

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

In the Matter of the Accusation Against:

MIKE QUYNH BUI, dba MEDICINE SHOPPE,

**Pharmacy Permit No. PHY 52530, &
Pharmacy Permit No. PHY 56146;**

and

MIKE QUYNH BUI,

Pharmacist License No., RPH 44680,

Respondents

Agency Case No. 6590

OAH No. 2019070830

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 July 29, 2020.

It is so ORDERED on June 29, 2020.

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

1 XAVIER BECERRA
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
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Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

14 **MIKE QUYNH BUI,**
15 **DBA MEDICINE SHOPPE**
16 **1125 E. 17th Street, #N155**
Santa Ana, CA 92701

17 **Pharmacy Permit No. PHY 52530**
Pharmacy Permit No. PHY 56146

18 **MIKE QUYNH BUI,**
19 **1028 S. Maxine**
Santa Ana, CA 92704

20 **Pharmacist License No. RPH 44680**

21 Respondents.

Case No. 6590

OAH No. 2019070830

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

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 Executive Officer of the Board of Pharmacy
27 (Board). She brought this action solely in her official capacity and is represented in this matter by
28

1 Xavier Becerra, Attorney General of the State of California, by Brian Weisel, Deputy Attorney
2 General.

3 2. Respondent Mike Quynh Bui and Mike Quynh Bui, dba Medicine Shoppe
4 (Respondent) is represented in this proceeding by attorney Ivan Petrzela, Pharm.D., J.D.,
5 M.B.A., whose address is: 49 Discovery, Suite 240, Irvine, CA 92618-6713

6 3. On or about December 2, 2014, the Board issued Pharmacy Permit No. PHY 52530 to
7 Respondent Medicine Shoppe. The Pharmacy Permit expired on July 2, 2018, and has not been
8 renewed.

9 4. On or about July 2, 2018, the Board issued Pharmacy Permit No. PHY 56146 to
10 Respondent. The Pharmacy Permit was in full force and effect at all times relevant to the charges
11 brought in Accusation No. 6590, and will expire on July 1, 2020, unless renewed.

12 5. On or about August 19, 1991, the Board issued Pharmacist License No. RPH 44680
13 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the
14 charges brought in Accusation No. 6590, and will expire on September 30, 2020, unless renewed.

15 **JURISDICTION**

16 6. Accusation No. 6590 was filed before the Board, and is currently pending against
17 Respondents. The Accusation and all other statutorily required documents were properly served
18 on Respondents on June 6, 2019. Respondent timely filed his Notice of Defense contesting the
19 Accusation.

20 7. A copy of Accusation No. 6590 is attached as exhibit A and incorporated herein by
21 reference.

22 **ADVISEMENT AND WAIVERS**

23 8. Respondent has carefully read, fully discussed with counsel, and understands the
24 charges and allegations in Accusation No. 6590. Respondent has also carefully read, fully
25 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
26 Order.

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

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

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

7 **CULPABILITY**

8 11. Respondent understands and agrees that the charges and allegations in Accusation
9 No. 6590, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist
10 License well as for his Pharmacy Permits.

11 12. For the purpose of resolving the Accusation without the expense and uncertainty of
12 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
13 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
14 those charges.

15 13. Respondent agrees that his Pharmacist License and Pharmacy Permits are subject to
16 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
17 Disciplinary Order below.

18 **CONTINGENCY**

19 14. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
20 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
21 communicate directly with the Board regarding this stipulation and settlement, without notice to
22 or participation by Respondent or his counsel. By signing the stipulation, Respondent
23 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
24 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
25 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
26 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
27 and the Board shall not be disqualified from further action by having considered this matter.
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15. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

16. 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.

17. 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 52530, and Pharmacy Permit No. PHY 56146 issued to Respondent Mike Quynh Bui, dba Medicine Shoppe, are surrendered and accepted by the Board. The effective date of the Decision shall be stayed one hundred twenty (120) days after the effective date of Order adopting this Stipulated Surrender, at which time the pharmacy shall be sold or closed.

1. The surrender of Respondent's Pharmacy Permits and the acceptance of the surrendered Pharmacy Permits by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

2. Respondent shall lose all rights and privileges as a Licensed Pharmacy in California as of the effective date of the Board's Decision and Order.

3. Respondent shall cause to be delivered to the Board his pocket license and, if one was issued, his wall certificates on or before the effective date of the Decision and Order.

4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the Board shall treat it as a new application. Respondent must comply

1 with all the laws, regulations and procedures for reinstatement of a revoked or surrendered license
2 in effect at the time the petition is filed, and all of the charges and allegations contained in
3 Accusation No. 6590 shall be deemed to be true, correct and admitted by Respondent when the
4 Board determines whether to grant or deny the petition. Respondent may not apply, reapply, or
5 petition for any new licensure or registration of the Board for three (3) years from the effective
6 date of the Decision and Order.

7 5. Should the Pharmacy be closed, Respondent shall, within five (5) days of closure,
8 arrange for the destruction of, the transfer to, sale of or storage in a facility licensed and approved
9 by the board of all controlled substances and dangerous drugs and/or dangerous devices.
10 Respondent shall further arrange for the transfer of all records of acquisition and disposition of
11 dangerous drugs to premises licensed and approved by the board. Respondent shall further
12 provide written proof of such disposition and submit a completed Discontinuance of Business
13 form according to board guidelines.

14 IT IS FURTHER ORDERED that Pharmacist License No. RPH 44680 issued to
15 Respondent Mike Quynh Bui is revoked. However, the revocation is stayed and Respondent is
16 placed on probation for three (3) years on the following conditions.

17 **Severability Clause.** Each condition of probation contained herein is a separate and
18 distinct condition. If any condition of this Order, or any application thereof, is declared
19 unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other
20 applications thereof, shall not be affected. Each condition of this Order shall separately be valid
21 and enforceable to the fullest extent permitted by law.

22 **1. Obey All Laws**

23 Respondent shall obey all state and federal laws and regulations.

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

- 26 • an arrest or issuance of a criminal complaint for violation of any provision of the
27 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
28 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.

2. 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.

3. 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.

4. Cooperate with Board Staff

Respondent shall timely cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of his

1 probation, including but not limited to: timely responses to requests for information by board
2 staff; timely compliance with directives from board staff regarding requirements of any term or
3 condition of probation; and timely completion of documentation pertaining to a term or condition
4 of probation. Failure to timely cooperate shall be considered a violation of probation.

5 **5. Continuing Education**

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

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

9 During the period of probation, respondent shall notify all present and prospective
10 employers of the decision in case number 6271 and the terms, conditions and restrictions imposed
11 on respondent by the decision, as follows:

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

23 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
24 respondent undertaking any new employment, respondent shall cause (a) his direct supervisor, (b)
25 his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
26 compliance supervisor, and (c) the owner or owner representative of his employer, to report to the
27 board in writing acknowledging that the listed individual(s) has/have read the decision in case
28 number 6271, and terms and conditions imposed thereby. If one person serves in more than one

1 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's
2 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
3 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
4 of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in
5 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
6 in case number 6271, and the terms and conditions imposed thereby.

7 If respondent works for or is employed by or through an employment service, respondent
8 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
9 of the decision in case number 6271, and the terms and conditions imposed thereby in advance of
10 respondent commencing work at such licensed entity. A record of this notification must be
11 provided to the board upon request.

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

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

21 "Employment" within the meaning of this provision includes any full-time, part-time,
22 temporary, relief, or employment/management service position as a pharmacist, or any position
23 for which a pharmacist is a requirement or criterion for employment, whether the respondent is an
24 employee, independent contractor or volunteer.

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

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

3 **8. Restrictions on Supervision and Oversight of Licensed Facilities –**

4 During the period of probation, respondent shall not supervise any intern pharmacist, be the
5 pharmacist-in-charge, designated representative-in-charge, responsible manager or other
6 compliance supervisor of any entity licensed by the board, nor serve as a consultant. The date of
7 the restriction on supervision or practice as a pharmacist-in-charge shall be stayed one hundred
8 twenty (120) days after the effective date of Order adopting this Stipulated Settlement, or when
9 the pharmacy shall be sold or closed, whichever occurs first. Assumption of any such
10 unauthorized supervision responsibilities shall be considered a violation of probation.

11 **9. Reimbursement of Board Costs**

12 As a condition precedent to successful completion of probation, respondent shall pay to the
13 board its costs of investigation and prosecution in the amount of \$20,000.00. Respondent shall be
14 permitted to pay these costs in a payment plan approved by the board or its designee, so long as
15 full payment is completed no later than one (1) year prior to the end date of 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 as
19 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
20 be considered a violation of probation.

21 **11. Status of License**

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

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

12. License Surrender While on Probation/Suspension

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

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

13. Practice Requirement – Extension of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a Pharmacist in California for a minimum of 60 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the board or its designee.

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

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

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

11 **14. Violation of Probation**

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

18 If respondent violates probation in any respect, the board, after giving respondent notice
19 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
20 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
21 probation, or the preparation of an accusation or petition to revoke probation is requested from
22 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
23 probation shall be automatically extended until the petition to revoke probation or accusation is
24 heard and decided.

25 **15. Completion of Probation**

26 Upon written notice by the board or its designee indicating successful completion of
27 probation, respondent's license will be fully restored.
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1 **16. Remedial Education**

2 Within 60 days of the effective date of this decision, Respondent shall submit to the Board
3 or its designee, for prior approval, an appropriate program of remedial education related to safe
4 opioid dispensing, ethics, prescription requirements and red flags. The program of remedial
5 education shall consist of at least 10 hours each year of probation for a total of 30 hours, which
6 shall be completed at Respondent's own expense, and fifty percent must be live webinar or in
7 person. All remedial education shall be in addition to, and shall not be credited toward,
8 continuing education (CE) courses used for license renewal purposes for pharmacists. At least
9 50% of the 30 required hours must be in-person on via a live webinar.
10 The period of probation will be automatically extended until such remedial education is
11 successfully completed and written proof, in a form acceptable to the board, is provided to the
12 board or its designee.

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

18 **17. Diversion Training Program**

19 Within the first 24 months of probation, respondent shall enroll in the board's diversion
20 training program, "Prescription Drug Abuse and Diversion What a Pharmacist Needs to Know,"
21 at respondent's expense. Respondent shall provide proof of enrollment upon request. Within five
22 (5) days of completion, respondent shall submit a copy of the certificate of completion to the
23 board or its designee. Failure to timely enroll in the program, to initiate the program during the
24 first 24 months of probation, to successfully complete it before the end of probation, or to timely
25 submit proof of completion to the board or its designee, shall be considered a violation of
26 probation. Failure to timely submit for approval or complete the approved remedial education
27 shall be considered a violation of probation.
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ENDORSEMENT

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

DATED: _____

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

BRIAN WEISEL
Deputy Attorney General
Attorneys for Complainant

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DATED: 5/11/2020

XAVIER BECERRA
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

BRIAN WEISEL
Deputy Attorney General
Attorneys for Complainant

14

Exhibit A

Accusation No. 6590

1 XAVIER BECERRA
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E-mail: Brian.Weisel@doj.ca.gov
8 *Attorneys for Complainant*

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

13
14 In the Matter of the Accusation Against:

Case No. 6590

15 **MIKE QUYNH BUI,**
DBA MEDICINE SHOPPE
16 **1125 E. 17th Street, #N155**
Santa Ana, CA 92701

ACCUSATION

17 **Pharmacy Permit No. PHY 52530**
18 **Pharmacy Permit No. PHY 56146**

19 **MIKE QUYNH BUI,**
1028 S. Maxine
20 **Santa Ana, CA 92704**

21 **Pharmacist License No. RPH 44680**

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 August 19, 1991, the Board of Pharmacy issued Pharmacist License Number RPH 44680 to Mike Quynh Bui (Respondent). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2020, unless renewed.

3. On or about December 2, 2014, the Board of Pharmacy issued Pharmacy Permit Number PHY 52530 to Mike Quynh Bui, dba Medicine Shoppe (Respondent Pharmacy). The Pharmacy Permit cancelled on July 2, 2018, and has not been renewed.

4. On or about July 2, 2018, the Board of Pharmacy issued Pharmacy Permit Number PHY 56146 to Mike Quynh Bui, dba Medicine Shoppe (Respondent Pharmacy). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on July 1, 2019, unless renewed.

JURISDICTION

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

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

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

7. Section 4300.1 of the Code states:

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

STATUTORY AND REGULATORY PROVISIONS

8. Section 4022 of the Code states:

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

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

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

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

9 9. Section 4040 of the Code states:

10 (a) Prescription means an oral, written, or electronic transmission order that is
11 both of the following:

12 (1) Given individually for the person or persons for whom ordered that
13 includes all of the following:

14 (A) The name or names and address of the patient or patients.

15 (B) The name and quantity of the drug or device prescribed and the directions
16 for use.

17 (C) The date of issue.

18 (D) Either rubber stamped, typed, or printed by hand or typeset, the name,
19 address, and telephone number of the prescriber, his or her license classification,
20 and his or her federal registry number, if a controlled substance is prescribed.

21 (E) A legible, clear notice of the condition or purpose for which the drug is
22 being prescribed, if requested by the patient or patients.

23 (F) If in writing, signed by the prescriber issuing the order, or the certified
24 nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor who
25 issues a drug order pursuant to Section 2746.51, 2836.1, 3502.1, or 3640.5,
26 respectively, or the pharmacist who issues a drug order pursuant to Section 4052.1,
27 4052.2, or 4052.6.

28 (2) Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or
naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued
pursuant to Section 2746.51, 2836.1, 3502.1, or 3460.5, by a certified nurse-
midwife, nurse practitioner, physician assistant, or naturopathic doctor licensed in
this state, or pursuant to Section 4052.1, 4052.2, or 4052.6 by a pharmacist
licensed in this state.

1 (b) Notwithstanding subdivision (a), a written order of the prescriber for a
2 dangerous drug, except for any Schedule II controlled substance, that contains at
3 least the name and signature of the prescriber, the name and address of the patient
4 in a manner consistent with paragraph (2) of subdivision (a) of Section 11164 of
5 the Health and Safety Code, the name and quantity of the drug prescribed,
6 directions for use, and the date of issue may be treated as a prescription by the
dispensing pharmacist as long as any additional information required by
subdivision (a) is readily retrievable in the pharmacy. In the event of a conflict
between this subdivision and Section 11164 of the Health and Safety Code,
Section 11164 of the Health and Safety Code shall prevail.

7 (c) Electronic transmission prescription includes both image and data
8 prescriptions. Electronic image transmission prescription means any prescription
9 order for which a facsimile of the order is received by a pharmacy from a licensed
10 prescriber. Electronic data transmission prescription means any prescription order,
other than an electronic image transmission prescription, that is electronically
transmitted from a licensed prescriber to a pharmacy.

11 (d) The use of commonly used abbreviations shall not invalidate an otherwise
12 valid prescription.

13 (e) Nothing in the amendments made to this section (formerly Section 4036)
14 at the 1969 Regular Session of the Legislature shall be construed as expanding or
15 limiting the right that a chiropractor, while acting within the scope of his or her
license, may have to prescribe a device.

16 10. Section 4113(c) of the Code states:

17 The pharmacist-in-charge shall be responsible for a pharmacy's compliance
18 with all state and federal laws and regulations pertaining to the practice of pharmacy.

19 11. Section 4301 of the Code states in pertinent part:

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

22 ...

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

25 ...

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

...

12. Section 4306.5 of the Code states:

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

...

(b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement his or her best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services.

13. Section 4307(a) of the Code states that:

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, 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 manger, administrator, owner, member, officer, director, associate, partner, or any other person with management or control had knowledge 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 manger, administrator, owner, member, officer, director, associate, partner, or any other person 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. Health and Safety Code section 11153(a) states:

A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

///

15. Health and Safety Code section 11162.1 states, in pertinent part:

(a) The prescription forms for controlled substances shall be printed with the following features:

(1) A latent, repetitive "void" pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words "California Security Prescription."

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermochromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form so that the prescriber may indicate the quantity by checking the applicable box where the following quantities shall appear:

1-24

25-49

50-74

75-100

101-150

151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(8) Prescription blanks shall contain a statement printed on the bottom of the prescription blank that the "Prescription is void if the number of drugs prescribed is not noted."

(9) The preprinted name, category of licensure, license number, federal controlled substance registration number, and address of the prescribing practitioner.

(10) Check boxes shall be printed on the form so that the prescriber may indicate the number of refills ordered.

(11) The date of origin of the prescription.

(12) A check box indicating the prescriber's order not to substitute.

(13) An identifying number assigned to the approved security printer by the Department of Justice.

(14) (A) A check box by the name of each prescriber when a prescription form lists multiple prescribers.

(B) Each prescriber who signs the prescription form shall identify himself or herself as the prescriber by checking the box by his or her name.

(15) A uniquely serialized number, in a manner prescribed by the Department of Justice.

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

(c) (1) A prescriber designated by a licensed health care facility, a clinic specified in Section 1200, or a clinic specified in subdivision (a) of Section 1206 that has 25 or more physicians or surgeons may order controlled substance prescription forms for use by prescribers when treating patients in that facility without the information required in paragraph (9) of subdivision (a) or paragraph (3) of this subdivision.

(2) Forms ordered pursuant to this subdivision shall have the name, category of licensure, license number, and federal controlled substance registration number of the designated prescriber and the name, address, category of licensure, and license number of the licensed health care facility the clinic specified in Section 1200, or the clinic specified in Section 1206 that has 25 or more physicians or surgeons preprinted on the form. Licensed health care facilities or clinics exempt under Section 1206 are not required to preprint the category of licensure and license number of their facility or clinic.

REGULATORY PROVISIONS

16. Section 1306.04(a) of title 21, Code of Federal Regulations states:

A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

17. Section 1761 of title 16, California Code of Regulations states in part:

(a) No pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.

1 (b) Even after conferring with the prescriber, a pharmacist shall not compound or
2 dispense a controlled substance prescription where the pharmacist knows or has
3 objective reason to know that said prescription was not issued for a legitimate
4 medical purpose.

5 **COSTS**

6 18. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
7 administrative law judge to direct a licentiate found to have committed a violation or violations of
8 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
9 enforcement of the case.

10 **DRUGS**

11 19. Hydrocodone/acetaminophen is a Schedule III controlled substance pursuant to
12 Health and Safety Code section 11056, subdivision (e)(4), a dangerous drug pursuant to Business
13 and Professions Code section 4022, and a Schedule II controlled substance pursuant to section
14 1308.12(b)(1)(vi) of Title 21 of the Code of Federal Regulations.

15 20. Phenergan/Codeine Syrup is the brand name for the generic promethazine with
16 codeine, and is a Schedule V controlled substance pursuant to Health and Safety Code section
17 11058(c)(1), and a dangerous drug pursuant to Business and Professions Code section 4022.

18 21. Roxicodone is the brand name for generic oxycodone, and is a Schedule II controlled
19 substance pursuant to Health and Safety Code section 11055(b)(1)(M), and a dangerous drug
20 pursuant to Business and Professions Code section 4022.

21 22. Xanax is the brand name for generic alprazolam, and is a Schedule IV controlled
22 substance pursuant to Health and Safety Code section 11057(d)(1), and a dangerous drug
23 pursuant to Business and Professions Code section 4022.

24 **FACTUAL ALLEGATIONS**

25 23. At all relevant time periods referenced herein, Respondent operated a retail pharmacy
26 under the fictitious business name Medicine Shoppe in Santa Ana, California. Respondent was
27 the sole owner of the license and pharmacist in charge of the pharmacy.

28 24. In late 2017 into early 2018, the Board became aware that a physician, Edward
Svadjian, M.D., had passed away. A Board Inspector reviewed the CURES database and found

that despite his passing, Respondent had still been filling Dr. Svadjian's prescriptions. CURES data also showed the following irregular controlled substance dispensing profiles over a period from January 2015 to January 2018:

Prescriber	Number of Prescriptions Dispensed	Payment Method	Summary of Prescriptions at Medicine Shoppe
Dr. Richard Goldstein	251	88.05% cash	79.68% of controlled substance prescriptions reported to CURES during the query period were for oxycodone 30mg
Dr. Joseph Carella	114	100% Non-cash (which may include discount cards)	100% of controlled substance prescriptions reported to CURES were for promethazine/codeine syrup
Dr. Kusum Ohri	96	100% cash	88.54% of controlled substance prescriptions reported to CURES were for hydrocodone/acetaminophen 10/325 and alprazolam 2mg
Dr. Annamalai Ashokan	23	100% cash	100% of the controlled substance prescriptions reported to CURES were for oxycodone 30mg

25. On or about February 15, 2018, Board Inspectors conducted an on-site inspection of Respondent Pharmacy.

26. A Board Inspector reviewed the electronic dispensing data and found a large number of prescriptions from out of the area. Santa Ana, California, the location of Respondent's pharmacy, is a densely populated area with multiple pharmacies within a few square miles. Nevertheless, approximately 68% of the prescriptions filled by Respondent were for patients more than 10 miles from the pharmacy, including more than half from locations more than 20 miles from the pharmacy. Dozens of pharmacies would be closer to patients' given addresses than Respondent's pharmacy.

27. The Board Inspector reviewed the twenty most commonly dispensed medications at Medicine Shoppe from February 12, 2015 to February 28, 2018. Six of the twenty most commonly dispensed medications were controlled substances, as detailed below:

Medication	Drug Schedule	Number of Prescriptions Dispensed	Percent of Total Prescriptions Dispensed
LORAZEPAM 0.5 MG TABLET	4	1499	3.75%
MORPHINE SULF 100 MG/5 ML SOLN	2	1469	3.68%
BISACEVAC 10 MG SUPPOSITORY	0	1030	2.58%
ACETAMINOPHEN 650 MG SUPPOS	0	996	2.49%
PROCHLORPERAZINE 10 MG TAB	0	967	2.42%
HYOSCYAMINE 0.125 MG TAB SL	0	860	2.15%
HALOPERIDOL LAC 2 MG/ML CONC	0	787	1.97%
HYDROCODONE/APAP 10/325 MG TAB	2	738	1.85%
IPRATALBUT 0.532.5 MG/3 ML	0	543	1.36%
OXYCODONE HCL 30 MG TABLET	2	512	1.28%
DOCUSATE SODIUM 100 MG CAPSULE	0	465	1.16%
LORAZEPAM 1 MG TABLET	4	433	1.08%
ASPIRIN EC 81 MG TABLET	0	391	0.98%
AMOXICILLIN 500 MG CAPSULE	0	364	0.91%
HYOSCYAMINE 0.125 MG ODT	0	348	0.87%
GABAPENTIN 300 MG CAPSULE	0	346	0.87%
PROMETHAZINECODEINE SYRUP	5	345	0.86%
PANTOPRAZOLE SOD DR 40 MG TAB	0	342	0.86%
BALMEX 11.3% DIAPER RASH CREAM	0	328	0.82%
OMEPRazole DR 20 MG CAPSULE	0	319	0.80%

28. During the reviewed three-year time period, approximately 40% of Dr. Goldstein's prescriptions were for the maximum dosage for oxycodone. Prescribers commonly aim to treat patients with the lowest effective dose of medications in order to minimize risk of side effects and toxicity from the medications.

29. During the same period, approximately 92% of all prescriptions at Medicine Shoppe were purchased by patients using a drug insurance or discount card, which is typical. However, 97% of Dr. Goldstein's prescriptions were paid for in cash, which is very abnormal.

30. In reviewing Dr. Goldstein's top medication prescribed, multiple instances appeared when Medicine Shoppe processed multiple prescriptions for the same dosage, of the same drug (oxycodone at the maximum dosage) from the same doctor, on the same day, issued to unique patients. Almost all were paid in cash, despite bills in the hundreds of dollars. Often these

prescriptions were assigned consecutive prescription numbers, indicating they were called in and/or filled one after another. A partial list is summarized below:

Date	Time	RX#	Quantity	Payment Method	Patient Paid (\$)
12/24/2015	8:33	102436	150	CASH	305
	8:39	102437	150	CASH	305
	10:29	102440	150	CASH	305
	11:10	102447	120	CASH	275
	11:37	102449	150	CASH	305
	13:21	102454	150	CASH	305
	13:35	102455	150	CASH	305
01/05/2016	9:08	102550	150	CASH	375
	9:09	102551	150	CASH	375
	9:10	102552	150	CASH	375
	10:01	102561	150	CASH	375
	10:07	102562	120	CASH	305
	10:55	102575	150	CASH	375
	11:42	102576	120	CASH	305
	12:17	102580	150	CASH	375
	13:33	102586	150	CASH	375
	15:52	102594	150	CASH	375
	16:19	102596	120	CASH	305
	16:33	102599	150	CASH	375
02/02/2016	12:28	103025	150	CASH	395
	12:41	103026	150	CASH	395
	13:10	103027	150	CASH	395
	17:37	103034	150	CASH	395
04/29/2016	10:16	107880	150	CASH	395
	10:39	107883	150	CASH	395
	10:55	107887	150	CASH	395
	11:20	107892	150	CASH	395
	12:23	107905	150	CASH	395

31. The Board Inspector reviewed the original prescription documents at Medicine Shoppe written by Dr. Goldstein. 55 of the 79 lacked several security features and were therefore not in compliance with Health and Safety Code 11162.1, in that they lacked a watermark, lacked an identifying number assigned to the security printer by the Department of Justice, and lacked a lot number printed on the prescription document for each batch of controlled substance prescription forms. Almost all of the noncompliant prescription forms were for the high dosage

controlled substances oxycodone, hydrocodone/acetaminophen, promethazine/codeine, and alprazolam.

32. Respondent provided CURES reports run for the majority of the questionable prescriptions. However, these attempts of verification and lack of documentation of any conversation between Dr. Goldstein and Respondent did not resolve the irregularities provided above and/or below. A partial list is summarized below:

RX#	Medication(s)	Irregularities Found on Prescription Document and/or its Associated Documents
102012	OXYCODONE HCL 30 MG TABLET	<ul style="list-style-type: none">• Camarillo prescribing office was checked off on the prescription document and not the one in Orange, CA (Camarillo is about 83 miles from Santa Ana).• "Do Not Substitute" was initialed for a non-brand name medication.
102440, 102441	OXYCODONE HCL 30 MG TABLET HYDROCODONE/APAP 10/325 MG TAB	<ul style="list-style-type: none">• CURES report showed no results of oxycodone 30 mg in the last 3 months• Simi Valley prescribing office was checked off on the prescription document and not the one in Orange, CA (Simi Valley is about 73 miles from Santa Ana).• Both medications are typically for breakthrough pain. Why were they both prescribed?
102447, 102448	OXYCODONE HCL 30 MG TABLET IBUPROFEN 800 MG TABLET	<ul style="list-style-type: none">• CURES report showed no results of oxycodone 30 mg in the last 3 months (discussed more later).• Simi Valley prescribing office was checked off on the prescription document and not the one in Orange, CA (Simi Valley is about 73 miles from Santa Ana).• Typing/Spelling errors on the "Justification of Prescribed Medication" form (discussed in detail later).
103120	OXYCODONE HCL 30 MG TABLET	<ul style="list-style-type: none">• Changes to "Justification of Prescribed Medication" form (refer to previous Rx#102447. Diagnosis code changed from "M54.5" to "M51.9." "Drugs Tried and Failed" changed from "SOMA, GABAPENTIN" to "Vicodin."

102454	OXYCODONE HCL 30 MG TABLET	<ul style="list-style-type: none"> • CURES report showed no results of oxycodone 30 mg in the last 3 months (discussed more later). • Patient's identification and address was from Arizona. • "Justification of Prescribed Medication" form indicated "N/A" under "Drug Tried and Failed."
102552	OXYCODONE HCL 30 MG TABLET	<ul style="list-style-type: none"> • CURES report showed no results of oxycodone 30 mg in the last 3 months (discussed more later). • The fax header of the last 2 pages was "MADICK INSURANCE 951-246-7553."
102562- 102564	OXYCODONE HCL 30 MG TABLET IBUPROFEN 800 MG TABLET DOCUSATE SODIUM 100 MG CAPSULE	<ul style="list-style-type: none"> • CURES report showed no results of oxycodone 30 mg in the last 3 months (discussed more later). • Simi Valley prescribing office was checked off on the prescription document and not the one in Orange, CA (Simi Valley is about 73 miles from Santa Ana). • Typing/Spelling errors on the "Justification of Prescribed Medication" form (discussed in detail later). • "Justification of Prescribed Medication" form indicated "PERCOCET" under "Drug Tried and Failed." Percocet is a combination of oxycodone and acetaminophen, it is irregular and possibly erroneous to prescribe oxycodone.
102857	OXYCODONE HCL 30 MG TABLET	<ul style="list-style-type: none"> • CURES report showed no results of oxycodone 30 mg in the last 6 months (discussed more later). • "Justification of Prescribed Medication" form indicated "PERCOCET" under "Drug Tried and Failed." Percocet is a combination of oxycodone and acetaminophen, it is irregular and possibly erroneous to prescribe oxycodone.
102889- 102891	OXYCODONE HCL 30 MG TABLET HYDROCODONE/APAP 10/325 MG TAB DOCUSATE SODIUM 100 MG CAPSULE	<ul style="list-style-type: none"> • CURES report showed no results of oxycodone 30 mg in the last 3 months (discussed more later). • Both medications are typically for breakthrough pain. Why did Dr. Goldstein prescribe both?

		<ul style="list-style-type: none"> The fax header of the last page was "MADICK INSURANCE 951-246-7553." "Justification of Prescribed Medication" form indicated "VICODIN" under "Drug Tried and Failed." Vicodin and Norco are combinations of hydrocodone and acetaminophen, they differ by the amount of acetaminophen. Additionally, CURES report showed no results of hydrocodone/acetaminophen or any controlled substances in the last 3 months.
103034-103035	OXYCODONE HCL 30 MG TABLET IBUPROFEN 800 MG TABLET DOCUSATE SODIUM 100 MG CAPSULE	<ul style="list-style-type: none"> "Justification of Prescribed Medication" form indicated "NORCO" under "Drug Tried and <u>Passed</u>." There was no documentation available on the discussion of why the patient was escalated to oxycodone.
103138-103139	OXYCODONE HCL 30 MG TABLET DOCUSATE SODIUM 100 MG CAPSULE	<ul style="list-style-type: none"> A different set of typing/spelling errors on the "Justification of Prescribed Medication" form (discussed in detail later).
107887-107889	OXYCODONE HCL 30 MG TABLET DOCUSATE SODIUM 100 MG CAPSULE ASPIRIN EC 81 MG TABLET	<ul style="list-style-type: none"> "Justification of Prescribed Medication" form indicated under "RX GIVEN" included 8 oz of promethazine/codeine, however, it was not on the prescription document.
109983-109986	OXYCODONE HCL 30 MG TABLET AMOXICILLIN 500 MG CAPSULE DOCUSATE SODIUM 100 MG CAPSULE PROMETHAZINECODEINE SYRUP	<ul style="list-style-type: none"> The diagnosis code document from the prescribing office had Dr. Svadjian on the header. Subsequently, the prescriptions were erroneously typed under Dr. Svadjian instead of Dr. Goldstein.

33. Despite Respondent's provided written justifications for the possible irregularities, Respondent provided no documentation of any actual conversations with Dr. Goldstein.

34. Respondent stated to the Board Inspector that he discovered the irregularities and completely stopped filling prescriptions by Dr. Goldstein in July of 2016. However, over 500 prescriptions were filled by Medicine Shoppe from August of 2015 to July of 2016. Approximately 40% of those prescriptions were for maximum doses of oxycodone.

35. A review of dispensing records and prescriptions for the deceased Dr. Edward Svadjian showed similar irregularities, including a high number of maximum dose oxycodone prescriptions, and a high number of cash payments, as shown below:

Medications	Drug Schedule	Payment Method	No. of Prescriptions	Percent of Dr. Svadjian's Total Prescriptions
OXYCODONE HCL 30 MG TABLET	2	CASH	57	32.57%
		OTHER	3	1.71%
DOCUSATE SODIUM 100 MG CAPSULE	0	CASH	55	31.43%
		OTHER	3	1.71%
IBUPROFEN 800 MG TABLET	0	CASH	13	7.43%
ASPIRIN EC 81 MG TABLET	0	CASH	7	4.00%
		OTHER	1	0.57%
IBUPROFEN 600 MG TABLET	0	CASH	8	4.57%
CARISOPRODOL 350 MG TABLET	4	CASH	5	2.86%
CYCLOBENZAPRINE 5 MG TABLET	0	CASH	5	2.86%
AMOXICILLIN 500 MG CAPSULE	0	CASH	3	1.71%
	(blank)	CASH	1	0.57%
MELOXICAM 7.5 MG TABLET	0	CASH	2	1.14%
		OTHER	1	0.57%
PROMETHAZINECODEINE SYRUP	5	CASH	3	1.71%
RANITIDINE 150 MG TABLET	0	CASH	3	1.71%
DICLOFENAC SODIUM 1% GEL	0	CASH	2	1.14%
BACLOFEN 10 MG TABLET	0	CASH	1	0.57%
LORAZEPAM 1 MG TABLET	4	CASH	1	0.57%
GABAPENTIN 300 MG CAPSULE	0	CASH	1	0.57%

36. Approximately a third of all prescriptions by Dr. Svadjian to Medicine Shoppe were for oxycodone at the maximum dose. Approximately 95% of all Dr. Svadjian's controlled substance prescriptions were paid for in cash. Some prescriptions for oxycodone were filled on the same day, sometimes minutes apart, with consecutive or near consecutive prescription numbers, as summarized below:

Date	Time	RX#	Medication	Quantity	Payment Method	Patient Pays (\$)
05/07/2016	10:48	108516	OXYCODONE HCL 30 MG TABLET	150	CASH	395
	10:53	108518	OXYCODONE HCL 30 MG TABLET	180	CASH	495
	11:01	108521	OXYCODONE HCL 30 MG TABLET	180	CASH	495

	11:14	108523	OXYCODONE HCL 30 MG TABLET	180	CASH	495
06/08/ 2016	11:29	110937	OXYCODONE HCL 30 MG TABLET	120	CASH	345
	11:31	110940	OXYCODONE HCL 30 MG TABLET	180	CASH	495
	11:56	110946	OXYCODONE HCL 30 MG TABLET	120	CASH	345
06/24/ 2016	12:33	112002	OXYCODONE HCL 30 MG TABLET	150	CASH	395
	14:22	112035	OXYCODONE HCL 30 MG TABLET	120	CASH	345
	15:23	112043	OXYCODONE HCL 30 MG TABLET	150	CASH	395
	15:40	112045	OXYCODONE HCL 30 MG TABLET	150	CASH	395

37. 61 prescription documents from Dr. Svadjian were collected by the Board Inspector. All of lacked several security features and were therefore not in compliance with Health and Safety Code 11162.1, in that they lacked a watermark, lacked an identifying number assigned to the security printer by the Department of Justice, and lacked a lot number printed on the prescription document for each batch of controlled substance prescription forms. Almost all were for controlled substances. Almost all had justifications written based on CURES reviews from Respondent, but Respondent had no records of any conversations with the doctor and no notations on any of the prescriptions explaining any anticipated irregularities. At least 8 of the patients reviewed had no record of previous oxycodone prescriptions for the prior 6 months, making prescriptions for the highest dose irregular without further explanation. The “justification for prescribed medication” form was clearly pre-printed for Dr. Svadjian’s use and nearly identical to the form used by Dr. Goldstein. When asked, Respondent could not provide any evidence of conversations with Dr. Svadjian for the justifications; Respondent presumably made those justification determinations himself.

38. The Board Inspector contacted the Medical Board of California and determined that Dr. Svadjian died on or about April 12, 2016. Approximately 168 prescriptions filled by Respondent were dated after April 12, 2016.

39. Review of medications filled by Respondent, prescribed by Dr. Joseph Carella found similar irregularities, including:

a. 81% of the prescriptions were for promethazine/codeine syrup, a commonly abused controlled substance.

b. 100% were paid for in cash.

1 c. Multiple promethazine/codeine prescriptions processed for the same substance
2 consecutively by both time and prescription number.

3 d. Dr. Carella's office was nearly 35 miles from Respondent's pharmacy. Dozens of
4 pharmacies would be found between the two locations.

5 40. The Board Inspector contacted Dr. Carella's office. A representative stated that Dr.
6 Carella's prescription pad had previously been stolen. Respondent stated he spoke to someone
7 named "Maria" about the irregularities. Dr. Carella's office stated that no one by the name of
8 "Maria" had ever worked there and the prescriptions in question were forgeries.

9 41. Review of medications filled by Respondent, prescribed by Dr. Donald Ware found
10 similar irregularities, including:

11 a. 27% of the prescriptions were for maximum dosage of oxycodone, a commonly
12 abused controlled substance.

13 b. 100% were paid for in cash.

14 c. Multiple oxycodone prescriptions processed for the same substance on the same day
15 from the same prescribing physician.

16 d. Dr. Ware's office was nearly 38 miles from Respondent's pharmacy. Dozens of
17 pharmacies would be found between the two locations.

18 42. Before the Medical Board of California, in Case No. 800-2014-008762, Dr. Ware has
19 a pending Accusation for cause to discipline his medical license for, among others, allegations of
20 prescribing controlled substances without a medical purpose.

21 43. Review of medications filled by Respondent, prescribed by Dr. Kusum Ohri found
22 similar irregularities, including:

23 a. 85% of the prescriptions were for hydrocodone/acetaminophen or alprazolam, both
24 commonly abused controlled substances.

25 b. 98% were paid for in cash.

26 c. Large numbers of prescriptions were processed for the same substance consecutively
27 by both time and prescription number, some times as many as a dozen in only a few minutes.
28

1 d. Dr. Ohri's prescription pads were noncompliant with federal and state regulations,
2 lacking a watermark and lot numbers as required by Health and Safety Code section 11162.1.

3 44. The Board Inspector contacted Dr. Ohri's office. A representative stated that the
4 prescriptions in question were never patients of Dr. Ohri's. The phone and fax numbers of the
5 prescription forms appeared to be altered and Dr. Ohri surmised they were forgeries.

6 45. Review of medications filled by Respondent, prescribed by Dr. Annamalai Ashokan
7 found similar irregularities, including:

8 a. 51% of the prescriptions were for oxycodone at maximum dosage. Oxycodone is a
9 commonly abused controlled substance.

10 b. 100% were paid for in cash.

11 c. Four oxycodone prescriptions were filled within 90 minutes of each other, on
12 Christmas Eve, to unique patients.

13 d. Dr. Ashokan's prescription documents did not comply with Health and safety Code
14 section 11162.1, and lacked a watermark and lot numbers.

15 46. Respondent was unable to provide confirmation discussions with the physicians
16 above in the vast majority of the prescriptions in question, despite numerous red flags including
17 the high number of cash payments, non-compliant prescription pads, distance from the doctors
18 and patients to the pharmacy, and the high number and high dosage of controlled substance
19 prescriptions from the same doctors, frequently arriving at the same time and in sequential order.

20 **FIRST CAUSE FOR DISCIPLINE**

21 **(Failing to Comply with Corresponding Responsibility**
22 **for Legitimate Controlled Substance Prescriptions)**

23 47. Respondent is subject to disciplinary action under Code sections 4301(j) and (o), for
24 violating Health and Safety Code section 11153(a) and section 1306.04(a) of title 21 of the Code
25 of Federal Regulations, in that they failed to comply with their corresponding responsibility to
26 ensure that controlled substances were dispensed for a legitimate medical purpose when
27 Respondents furnished prescriptions for controlled substances even though "red flags" were
28

1 present to indicate those prescriptions were not issued for a legitimate medical purpose, as set
2 forth in paragraphs 23 through 47, above, which are incorporated herein by reference.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Dispensing Prescriptions Which Contain a Significant Irregularity,**
5 **Uncertainty, or Ambiguity)**

6 48. Respondent is subject to disciplinary action under Code section 4301(o), for violating
7 California Code of Regulations, title 16, section 1761, in that Respondents dispensed
8 prescriptions which contained significant irregularities, uncertainties, or ambiguities, as set forth
9 in paragraphs 23 through 47, above, which are incorporated herein by reference.

10 **THIRD CAUSE FOR DISCIPLINE**

11 **(Failing to Comply with Corresponding Responsibility**
12 **for Legitimate Controlled Substance Prescriptions)**

13 49. Respondent is subject to disciplinary action under Code section 4301, for
14 unprofessional conduct as defined by Code section 4306.5, in that Respondent failed to exercise
15 or implement her best professional judgment or corresponding responsibility with regard to the
16 dispensing or furnishing of controlled substances, as set forth in paragraphs 23 through 47, above,
17 which are incorporated herein by reference.

18 **OTHER MATTERS**

19 50. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
20 PHY 56146 issued to Medicine Shoppe, while Mike Bui has been an officer and owner and had
21 knowledge of or knowingly participated in any conduct for which licensee was disciplined, Mike
22 Bui shall be prohibited from serving as a manager, administrator, owner, member, officer,
23 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 56146
24 is placed on probation or until Pharmacy Permit Number PHY 56146 is reinstated if it is revoked.

25 51. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
26 PHY 52530 issued to Medicine Shoppe, while Mike Bui has been an officer and owner and had
27 knowledge of or knowingly participated in any conduct for which the licensee was disciplined,
28 Mike Bui shall be prohibited from serving as a manager, administrator, owner, member, officer,

1 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 52530
2 is placed on probation or until Pharmacy Permit Number PHY 52530 is reinstated if it is revoked.

3 52. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
4 Number RPH 44680, issued to Mike Bui, Mike Bui shall be prohibited from serving as a
5 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
6 five years if Pharmacist License Number RPH 44680 is placed on probation or until Pharmacist
7 License Number RPH 44680 is reinstated if it is revoked.

8 **PRAYER**

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

11 1. Revoking or suspending Pharmacist License Number RPH 44680, issued to Mike
12 Quynh Bui, dba Medicine Shoppe;

13 2. Revoking or suspending Pharmacy Permit Number PHY 52530, issued to Mike
14 Quynh Bui, dba Medicine Shoppe;

15 3. Revoking or suspending Pharmacy Permit Number PHY 56146, issued to Mike
16 Quynh Bui, dba Medicine Shoppe;

17 4. Prohibiting Mike Quynh Bui, dba Medicine Shoppe from serving as a manager,
18 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
19 Pharmacy Permit Number PHY 52530 is placed on probation or until Pharmacy Permit Number
20 PHY 52530 is reinstated if Pharmacy Permit Number PHY 52530 issued Mike Quynh Bui, dba
21 Medicine Shoppe is revoked;

22 5. Prohibiting Mike Quynh Bui, dba Medicine Shoppe from serving as a manager,
23 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
24 Pharmacy Permit Number PHY 56146 is placed on probation or until Pharmacy Permit Number
25 PHY 56146 is reinstated if Pharmacy Permit Number PHY 56146 issued Mike Quynh Bui, dba
26 Medicine Shoppe is revoked;

6. Prohibiting Respondent Mike Quynh Bui from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 44640 is placed on probation or until Pharmacist License Number RPH 44640 is reinstated if Pharmacist License Number RPH 44640 issued to Mike Quynh Bui is revoked;

7. Ordering Mike Quynh Bui 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,

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

DATED: May 30, 2019

Anne Sodergren

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

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