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

In the Matter of the Accusation Against:

GARFIELD BEACH CVS, LLC, DBA CVS PHARMACY #9708, Pharmacy Permit No. PHY 47872

and

JEZIMINE DANIELLE WILLIAMS Pharmacy Technician Registration No. TCH 137559

Agency Case No. 6759; OAH No. 2020080484

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Reproval 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 March 26, 2021.

It is so ORDERED on February 24, 2021.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

My n. Lippe

Ву

Greg Lippe Board President

DECISION AND ORDER AS TO CVS PHARMACY #9708 ONLY (CASE NO. 6759) PAGE 1

1 2 3 4 5 6 7 8	XAVIER BECERRA Attorney General of California ARMANDO ZAMBRANO Supervising Deputy Attorney General ELYSE M. DAVIDSON Deputy Attorney General State Bar No. 285842 300 So. Spring Street, Suite 1702 Los Angeles, CA 90013 Telephone: (213) 269-6273 Facsimile: (916) 731-2126 Attorneys for Complainant	
	BEFOR BOARD OF P	
9	DEPARTMENT OF CO STATE OF C	
10	STATE OF C.	ALITORNIA
11	In the Matter of the Accusation Against:	Case No. 6759
12	GARFIELD BEACH CVS, LLC, DBA CVS	OAH No. 2020080484
13	PHARMACY #9708 150 W. Willow St.	STIPULATED SETTLEMENT AND
14	Pomona, CA 91768	DISCIPLINARY ORDER FOR PUBLIC REPROVAL
15	Pharmacy Permit No. PHY 47872,	
16	and	(AS TO RESPONDENT CVS PHARMACY #9708)
17	JEZIMINE DANIELLE WILLIAMS PO Box 1318	[Bus. & Prof. Code § 495]
18	Sacramento, CA 95812	
19	Pharmacy Technician Registration No. TCH 137559	
20	Respondents.	
21		
22		
23	IT IS HEREBY STIPULATED AND AGR	EED by and between the parties to the above-
24	entitled proceedings that the following matters are	e true:
25	PART	<u>ries</u>
26	1. Anne Sodergren (Complainant) is the	Executive Officer of the Board of Pharmacy
27	("Board"). She brought this action solely in her o	fficial capacity and is represented in this matter
28	///	
		1
		STIPULATED SETTLEMENT (6759)

by Xavier Becerra, Attorney General of the State of California, by Elyse M. Davidson, Deputy 1 2 Attorney General. 2. Respondent Garfield Beach CVS, LLC, dba CVS Pharmacy #9708 ("Respondent" or 3 "Respondent Pharmacy") is represented in this proceeding by attorney Jeff J. Astarabadi, whose 4 5 address is: Much Shelist, P.C., 660 Newport Center Drive, Suite 900, Newport Beach, CA 92660 3. On or about September 18, 2006, the Board issued Pharmacy Permit No. PHY 47872 6 to Respondent Garfield Beach CVS, LLC, dba CVS Pharmacy #9708. The Pharmacy Permit was 7 8 in full force and effect at all times relevant to the charges brought in Accusation No. 6759, and 9 will expire on June 1, 2021, unless renewed. On or about December 31, 2013, the Board issued Pharmacy Technician Registration 4. 10 Number TCH 137559 to Jezimine Danielle Williams ("Respondent Williams"). The Pharmacy 11 Technician Registration expired on May 31, 2019, and has not been renewed. 12 **JURISDICTION** 13 5. Accusation No. 6759 was filed before the Board and is currently pending against 14 Respondent. The Accusation and all other statutorily required documents were properly served 15 on Respondent on November 18, 2019. Respondent timely filed its Notice of Defense contesting 16 the Accusation. 17 6. A copy of Accusation No. 6759 is attached as exhibit A and incorporated herein by 18 19 reference. ADVISEMENT AND WAIVERS 20 7. Respondent has carefully read, fully discussed with counsel, and understands the 21 charges and allegations in Accusation No. 6759. Respondent has also carefully read, fully 22 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary 23 24 Order for Public Reproval. 8. Respondent is fully aware of its legal rights in this matter, including the right to a 25 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine 26 the witnesses against them; the right to present evidence and to testify on its own behalf; the right 27 to the issuance of subpoenas to compel the attendance of witnesses and the production of 28 2

STIPULATED SETTLEMENT (6759)

1	documents; the right to reconsideration and court review of an adverse decision; and all other	
2	rights accorded by the California Administrative Procedure Act and other applicable laws.	
3	9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and	
4	every right set forth above.	
5	<u>CULPABILITY</u>	
6	10. Respondent admits the truth of each and every charge and allegation in Accusation	
7	No. 6759.	
8	11. Respondent agrees that its Pharmacy Permit is subject to discipline and they agree to	
9	be bound by the Board's imposition of discipline as set forth in the Disciplinary Order for Public	
10	Reproval below.	
11	<u>CONTINGENCY</u>	
12	12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent	
13	understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may	
14	communicate directly with the Board regarding this stipulation and settlement, without notice to	
15	or participation by Respondent or its counsel. By signing the stipulation, Respondent understands	÷
16	and agrees that they may not withdraw its agreement or seek to rescind the stipulation prior to the	
17	time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its	
18	Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Reproval shall	
19	be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action	
20	between the parties, and the Board shall not be disqualified from further action by having	
21	considered this matter.	
22	13. The parties understand and agree that Portable Document Format (PDF) and facsimile	;
23	copies of this Stipulated Settlement and Disciplinary Order for Public Reproval, including PDF	
24	and facsimile signatures thereto, shall have the same force and effect as the originals.	
25	14. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by	
26	the parties to be an integrated writing representing the complete, final, and exclusive embodiment	
27	of their agreement. It supersedes any and all prior or contemporaneous agreements,	
28	understandings, discussions, negotiations, and commitments (written or oral). This Stipulated	
	3	
	STIPULATED SETTLEMENT (6759)	

1	Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified,
2	supplemented, or otherwise changed except by a writing executed by an authorized representative
3	of each of the parties.
4	15. In consideration of the foregoing admissions and stipulations, the parties agree that
5	the Board may, without further notice or formal proceeding, issue and enter the following
6	Disciplinary Order:
7	DISCIPLINARY ORDER
8	IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 47872 issued to Respondent
9	Garfield Beach CVS, LLC, dba CVS Pharmacy #9708 shall be publicly reproved by the Board of
10	Pharmacy under Business and Professions Code section 495 in resolution of Accusation No.
11	6759, attached as exhibit A.
12	Cost Recovery. Respondent shall pay \$10,000.00 to the Board for its costs associated with
13	the investigation and enforcement of this matter. Respondent shall be permitted to pay these
14	costs in a payment plan approved by the Board. If Respondent fails to pay the Board costs as
15	ordered, Respondent shall not be allowed to renew their Pharmacy Permit until Respondent pays
16	costs in full.
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	STIPULATED SETTLEMENT (6759)

1	ACCEPTANCE	
2	I have carefully read the above Stipulated Settlement and Disciplinary Order for Public	
3	Reproval and have fully discussed it with my attorney, Jeff J. Astarabadi. I understand the	
4	stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated	
5	Settlement and Disciplinary Order for Public Reproval voluntarily, knowingly, and intelligently,	
6	and agree to be bound by the Decision and Order of the Board of Pharmacy.	
7		
8	DATED: 12/11/2020	
9	GARFIELD BEACH CVS, LLC, DBA CVS PHARMACY #9708	
10	Respondent	
11	Lhave used on d fully discussed with Deer on don't Confield Deeph CVS. LLC, the CVS	
12	I have read and fully discussed with Respondent Garfield Beach CVS, LLC, dba CVS	
13	Pharmacy #9708 the terms and conditions and other matters contained in the above Stipulated	
14	Settlement and Disciplinary Order for Public Reproval. I approve its form and content.	
15	DATED: 12/11/2020	
16	JEFF J. ASTARABADI	
17	Attorney for Respondent	
18	///	
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	5 STIPULATED SETTLEMENT (6759)	

1 ENDORSEMENT 2 The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval is hereby 3 respectfully submitted for consideration by the Board of Pharmaey. 4 DATED: <u>12/11/2020</u> Respectfully submitted, 5 Automey General of California Attorney General 6 Automey General of California Attorney General 7 Ensystem Matterney General of California Attorney General Attorney General Attorney General Attorney General Attorneys for Complationat 10 Ensystem Matterney General Attorneys for Complationat 11 LA2019502498 6 Stipory State Representation Representati		
3 respectfully submitted for consideration by the Board of Pharmacy. 4 5 6 7 7 Respectfully submitted, XAVIER BECERRA Attorney General of California ARMANO ZAMRANO Supervising Deputy Attorney General General Attorney General Attorney General Attorney General Attorney General Geneee General Geneee General General General G	1	<u>ENDORSEMENT</u>
4 ATED: 12/11/2020 Respectfully submitted, 6 Xavier, Beclenna, Attorney General of California Attorney General of Supervising Deputy Attorney General Attorneys for Complainant 10 Jailan 11 Lazon 5002498 12 Sasteps2.dex 13 Lazon 5002498 14 Lazon 5002498 15 Sasteps2.dex 16 1 17 1 18 1 19 1 20 1 21 1 22 1 23 1 24 1 25 1 26 1 27 1 28 1 29 1 20 1 21 1 22 1 23 1 24 1 25 1 26 1 27 1 28 1 29 1 20 1	2	The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval is hereby
DATED: 12/11/2020 Respectfully submitted, XAVIER BECERRA Attorney General of California Attorney General of California Attorney General With ANDO ZAMBRANO Supervising Deputy Attorney General With ANDO ZAMBRANO Supervising Deputy Attorney General Herein Complexity Attorneys for Complainant Lacottopic Complexity Attorneys for Complainant Lacottopic Complexity Attorneys for Complainant Lacottopic Complexity Attorneys for Complexity Attorneys for Complexity Attorneys for Complexity Lacottopic Complexity Attorneys for Complexity Statistic Complexity Attorneys for Complexity	3	respectfully submitted for consideration by the Board of Pharmacy.
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6 Attorney General of California 7 Attorney General of California 8 Supervising Deputy Attorney General 9 Attorney General of California 9 ELYSE M. DAVIDSON 10 Deputy Attorney General 11 Attorneys for Complainant 12 Attorneys for Complainant 13 Interview General of California 14 Interview General of California 15 12092020 16 Interview General of California 17 Interview General of California 18 Interview General of California 19 Interview General of California 20 Interview General of California 21 Interview General of California 22 Interview General of California 23 Interview General of California 24 Interview General of California 25 Interview General of California 26 Interview General of California 27 Interview General of California 28 Interview General of California 29 Interview General of California <	5	
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STIPULATED SETTLEMENT (6759)		

Exhibit A

Accusation No. 6759

1 2	XAVIER BECERRA Attorney General of California	
2	ARMANDO ZAMBRANO Supervising Deputy Attorney General ELYSE M. DAVIDSON	
4	Deputy Attorney General State Bar No. 285842	
5	300 So. Spring Street, Suite 1702 Los Angeles, CA 90013	
6	Telephone: (213) 269-6273	
7	Facsimile: (916) 731-2126 Attorneys for Complainant	
8	DEFOD	
° 9	BEFOR BOARD OF P	
	DEPARTMENT OF CO STATE OF CA	
10 11		
11	In the Matter of the Accusation Against:	Case No. 6759
	GARFIELD BEACH CVS, LLC,	
13	DBA CVS PHARMACY #9708 150 W. Willow St.	ACCUSATION
14	Pomona, CA 91768	ACCUSATION
15	Pharmacy Permit No. PHY 47872,	
16	and	
17	JEZIMINE DANIELLE WILLIAMS	
18	PO Box 1318 Sacramento, CA 95812	
19	Pharmacy Technician Registration No. TCH	
20	137559	
21	Respondents.	
22		
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25		ngs this Accusation solely in her official
26	capacity as the Interim Executive Officer of the B	oard of Pharmacy ("Board"), Department of
27	Consumer Affairs.	
28	///	
	(GARFIELD BEACH CVS, LLC, DBA CVS PHAR)	MACY #9708 and JEZIMINE DANIELLE WILLIAMS) ACCUSATION

1	2. On or about September 18, 2006, the Board issued Pharmacy Permit Number PHY
2	47872 to Garfield Beach CVS, LLC, dba CVS Pharmacy #9708 ("Respondent Pharmacy"). The
3	Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein
4	and will expire on June 1, 2020, unless renewed.
5	3. On or about December 31, 2013, the Board issued Pharmacy Technician Registration
6	Number TCH 137559 to Jezimine Danielle Williams ("Respondent Williams"). The Pharmacy
7	Technician Registration expired on May 31, 2019, and has not been renewed.
8	JURISDICTION
9	4. This Accusation is brought before the Board, under the authority of the following
10	laws. All section references are to the Business and Professions Code ("Code") unless otherwise
11	indicated.
12	5. Section 4011 of the Code provides that the Board shall administer and enforce both
13	the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
14	Act [Health and Safety Code, § 11000 et seq.].
15	6. Section 4300 states, in pertinent part, that "[e]very license issued may be suspended
16	or revoked."
17	7. Section 4300.1 of the Code states:
18	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
19	of a license on a retired status, or the voluntary surrender of a license by a licensee
20	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
21	a decision suspending or revoking the license.
22	STATUTORY PROVISIONS
23	8. Section 477 states, in part: "As used in this division: (b) 'License' includes
24	certificate, registration or other means to engage in a business or profession regulated by this
25	code."
26	9. Section 4081 of the Code states, in pertinent part:
27	(a) All records of manufacture and of sale, acquisition, receipt, shipment, or disposition of dangerous drugs or dangerous devices shall be at all times during
28	business hours open to inspection by authorized officers of the law, and shall be
	2
	(GARFIELD BEACH CVS, LLC, DBA CVS PHARMACY #9708 and JEZIMINE DANIELLE WILLIAMS) ACCUSATION

ACCUSATION

1	preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, third-party logistics provider, pharmacy,
23	veterinary food-animal drug retailer, outsourcing facility, physician, dentist, podiatrist, veterinarian, laboratory, licensed correctional clinic, as defined in Section
4	4187, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2
5	(commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions
6	Code who maintains a stock of dangerous drugs or dangerous devices.
7	(b) The owner, officer, and partner of a pharmacy, wholesaler, third-party logistics provider, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge, responsible manager, or designated representative-in-
8	charge, for maintaining the records and inventory described in this section.
9 10	(c) The pharmacist-in-charge, responsible manager, or designated representative-in- charge shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge,
11	responsible manager, or designated representative-in-charge had noknowledge, or in which he or she did not knowingly participate.
12	(d) Pharmacies that dispense nonprescription diabetes test devices pursuant to
13	prescriptions shall retain records of acquisition and sale of those nonprescription diabetes test devices for at least three years from the date of making. The records shall be at all times during business have appended to instruction by outhorized officers
14	shall be at all times during business hours open to inspection by authorized officers of the law.
15	10. Section 4301 of the Code, in pertinent part states:
16 17	The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct includes, but is not limited to, any of the following:
18	•••
19	(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or
20	otherwise, and whether the act is a felony or misdemeanor or not.
21	(i) The violation of any of the statistics of this state, of any other state, or of the United
22	(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.
23	
24	(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
25 26	applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory
27	agency.
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	3
	(GARFIELD BEACH CVS, LLC, DBA CVS PHARMACY #9708 and JEZIMINE DANIELLE WILLIAMS) ACCUSATION

11. 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, or partner 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 manager, administrator, owner, member, officer, director, associate, or partner 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, or partner of a license 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.

9 (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, or partner," as used in this section and Section 4308, may refer to a pharmacist or to any other person who serves in that 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 of the Government Code. However, no order may be issued in that case except as to a person who is named in the caption, as to whom the pleading alleges the applicability of this section, and where the person has been given notice of the 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.

18 12. Section 4332 of the Code states:

Any person who fails, neglects, or refuses to maintain the records required by Section 4081 or who, when called upon by an authorized officer or a member of the board, fails, neglects, or refuses to produce or provide the records within a reasonable time, or who willfully produces or furnishes records that are false, is guilty of a misdemeanor.

13. Section 4059 of the Code states:

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

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(GARFIELD BEACH CVS, LLC, DBA CVS PHARMACY #9708 and JEZIMINE DANIELLE WILLIAMS) ACCUSATION

14. Section 4060 of the Code states:

A person shall not possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the possession of any controlled substance by a manufacturer, wholesaler, third-party logistics provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathicdoctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock in containers correctly labeled with the name and address of the supplier or producer. . . .

15. Section 11350 of the Health and Safety Code states:

(a) Except as otherwise provided in this division, every person who possesses (1) 10 any controlled substance specified in subdivision (b), (c), (e), or paragraph (1) of 11 subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 12 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon 13 the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment in a county jail for not more 14 than one year, except that such person shall instead be punished pursuant 15 tosubdivision (h) of Section 1170 of the Penal Code if that person has one or more prior onvictions for an offense specified in clause (iv) of subparagraph (C) of 16 paragraph (2) of subdivision (e) of Section 667 of the Penal Code or for an offense requiring registration pursuant to subdivision (c) of Section 290 of the Penal Code. 17

REGULATORY PROVISIONS

16. California Code of Regulations, title 16, section 1714 subdivisions (b) states:

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

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

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

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

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1	CONTROLLED SUBSTANCE / DANGEROUS DRUG
2	18. Section 4021 of the Code states, in pertinent part:
3	"Controlled substances: means any substance listed in Chapter 2 (commencing with Section
4	11053) of Division 10 of the Health and Safety Code."
5	19. Section 4022 of the Code states:
6	'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use in humans or animals, and includes the following:
7 8	(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without prescription,' 'Rx only,' or words of similar import.
9	(b) Any device that bears the statement: 'Caution: federal law restricts this device to
10	sale by or on the order of a,' 'Rx only,' or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.
11	(c) Any other drug or device that by federal or state law can be lawfully dispensed
12	only on prescription or furnished pursuant to Section 4006.
13	20. Lorazepam is commonly known by the trade name "Ativan." It is a Schedule IV
14	controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(16) and a
15	dangerous drug pursuant to section 4022 of the Code.
16	21. Phenergan with Codeine is commonly known by the trade name "Promethazine with
17	Codeine." It is a Schedule V controlled substance pursuant to Health and Safety Code section
18	11058 and is a dangerous drug pursuant to section 4022 of the Code.
19	22. Tramadol is commonly known by the brand name "Ultram." It is a Schedule IV
20	controlled substance pursuant to Code of Federal Regulations, title 21, section 1308.14
21	subdivision (b) and a dangerous drug pursuant to section 4022 of the Code.
22	<u>COST RECOVERY</u>
23	23. Section 125.3 provides that the Board may request the administrative law judge to
24	direct a licentiate found to have committed a violation or violations of the licensing act to pay a
25	sum not to exceed the reasonable costs of the investigation and enforcement of the case, with
26	failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a
27	case settles, recovery of investigation and enforcement costs may be included in a stipulated
28	settlement.
	6
	(GARFIELD BEACH CVS, LLC, DBA CVS PHARMACY #9708 and JEZIMINE DANIELLE WILLIAMS) ACCUSATION

1	SUMMARY OF FACTS
2	24. On or about July 18, 2016, Respondent Pharmacy noticed multiple missing
3	promethazine with codeine syrup bottles and initiated an investigation.
4	25. On or about July 22, 2016, Respondent Pharmacy's Regional Diversion Manager
5	went to Respondent Pharmacy to relocate the security camera in order have a better view of the
6	promethazine with codeine syrup.
7	26. Respondent Pharmacy's Regional Diversion Manager reviewed the CCTV video and
8	saw that on or about July 24, 2016 at approximately 3:24 pm and 3:45 pm, Respondent Williams
9	removed promethazine with codeine bottles from the shelf and never returned them.
10	Additionally, Respondent Pharmacy's Regional Diversion Manager conducted live surveillance
11	on or about July 27, 2016 at approximately 3:33 pm and saw Respondent Williams take a
12	promethazine with codeine bottle from the shelf. Respondent Williams then removed a green
13	trash bag that is used in the pharmacy for empty bottles and placed it in a Cintas bin in the break
14	room. Inspection of the Cintas bin revealed one bottle of promethazine with codeine in the green
15	trash bag.
16	27. On or about July 27, 2016, Respondent Pharmacy's Regional Diversion Manager and
17	Respondent Pharmacy's store manager attempted to meet with Respondent Williams, but a few
18	minutes into the conversation, Respondent Williams stated that she needed to take a phone call
19	and exited the office. Respondent Williams exited the store and never returned. Respondent
20	Williams was subsequently terminated.
21	28. On or about July 29, 2016, the Pharmacist-In-Charge ("PIC") for Respondent
22	Pharmacy conducted a final drug count for the following controlled substances: lorazepam 0.5
23	mg, lorazepam 1 mg, promethazine with codeine syrup, and tramadol HCL for the period of May
24	1, 2015 through June 29, 2016, and determined the following losses:
25	• 103 missing tablets of lorazepam 0.5 mg
26	• 18 missing tablets of lorazepam 1 mg
27	• 8,967 mls missing of promethazine with codeine syrup
28	• 13 missing tablets of tramadol HCL 50 mg
	7 (GARFIELD BEACH CVS, LLC, DBA CVS PHARMACY #9708 and JEZIMINE DANIELLE WILLIAMS) ACCUSATION

1	29. In or around October 2019, a Board inspector conducted an audit at Respondent	
2	Pharmacy of controlled substances lorazepam 0.5 mg, lorazepam 1 mg, promethazine with	
3	codeine syrup, and tramadol HCL for the period of May 1, 2015 through July 29, 2016, and	
4	determined the following loss:	
5	• 133 missing tablets of lorazepam 0.5 mg	
6	• 78 missing tablets of lorazepam 1 mg	
7	• 9,340 mls missing of promethazine with codeine syrup	
8	• 235 missing tablets of tramadol HCL 50 mg	
9	AS TO RESPONDENT WILLIAMS:	
10	FIRST CAUSE FOR DISCIPLINE	
11	(Unprofessional Conduct - Dishonesty)	
12	30. Respondent Williams is subject to disciplinary action under Code section 4301,	
13	subdivision (f), in that Respondent Williams committed acts involving moral turpitude,	
14	dishonesty, fraud, deceit, or corruption in that Respondent Williams diverted promethazine with	
15	codeine syrup, a controlled substance and dangerous drug, on July 24, 2016 and July 27, 2016,	
16	from Respondent Pharmacy while she was employed as a pharmacy technician. Complainant	
17	refers to and by this reference incorporates allegations of paragraphs 24 through 29, above as	
18	though fully set forth.	
19	SECOND CAUSE FOR DISCIPLINE	
20	(Unprofessional Conduct - Violations of Controlled Substance Statutes)	
21	31. Respondent Williams is subject to disciplinary action under Code section 4301,	
22	subdivision (j), in that Respondent Williams violated statutes regulating controlled substances,	
23	including Health and Safety Code, section 11350, subdivision (a), (possessing controlled	
24	substances), and dangerous drugs when Respondent Williams diverted promethazine with codeine	
25	syrup, a controlled substance and dangerous drug, on July 24, 2016 and July 27, 2016, from	
26	Respondent Pharmacy while she was employed as a pharmacy technician. Complainant refers to	
27	and by this reference incorporates allegations of paragraphs 24 through 29, above as though fully	
28	set forth.	
	8	

1	THIRD CAUSE FOR DISCIPLINE
2	(Possession of Controlled Substance and Dangerous Drug Without a Prescription)
3	32. Respondent Williams is subject to disciplinary action under Code section 4060, in
4	that on July 24, 2016 and July 27, 2016, Respondent Williams unlawfully possessed
5	promethazine with codeine syrup, a controlled substance and dangerous drug, without a
6	prescription. Specifically, Respondent Williams diverted promethazine with codeine syrup, a
7	controlled substance and dangerous drug, on July 24, 2016 and July 27, 2016, from Respondent
8	Pharmacy while she was employed as a pharmacy technician. Complainant refers to and by this
9	reference incorporates allegations of paragraphs 24 through 29, above as though fully set forth.
10	AS TO RESPONDENT PHARMACY:
11	FOURTH CAUSE FOR DISCIPLINE
12	(Lack of Operational Standards and Security)
13	33. Respondent Pharmacy is subject to disciplinary action under Code section 4301,
14	subdivision (o), in conjunction with California Code of Regulations, title 16, section 1714,
15	subdivision (b), in that it failed to maintain properly secure drugs against theft or loss.
16	Specifically, between May 1, 2015 and July 29, 2016, Respondent Pharmacy failed to provide
17	adequate security and could not account for missing controlled substances and dangerous drugs.
18	Complainant refers to and by this reference incorporates allegations of paragraphs 24 through 29,
19	above as though fully set forth.
20	FIFTH CAUSE FOR DISCIPLINE
21	(Failure to Maintain Records)
22	34. Respondents are subject to disciplinary action under section 4301, subdivision (o),
23	4081, and 4332, of the Code in conjunction with California Code of Regulations, title 16, section
24	1718, in that Respondents failed to maintain proper records and could not produce records for the
25	missing controlled substances and dangerous drugs. Complainant refers to and by this reference
26	incorporates allegations of paragraphs 24 through 29, above as though fully set forth.
27	///
28	///
	9 (GARFIELD BEACH CVS, LLC, DBA CVS PHARMACY #9708 and JEZIMINE DANIELLE WILLIAMS) ACCUSATION

1	OTHER MATTERS		
2	35.	Pursuant to Code section 4307,	if discipline is imposed on Pharmacy Permit Number
3	PHY 47872 issued to Garfield Beach CVS, LLC, dba CVS Pharmacy #9708, they shall be		
4	prohibited from serving as a manager, administrator, owner, member, officer, director, associate,		
5	or partner of a licensee for five years if Pharmacy Permit Number PHY 47872 is placed on		
6	probation or until Pharmacy Permit Number PHY 47872 is reinstated if it is revoked.		
7	PRAYER		
8	WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,		
9	and that following the hearing, the Board of Pharmacy issue a decision:		
10	1. Revoking or suspending Pharmacy Permit Number PHY 47872, issued to Garfield		
11	Beach CVS, LLC, dba CVS Pharmacy #9708;		
12	2. Revoking or suspending Pharmacy Technician Registration Number TCH 137559,		
13	issued to Jezimine Danielle Williams;		
14	3.	Prohibiting Garfield Beach CVS	S, LLC, dba CVS Pharmacy #9708, from serving as a
15	manager, administer, owner, member, officer, director, associate, or partner of a licensee for five		
16	years if Pharmacy Permit Number PHY 47872 is placed on probation or until Pharmacy Permit		
17	Number PHY 47872 is reinstated if Pharmacy Permit Number PHY 47872 issued to Garfield		
18	Beach CVS, LLC, dba CVS Pharmacy #9708 is revoked;		
19	4.	Ordering Garfield Beach CVS, I	LLC, dba CVS Pharmacy #9708 and Jezimine
20	Danielle Williams to pay the Board of Pharmacy the reasonable costs of the investigation and		
21	enforcement of this case, pursuant to Business and Professions Code section 125.3; and,		
22	5.	Taking such other and further ad	ction as deemed necessary and proper.
23			
24	DATED:	November 13, 2019	anne Sodergram
25	DATED:	i	ANNE SODERGREN
26			Interim Executive Officer Board of Pharmacy
27			Department of Consumer Affairs State of California
28	LA20195024	98 / 14139769.docx / 11082019	Complainant
	10 (CARELELD REACTIONS I.L.C. DRA CVS RUARMACY #0708 and JEZIMINE DANIELLE WILLIAMS)		
	(GARFIELD BEACH CVS, LLC, DBA CVS PHARMACY #9708 and JEZIMINE DANIELLE WILLIAMS) ACCUSATION		