, 2003, the Board issued petitioner Apothecary Pharmacy Permit No. PHY 46250 (permit). The permit will expire on January 1, 2024, unless renewed.

3. On May 30, 2019, the Board's Executive Officer, in her official capacity as Interim Executive Officer, signed and later filed an Accusation against petitioner Apothecary and petitioner Clinton as the president, 50-percent shareholder, and pharmacist-in-charge (PIC) of petitioner Apothecary. The Accusation sought to discipline petitioners' license and permit because of violations of pharmacy law.

Specifically, during a February 2018 inspection, the Board investigator determined that petitioners violated laws relating to operational standards and security, such that pharmacy employees were able to steal over 85,000 tablets of alprazolam 2 mg and over 100,000 mL of promethazine/codeine syrup between May 2015 and February 2018. Additionally, petitioner Clinton was unable to retrieve controlled substance invoices for review during the inspection. The Board investigator also determined that a pharmacy technician had worked at petitioner Apothecary with

an expired, and therefore invalid, pharmacy technician license from March 2016 through October 2017.

4. On November 6, 2019, petitioner Clinton signed a Stipulated Settlement and Disciplinary Order as to Ronald Keith Clinton Only (Clinton Stipulated Settlement),¹ submitted for the Board's consideration. By virtue of the Clinton Stipulated Settlement, petitioner Clinton agreed that the allegations in the Accusation, if proven at hearing, constituted cause to discipline his license. He further agreed to a stayed license revocation and having the Board place his license on probation for a period of five years. Probation conditions were to consist of all standard probation conditions, including cost recovery in the amount of \$17,847, as well as remedial education and a drug diversion and abuse course.

5. In a Decision and Order dated December 24, 2019, the Board adopted the Clinton Stipulated Settlement as its own decision. The decision became effective on January 23, 2020.

¹ The Board's memorandum (AGO 001-005) states that the petition packet contains both the Decision and Order for petitioner Clinton and petitioner Apothecary. However, the "Copy of Decision and Order, In the Matter of the Accusation Against: Clinton & Clinton Inc., dba Apothecary Pharmacy, PHY 46250; and Ronald Keith Clinton, RPH 46778, as to Apothecary Pharmacy Only, Case No. 6477" was not included in the petition packet admitted at hearing. Accordingly, petitioner Apothecary's probation terms and the date its probation became effective are drawn solely from the memorandum.

Petition for Early Termination of Probation

6. On October 17, 2022, petitioners filed the instant Petitions for Early Termination of Probation (Petitions). Petitioner Clinton testified in support of the Petitions at the Board hearing and offered letters of support and proof of continuing education.

7. Petitioner Clinton testified about his deep embarrassment over the misconduct underlying the Accusation. When petitioner Clinton bought petitioner Apothecary in 2002, the existing system allowed pharmacy technicians to place orders for medications. In 2015, he hired a pharmacy technician who began to surreptitiously order alprazolam tablets and promethazine/codeine syrup separately from the orders petitioner Clinton placed. Upon shipment arrival, the technician would separate those items out from the rest of the order before petitioner Clinton saw them. Petitioner Clinton did not know to look for items he had not ordered. Additionally, given the low cost of these items, the invoice totals did seem unusually high and petitioner Clinton remained unaware of the scheme until a wholesaler notified him.

8. Petitioner Clinton accepts that he did not have good oversight over his employees. His home was firebombed in early 2015, which caused him to be distracted at work. While he was unaware of the misconduct, it was ultimately his lack of proper processes that enabled the drug diversion. Upon learning about the problem, he immediately changed the system and prevented employees from being able to place orders. Petitioner Clinton now knows every item the pharmacy orders and keeps his medications locked. Petitioner Apothecary no longer has any technicians or clerks. Petitioner Clinton is the only pharmacist and employee.

9. Petitioners' probation started January 23, 2020, and is scheduled to end on January 22, 2025. They have complied with all probation conditions and petitioner Clinton completed the Board's drug diversion and abuse course in October 2020. Petitioners are jointly and severally responsible to pay \$17,847 in costs to the Board, and their remaining balance is \$6,337.

10. Probation helped petitioner Clinton slow down, focus more on the details, and work more deliberately. A pharmacy consultant educated petitioner Clinton about improved recordkeeping and why the misconduct had taken place. Petitioner Clinton implemented new loss prevention strategies based on the consultant's recommendations and what he learned in the drug diversion course, such as ensuring all areas of the pharmacy are surveilled by video cameras, keeping medications in a safe, and ensuring the alarm system is functioning. He also requests more frequent reports from his wholesalers and checks his inventory more often. Petitioner Clinton views his role as being a caretaker of medication and understands his responsibility to make sure it is not diverted.

11. Petitioner Clinton submitted certificates to show he completed over 34 hours of continuing education since his probation began. Petitioner's courses focused on immunization administration, as well as several courses directly related to the Accusation's allegations, such as "Pain Management and Judicious Opioid Use," "Drugs of Abuse: Not Just Opioids and Stimulants," and "Compliance with the Controlled Substances Act—DEA Audits."

12. Petitioners seek early termination of probation because petitioner Apothecary is operating at a loss. Petitioner Clinton would like to sell the pharmacy, but the probationary status of the permit reduces its price and an encumbered license

makes it difficult for him to find another job. He asserts that probation has made him a better pharmacist and based on the lessons he has learned, he will never repeat his past mistakes.

LETTERS OF SUPPORT

13. Pursuant to Business and Professions Code section 4309, subdivision (b), petitioner submitted two letters of recommendation from individuals licensed by the Board and two letters of recommendation from private citizens. Board staff verified each letter. Each author professed knowledge of the underlying discipline and petitioner's activities since the disciplinary penalty was imposed.

14. The pharmacist authors have both known petitioner Clinton for over 20 years. The citizen authors have known him for over 10 years. All authors describe petitioner Clinton as responsible, trustworthy, caring, and ethical. They corroborate his testimony about accepting responsibility for the past violations, and that he has implemented additional security and hiring practices to prevent future violations from taking place.

LEGAL CONCLUSIONS

1. A pharmacist whose license has been placed on probation for a period of three years or more may petition the Board for early termination of probation after at least two years have passed since the effective date of such discipline. (Bus. & Prof. Code, § 4309, subd. (a)(2).) Here, more than two years have passed since petitioner's probation period began on January 23, 2020. Thus, the Petition is timely.

2. Petitioners bear the burden of proving by clear and convincing evidence that early termination of probation is appropriate. (*Flanzer v. Bd. of Dental Examiners* (1990) 220 Cal.App.3d 1392, 1398; *Hippard v. State Bar* (1989) 49 Cal.3d 1084, 1091–1092.) When evaluating the Petitions, the Board may consider: (1) all of the petitioners' activities since the disciplinary action; (2) the offense for which the petitioners were disciplined; (3) the petitioners' activities during the time their licenses were in good standing; (4) the petitioners' documented rehabilitative efforts; and (5) the petitioners' general reputations for truth and professional ability. (Bus. & Prof. Code, § 4309, subd. (d).)

3. Petitioner Clinton took responsibility for the misconduct underlying the Accusation based on his role as PIC and expressed remorse for the violations. In his years on probation, he has embraced continuing education about drug diversion and implemented better security at petitioner Apothecary. Petitioner Clinton's straightforward testimony illustrated his commitment to improving security practices at the pharmacy, as well as deliberate and intentional policy changes. Given the foregoing, continued monitoring is no longer necessary to protect public safety. Thus, the Petitions are granted.

ORDER

The Petitions for Early Termination of Probation filed by Clinton & Clinton Inc., dba Apothecary Pharmacy, and Ronald K. Clinton are GRANTED.

CONDITION PRECEDENT TO TERMINATION OF PROBATION: Upon payment of the outstanding balance of the Board of Pharmacy's costs of investigation and enforcement (\$6,337), petitioner Clinton's Pharmacist License No. RPH 46778 and

petitioner Apothecary's Pharmacy Permit No. PHY 46250 shall be restored without restriction. Payment may be made pursuant to a Board-approved payment plan. All conditions of probation, except as modified above, remain in effect until payment in full is rendered.

This Decision shall become effective at 5:00 p.m. on June 7, 2023.

It is so ORDERED on May 8, 2023.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

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

Seung W. Oh, Pharm.D.
Board President

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

In the Matter of the Accusation Against:

Case No. 6477

**CLINTON & CLINTON INC. DBA APOTHECARY
PHARMACY, RONALD KEITH CLINTON
11770 National Boulevard, Suite L & M
Los Angeles, CA 90064**

OAH No. 2019060903

Pharmacy Permit No. PHY 46250,

and

**RONALD KEITH CLINTON
P.O. Box 2091
Culver City, CA 90230**

Pharmacist License No. RPH 46778,

Respondents.

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on January 23, 2020.

It is so ORDERED on December 24, 2019.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe", written in a cursive style.

By

Greg Lippe
Board President

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

12
13 **CLINTON & CLINTON INC. DBA**
APOTHECARY PHARMACY, RONALD
14 **KEITH CLINTON**
15 **11700 National Boulevard, Suite L & M**
Los Angeles, CA 90064

16 **Pharmacy Permit No. PHY 46250,**

17 **and**

18 **RONALD KEITH CLINTON**
19 **P.O. Box 2091**
Culver City, CA 90230

20 **Pharmacist License No. RPH 46778**

21 Respondents.

Case No. 6477

OAH No. 2019060903

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
CLINTON & CLINTON INC. ONLY**

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

25 **PARTIES**

26 1. Anne Sodergren (Complainant) is the Interim Executive Officer of the Board of
27 Pharmacy (Board). She brought this action solely in her official capacity and is represented in
28

1 this matter by Xavier Becerra, Attorney General of the State of California, by Michelle Nijm,
2 Deputy Attorney General.

3 2. Respondent Clinton & Clinton Inc. dba Apothecary Pharmacy (Respondent) is
4 represented in this proceeding by attorney Herb L. Weinberg.

5 3. On or about January 27, 2003, the Board issued Pharmacy Permit No. PHY 46250 to
6 Respondent. The Pharmacy Permit was in full force and effect at all times relevant to the charges
7 brought in Accusation No. 6477, and will expire on January 1, 2020, unless renewed.

8 **JURISDICTION**

9 4. Accusation No. 6477 was filed before the Board, and is currently pending against
10 Respondent. The Accusation and all other statutorily required documents were properly served
11 on Respondent on June 6, 2019. Respondent timely filed its Notice of Defense contesting the
12 Accusation.

13 5. A copy of Accusation No. 6477 is attached as exhibit A and incorporated herein by
14 reference.

15 **ADVISEMENT AND WAIVERS**

16 6. Respondent has carefully read, fully discussed with counsel, and understands the
17 charges and allegations in Accusation No. 6477. Respondent has also carefully read, fully
18 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
19 Order.

20 7. Respondent is fully aware of its legal rights in this matter, including the right to a
21 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
22 the witnesses against them; the right to present evidence and to testify on its own behalf; the right
23 to the issuance of subpoenas to compel the attendance of witnesses and the production of
24 documents; the right to reconsideration and court review of an adverse decision; and all other
25 rights accorded by the California Administrative Procedure Act and other applicable laws.

26 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
27 every right set forth above.
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1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 6477, if proven at a hearing, constitute cause for imposing discipline upon its Pharmacy
4 Permit.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up its right to contest
8 those charges.

9 11. Respondent agrees that its Pharmacy Permit is subject to discipline and they agree to
10 be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

11 **RESERVATION**

12 12. The admissions made by Respondent herein are only for the purposes of this
13 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
14 licensing agency is involved, and shall not be admissible in any other criminal or civil
15 proceeding.

16 **CONTINGENCY**

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

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 46250 issued to Respondent Clinton & Clinton Inc. dba Apothecary Pharmacy is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

STANDARD CONDITIONS OF PROBATIONS

1. Definition: Respondent

For the purposes of these terms and conditions, “Respondent” shall refer to Clinton & Clinton Inc. dba Apothecary Pharmacy, Permit No. PHY 46250. All terms and conditions stated herein shall bind and be applicable to the licensed premises and to all owners, managers, officers, administrators, members, directors, trustees, associates, or partners thereof. For purposes of compliance with any term or condition, any report, submission, filing, payment, or appearance required to be made by Respondent to or before the Board or its designee shall be made by an owner or executive officer with authority to act on behalf of and legally bind the licensed entity.

2. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

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

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

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

3. Report to the Board

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

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

4. Interview with the Board

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

1 **5. Cooperate with Board Staff**

2 Respondent shall timely cooperate with the Board's inspection program and with the
3 Board's monitoring and investigation of Respondent's compliance with the terms and conditions
4 of the probation, including but not limited to: timely responses to requests for information by
5 Board staff; timely compliance with directives from Board staff regarding requirements of any
6 term or condition of probation; and timely completion of documentation pertaining to a term or
7 condition of probation. Failure to timely cooperate shall be considered a violation of probation.

8 **6. Reimbursement of Board Costs**

9 As a condition precedent to successful completion of probation, Respondent and Ronald
10 Keith Clinton shall be jointly and severally liable to pay to the Board its costs of investigation and
11 prosecution in the amount of \$17,847. Respondent shall make said payments as follows:

12 Respondent shall be permitted to pay these costs in a payment plan approved by the Board
13 or its designee, so long as full payment is completed no later than one (1) year prior to the end
14 date of probation.

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

18 **7. Probation Monitoring Costs**

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

23 **8. Status of License**

24 Respondent shall, at all times while on probation, maintain current licensure with the
25 Board. Failure to maintain current licensure shall be considered a violation of probation. If
26 Respondent submits an application to the Board, and the application is approved, for a change of
27 location, change of permit or change of ownership, the Board shall retain continuing jurisdiction
28 over the license, and Respondent shall remain on probation as determined by the Board.

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

5 **9. License Surrender While on Probation/Suspension**

6 Following the effective date of this decision, should Respondent wish to discontinue
7 business, Respondent may tender the premises license to the Board for surrender. The Board or
8 its designee shall have the discretion whether to grant the request for surrender or take any other
9 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
10 license, Respondent will no longer be subject to the terms and conditions of probation.

11 Upon acceptance of the surrender, Respondent shall relinquish the premises' wall and
12 renewal license to the Board within ten (10) days of notification by the Board that the surrender is
13 accepted. Respondent shall further submit a completed Discontinuance of Business form
14 according to Board guidelines and shall notify the Board of the records inventory transfer within
15 five (5) days. Respondent shall further arrange for the transfer of all records of acquisition and
16 disposition of dangerous drugs and/or devices to premises licensed and approved by the board.

17 Respondent shall also, by the effective date of this decision, arrange for the continuation of
18 care for ongoing patients of the pharmacy by, at minimum, providing a written notice to ongoing
19 patients that specifies the anticipated closing date of the pharmacy and that identifies one or more
20 area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary
21 in the transfer of records or prescriptions for ongoing patients. Within five days of its provision
22 to the pharmacy's ongoing patients, Respondent shall provide a copy of the written notice to the
23 Board. For the purposes of this provision, "ongoing patients" means those patients for whom the
24 pharmacy has on file a prescription with one or more refills outstanding, or for whom the
25 pharmacy has filled a prescription within the preceding sixty (60) days.

26 Respondent may not apply for any new licensure from the Board for three (3) years from
27 the effective date of the surrender. Respondent shall meet all requirements applicable to the
28 license sought as of the date the application for that license is submitted to the Board.

Respondent further stipulates that Respondent shall reimburse the Board for its costs of investigation and prosecution prior to the acceptance of the surrender.

10. Sale or Discontinuance of Business

During the period of probation, should Respondent sell, trade or transfer all or part of the ownership of the licensed entity, discontinue doing business under the license issued to Respondent, or should practice at that location be assumed by another full or partial owner, person, firm, business, or entity, under the same or a different premises license number, the Board or its designee shall have the sole discretion to determine whether to exercise continuing jurisdiction over the licensed location, under the current or new premises license number, and/or carry the remaining period of probation forward to be applicable to the current or new premises license number of the new owner.

11. Notice to Employees

Respondent owners shall, upon or before the effective date of this decision, ensure that all employees involved in permit operations are made aware of all the terms and conditions of probation, either by posting a notice of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout the probation period. Respondent owners shall ensure that any employees hired or used after the effective date of this decision are made aware of the terms and conditions of probation by posting a notice, circulating a notice, or both. Additionally, Respondent shall submit written notification to the Board, within fifteen (15) days of the effective date of this decision, that this term has been satisfied. Failure to submit such notification to the Board shall be considered a violation of probation.

“Employees” as used in this provision includes all full-time, part-time, volunteer, temporary, and relief employees and independent contractors employed or hired at any time during probation.

12. Owners and Officers: Knowledge of the Law

Respondent shall provide, within thirty (30) days after the effective date of this decision, signed and dated statements from its owners, including any owner or holder of ten percent (10%)

1 or more of the interest in Respondent or Respondent's stock, and any officer, stating under
2 penalty of perjury that said individuals have read and are familiar with state and federal laws and
3 regulations governing the practice of pharmacy. The failure to timely provide said statements
4 under penalty of perjury shall be considered a violation of probation.

5 **13. Premises Open for Business**

6 Respondent shall remain open and engaged in its ordinary business as a licensed pharmacy
7 in California for a minimum of one hundred twenty (120) hours per calendar month. Any month
8 during which this minimum is not met shall toll the period of probation, i.e., the period of
9 probation shall be extended by one month for each month during with this minimum is not met.
10 During any such period of tolling of probation, Respondent must nonetheless comply with all
11 terms and conditions of probation, unless Respondent is informed otherwise in writing by the
12 Board or its designee. If Respondent is not open and engaged in its ordinary business as a
13 licensed pharmacy for a minimum of one hundred twenty (120) hours in any calendar month, for
14 any reason (including vacation), Respondent shall notify the Board in writing within ten (10) days
15 of the conclusion of that calendar month. This notification shall include at minimum all of the
16 following: the date(s) and hours Respondent was open; the reason(s) for the interruption or why
17 business was not conducted; and the anticipated date(s) on which Respondent will resume
18 business as required. Respondent shall further notify the Board in writing with ten (10) days
19 following the next calendar month during which Respondent is open and engaged in its ordinary
20 business as a licensed pharmacy in California for a minimum of one hundred twenty (120) hours.
21 Any failure to timely provide such notification(s) shall be considered a violation of probation.

22 **14. Posted Notice of Probation**

23 Respondent shall prominently post a probation notice provided by the Board in a place
24 conspicuous and readable by the public within two (2) days of receipt thereof from the Board or
25 its designee. Failure to timely post such notice, or to maintain the posting during the entire period
26 of probation, shall be considered a violation of probation.

27 Respondent shall not, directly or indirectly, engage in any conduct or make any statement
28 which is intended to mislead or is likely to have the effect of misleading any patient, customer,

1 member of the public, or other person(s) as to the nature of and reason for the probation of the
2 licensed entity.

3 **15. Violation of Probation**

4 If Respondent has not complied with any term or condition of probation, the Board shall
5 have continuing jurisdiction over Respondent's license, and probation shall be automatically
6 extended until all terms and conditions have been satisfied or the Board has taken other action as
7 deemed appropriate to treat the failure to comply as a violation of probation, to terminate
8 probation, and to impose the penalty that was stayed.

9 If Respondent violates probation in any respect, the Board, after giving Respondent notice
10 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
11 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
12 probation, the Board shall have continuing jurisdiction and the period of probation shall be
13 automatically extended until the petition to revoke probation or accusation is heard and decided,
14 and the charges and allegations in Accusation No. 6477 shall be deemed true and correct.

15 **16. Completion of Probation**

16 Upon written notice by the Board or its designee indicating successful completion of
17 probation, Respondent's license will be fully restored.

18 **17. Independent Consultant**

19 During the period of probation, Respondent Pharmacy shall retain an independent
20 consultant at its own expense who shall be responsible for reviewing pharmacy operations on
21 a monthly basis for compliance by Respondent Pharmacy with state and federal laws and
22 regulations governing the practice of pharmacy and for compliance by Respondent. The
23 consultant shall be a pharmacist licensed by and not on probation with the Board and whose
24 name shall be submitted to the Board or its designee, for prior approval, within thirty (30)
25 days of the effective date of this decision. During the period of probation, the Board or its
26 designee, retains the discretion to reduce the frequency of the pharmacist consultant's review
27 of Respondent pharmacy.
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1 Failure to timely retain, seek approval of, or ensure timely reporting by the consultant
2 shall be considered a violation of probation.

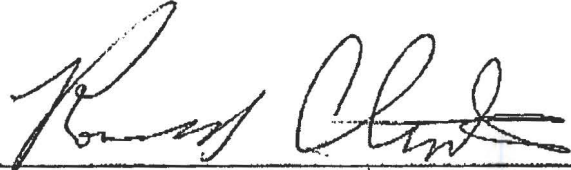
3 **18. No Additional Ownership or Management of Licensed Premises**

4 Respondent shall not acquire any additional ownership, legal or beneficial interest in, nor
5 serve as a manager, administrator, member, officer, director, associate, partner or any business,
6 firm, partnership, or corporation currently or hereinafter licensed by the Board except as approved
7 by the Board or its designee. Violation of this restriction shall be considered a violation of
8 probation.

9 **ACCEPTANCE**

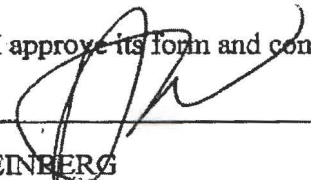
10 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
11 discussed it with my attorney, Herb L. Weinberg. I understand the stipulation and the effect it
12 will have on my Pharmacy Permit. I enter into this Stipulated Settlement and Disciplinary Order
13 voluntarily,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

15
16
17 DATED: 11/6/19


18 CLINTON & CLINTON INC. DBA APOTHECARY
19 PHARMACY
20 Respondent

21 I have read and fully discussed with Respondent Clinton & Clinton Inc. dba Apothecary
22 Pharmacy, Ronald Keith Clinton the terms and conditions and other matters contained in the
23 above Stipulated Settlement and Disciplinary Order. I approve its form and content.

24 DATED: 11/6/2019


25 HERB L. WEINBERG
26 Attorney for Respondent
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ENDORSEMENT

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

DATED: Nov. 6, 2019

Respectfully submitted,

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SHAWN P. COOK
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Exhibit A

Accusation No. 6477

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

12
13 In the Matter of the Accusation Against:

Case No. 6477

14 **CLINTON & CLINTON INC. DBA**
APOTHECARY PHARMACY, RONALD
15 **KEITH CLINTON**
16 **11700 National Boulevard, Suite L & M**
Los Angeles, CA 90064

A C C U S A T I O N

17 **Pharmacy Permit No. PHY 46250,**

18 **and**

19 **RONALD KEITH CLINTON**
P.O. Box 2091
20 **Culver City, CA 90230**

21 **Pharmacist License No. RPH 46778**

22 Respondents.

23
24 Complainant alleges:

25 **PARTIES**

26 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
27 as the Interim Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
28

2. On or about January 27, 2003, the Board of Pharmacy issued Pharmacy Permit Number PHY 46250 to Clinton & Clinton Inc. dba Apothecary Pharmacy, Ronald Keith Clinton (Apothecary). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on January 1, 2020, unless renewed.

3. On or about October 7, 1993, the Board of Pharmacy issued Pharmacist License Number RPH 46778 to Ronald Keith Clinton (Clinton). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2019, 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 unless otherwise indicated.

5. Section 4300, subdivision (a) of the Code provides that "[e]very license issued may be suspended or revoked."

6. Section 4011 of the Code states that in addition to administering and enforcing the Pharmacy Law (Cal. Bus. & Prof. §§ 4000, et seq.), the board shall administer and enforce "the Uniform Controlled Substances Act (Division 10 (commencing with Section 11000) of the Health and Safety Code)."

STATUTES AND REGULATIONS

Pertinent Law

7. 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:

. . .

"(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."

1
2 8. California Code of Regulations, title 16, section 1714, states in pertinent part:

3 . . .

4 “(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and
5 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.
6 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice
7 of pharmacy.

8 . . .

9 9. Section 4022 of the Code provides:

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

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

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

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

19 10. Section 4105 of the Code states:

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

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

26 “(c) The records required by this section shall be retained on the licensed premises for a
27 period of three years from the date of making.
28

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

7 “(e)(1) Notwithstanding subdivisions (a), (b), and (c), the board, may upon written request,
8 grant to a licensee a waiver of the requirements that the records described in subdivisions (a), (b),
9 and (c) be kept on the licensed premises.

10 (2) A waiver granted pursuant to this subdivision shall not affect the board’s authority
11 under this section or any other provision of this chapter.”

12 11. Section 4113 of the Code states, in pertinent part:

13 . . .

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

16

17 12. Section 4115 of the Code states, in pertinent part:

18 “(a) A pharmacy technician may perform packaging, manipulative, repetitive, or other
19 nondiscretionary tasks only while assisting, and while under the direct supervision and control of,
20 a pharmacist. The pharmacist shall be responsible for the duties performed under his or her
21 supervision by a technician.

22

23 “(d) The board shall adopt regulations to specify tasks pursuant to subdivision (a) that a
24 pharmacy technician may perform under the supervision of a pharmacist. Any pharmacy that
25 employs a pharmacy technician shall do so in conformity with the regulations adopted by the
26 board.

27 “(e) A person shall not act as a pharmacy technician without first being licensed by the
28 board as a pharmacy technician.”

1

2 13. Section 4307, subdivision (a) of the Code provides:

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

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

16 “(2) Where the license is denied or revoked, the prohibition shall continue until the license
17 is issued or reinstated.”
18

19 14. California Code of Regulations, title 16, section 1793.2, states:

20 “Nondiscretionary tasks” as used in Business and Professions Code section 4115, include:

21 “(a) removing the drug or drugs from stock;

22 “(b) counting, pouring, or mixing pharmaceuticals;

23 “(c) placing the product into a container;

24 “(d) affixing the label or labels to the container;

25 “(e) packaging and repackaging.”
26

COST RECOVERY

27 15. Section 125.3 of the Code states, in pertinent part, that the Board may request the
28 administrative law judge to direct a licensee found to have committed a violation or violations of

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 **FACTUAL BACKGROUND**

4 16. At all times relevant to the allegations set forth herein, Clinton was the President of
5 Apothecary and a fifty (50) percent shareholder. At all times relevant to the allegations set forth
6 herein, Clinton was also designated as Apothecary's pharmacist-in-charge.

7 17. On or about December 22, 2017, HDSmith submitted a suspicious order report
8 concerning Apothecary to the Board and the Department of Justice.

9 18. On or about January 17, 2018, the Board received a report from Clinton regarding
10 controlled substance drug losses at Apothecary due to "employee pilferage." Clinton's report
11 indicated that significant quantities of alprazolam 2 mg and promethazine with codeine had been
12 lost or stolen.

13 19. Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code
14 section 11057, subdivision (d)(1) and is a dangerous drug pursuant to Code section 4022.

15 20. Promethazine with codeine is a Schedule V controlled substance pursuant to Health
16 and Safety Code section 11058, subdivision (c)(1) and is a dangerous drug pursuant to Code
17 section 4022.

18 21. On or about February 6, 2018, a Board inspector performed an inspection of
19 Apothecary.

20 22. Federal law requires a pharmacy to complete and maintain an "initial inventory" of
21 any and all controlled substances in its stock as of the first day on which the pharmacy begins
22 dispensing controlled substances and also requires that subsequent "biennial inventories" be
23 performed at least every two (2) years thereafter. (See 21 CFR § 1304.) Clinton represented
24 that a biennial controlled substance inventory had been performed on May 31, 2017, but he was
25 unable to produce the complete 2017 controlled substance inventory during the inspection.

26 23. On the day of the inspection, the Board inspector asked to review Apothecary's
27 Schedule II and Schedule III-V invoices. Clinton was unable to produce all such invoices during
28 the inspection.

24. The Board inspector performed an audit of alprazolam 2 mg and promethazine/codeine syrup at Apothecary for the period May 31, 2015 through February 6, 2018. The audit revealed shortages of approximately 85,756 tablets of alprazolam 2 mg and 103,753 mL of promethazine/codeine syrup.

25. Clinton stated that he had employed Klarissa Hernandez (Hernandez) as a pharmacy technician from January 29, 2016 to January 5, 2018. During that period, Hernandez performed duties requiring a pharmacy technician license, including the filling of prescriptions.

26. Hernandez was first issued License No. TCH143873 on February 11, 2015. The license expired on March 31, 2016 and was not renewed. Hernandez remained unlicensed until she was issued License No. TCH 163770 on October 12, 2017.

FIRST CAUSE FOR DISCIPLINE

(Violation of Pharmacy Law: Operational Standards and Security)

27. Respondents Apothecary and Clinton are subject to disciplinary action under section 4301, subdivision (o), in conjunction with section California Code of Regulations, title 16, section 1714, subdivision (b), in that Respondents failed to maintain Apothecary's facilities, space, fixtures, and equipment such that drugs were safely and properly prepared, maintained, secured, and distributed. For the period May 31, 2015 to February 6, 2018, Respondents Apothecary and Clinton could not account for significant inventory shortages of approximately 85,756 tablets of alprazolam 2 mg and 103,753 mL of promethazine/codeine syrup. Complainant refers to, and by this reference incorporates the allegations set forth above in paragraphs 15 through 25, inclusive, as though set forth fully herein.

SECOND CAUSE FOR DISCIPLINE

(Violation of Pharmacy Law: Acquisition & Disposition Records)

28. Respondents Apothecary and Clinton are subject to disciplinary action under section 4301, subdivision (o), in conjunction with section 4105, subdivision (a) in that Respondents failed to retain all records of the acquisition and disposition of dangerous drugs on the licensed premises in a readily retrievable form. During an inspection on February 6, 2018, Respondents were unable to retrieve any controlled substance invoices for review. Complainant refers to, and by

1 this reference incorporates the allegations set forth above in paragraphs 15 through 25, inclusive,
2 as though set forth fully herein.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Violation of Pharmacy Law: Unlicensed Pharmacy Technician)**

5 29. Respondents Apothecary and Clinton are subject to disciplinary action under section
6 4301, subdivision (o), in conjunction with section 4115 and California Code of Regulations, title
7 16, section 1793.2 in that Apothecary employed Hernandez as a pharmacy technician to perform
8 pharmacy technician duties while Hernandez did not hold an active license. Complainant refers
9 to, and by this reference incorporates the allegations set forth above in paragraphs 15 through 25,
10 inclusive, as though set forth fully herein.

11 **OTHER MATTERS**

12 30. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
13 PHY 46250 issued to Clinton & Clinton Inc., Clinton & Clinton Inc. shall be prohibited from
14 serving as manager, administrator, owner, members, officer, director, associate, or partner of a
15 licensee for five years if Pharmacy Permit Number PHY 46250 is placed on probation or until
16 Pharmacy Permit Number PHY 46250 is reinstated if it is revoked.

17 31. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
18 PHY 46250 issued to Clinton & Clinton Inc. for conduct that occurred while Ronald Keith
19 Clinton was an officer and/or owner and had knowledge of or knowingly participated in any
20 conduct for which the license was disciplined, Ronald Keith Clinton shall be prohibited from
21 serving as manager, administrator, owner, members, officer, director, associate, or partner of a
22 licensee for five years if Pharmacy Permit Number PHY 46250 is placed on probation or until
23 Pharmacy Permit Number PHY 46250 is reinstated if it is revoked.

24 **PRAYER**

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

27 1. Revoking or suspending Pharmacy Permit Number PHY 46250, issued to Clinton &
28 Clinton Inc. dba Apothecary Pharmacy;

2. Revoking or suspending Pharmacist License Number RPH 46778, issued to Ronald Keith Clinton;

3. Prohibiting Clinton & Clinton Inc. from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 46250 is placed on probation or until Pharmacy Permit Number PHY 46250 is reinstated if Pharmacy Permit Number PHY 46250 issued to Saint Thomas the Hermit Inc. is revoked;

4. Prohibiting Ronald Keith Clinton from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 46250 is placed on probation or until Pharmacy Permit Number PHY 46250 is reinstated if Pharmacy Permit Number PHY 46250 issued to Clinton & Clinton Inc. is revoked;

5. Ordering that Clinton & Clinton Inc. dba Apothecary Pharmacy and Ronald Keith Clinton are jointly and severally obligated to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: May 30, 2019



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

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