

**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 written in a cursive, flowing style.

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".

By

Greg Lippe
Board President

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
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6049
6 Facsimile: (916) 731-2126
E-mail: Michelle.Nijm@doj.ca.gov
7 *Attorneys for Complainant*

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

OAH No. 2019060903

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RONALD KEITH CLINTON ONLY

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

26 **PARTIES**

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

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

3 2. Respondent Ronald Keith Clinton (Respondent) is represented in this proceeding by
4 attorney Herb L. Weinberg.

5 3. On or about October 7, 1993, the Board issued Registered Pharmacist License No.
6 RPH 46778 to Ronald Keith Clinton (Respondent). The Registered Pharmacist License was in
7 full force and effect at all times relevant to the charges brought in Accusation No. 6477, and will
8 expire on March 31, 2021, unless renewed.

9 **JURISDICTION**

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

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

16 **ADVISEMENT AND WAIVERS**

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

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

27 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
28 every right set forth above.

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 his Registered
4 Pharmacist License.

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 his right to contest
8 those charges.

9 11. Respondent agrees that his Registered Pharmacist License is subject to discipline and
10 he agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order
11 below.

12 **RESERVATION**

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

17 **CONTINGENCY**

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

1 Respondent's license or which is related to the practice of pharmacy or the
2 manufacturing, obtaining, handling, distributing, billing, or charging for any drug,
3 device or controlled substance.

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

5 **2. Report to the Board**

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

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

15 **3. Interview with the Board**

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

21 **4. Cooperate with Board Staff**

22 Respondent shall timely cooperate with the Board's inspection program and with the
23 Board's monitoring and investigation of Respondent's compliance with the terms and conditions
24 of his probation, including but not limited to: timely responses to requests for information by
25 Board staff; timely compliance with directives from Board staff regarding requirements of any
26 term or condition of probation; and timely completion of documentation pertaining to a term or
27 condition of probation. Failure to timely cooperate shall be considered a violation of probation.
28

1 **5. Continuing Education**

2 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
3 pharmacist as directed by the Board or its designee.

4 **6. Reporting of Employment and Notice to Employers**

5 During the period of probation, Respondent shall notify all present and prospective
6 employers of the decision in case number 6477 and the terms, conditions and restrictions imposed
7 on Respondent by the decision, as follows:

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

19 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
20 Respondent undertaking any new employment, Respondent shall cause (a) his direct supervisor,
21 (b) his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
22 compliance supervisor, and (c) the owner or owner representative of his employer, to report to the
23 Board in writing acknowledging that the listed individual(s) has/have read the decision in case
24 number 6477, and terms and conditions imposed thereby. If one person serves in more than one
25 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the Respondent’s
26 responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the
27 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
28 of probation, Respondent shall cause the person(s) taking over the role(s) to report to the Board in

1 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
2 in case number 6477, and the terms and conditions imposed thereby.

3 If Respondent works for or is employed by or through an employment service, Respondent
4 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board
5 of the decision in case number 6477, and the terms and conditions imposed thereby in advance of
6 Respondent commencing work at such licensed entity. A record of this notification must be
7 provided to the Board upon request.

8 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
9 (15) days of Respondent undertaking any new employment by or through an employment service,
10 Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment
11 service to report to the Board in writing acknowledging that he or she has read the decision in
12 case number 6477, and the terms and conditions imposed thereby. It shall be Respondent's
13 responsibility to ensure that these acknowledgment(s) are timely submitted to the Board.

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

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

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

22 Respondent shall further notify the Board in writing within ten (10) days of any change in
23 name, residence address, mailing address, e-mail address or phone number.

24 Failure to timely notify the Board of any change in employer, name, address, or phone
25 number shall be considered a violation of probation.

26 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

27 During the period of probation, Respondent shall not supervise any intern pharmacist, be
28 the designated representative-in-charge, responsible manager or other compliance supervisor of

1 any entity licensed by the Board, nor serve as a consultant. Assumption of any such unauthorized
2 supervision responsibilities shall be considered a violation of probation. During the period of
3 probation, Respondent may be a pharmacist-in-charge of Clinton & Clinton Inc., dba Apothecary
4 Pharmacy, only and shall not be the pharmacist-in-charge of any other entity licensed by the
5 Board.

6 **9. Reimbursement of Board Costs**

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

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

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

16 **10. Probation Monitoring Costs**

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

21 **11. Status of License**

22 Respondent shall, at all times while on probation, maintain an active, current Registered
23 Pharmacist License with the Board, including any period during which suspension or probation is
24 tolled. Failure to maintain an active, current Registered Pharmacist License shall be considered a
25 violation of probation.

26 If Respondent's Registered Pharmacist License expires or is cancelled by operation of law
27 or otherwise at any time during the period of probation, including any extensions thereof due to
28

1 tolling or otherwise, upon renewal or reapplication Respondent's license shall be subject to all
2 terms and conditions of this probation not previously satisfied.

3 **12. License Surrender While on Probation/Suspension**

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

12 Upon acceptance of the surrender, Respondent shall relinquish his pocket and/or wall
13 license, including any indicia of licensure not previously provided to the Board within ten (10)
14 days of notification by the Board that the surrender is accepted if not already provided.
15 Respondent may not reapply for any license from the Board for three (3) years from the effective
16 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
17 of the date the application for that license is submitted to the Board, including any outstanding
18 costs.

19
20 **13. Practice Requirement – Extension of Probation**

21 Except during periods of suspension, Respondent shall, at all times while on probation, be
22 employed as a Pharmacist in California for a minimum of eighty (80) hours per calendar month.
23 Any month during which this minimum is not met shall extend the period of probation by one
24 month. During any such period of insufficient employment, Respondent must nonetheless
25 comply with all terms and conditions of probation, unless Respondent receives a waiver in
26 writing from the Board or its designee.

27 If Respondent does not practice as a Pharmacist in California for the minimum number of
28 hours in any calendar month, for any reason (including vacation), Respondent shall notify the

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

8 It is a violation of probation for Respondent's probation to be extended pursuant to the
9 provisions of this condition for a total period, counting consecutive and non-consecutive months,
10 exceeding thirty-six (36) months. The Board or its designee may post a notice of the extended
11 probation period on its website.

12 **14. Violation of Probation**

13 If Respondent has not complied with any term or condition of probation, the Board shall
14 have continuing jurisdiction over Respondent, and the Board shall provide notice to Respondent
15 that probation shall automatically be extended, until all terms and conditions have been satisfied
16 or the Board has taken other action as deemed appropriate to treat the failure to comply as a
17 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
18 Board or its designee may post a notice of the extended probation period on its website.

19 If Respondent violates probation in any respect, the Board, after giving Respondent notice
20 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
21 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
22 probation, or the preparation of an accusation or petition to revoke probation is requested from
23 the Office of the Attorney General, the Board shall have continuing jurisdiction and the period of
24 probation shall be automatically extended until the petition to revoke probation or accusation is
25 heard and decided, and the charges and allegations in Accusation No. 6477 shall be deemed true
26 and correct.

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1 **15. Completion of Probation**

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

4 **16. Remedial Education**

5 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
6 Board or its designee, for prior approval, an appropriate program of remedial education related to
7 drug diversion, responsibility of a pharmacist-in-charge, pharmacy law, inventory control, record
8 keeping, and corresponding responsibility. The program of remedial education shall consist of at
9 least ten (10) hours per year, at least half of which must be completed as live in-person training or
10 via webinar and which shall be completed at Respondent's own expense. All remedial education
11 shall be in addition to, and shall not be credited toward, continuing education (CE) courses used
12 for license renewal purposes for pharmacists.

13 Failure to timely submit for approval or complete the approved remedial education shall be
14 considered a violation of probation. The period of probation will be automatically extended until
15 such remedial education is successfully completed and written proof, in a form acceptable to the
16 Board, is provided to the Board or its designee.

17 Following the completion of each course, the Board or its designee may require the
18 Respondent, at his own expense, to take an approved examination to test the Respondent's
19 knowledge of the course. If the Respondent does not achieve a passing score on the examination
20 that course shall not count towards satisfaction of this term. Respondent shall take another course
21 approved by the Board in the same subject area.

22 **17. Drug Diversion and Abuse Course**

23 By no later than one year from the effective date of this decision, Respondent shall
24 complete the following 8-hour course offered by the Board: “Prescription Drug Abuse and
25 Diversion – What a Pharmacist Needs to Know.”

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

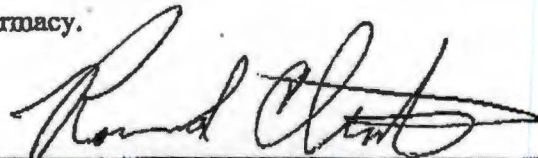
27 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
28 manager, administrator, member, officer, director, trustee, associate, or partner of any additional

1 business, firm, partnership, or corporation licensed by the Board. If Respondent currently owns
2 or has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
3 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
4 or hereinafter licensed by the Board, Respondent may continue to serve in such capacity or hold
5 that interest, but only to the extent of that position or interest as of the effective date of this
6 decision. Violation of this restriction shall be considered a violation of probation.

7 ACCEPTANCE

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

13
14 DATED: 11/6/19

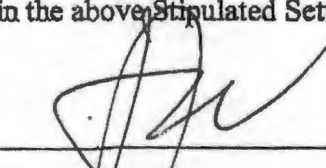


15 RONALD KEITH CLINTON
16 Respondent

17
18
19 I have read and fully discussed with Respondent Ronald Keith Clinton the terms and
20 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.

21 I approve its form and content.

22 DATED: 11/6/2019



23 HERB L. WEINBERG
24 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,

XAVIER BECERRA
Attorney General of California
SHAWN P. COOK
Supervising Deputy Attorney General



MICHELLE NIJM
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6477

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
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6049
6 Facsimile: (213) 897-2804
E-mail: Michelle.Nijm@doj.ca.gov
7 *Attorneys for Complainant*

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

. . .

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

. . .

9. Section 4022 of the Code provides:

“‘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.”

10. Section 4105 of the Code states:

“(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.

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.”

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. . . .

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

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

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

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

- “(a) removing the drug or drugs from stock;
- “(b) counting, pouring, or mixing pharmaceuticals;
- “(c) placing the product into a container;
- “(d) affixing the label or labels to the container;
- “(e) packaging and repackaging.”

COST RECOVERY

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

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.

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;

