

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

In the Matter of the Accusation Against:

**DAVIN GROUP, INC., dba NEW LIFE PHARMACY, IFEANYI VINCENT
NTUKOGU, OWNER, PRESIDENT, SECRETARY, TREASURER/CHIEF
FINANCIAL OFFICER, DIRECTOR, AND PHARMACIST IN CHARGE,
Pharmacy Permit No. PHY 51623; and**

**IFEANYI VINCENT NTUKOGU,
Pharmacist License No. RPH 56385,**

Respondents

Agency Case No. 6644

OAH No. 2019090079

DECISION AND ORDER

The attached Stipulated Surrender of License 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 April 15, 2020.

It is so ORDERED on March 16, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe", is written over a horizontal line.

By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 DAVID E. BRICE
Supervising Deputy Attorney General
3 SUMMER D. HARO
Deputy Attorney General
4 State Bar No. 245482
1300 I Street, Suite 125
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Attorneys for Complainant
8

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

12 In the Matter of the Accusation Against:
13 **DAVIN GROUP, INC. DBA NEW LIFE**
14 **PHARMACY;**

14 **IFEANYI VINCENT NTUKOGU,**
15 **OWNER, PRESIDENT, SECRETARY,**
16 **TREASURER/CHIEF FINANCIAL**
17 **OFFICER, DIRECTOR, AND**
18 **PHARMACIST IN CHARGE**
19 **483 E. Almond Ave., Ste. 102**
20 **Madera, CA 93637**

21 **Retail Pharmacy Permit No. PHY 51623**

22 **and**

23 **IFEANYI VINCENT NTUKOGU**
24 **483 E. Almond Ave., Ste. 102**
25 **Madera, CA 93637**

26 **Pharmacist License No. RPH 56385**

27 Respondent.
28

Case No. 6644

OAH No. 2019090079

STIPULATED SURRENDER OF
LICENSES AND ORDER

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

3 **PARTIES**

4 1. Anne Sodergren (“Complainant”) is the Executive Officer of the Board of Pharmacy
5 (“Board”). She brought this action solely in her official capacity and is represented in this matter
6 by Xavier Becerra, Attorney General of the State of California, by Summer D. Haro, Deputy
7 Attorney General.

8 2. Davin Group Inc. dba New Life Pharmacy (“Respondent New Life”) is represented in
9 this proceeding by attorney Ivan Petrzelka, Pharm.D., J.D., M.B.A., whose address is: 49
10 Discovery, Suite 240, Irvine, CA 92618-6713.

11 3. Ifeanyi Vincent Ntukogu (“Respondent Ntukogu”) is represented in this proceeding
12 by attorney Ivan Petrzelka, Pharm.D., J.D., M.B.A., whose address is: 49 Discovery, Suite 240,
13 Irvine, CA 92618-6713.

14 4. On or about October 31, 2013, the Board issued Retail Pharmacy Permit Number
15 PHY 51623 to Respondent New Life. At all times relevant to this matter, Respondent New Life’s
16 corporate officer was Respondent Ntukogu, who was its owner, President, Secretary,
17 Treasurer/Chief Financial Officer, and Director. On or about October 31, 2013, Respondent
18 Ntukogu became the Pharmacist-In-Charge (“PIC”) for Respondent New Life. The Retail
19 Pharmacy Permit will expire on October 1, 2020, unless renewed.

20 5. On or about October 1, 2004, the Board issued Registered Pharmacist License
21 Number RPH 56385 to Respondent Ntukogu. The Registered Pharmacist License will expire on
22 August 31, 2020, unless renewed.

23 **JURISDICTION**

24 6. Accusation No. 6644 was filed before the Board, and is currently pending against
25 Respondent New Life and Respondent Ntukogu. The Accusation and all other statutorily
26 required documents were properly served on Respondent New Life and Respondent Ntukogu on
27 May 3, 2019. Respondent New Life and Respondent Ntukogu timely filed their Notices of
28 Defense contesting the Accusation. A copy of Accusation No. 6644 is attached as **Exhibit A** and

1 incorporated by reference.

2 **ADVISEMENT AND WAIVERS**

3 7. Respondent New Life and Respondent Ntukogu have carefully read, fully discussed
4 with counsel, and understand the charges and allegations in Accusation No. 6644. Respondent
5 New Life and Respondent Ntukogu also have carefully read, fully discussed with counsel, and
6 understand the effects of this Stipulated Surrender of Licenses and Order.

7 8. Respondent New Life and Respondent Ntukogu are fully aware of their legal rights in
8 this matter, including the right to a hearing on the charges and allegations in the Accusation; the
9 right to confront and cross-examine the witnesses against them; the right to present evidence and
10 to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of
11 witnesses and the production of documents; the right to reconsideration and court review of an
12 adverse decision; and all other rights accorded by the California Administrative Procedure Act
13 and other applicable laws.

14 9. Respondent New Life and Respondent Ntukogu voluntarily, knowingly, and
15 intelligently waive and give up each and every right set forth above.

16 **CULPABILITY**

17 10. Respondent New Life understands that the charges and allegations in Accusation No.
18 6644, if proven at a hearing, constitute cause for imposing discipline upon its Pharmacy Permit.

19 11. Respondent Ntukogu understands that the charges and allegations in Accusation No.
20 6644, if proven at a hearing, constitute cause for imposing discipline upon his Registered
21 Pharmacist License.

22 12. For the purpose of resolving the Accusation without the expense and uncertainty of
23 further proceedings, Respondent New Life and Respondent Ntukogu agree that, at a hearing,
24 Complainant could establish a factual basis for the charges in the Accusation and that those
25 charges constitute cause for discipline. Respondent New Life and Respondent Ntukogu hereby
26 give up their right to contest that cause for discipline exists based on those charges.

27 13. Respondent New Life understands that by signing this stipulation it enables the Board
28 to issue an order accepting the surrender of its Pharmacy Permit without further process.

14. Respondent Ntukogu understands that by signing this stipulation he enables the Board to issue an order accepting the surrender of his Registered Pharmacist License without further process.

CONTINGENCY

15. This stipulation shall be subject to approval by the Board. Respondent New Life and Respondent Ntukogu understand and agree that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent New Life and Respondent Ntukogu or their counsel. By signing the stipulation, Respondent New Life and Respondent Ntukogu understand and agree that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

16. The parties understand and agree that Portable Document Format (“PDF”) and facsimile copies of this Stipulated Surrender of Licenses and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

17. This Stipulated Surrender of Licenses and 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 Surrender of Licenses and 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.

18. 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 Order:

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ORDER

IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 51623, issued to Respondent Davin Group Inc. dba New Life Pharmacy, is surrendered and accepted by the Board.

IT IS HEREBY FURTHER ORDERED that Registered Pharmacist License No. RPH 56385, issued to Respondent Ifeanyi Vincent Ntukogu, is surrendered and accepted by the Board.

1. The surrender of Respondent New Life's Pharmacy Permit, and of Respondent Ntukogu's Registered Pharmacist License, and the acceptance of the surrendered permit and license by the Board shall constitute the imposition of discipline against Respondents. This stipulation constitutes a record of the discipline and shall become a part of Respondents' license histories with the Board.

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

3. Respondent Ntukogu shall lose all rights and privileges as a Pharmacist in California as of the effective date of the Board's Decision and Order.

4. Respondents shall cause to be delivered to the Board their pocket licenses and, if one was issued, their wall certificates on or before the effective date of the Decision and Order.

5. If either Respondent ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondents must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 6644 shall be deemed to be true, correct and admitted by Respondents when the Board determines whether to grant or deny the application or petition. Respondents may not reapply for any license, permit, or registration from the Board for three years from the effective date of this decision.

6. Respondents, jointly and severally, shall pay the agency its costs of investigation and enforcement in the amount of \$38,570, prior to issuance of a new or reinstated license.

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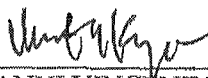
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1 ACCEPTANCE

2 I have carefully read the above Stipulated Surrender of Licenses and Order and have fully
3 discussed it with my attorney Ivan Petrzelka, Pharm.D., J.D., M.B.A.. I understand the
4 stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated
5 Surrender of Licenses and Order voluntarily, knowingly, and intelligently, and agree to be bound
6 by the Decision and Order of the Board of Pharmacy.

7
8 DATED:

01/31/2020



IFEANYI VINCENT NTUKOGU, Owner
and President of DAVIN GROUP INC. DBA
NEW LIFE PHARMACY,
Respondent

12 I have carefully read the above Stipulated Surrender of Licenses and Order and have fully
13 discussed it with my attorney Ivan Petrzelka, Pharm.D., J.D., M.B.A.. I understand the
14 stipulation and the effect it will have on my Registered Pharmacist Permit. I enter into this
15 Stipulated Surrender of Licenses and Order voluntarily, knowingly, and intelligently, and agree to
16 be bound by the Decision and Order of the Board of Pharmacy.

17
18 DATED:


01/31/2020



IFEANYI VINCENT NTUKOGU,
Respondent

21 I have read and fully discussed with Respondent Davin Group Inc. dba New Life Pharmacy,
22 and with Respondent Ifeanyi Vincent Ntukogu the terms and conditions and other matters
23 contained in this Stipulated Surrender of Licenses and Order. I approve its form and content.

24 DATED: January 31, 2020



IVAN PETRZELKA, PHARM.D., J.D.,
M.B.A.
Attorney for Respondent

27 ///

28 ///

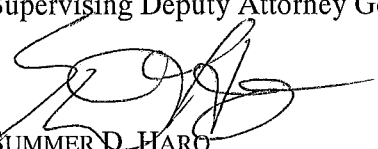
ENDORSEMENT

The foregoing Stipulated Surrender of Licenses and Order is hereby respectfully submitted
for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 1/31/20

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
DAVID E. BRICE
Supervising Deputy Attorney General


SUMMER D. HARO
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6644

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2 DAVID E. BRICE
Supervising Deputy Attorney General
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Deputy Attorney General
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Attorneys for Complainant

9 **BEFORE THE**
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13 In the Matter of the Accusation Against:
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15 **PHARMACY;**

Case No. 6644

16 **IFEANYI VINCENT NTUKOGU,**
17 **OWNER, PRESIDENT, SECRETARY,**
18 **TREASURER/CHIEF FINANCIAL**
19 **OFFICER, DIRECTOR, AND**
20 **PHARMACIST IN CHARGE**
21 **483 E. Almond Ave., Ste. 102**
22 **Madera, CA 93637**

A C C U S A T I O N

23 **Retail Pharmacy Permit No. PHY 51623**

24 **and**

25 **IFEANYI VINCENT NTUKOGU**
26 **483 E. Almond Ave., Ste. 102**
27 **Madera, CA 93637**

28 **Pharmacist License No. RPH 56385**

Respondents.

1 Complainant alleges:

2 **PARTIES**

3 1. Anne Sodergren (“Complainant”) brings this Accusation solely in her official
4 capacity as the Interim Executive Officer of the Board of Pharmacy (“Board”), Department of
5 Consumer Affairs.

6 2. On or about October 31, 2013, the Board issued Retail Pharmacy Permit Number
7 RPH 51623 to Davin Group, Inc. dba New Life Pharmacy (“Respondent New Life”). At all times
8 relevant to the charges brought herein, Respondent Davin Group’s corporate officer was Ifeanyi
9 Vincent Ntukogu (“Respondent Ntukogu”), owner, President, Secretary, Treasurer/Chief
10 Financial Officer, and Director. On or about October 31, 2013, Respondent Ntukogu became the
11 Pharmacist-In-Charge (“PIC”) for Respondent New Life. The Retail Pharmacy Permit was in full
12 force and effect at all times relevant to the charges brought herein and will expire on October 1,
13 2019, unless renewed.

14 3. On or about October 1, 2004, the Board issued Registered Pharmacist License
15 Number 56385 to Respondent Ntukogu. The Registered Pharmacist License was in full force and
16 effect at all times relevant to the charges brought herein and will expire on August 31, 2020,
17 unless renewed.

18 **JURISDICTION**

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

22 5. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
23 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but
24 not be limited to, any of the following:

25 (c) Gross negligence.

26 (d) The clearly excessive furnishing of controlled substances in violation of
27 subdivision (a) of Section 11153 of the Health and Safety Code.

28 . . .

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

...

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

...

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

(a) Every pharmacy shall designate a pharmacist-in-charge and, within 30 days thereof, shall notify the board in writing of the identity and license number of that pharmacist and the date he or she was designated.

...

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

7. Section 4307, of the Code states:

(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.

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

(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3

1 of the Government Code. However, no order may be issued in that case except as
2 to a person who is named in the caption, as to whom the pleading alleges the
3 applicability of this section, and where the person has been given notice of the
4 proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1
of Division 3 of the Government Code. The authority to proceed as provided by
this subdivision shall be in addition to the board's authority to proceed under
Section 4339 or any other provision of law.

5 **STATUTORY AND REGULATORY PROVISIONS**

6 **Business and Professions Code:**

7 8. Section 4306.5 of the Code provides that "unprofessional conduct" for a pharmacist
8 may include any of the following:

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

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

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

17 (d) Acts or omissions that involve, in whole or in part, the failure to fully
18 maintain and retain appropriate patient-specific information pertaining to the
performance of any pharmacy function.

19 9. Section 4059, subdivision (a), of the Code states:

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

23 **Health and Safety Code:**

24 10. Health and Safety Code section 11153, subdivision (a), provides that

25 A prescription for a controlled substance shall only be issued for a
26 legitimate medical purpose by an individual practitioner acting in the usual course
27 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.
28 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.

11. Health and Safety Code section 11164, provides, in pertinent part, that

[e]xcept as provided in Health and Safety Code section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance, unless it complies with the requirements of this section.

(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 . . .

12. Health and Safety Code section 11162.1, provides, in pertinent part, that

(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."

...

(4) A feature printed in thermochromic ink.

...

(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."

...

(13) An identifying number assigned to the approved security printer 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.

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1 **California Code of Regulations:**

2 13. California Code of Regulations (“CCR”), title 16, section 1761, provides that

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

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

11 **Federal Code of Regulations:**

12 14. Federal Code of Regulations (“CFR”), title 21, section 1306.04, provides, in pertinent
13 part, that

14 (a) A prescription for a controlled substance to be effective must be issued
15 for a legitimate medical purpose by an individual practitioner acting in the usual
16 course of his professional practice. The responsibility for the proper prescribing
17 and dispensing of controlled substances is upon the prescribing practitioner, but a
18 corresponding responsibility rests with the pharmacist who fills the prescription.

19 **DRUGS**

20 15. Section 4021 of the Code provides that a “controlled substance” means any substance
21 listed in Schedules I through V contained in Health and Safety Code section 11053 et seq.

22 16. Section 4022 of the Code defines dangerous drugs and dangerous devices as follows:

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

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

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

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

33 17. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
34 section 11055, subdivision (b)(1)(M), and a dangerous drug pursuant to Code section 4022.

35 Oxycodone is used to treat pain. “Roxicodone” is a brand of oxycodone.

36 ///

1 18. Hydrocodone/acetaminophen is a Schedule II controlled substance pursuant
2 to Title 21, CFR, section 1308.12, subdivision (b)(1)(vi). Hydrocodone/acetaminophen is
3 also a dangerous drug pursuant to Code section 4022. Hydrocodone/acetaminophen is
4 used to treat pain. “Norco” is a brand of hydrocodone/acetaminophen.

5 19. Oxycodone/acetaminophen, is a Schedule II controlled substance pursuant to
6 Health and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug
7 pursuant to Code section 4022. Oxycodone/acetaminophen is used to treat pain.
8 “Percocet” is a brand name of oxycodone/acetaminophen.

9 **CURES PROGRAM**

10 20. The Controlled Substance Utilization Review and Evaluation System (“CURES”)
11 program was initiated in 1997 and required mandatory monthly pharmacy reporting of dispensed
12 Schedule II controlled substances. The program was amended in January 2005 to include
13 mandatory weekly reporting of Schedule II to IV medications. The data is collected statewide
14 and can be used by healthcare professionals, such as pharmacists and prescribers, to evaluate and
15 determine whether their patients are utilizing their controlled substances safely and appropriately.

16 21. The component of CURES which is accessible to pharmacists and prescribers is
17 called the Prescription Drug Monitoring Program (“PDMP”). Registration for access to the
18 PDMP has been available since February 2009. The data may be used to aid in determining
19 whether a patient sees multiple prescribers, frequents multiple pharmacies to fill controlled
20 substance prescriptions, and/or obtains early refills of controlled substance prescriptions.

21 **FACTUAL BACKGROUND**

22 22. On or about November 7, 2018, Board Inspector L.T. performed an inspection at
23 Respondent New Life’s facility in Madera, California, and an investigation of Respondent New
24 Life and Respondent Ntukogu’s controlled substance practices. During that inspection and
25 investigation, Respondent Ntukogu provided Inspector L.T. with approximately 547
26 prescriptions, written on 294 prescription forms; the New Life Pharmacy Controlled Substance
27 Dispensing Policies; and Community Pharmacy Self-Assessments, for 2015 and 2017. Inspector
28 L.T. also obtained the CURES Patient Activity Reports associated with the prescriptions provided

1 by Respondents. During the inspection, Inspector L.T. and Respondent Ntukogu discussed and
2 reviewed profiles of ten prescribers of interest and seven patients of interest. At the end of the
3 inspection, Inspector L.T. requested that Respondent Ntukogu provide additional documents,
4 including an electronic record of all prescriptions dispensed by Respondents from November 7,
5 2015, to November 7, 2018.

6 23. On or about November 21, 2018, November 28, 2018, and December 18, 2018,
7 Inspector L.T. received additional documents from Respondents, including the electronic record
8 of prescriptions dispensed by Respondents from November 7, 2015, to November 7, 2018.
9 Respondent Ntukogu verified that the electronic records were a true and accurate representation
10 of the hard copy (paper) prescriptions dispensed at Respondent New Life.

11 24. In or about January 2019, Inspector L.T. sent letters to the ten prescribers of interest,
12 with enclosed copies of sample prescription forms collected from Respondents and a list of
13 prescriptions dispensed under those prescribers' respective authorities at Respondent New Life.
14 In those letters, Inspector L.T. asked the prescribers to provide written statements confirming that
15 they had written the respective prescriptions. Between January 21, 2019, and February 13, 2019,
16 Inspector L.T. received written statements from nine of those ten prescribers, informing Inspector
17 L.T. that most of the sample prescription forms had not been signed or authorized by them, and
18 that they had not been contacted by Respondents to verify the authenticity of the prescriptions.

19 25. Inspector L.T. reviewed and analyzed the electronic dispensing record provided by
20 Respondents, which showed the following information:

- 21 a. the total number of prescriptions dispensed by Respondents from November 7,
22 2015, to November 7, 2018;
- 23 b. the number and classification of controlled substances dispensed by
24 Respondents during that period;
- 25 c. the person who dispensed the prescriptions;
- 26 d. the number and types of prescriptions that were paid for with cash;
- 27 e. the name of the prescriber, as well as the number of prescriptions and type of
28 drug prescribed by each prescriber;
- f. the names of the patients associated with each prescription; and

g. Respondents' cost and pricing for those prescriptions.

26. Based on Inspector L.T.'s analysis of the records received as part of the inspection and investigation, Inspector L.T. determined that from November 7, 2015, to November 7, 2018, Respondents dispensed at least 526 prescriptions for controlled substances pursuant to prescription forms that did not have all of the required security features.

27. Based on Inspector L.T.'s analysis of the records received as part of the inspection and investigation, Inspector L.T. determined that from November 7, 2015, to November 7, 2018, Respondents dispensed at least 3,068 prescriptions for controlled substances which had red flags of abuse or illegitimacy, without ensuring that the prescriptions were issued for legitimate medical purposes in the usual course of professional practice. Those prescriptions exhibited objective factors of illegitimacy, irregularity, and abuse, including but not limited to (1) prescriptions that violated Health and Safety Code section, were unprofessionally made and poorly cut into irregular sizes; (2) prescriptions written for the same quantity of tablets, and for the highest available dosages of the immediate release formulations; (3) a group of four prescribers consistently wrote duplicative abbreviations; (4) there was an unusual uniformity of migration by multiple patients from one prescriber to another prescriber around the same time, on multiple occasions; and (5) the prescribing profiles of the 10 prescribers and 75 patient histories were unusually limited to 100%, or a clear majority, of only three Schedule II controlled substances: oxycodone 30 mg, hydrocodone/acetaminophen 10/325 mg, and oxycodone/acetaminophen 10/325 mg.

28. Based on Inspector L.T.'s analysis of the records received as part of the inspection and investigation, Inspector L.T. determined that from November 7, 2015, to November 7, 2018, Respondents dispensed at least 3,068 controlled substance prescriptions, equivalent to 376,280 tablets of opioid drugs, pursuant to fraudulent prescriptions. From that analysis, Inspector L.T. also determined that Respondents received more than \$1.5 million in profit from dispensing opioids pursuant to prescriptions that were fraudulent, and that at least 526 prescriptions did not comply with the Health and Safety Code.

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1 **CAUSES FOR DISCIPLINE**

2 **A. Respondent New Life**

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Requirements for Dispensing Controlled Substance Prescriptions)**

5 29. Respondent New Life is subject to disciplinary action for failing to comply with the
6 requirements for dispensing controlled substance prescriptions, pursuant to Health and Safety
7 Code sections 11164 and 11162.1, subdivision (a), Code section 4059, subdivision (a), CCR, title
8 16, section 1761, and CFR, title 21, section 1306.04, by and through Code section 4301,
9 subdivisions (j) and (o), as set forth in more detail above in paragraphs 22 through 28.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Corresponding Responsibility – Responsibility for Legitimacy of Prescription)**

12 30. Respondent New Life is subject to disciplinary action for violating its duty of
13 corresponding responsibility by failing to verify the legitimacy of prescriptions, in violation of
14 Health and Safety Code section 11153, CCR, title 16, section 1761, CFR, title 21, section
15 1306.04, by and through Code section 4301, subdivisions (j) and (o), as set forth above in
16 paragraphs 22 through 28.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Gross Negligence)**

19 31. Respondent New Life is subject to disciplinary action for engaging in unprofessional
20 conduct pursuant to Code section 4301, subdivision (c), for gross negligence, as set forth above in
21 paragraphs 22 through 28.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Clearly Excessive Furnishing of Controlled Substances)**

24 32. Respondent New Life is subject to disciplinary action for engaging in unprofessional
25 conduct pursuant to Code section 4301, subdivision (d), for the clearly excessive furnishing of
26 controlled substances, as set forth above in paragraphs 22 through 28.

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1 **B. Respondent Ntukogu**

2 33. Respondent Ntukogu has been designated the Pharmacist-In-Charge for Respondent
3 New Life under Code section 4113(a) since October 31, 2013. As Pharmacist-In-Charge for
4 Respondent New Life, Respondent Ntukogu was responsible for Respondent New Life's
5 compliance with all state and federal laws and regulations pertaining to the practice of pharmacy
6 under Code section 4113(c).

7 **FIFTH CAUSE FOR DISCIPLINE**

8 **(Requirements for Dispensing Controlled Substance Prescriptions)**

9 34. Respondent Ntukogu is subject to disciplinary action for failing to comply with the
10 requirements for dispensing controlled substance prescriptions, pursuant to Health and Safety
11 Code sections 11164 and 11162.1, subdivision (a), Code section 4059, subdivision (a), CCR, title
12 16, section 1761, and CFR, title 21, section 1306.04, by and through Code section 4301,
13 subdivisions (j) and (o), as set forth in more detail above in paragraphs 22 through 28.

14 **SIXTH CAUSE FOR DISCIPLINE**

15 **(Corresponding Responsibility - Responsibility for Legitimacy of Prescription)**

16 35. Respondent Ntukogu is subject to disciplinary action for violating his duty of
17 corresponding responsibility by failing to verify the legitimacy of prescriptions, in violation of
18 Health and Safety Code section 11153, CCR, title 16, section 1761, and CFR, title 21, section
19 1306.04, by and through Code section 4301, subdivisions (j) and (o), as set forth above in
20 paragraphs 22 through 28.

21 **SEVENTH CAUSE FOR DISCIPLINE**

22 **(Gross Negligence)**

23 36. Respondent Ntukogu is subject to disciplinary action for engaging in unprofessional
24 conduct pursuant to Code section 4301, subdivision (c), for gross negligence, as set forth above in
25 paragraphs 22 through 28.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Clearly Excessive Furnishing of Controlled Substances)**

3 37. Respondent Ntukogu is subject to disciplinary action for engaging in unprofessional
4 conduct pursuant to Code section 4301, subdivision (d), for the clearly excessive furnishing of
5 controlled substances, as set forth above in paragraphs 22 through 28.

6 **DISCIPLINARY CONSIDERATIONS**

7 38. To determine the degree of discipline, if any, to be imposed on Respondent New Life,
8 Complainant alleges that on or about December 1, 2017, the Board of Pharmacy issued Citation
9 Number CI 2016 73900, to Respondent New Life for the following violations that occurred on or
10 about January 13, 2017:

- 11 a. CCR, title 16, section 1707.2, subdivision (b)(1)(A) (Failure to provide oral
12 consultation);
- 13 b. Code section 4125 and CCR, title 16, section 1711 (Failure to perform quality
14 assurance review);
- 15 c. CCR, title 16, section 1764, and Civil Code section 56.10, et. seq.
16 (Unauthorized disclosure of prescription and medical information);
- 17 d. CCR, title 16, section 1716 (Dispensed a medication that varied from the
18 prescription),

17 Respondent New Life was cited and fined \$5,000. That Citation is now final and is incorporated
18 by reference as if fully set forth.

19 39. To determine the degree of discipline, if any, to be imposed on Respondent Ntukogu,
20 Complainant alleges that on or about December 1, 2017, the Board of Pharmacy issued Citation
21 Number CI 2017 77675, to Respondent Ntukogu for the following violations that occurred on or
22 about January 13, 2017:

- 23 a. CCR, title 16, section 1707.2, subdivision (b)(1)(A) (Failure to provide oral
24 consultation);
- 25 b. Code section 4125 and CCR, title 16, section 1711 (Failure to perform quality
26 assurance review);
- 27 c. CCR, title 16, section 1764, and Civil Code section 56.10, et. seq.
28 (Unauthorized disclosure of prescription and medical information);

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1 d. CCR, title 16, section 1716 (Dispensed a medication that varied from the
2 prescription),

3 Respondent Ntukogu was cited and fined \$5,000. That Citation is now final and is incorporated
4 by reference as if fully set forth.

5 **OTHER MATTERS**

6 40. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
7 PHY 51623 issued to Davin Group Inc. dba New Life Pharmacy, then Davin Group Inc. dba New
8 Life Pharmacy shall be prohibited from serving as a manager, administrator, owner, member,
9 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number
10 PHY 51623 is placed on probation or until Pharmacy Permit Number PHY51623 is reinstated if it
11 is revoked.

12 41. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
13 PHY 51623 issued to Davin Group Inc. dba New Life Pharmacy, while Ifeanyi Vincent Ntukogu
14 has been an owner and had knowledge of or knowingly participated in any conduct for which the
15 licensee was disciplined, then Ifeanyi Vincent Ntukogu shall be prohibited from serving as a
16 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
17 five years if Pharmacy Permit Number PHY 51623 is placed on probation or until Pharmacy
18 Permit Number 51623 is reinstated if it is revoked.

19 **PRAYER**

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

22 1. Revoking or suspending Pharmacy Permit Number PHY 51623, issued to Davin
23 Group Inc. dba New Life Pharmacy;

24 2. Revoking or suspending Registered Pharmacist License Number RPH 56385, issued
25 to Ifeanyi Vincent Ntukogu;

26 3. Prohibiting Davin Group Inc. dba New Life Pharmacy from serving as a manager,
27 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
28 Pharmacy Permit Number PHY 51623 is placed on probation or until Pharmacy Permit Number

PHY 51623 is reinstated if Pharmacy Permit Number PHY 51623 issued to Davin Group Inc. dba New Life Pharmacy is revoked;

4. Prohibiting Ifeanyi Vincent Ntukogu from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 51623 is placed on probation or until Pharmacy Permit Number PHY 51623 is reinstated if Pharmacy Permit Number PHY 51623 issued to Davin Group Inc. dba New Life Pharmacy is revoked;

5. Ordering Davin Group Inc. dba New Life Pharmacy and Ifeanyi Vincent Ntukogu to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: May 30, 2019



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

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