

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

In the Matter of the Accusation Against:

**UNIVERSITY CARE RX INC., DBA
UNIVERSITY CARE PHARMACY,
GENNADIY BIRGER,
Pharmacy Permit No. PHY 51603;**

and

**LISA CAROL HOLLOMAN,
Pharmacist License No. RPH 47958,**

Respondents.

Agency Case No. 6840

OAH No. 2021020439

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on January 5, 2022.

It is so ORDERED on December 6, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

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

Seung W. Oh, Pharm.D.
Board President

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7

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

12 In the Matter of the Accusation Against:

13 **UNIVERSITY CARE RX INC., DBA**
14 **UNIVERSITY CARE PHARMACY,**
15 **GENNADIY BIRGER**
5848 Santa Monica Blvd.
Los Angeles, CA 90038

16 Pharmacist License No. PHY 51603,

17 and

18 **LISA CAROL HOLLOMAN**
19 9009 Lloyd Pl.
West Hollywood, CA 90069

20 Pharmacist License No. RPH 47958

21 Respondents.
22

Case No. 6840

OAH No. 2021020439

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
PHARMACIST LICENSE NO. RPH 47958**

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

26 **PARTIES**

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

1 Rob Bonta, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
2 General.

3 2. Respondent Lisa Carol Holloman (Respondent) is represented in this proceeding by
4 attorney Robert D. Cucher, Esq., whose address is 315 South Beverly Drive, Suite 310
5 Beverly Hills, CA 90212.

6 3. On or about May 17, 1995, the Board of Pharmacy issued Pharmacist License
7 Number RPH 47958 to Respondent. The Pharmacist License was in full force and effect at all
8 times relevant to the charges brought herein and will expire on May 31, 2023, unless renewed.

9 **JURISDICTION**

10 4. Accusation No. 6840 was filed before the Board, and is currently pending against
11 Respondent. The Accusation and all other statutorily required documents were properly served
12 on Respondent on August 12, 2020. Respondent timely filed its Notice of Defense contesting the
13 Accusation.

14 5. A copy of Accusation No. 6840 is attached as exhibit A and incorporated herein by
15 reference.

16 **ADVISEMENT AND WAIVERS**

17 6. Respondent has carefully read, fully discussed with counsel, and understands the
18 charges and allegations in Accusation No. 6840. Respondent has also carefully read, fully
19 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
20 Order.

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

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

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 6840.

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

6 **CONTINGENCY**

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

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

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

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

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DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 47958 issued to Respondent Lisa Carol Holloman (Respondent) is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

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

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

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

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,

1 probation shall be automatically extended until such time as the final report is made and accepted
2 by the board.

3 **3. Interview with the Board**

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

9 **4. Cooperate with Board Staff**

10 Respondent shall timely cooperate with the board's inspection program and with the board's
11 monitoring and investigation of Respondent's compliance with the terms and conditions of
12 Respondent's probation, including but not limited to: timely responses to requests for information
13 by board staff; timely compliance with directives from board staff regarding requirements of any
14 term or condition of probation; and timely completion of documentation pertaining to a term or
15 condition of probation. Failure to timely cooperate shall be considered a violation of probation.

16 **5. Continuing Education**

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

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

20 During the period of probation, Respondent shall notify all present and prospective
21 employers of the decision in case number 6840 and the terms, conditions and restrictions imposed
22 on respondent by the decision, as follows:

23 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
24 undertaking any new employment, Respondent shall report to the board in writing the name,
25 physical address, and mailing address of each of Respondent's employer(s), and the name(s) and
26 telephone number(s) of all of Respondent's direct supervisor(s), as well as any pharmacist(s)-in-
27 charge, designated representative(s)-in-charge, responsible manager, or other compliance
28 supervisor(s) and the work schedule, if known. Respondent shall also include the reason(s) for

1 leaving the prior employment. Respondent shall sign and return to the board a written consent
2 authorizing the board or its designee to communicate with all of respondent's employer(s) and
3 supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the board
4 or its designee, concerning respondent's work status, performance, and monitoring. Failure to
5 comply with the requirements or deadlines of this condition shall be considered a violation of
6 probation.

7 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
8 Respondent undertaking any new employment, respondent shall cause (a) Respondent's direct
9 supervisor, (b) Respondent's pharmacist-in-charge, designated representative-in-charge,
10 responsible manager, or other compliance supervisor, and (c) the owner or owner representative
11 of Respondent's employer, to report to the board in writing acknowledging that the listed
12 individual(s) has/have read the decision in case number 6840, and terms and conditions imposed
13 thereby. If one person serves in more than one role described in (a), (b), or (c), the
14 acknowledgment shall so state. It shall be the Respondent's responsibility to ensure that these
15 acknowledgment(s) are timely submitted to the board. In the event of a change in the person(s)
16 serving the role(s) described in (a), (b), or (c) during the term of probation, Respondent shall
17 cause the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days
18 of the change acknowledging that he or she has read the decision in case number 6840, and the
19 terms and conditions imposed thereby.

20 If Respondent works for or is employed by or through an employment service, Respondent
21 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
22 of the decision in case number 6840, and the terms and conditions imposed thereby in advance of
23 Respondent commencing work at such licensed entity. A record of this notification must be
24 provided to the board upon request.

25 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
26 (15) days of Respondent undertaking any new employment by or through an employment service,
27 Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment
28 service to report to the board in writing acknowledging that he or she has read the decision in case

1 number, and the terms and conditions imposed thereby. It shall be Respondent's responsibility to
2 ensure that these acknowledgment(s) are timely submitted to the board.

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

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

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

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

13 Failure to timely notify the board of any change in employer, name, address, or phone
14 number shall be considered a violation of probation.

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

16 During the period of probation, respondent shall not supervise any intern pharmacist, be the
17 pharmacist-in-charge, designated representative-in-charge, responsible manager or other
18 compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption
19 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

20 **9. Reimbursement of Board Costs**

21 As a condition precedent to successful completion of probation, Respondent shall pay to the
22 board its costs of investigation and prosecution in the amount of \$4,000. Respondent shall make
23 said payments as follows:

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

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

10. Probation Monitoring Costs

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

11. Status of License

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

If Respondent's Pharmacist License expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof due to tolling or 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 Respondent's 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 Respondent's 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 100 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 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the interruption or reduction in practice; and the anticipated date(s) on which respondent will resume practice at the required level. Respondent shall further notify the board in writing within ten (10) days following the next calendar month during which Respondent practices as a pharmacist in California for the minimum of hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

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

14. Violation of Probation

If Respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over Respondent, and the board shall provide notice to Respondent

1 that probation shall automatically be extended, until all terms and conditions have been satisfied
2 or the board has taken other action as deemed appropriate to treat the failure to comply as a
3 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
4 board or its designee may post a notice of the extended probation period on its website.

5 If Respondent violates probation in any respect, the board, after giving Respondent notice
6 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
7 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
8 probation, or the preparation of an accusation or petition to revoke probation is requested from
9 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
10 probation shall be automatically extended until the petition to revoke probation or accusation is
11 heard and decided.

12 **15. Completion of Probation**

13 Upon written notice by the board or its designee indicating successful completion of
14 probation, Respondent's license will be fully restored.

15 **16. Pharmacists Recovery Program (PRP)**

16 By no later than ten (10) days after the effective date of this decision, Respondent shall
17 have completed all of the following: contacted the Pharmacists Recovery Program (PRP) for
18 evaluation; enrolled in the PRP; completed, signed, and returned the treatment contract as well as
19 any addendums required or suggested by the PRP; successfully completed registration for any
20 drug or alcohol testing mandated by the treatment contract and/or by enrollment in the PRP; and
21 begun compliance with the drug or alcohol testing protocol(s). Respondent shall successfully
22 participate in the PRP and complete the treatment contract and any addendums required or
23 suggested by the PRP. The costs for PRP participation shall be borne by the Respondent.

24 If Respondent is currently enrolled in the PRP, said participation is now mandatory and as
25 of the effective date of this decision is no longer considered a self-referral under Business and
26 Professions Code section 4362 (a)(2). Respondent shall successfully participate in and complete
27 his or her current contract and any subsequent addendums with the PRP.

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Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not timely paid to the PRP shall constitute a violation of probation. The board will collect unpaid administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

Any of the following shall result in the automatic suspension of practice by respondent and shall be considered a violation of probation:

Failure to contact, complete enrollment, and execute and return the treatment contract with the PRP, including any addendum(s), within ten (10) days of the effective date of the decision as directed by the PRP;

Failure to complete registration for any drug or alcohol testing mandated by the treatment contract and/or by the PRP, and begin compliance with the testing protocol(s), within ten (10) days of the effective date of the decision as directed by the PRP;

Failure to comply with testing protocols regarding daily check-in and/or failure to complete a mandated test as directed by the PRP;

Any report from the PRP of material non-compliance with the terms and conditions of the treatment contract and/or any addendum(s); or

Termination by the PRP for non-compliance, failure to derive benefit, or as a public risk.

Respondent may not resume the practice of pharmacy until notified by the board in writing.

Probation shall be automatically extended until Respondent successfully completes the PRP. The board will provide notice of any such suspension or extension of probation.

During any suspension, Respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not practice as a pharmacist nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices or controlled substances.

1 During any suspension, Respondent shall not engage in any activity that requires the
2 professional judgment of and/or licensure as a pharmacist. Respondent shall not direct or control
3 any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or
4 retailing of dangerous drugs and/or dangerous devices or controlled substances.

5 Failure to comply with any requirement or deadline stated by this term shall be considered a
6 violation of probation.

7 **17. Drug and Alcohol Testing**

8 Respondent, at her own expense, shall participate in testing as directed by the board or its
9 designee for the detection of alcohol, controlled substances, and dangerous drugs and/or
10 dangerous devices. Testing protocols may include biological fluid testing (urine, blood),
11 breathalyzer, hair follicle testing, or other testing protocols as directed by the board or its
12 designee. All testing must be pursuant to an observed testing protocol, unless respondent is
13 informed otherwise in writing by the board or its designee. Respondent may be required to
14 participate in testing for the entire probation period and frequency of testing will be determined
15 by the board or its designee.

16 By no later than thirty (30) days after the effective date of this decision, Respondent shall
17 have completed all of the following tasks: enrolled and registered with an approved drug and
18 alcohol testing vendor; provided that vendor with any documentation, and any information
19 necessary for payment by Respondent; commenced testing protocols, including all required
20 contacts with the testing vendor to determine testing date(s); and begun testing. At all times,
21 Respondent shall fully cooperate with the testing vendor, and with the board or its designee, with
22 regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to
23 cooperate timely shall be considered a violation of probation.

24 Respondent may be required to test on any day, including weekends and holidays.
25 Respondent is required to make daily contact with the testing vendor to determine if a test is
26 required, and if a test is required must submit to testing on the same day.

27 Prior to any vacation or other period of absence from the area where the approved testing
28 vendor provides services, Respondent shall seek and receive approval from the board or its

1 designee to use an alternate testing vendor to ensure testing can occur. Upon approval,
2 Respondent shall enroll and register with the approved alternate drug testing vendor, provide to
3 that alternate vendor any documentation required by the vendor, including any necessary payment
4 by Respondent. During the period of absence of the area, Respondent shall commence testing
5 protocols with the alternate vendor, including required daily contacts with the testing vendor to
6 determine if testing is required, and required testing. Any failure to timely seek or receive
7 approval from the board or its designee, or to timely enroll and register with, timely commence
8 testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be
9 considered a violation of probation.

10 Upon detection of an illicit drug, controlled substance or dangerous drug, the board or its
11 designee may require Respondent to timely provide documentation from a licensed practitioner
12 authorized to prescribe the detected substance demonstrating that the substance was administered
13 or ingested pursuant to a legitimate prescription issued as a necessary part of treatment. All such
14 documentation shall be provided by Respondent within ten (10) days of being requested.

15 Any of the following shall be considered a violation of probation and shall result in
16 Respondent being immediately suspended from practice as a pharmacist until notified by the
17 board in writing that Respondent may resume practice: failure to timely complete all of the steps
18 required for enrollment/registration with the drug testing vendor, including making arrangements
19 for payment; failure to timely commence drug testing protocols; failure to contact the drug testing
20 vendor as required to determine testing date(s); failure to test as required; failure to timely supply
21 documentation demonstrating that a detected substance was taken pursuant to a legitimate
22 prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or
23 of an illicit drug, or of a controlled substance or dangerous drug absent documentation that the
24 detected substance was taken pursuant to a legitimate prescription and a necessary treatment. In
25 the event of a suspension ordered after detection through testing of alcohol, an illicit drug, or of a
26 controlled substance or dangerous drug absent documentation that the detected substance was
27 taken pursuant to a legitimate prescription and a necessary treatment, the board or its designee
28

1 shall inform Respondent of the suspension and inform Respondent to immediately leave work,
2 and shall notify Respondent's employer(s) and work site monitor(s) of the suspension.

3 During any such suspension, Respondent shall not enter any pharmacy area or any portion
4 of the licensed premises of a wholesaler, third-party-logistics provider, veterinary food-animal
5 drug retailer, or any other distributor of drugs which is licensed by the board, or any
6 manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled
7 substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug
8 selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor
9 shall Respondent manage, administer, or be a consultant to any licensee of the board, or have
10 access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs
11 and/or dangerous devices and controlled substances.

12 During any such suspension, Respondent shall not engage in any activity that requires the
13 professional judgment of and/or licensure as a pharmacist. Respondent shall not direct or control
14 any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or
15 retailing of dangerous drugs and/or dangerous devices.

16 Failure to comply with any such suspension shall be considered a violation of probation.
17 Failure to comply with any requirement or deadline stated by this term shall be considered a
18 violation of probation.

19 **18. Notification of Departure**

20 Prior to leaving the probationary geographic area designated by the board or its designee for
21 a period greater than twenty-four (24) hours, Respondent shall notify the board verbally and in
22 writing of the dates of departure and return. Failure to comply with this provision shall be
23 considered a violation of probation.

24 **19. Abstain from Drugs and Alcohol**

25 Respondent shall completely abstain from the possession or use of alcohol, controlled
26 substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated
27 paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a
28 necessary part of treatment. Respondent shall ensure that Respondent is not in the same physical

1 location as individuals who are using illicit substances even if respondent is not personally
2 ingesting the drugs. Any possession or use of alcohol, dangerous drugs and/or dangerous devices
3 or controlled substances, or their associated paraphernalia for which a legitimate prescription has
4 not been issued as a necessary part of treatment, or any physical proximity to persons using illicit
5 substances, shall be considered a violation of probation.

6 **20. Prescription Coordination and Monitoring of Prescription Use**

7 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
8 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
9 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the Respondent's
10 history with the use of alcohol and who will coordinate and monitor any prescriptions for
11 respondent for dangerous drugs and/or dangerous devices, controlled substances or mood-altering
12 drugs. The approved practitioner shall be provided with a copy of the board's Accusation and
13 decision. A record of this notification must be provided to the board or its designee upon request.
14 Respondent shall sign a release authorizing the practitioner to communicate with the board or its
15 designee about respondent's treatment(s). The coordinating physician, nurse practitioner,
16 physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of
17 probation regarding Respondent's compliance with this condition. If any substances considered
18 addictive have been prescribed, the report shall identify a program for the time limited use of any
19 such substances. The board or its designee may require that the single coordinating physician,
20 nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or
21 consult a specialist in addictive medicine. Should Respondent, for any reason, cease supervision
22 by the approved practitioner, Respondent shall notify the board or its designee immediately and,
23 within thirty (30) days of ceasing supervision, submit the name of a replacement physician, nurse
24 practitioner, physician assistant, or psychiatrist of respondent's choice to the board or its designee
25 for its prior approval. Failure to timely submit the selected practitioner or replacement
26 practitioner to the board or its designee for approval, or to ensure the required quarterly reporting
27 thereby, shall be considered a violation of probation.

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1 If at any time an approved practitioner determines that Respondent is unable to practice
2 safely or independently as a pharmacist, the practitioner shall notify the board or its designee
3 immediately by telephone and follow up by written letter within three (3) working days. Upon
4 notification from the board or its designee of this determination, Respondent shall be
5 automatically suspended and shall not resume practice as a pharmacist until notified by the board
6 or its designee that practice may be resumed.

7 During any suspension, Respondent shall not enter any pharmacy area or any portion of the
8 licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug
9 retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or
10 any area where dangerous drugs and/or dangerous devices or controlled substances are
11 maintained. Respondent shall not practice pharmacy nor do any act involving drug selection,
12 selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall
13 respondent manage, administer, or be a consultant to any licensee of the board, or have access to
14 or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or
15 dangerous devices and controlled substances. Respondent shall not resume practice until notified
16 by the board.

17 During any suspension, respondent shall not engage in any activity that requires the
18 professional judgment and/or licensure as a pharmacist. Respondent shall not direct or control
19 any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling, or
20 retailing of dangerous drugs and/or dangerous devices or controlled substances.

21 Failure to comply with any requirement or deadline stated by this term shall be considered a
22 violation of probation.

23 21. **Facilitated Group Recovery and/or Support Meetings**

24 Within thirty (30) days of the effective date of this decision, respondent shall begin regular
25 attendance at a group recovery and/or support meeting that is run by a trained facilitator approved
26 in advance by the board or its designee. The required frequency of group meeting attendance
27 shall be determined by the board or its designee. Respondent shall continue regular attendance as
28 directed at an approved facilitated group meeting until the board or its designee advises the

1 respondent in writing that Respondent may cease regular attendance. Respondent shall provide
2 signed and dated documentation of attendance as required with each quarterly report. Failure to
3 attend as required or to submit documentation of attendance shall be considered a violation of
4 probation.

5 If Respondent is required to participate in the PRP, compliance with this term can be
6 demonstrated through that program. Where Respondent is enrolled in the PRP, participation as
7 required in a facilitated group meeting approved by the PRP shall be sufficient for satisfaction of
8 this requirement. Any deviation from participation requirements for the PRP-approved group
9 shall be considered a violation of probation.

10 22. **Attend Substance Abuse Recovery Relapse Prevention and Support Groups**

11 Within thirty (30) days of the effective date of this decision, Respondent shall begin regular
12 attendance at a recognized and established substance abuse recovery support group in California
13 (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board
14 or its designee. Respondent must attend the number of group meetings per week or month
15 directed by the board or its designee, which shall typically be at least one per week. Respondent
16 shall continue regular attendance and submit signed and dated documentation confirming
17 attendance with each quarterly report for the duration of probation. Failure to attend or submit
18 documentation thereof shall be considered a violation of probation.

19 Where Respondent is enrolled in the PRP, participation as required in a recovery group
20 meeting approved by the PRP shall be sufficient for satisfaction of this requirement. Any
21 deviation from participation requirements for the PRP-approved group shall be considered a
22 violation of probation.

23 23. **Work Site Monitor**

24 Within ten (10) days of the effective date of this decision, Respondent shall identify a work
25 site monitor, for prior approval by the board or its designee, who shall be responsible for
26 supervising respondent during working hours. Respondent shall be responsible for ensuring that
27 the work site monitor reports in writing to the board monthly or on another schedule as directed
28 by the board or its designee. Should the designated work site monitor suspect at any time during

1 the probationary period that Respondent has abused alcohol or drugs, he or she shall notify the
2 board immediately.

3 In the event of suspected abuse, the monitor shall make at least oral notification within one
4 (1) business day of the occurrence, and shall be followed by written notification within two (2)
5 business days of the occurrence. If, for any reason, including change of employment, Respondent
6 is no longer able to be monitored by the approved work site monitor, within ten (10) days
7 Respondent shall designate a new work site monitor for approval by the board or its designee.
8 Failure to timely identify an acceptable initial or replacement work site monitor, or to ensure
9 monthly reports are submitted to the board by the monitor, shall be considered a violation of
10 probation.

11 Within thirty (30) days of being approved by the board or its designee, the work site
12 monitor shall sign an affirmation that he or she has reviewed the terms and conditions of
13 Respondent's disciplinary order and agrees to monitor Respondent. The work site monitor shall
14 at least:

- 15 1) Have regular face-to-face contact with Respondent in the work environment, at least
16 once per week or with greater frequency if required by the board or its designee;
- 17 2) Interview other staff in the office regarding Respondent's behavior, if applicable; and
- 18 3) Review respondent's work attendance.

19 The written reports submitted to the board or its designee by the work site monitor shall
20 include at least the following information: Respondent's name and license number; the monitor's
21 name, license number (if applicable) and work site location; the date(s) the monitor had face-to-
22 face contact with Respondent; the staff interviewed, if applicable; an attendance report; notes on
23 any changes in Respondent's behavior or personal habits; notes on any indicators that may lead to
24 substance abuse; and the work site monitor's signature.

25 Respondent shall complete the required consent forms and sign an agreement with the work
26 site monitor and the board to allow the board to communicate with the work site monitor.

27 It is a condition of Respondent's enrollment in the Pharmacists Recovery Program (PRP)
28 that Respondent is required to have a work site monitor approved by the PRP who shall be

1 responsible for supervising Respondent during working hours. Respondent shall be responsible
2 for ensuring that the work site monitor reports in writing to the PRP monthly or on another
3 schedule as directed by the PRP. Should the designated work site monitor suspect at any time
4 during the probationary period that Respondent has abused alcohol or drugs, he or she shall notify
5 the PRP immediately. The initial notification shall be made orally within one (1) business day of
6 the occurrence, which shall be followed by written notification within two (2) business days of
7 the occurrence. If, for any reason, including change of employment, Respondent is not longer
8 able to be monitored by the approved work site monitor, within ten (10) days of commencing new
9 employment for prior approval by the PRP. Failure to identify an acceptable initial or
10 replacement work site monitor, or to ensure monthly reports are submitted to the PRP by the work
11 site monitor, shall be considered a violation of probation.

12 Within thirty (30) days of being approved by the PRP, the work site monitor shall sign an
13 affirmation that he or she has reviewed the terms and conditions of Respondent's disciplinary
14 order and agrees to monitor Respondent. The work site monitor shall at least:

- 15 1) Have regular face-to-face contact with respondent in the work environment, at least
16 once per week or with greater frequency if required by the board or its designee;
- 17 2) Interview other staff in the office regarding Respondent's behavior, if applicable; and
- 18 3) Review Respondent's work attendance.

19 The written reports submitted to the PRP by the work site monitor shall include at least the
20 following information: Respondent's name and license number; the monitor's name, license
21 number (if applicable) and work site location; the date(s) the monitor had face-to-face contact
22 with Respondent; the staff interviewed, if applicable; an attendance report; notes on any changes
23 in Respondent's behavior or personal habits; notes on any indicators that may lead to substance
24 abuse; and the work site monitor's signature.

25 Respondent shall complete the required consent forms and sign an agreement with the work
26 site monitor and the board to allow the board to communicate with the work site monitor.

27 ///

28 ///

1 **24. Remedial Education**

2 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
3 board or its designee, for prior approval, an appropriate program of remedial education of at least
4 10 hours per year of probation in courses related to the grounds for discipline. At least 50% of
5 the total hours must be live webinar/in-person training. All remedial education shall be in
6 addition to, and shall not be credited towards, continuing education (CE) courses used for license
7 renewal purposes for pharmacists.

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

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

17 **25. Supervised Practice**

18 The board shall require supervised practice as deemed appropriate by the Pharmacists
19 Recovery Program. If supervised practice is required by the Pharmacists Recovery Program,
20 within thirty (30) days of Respondent's being notified by the Pharmacists Recovery Program of
21 their determination in this regard, Respondent shall submit to the board or its designee, for prior
22 approval, the name of a pharmacist who is not on probation with the board, to serve as
23 respondent's practice supervisor. As part of the documentation submitted, Respondent shall
24 cause the proposed practice supervisor to report to the board in writing acknowledging that he or
25 she has read the decision in case number 6840, and is familiar with the terms and conditions
26 imposed thereby, including the level of supervision required by the Pharmacists Recovery
27 Program.

28 ///

Respondent may practice only under the Pharmacists Recovery Program's required level of supervision by an approved practice supervisor. If, for any reason, including change of employment, Respondent is no longer supervised at the required level by an approved practice supervisor, within ten (10) days of this change in supervision Respondent shall submit to the board or its designee, for prior approval, the name of a pharmacist by and not on probation with the board, to serve as Respondent's replacement practice supervisor. As part of the documentation submitted, Respondent shall cause the proposed replacement practice supervisor to report to the board in writing acknowledging that he or she has read the decision in case number 6840, and is familiar with the terms and conditions imposed thereby, including the level of supervision required.

Any of the following shall result in the automatic suspension of practice by a Respondent and shall be considered a violation of probation:

Failure to nominate an initial practice supervisor, and to have that practice supervisor report to the board in writing acknowledging the decision, terms and conditions, and supervision level, within thirty (30) days;

Failure to nominate a replacement practice supervisor, and to have that practice supervisor report to the board in writing acknowledging the decision, terms and conditions, and supervision level, within ten (10) days;

Practicing in the absence of an approved practice supervisor beyond the initial or replacement nomination period; or

Any failure to adhere to the required level of supervision.

Respondent shall not resume practice until notified in writing by the board or its designee.

During any suspension, Respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall

Respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices or controlled substances.

During any suspension, Respondent shall not engage in any activity that requires the professional judgment and/or licensure as a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy or of the manufacture, distribution, wholesaling, or retailing of dangerous drugs and/or dangerous devices or controlled substances.

Failure to comply with any suspension shall be considered a violation of probation.

Any of the following shall be considered a violation of probation: failure to timely nominate either an initial or a replacement practice supervisor; failure to cause the practice supervisor to timely report to the board in writing acknowledging the decision, terms and conditions, and supervision level; practicing in the absence of an approved practice supervisor after lapse of the nomination period; and/or failure to adhere to the level of supervision required by the board or its designee. If any of these obligations or prohibitions is not met, Respondent shall be prohibited from practice as a pharmacist and may not resume such practice until notified by the board or its designee in writing.

26. No Ownership or Management of Licensed Premises

Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Robert D. Cucher, Esq. I understand the stipulation and the effect

1 it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
2 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
3 of the Board of Pharmacy.

4
5 DATED: _____
6 LISA CAROL HOLLOMAN
7 Respondent

8 I have read and fully discussed with Respondent Lisa Carol Holloman the terms and
9 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
10 I approve its form and content.

11
12 DATED: _____
13 ROBERT D. CUCHER, ESQ.
14 Attorney for Respondent

15 **ENDORSEMENT**

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

18
19 DATED: _____ Respectfully submitted,
20 ROB BONTA
21 Attorney General of California
22 NANCY A. KAISER
23 Supervising Deputy Attorney General

24 KEVIN J. RIGLEY
25 Deputy Attorney General
26 Attorneys for Complainant

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1 it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
2 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
3 of the Board of Pharmacy.

4
5 DATED: 9/23/2021



LISA CAROL HOLLOMAN
Respondent

7
8 I have read and fully discussed with Respondent Lisa Carol Holloman the terms and
9 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
10 I approve its form and content.

11
12 DATED: 9/24/21



ROBERT D. CUCHER, ESQ.
Attorney for Respondent

13
14
15 **ENDORSEMENT**

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

18
19 DATED: September 14, 2021

Respectfully submitted,

20 ROB BONTA
21 Attorney General of California
22 NANCY A. KAISER
Supervising Deputy Attorney General



24 KEVIN J. RIGLEY
25 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6840

1 XAVIER BECERRA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 NANCY A. KAISER
Deputy Attorney General
4 State Bar No. 192083
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6320
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 6840

13 **UNIVERSITY CARE RX INC.**
14 **DBA UNIVERSITY CARE PHARMACY,**
15 **GENNADIY BIRGER (OWNER),**
16 **YANA ZILBERMAN**
17 **(OFFICER/MANAGER)**
18 **5848 Santa Monica Blvd.**
19 **Los Angeles, CA 90038**

ACCUSATION

20 **Pharmacy Permit No. PHY 51603,**

21 **and**

22 **LISA CAROL HOLLOMAN**
23 **8919 Harratt St., #205**
24 **West Hollywood, CA 90069**

25 **Pharmacist License No. RPH 47958**

26 **Respondents.**

27 **PARTIES**

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

2. On or about June 16, 2014, the Board of Pharmacy issued Pharmacy Permit Number
PHY 51603 to University Care Rx Inc., dba University Care Pharmacy, Gennadiy Birger

(Respondent Pharmacy). The Pharmacy Permit expired on June 1, 2018, and has not been renewed.

3. On or about May 17, 1995, the Board of Pharmacy issued Pharmacist License Number RPH 47958 to Lisa Carol Holloman (Respondent Holloman). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2021, unless renewed.

JURISDICTION

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

5. Section 4300 provides in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

6. 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 PROVISIONS

7. Section 4110, subdivision (a), of the Code states:

No person shall conduct a pharmacy in the State of California unless he or she has obtained a license from the board. A license shall be required for each pharmacy owned or operated by a specific person. A separate license shall be required for each of the premises of any person operating a pharmacy in more than one location. The license shall be renewed annually. The board may, by regulation, determine the

8. Section 4113, subdivision (c), states that “[t]he 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.”

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1 9. Section 4022 of the Code states:

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

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

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

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

12 10. Section 4306.5, subdivision (a), of the Code states:

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

14 (a) Acts or omissions that involve, in whole or in part, the inappropriate
15 exercise of his or her education, training, or experience as a pharmacist, whether or
16 not the act or omission arises in the course of the practice of pharmacy or the
17 ownership, management, administration, or operation of a pharmacy or other entity

18 11. Section 4307 of the Code states:

19 “(a) Any person who has been denied a license or whose license has been
20 revoked or is under suspension, or who has failed to renew his or her license while it
21 was under suspension, or who has been a manager, administrator, owner, member,
22 officer, director, associate, partner, or any other person with management or control
23 of any partnership, corporation, trust, firm, or association whose application for a
24 license has been denied or revoked, is under suspension or has been placed on
25 probation, and while acting as the manager, administrator, owner, member, officer,
26 director, associate, partner, or any other person with management or control had
27 knowledge of or knowingly participated in any conduct for which the license was
28 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 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."

12. Section 4301 of the Code, in pertinent part, states:

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

(a) Procurement of a license by fraud or misrepresentation.

...

(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 otherwise, and whether the act is a felony or misdemeanor or not.

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

...

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

...

(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.

13. Section 4302 of the Code states:

The board may deny, suspend, or revoke any license where conditions exist in relation to any person holding 10 percent or more of the ownership interest or where conditions exist in relation to any officer, director, or other person with management or control of the license that would constitute grounds for disciplinary action against a licensee.

REGULATIONS

14. California Code of Regulations, title 16, section 1708.2 states:

Any permit holder shall contact the board prior to transferring or selling any dangerous drugs, devices or hypodermics inventory as a result of termination of business or bankruptcy proceedings and shall follow official instructions given by the board applicable to the transaction.

COST RECOVERY

15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

FACTUAL ALLEGATIONS

16. On or about May 1, 2017, Gennadiy Birger (Birger), owner of record for University Care Rx Inc. doing business as University Care Pharmacy (Respondent Pharmacy), submitted a complaint to the Board that Yana Zilberman (Zilberman) purchased the pharmacy and continued to operate the pharmacy even though the Board denied Zilberman's application for a Change of Ownership. The Board conducted an investigation.

17. Board records show that Birger has been the CEO and sole owner of Respondent Pharmacy since December 12, 2013.

1 18. The Board's investigation revealed that in 2016, Birger and Zilberman engaged in
2 efforts to transfer ownership of Respondent Pharmacy from Birger to Zilberman. The following
3 actions were taken:

- 4 a) Zilberman requested and obtained a live scan service on March 23, 2016 as part of
5 the Board's application process.
- 6 b) Birger prepared and signed a written document dated March 30, 2016, entitled
7 RESIGNATION OF DIRECTOR/OFFICER;
- 8 c) Birger and Zilberman agreed to the sale of Respondent Pharmacy pursuant to an
9 Agreement for Purchase and Sale of Stock dated April 1, 2016. The agreement was
10 signed by both parties;
- 11 d) Respondent Pharmacy accepted the resignation of Birger as the President/Chief
12 Executive Officer, Secretary and Chief Financial Officer effective April 1, 2016;
- 13 e) Respondent Pharmacy elected Zilberman as the President/Chief Executive Officer,
14 Secretary and Chief Financial Officer effective April 1, 2016;
- 15 f) Respondent Pharmacy's records show that all of Birger's shares (10,000) in
16 Respondent Pharmacy were transferred to Zilberman on April 1, 2016.
- 17 g) On April 8, 2016, Zilberman filed a Statement of Information with the Secretary of
18 State identifying herself as the CEO and President of Respondent Pharmacy; and
- 19 h) In June 2016, a promissory note was signed between borrower Zilberman and lender
20 Birger.

21 19. In July 2016, the Board received a Community Pharmacy Permit Application and
22 supporting documents submitted by Zilberman, wherein she identified herself as the
23 "PRESIDENT/CEO" and a 100% stockholder of Respondent Pharmacy. The anticipated first
24 date of business was "upon approval of application or on or before 08/08/16." The application
25 was denied by the Board on or about February 10, 2017.

26 20. On August 15, 2017, a Board inspector visited Respondent Pharmacy and met with
27 pharmacist-in-charge Lisa Holloman (Respondent Holloman) and Zilberman. When Respondent
28 Holloman was asked where Birger was, Holloman stated he was on vacation. When Zilberman

1 and Respondent Holloman were asked whether there was any change in Respondent' Pharmacy's
2 ownership, Zilberman stated she bought Respondent Pharmacy on June 24, 2016 but that the
3 Board denied an application for Change of Ownership in November of 2016.

4 21. During the inspection, Zilberman admitted that she was the manager for Respondent
5 Pharmacy. She also stated that Birger has been involved in the pharmacy operation but was gone
6 for long periods of time. Furthermore, Zilberman showed the Board inspector a letter dated
7 March 8, 2017 that was supposedly signed by Birger. The letter purports to state that Birger is
8 the owner of Respondent Pharmacy and that he holds 100% of the outstanding shares. However,
9 Zilberman admitted that she owned Respondent Pharmacy's bank account and that Birger did not
10 have access to it.

11 22. When questioned by the Board's inspector, Respondent Holloman denied having any
12 knowledge about Birger's disassociation from Respondent Pharmacy. Respondent Holloman was
13 shown a Community Self-Assessment form dated June 30, 2017 that she signed. The form also
14 contains the purported signature of "G Birger." Respondent Holloman represented that Birger
15 signed the form and that Birger was at the pharmacy in June of 2017 when she signed the form.
16 Respondent Holloman admitted that she was the only one with the pharmacy keys.

17 23. In August 2017, the Board inspector interviewed Birger. Birger stated that his last
18 day at Respondent Pharmacy was November 16, 2016 and that Zilberman had completely taken
19 over the business. According to Birger, Respondent Pharmacy had changed its locks and
20 removed him from the business account. When the Board inspector asked Birger about the letter
21 dated March 8, 2017, Birger denied signing the letter. Birger also denied signing the Community
22 Self-Assessment Form dated June 30, 2017 and two (2) permit renewal forms signed in 2016 and
23 2017.

24 24. On March 2, 2018, the Board inspector unexpectedly met Respondent Holloman at
25 another pharmacy, S & J Discount Pharmacy, along with many of Respondent Pharmacy's staff
26 members. Zilberman was now the manager of S & J Discount Pharmacy. When Respondent
27 Holloman was asked about Respondent Pharmacy, she stated that the entire pharmacy staff left
28 around December of 2017 because of issues with Birger. Respondent Holloman did not know

1 who was operating Respondent Pharmacy. According to Respondent Holloman, patient data was
2 transferred from Respondent Pharmacy to S & J Discount Pharmacy and the dangerous drugs
3 were accounted for and returned.

4 25. The Board investigator confirmed with the property manager for the building in
5 which Respondent Pharmacy was located, that the lease was transferred from Birger to Zilberman
6 on July 1, 2016. Zilberman had sent a notice of Intent to Vacate on January 1, 2018 for the end of
7 January, but later requested more time. On February 19, 2018, the keys to Respondent Pharmacy
8 were returned to the property manager. Several days later, Respondent Holloman met with the
9 property manager to retrieve files and belongings of Zilberman. However, patient files were left
10 and no effort was made by Respondent Pharmacy, Respondent Holloman, or Zilberman to ensure
11 that they were properly maintained at a licensed facility.

12 26. When the Board inspector brought the abandoned patient files to the attention of
13 Respondent Holloman, her response was that she resigned as the pharmacist-in-charge in
14 February and that Respondent Pharmacy is not closed according to the Board's website.
15 Similarly, when the Board inspector brought the abandoned patient files to the attention of
16 Zilberman, her response was that since the Board denied the Change of Ownership Application,
17 the owner of Respondent Pharmacy was Birger.

18 27. A Discontinuance of Business (DOB) form was not submitted to the Board prior to
19 the Respondent Pharmacy's closing of business. On March 8, 2018, a DOB form was submitted
20 by Birger but it was incomplete as there was no information about the inventory of drugs and the
21 location where the records would be kept.

22 28. On January 15, 2018, Zilberman filed another Statement of Information with the
23 Secretary of State stating that she was Respondent Pharmacy's CEO, President, Secretary, and
24 Chief Financial Officer.

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27 ///

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Operating a Pharmacy without a Valid Permit)

3 29. Respondents Pharmacy and Holloman are subject to disciplinary action under Code
4 sections 4301(o), 4302, 4110(a), and 4113(c), for operating a pharmacy without obtaining a
5 permit. Specifically, on August 15, 2017, while Respondent Holloman was serving as
6 pharmacist-in-charge, a Board inspector found University Care Pharmacy located at 5848 Santa
7 Monica Blvd., Los Angeles, CA., violated Code section 4110(a) when Yana Zilberman took
8 control of the pharmacy operations on or about March of 2016 while waiting for an approval of a
9 Change of Ownership Application from Gennadiy Birger to Yana Zilberman. The application for
10 change in ownership was denied by the Board and documents were falsified to continue to
11 operate as a pharmacy. Complainant refers to, and by this reference incorporates, the allegations
12 set forth above in paragraphs 16 through 28 as though fully set forth herein.

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Failure to Notify Board and Follow Instructions for Discontinuance of Business)

15 30. Respondents Pharmacy and Holloman are subject to disciplinary action under Code
16 section 4301(o) and California Code of Regulations, title 16, section 1708.2 for failing to contact
17 the Board prior to transferring or selling any dangerous drugs, devices, or hypodermics inventory
18 as a result of termination of business, so that they can follow official instructions given by the
19 Board applicable to the transaction. Respondent Pharmacy was closed for business on or around
20 February 18, 2018, but there was no prior notification to the Board. Complainant refers to, and
21 by this reference incorporates, the allegations set forth above in paragraphs 16 through 28 as
22 though fully set forth herein.

23 **THIRD CAUSE FOR DISCIPLINE**

24 (Forged Signatures)

25 31. Respondents Pharmacy and Holloman are subject to disciplinary action under Code
26 section 4301, subdivisions (a), (f), and (g), for knowingly presenting or submitting documents to
27 the Board that included forged signatures of Gennadiy Birger in order to show that Mr. Birger
28 was still involved in the pharmacy after selling the pharmacy. Complainant refers to, and by this

reference incorporates, the allegations set forth above in paragraphs 16 through 28 as though fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

32. Respondent Holloman is subject to disciplinary action under Code sections 4301 and 4306.5, subdivision (a), for the inappropriate exercise of her education, training, or experience as a pharmacist. Specifically, Respondent Holloman failed to use her education, training and experience to ensure appropriate licensure and ownership while acting as the pharmacist-in-charge (PIC) for the pharmacy. Furthermore, she failed to advise the pharmacy's owner of proper discontinuance of business for the pharmacy and instead disassociated as PIC on February 18, 2018, and moved to S & J Discount Pharmacy without securing the pharmacy records at a licensed facility. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 16 through 28 as though fully set forth herein.

FIFTH CAUSE FOR DISCIPLINE

(Conviction of a Substantially Related Crime)

33. Respondent Holloman is subject to disciplinary action under sections 4300 and 4301, subdivision (l), in conjunction with California Code of Regulations, title 16, section 1770, on the grounds of unprofessional conduct, in that Respondent committed a substantially related crime, as follows:

a. On or about June 16, 2020, after pleading nolo contendere, Respondent Holloman was convicted of one misdemeanor count of violating Vehicle Code section 23152, subdivision (b) [driving while having 0.08% or more, by weight, of alcohol in her blood] in the criminal proceeding entitled *The People of the State of California v. Lisa Holloman* (Super. Ct. Los Angeles County, 2020, No. 0VV01661). The Court also placed her on 36 months' probation, with terms and conditions. The Court ordered her to attend a six-month licensed first-offender alcohol program and to pay restitution.

b. The circumstances surrounding the conviction are that on or about January 6, 2020, Respondent Holloman hit another vehicle while driving on the highway. She fled the scene after

1 the collision. The other driver reported a hit and run to the California Highway Patrol. Shortly
2 thereafter, Respondent Holloman was contacted by a California Highway Patrol Officer. The
3 Officer observed recent damage to Respondent Holloman's vehicle that was consistent with a
4 collision with the victim's vehicle. The Officer observed Respondent Holloman exiting the
5 driver's side of her vehicle and smelled the strong odor of alcohol emitting from her breath.
6 Respondent Holloman had watery eyes and slurred speech. Respondent Holloman admitted to
7 the Officer that she had consumed an alcoholic beverage shortly before the Officer contacted her.
8 She failed the field sobriety tests. Respondent Holloman submitted to a breathalyzer test that
9 resulted in a blood alcohol content level of 0.208 and 0.199%.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 **(Dangerous Use of Alcoholic Beverages)**

12 34. Respondent Holloman has subjected his license to disciplinary action under section
13 4301, subdivision (h), on the grounds of unprofessional conduct, in that she used alcoholic
14 beverages to the extent or in a manner as to be dangerous or injurious to herself, to another
15 person, and to the public. Complainant refers to and by this reference incorporates the allegations
16 set forth above in paragraph 33, subparagraphs (a) and (b), inclusive, as though set forth fully.

17 **OTHER MATTERS**

18 35. Pursuant to Code section 4307, if discipline is imposed on Original Permit Number
19 PHY 51603 issued to Respondent Pharmacy, Respondent Pharmacy shall be prohibited from
20 servicing as a manager, administrator, owner, member, officer, director, associate, or partner of a
21 licensee for five years if Original Permit Number PHY 51603 is placed on probation or until
22 Original Permit Number PHY 51603 is reinstated if the license is revoked.

23 36. Pursuant to Code section 4307, if discipline is imposed on Original Permit Number
24 PHY 51603 issued to Respondent Pharmacy, while Gennadiy Birger was a manager, officer or
25 owner and had knowledge of, or knowingly participated in, any conduct for which Respondent
26 Pharmacy was disciplined, Gennadiy Birger shall be prohibited from serving as a manager,
27 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
28

Original Permit Number PHY 51603 is placed on probation or until Original Permit Number PHY 51603 is reinstated if the license is revoked.

37. Pursuant to Code section 4307, if discipline is imposed on Original Permit Number PHY 51603 issued to Respondent Pharmacy, while Yana Zilberman was a manager, officer or owner and had knowledge of, or knowingly participated in, any conduct for which Respondent Pharmacy was disciplined, Yana Zilberman shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Original Permit Number PHY 51603 is placed on probation or until Original Permit Number PHY 51603 is reinstated if the license is revoked.

38. Pursuant to Code section 4307, if discipline is imposed on Original Pharmacist License Number RPH 47958 issued to Respondent Holloman, Respondent Holloman shall be prohibited from servicing as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Original Pharmacist License Number RPH 47958 is placed on probation or until Original Pharmacist License Number RPH 47958 is reinstated if the license is revoked.

DISCIPLINE CONSIDERATIONS

39. To determine the degree of discipline, if any, to be imposed on Respondent Holloman, Complainant alleges that:

40. On or about January 26, 2015, in a prior action, the Board issued Citation Number CI 2014 64014 to Respondent Holloman and ordered her to pay a fine of \$5,000, for violating Code section 4801 (failure to maintain acquisition records of prescription drugs filled by pharmacy) and Code of Federal Regulations, title 21, section 1305.13 (failure to record on DEA Form 222 the number of commercial or bulk containers furnished on each item and the dates on which the containers are received by the purchaser). That Citation is now final and is incorporated by reference as if fully set forth.

41. On or about February 28, 2018, Respondent Holloman was publicly reprovved by the Board in resolution of Accusation No. 5233, for violating the following:

a. Code section 4301, subdivision (f) (billing fraud),

b. Code section 4301, subdivision (o), in conjunction with Code section 4081, subdivision (a) (failure to maintain a proper inventory),

c. Code section 4301, subdivision (j) and subdivision (o), in conjunction with Code section 4342 and Health and Safety Code sections 111335 and 111345 (misbranded drugs),

d. Code section 4301, subdivision (g) (knowingly misrepresenting documents),

e. Code section 4301, subdivision (o), in conjunction with California Code of Regulations, title 16, section 1707.5, subdivision (d) (failure to have interpretation procedures), and

f. Code section 4301, subdivision (o), in conjunction with Code section 4013 (failure to join board's e-mail notification).

Pursuant to the Stipulated Settlement and Disciplinary Order for Public Reproval, Respondent Holloman was ordered to complete a Board-approved ethics course and to pay \$5000 to the Board for costs of investigation and enforcement incurred in that matter. That Stipulated Settlement and Disciplinary Order for Public Reproval is now final and is incorporated herein by reference as if fully set forth.

PRAYER

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

1. Revoking or suspending Pharmacy Permit Number PHY 51603, issued to University Care Rx Inc., dba University Care Pharmacy, Gennadiy Birger;

2. Revoking or suspending Pharmacist License Number RPH 47958, issued to Lisa Carol Holloman;

3. Prohibiting University Care Rx Inc., dba University Care Pharmacy from serving as manager, administrator, owner, member, director, officer, associate, or partner of a licensee for five years if Original Permit Number PHY 51603 is placed on probation or until Original Permit Number PHY 51603 is reinstated if Original Permit Number PHY 51603 issued to University Care Rx Inc., dba University Care Pharmacy is revoked;

1 4. Prohibiting Gennadiy Birger from serving as manager, administrator, owner, member,
2 director, officer, associate, or partner of a licensee for five years if Original Permit Number PHY
3 51603 is placed on probation or until Original Permit Number PHY 51603 is reinstated following
4 revocation;

5 5. Prohibiting Yana Zilberman from serving as manager, administrator, owner, member,
6 director, officer, associate, or partner of a licensee for five years if Original Permit Number PHY
7 51603 is placed on probation or until Original Permit Number PHY 51603 is reinstated following
8 revocation;

9 6. Prohibiting Lisa Carol Holloman from serving as manager, administrator, owner,
10 member, officer, director, associate, or partner of a licensee for five years if Original Pharmacist
11 License Number RPH 47958 is placed on probation or until Original Pharmacist License Number
12 RPH 47958 is reinstated if Original Pharmacist License Number RPH 47958 issued to Carol
13 Holloman is revoked;

14 7. Ordering University Care Pharmacy and Lisa Carol Holloman to pay the Board of
15 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
16 Business and Professions Code section 125.3; and,

17 8. Taking such other and further action as deemed necessary and proper.
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19
20

21 DATED: August 4, 2020

Anne Sodergren

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

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