

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

In the Matter of the First Amended Accusation Against:

**MCKESSON CORPORATION, dba
MCKESSON DRUG COMPANY,
Wholesale Permit No. WLS 3076;**

and

**JOHN F. BOHLINGER,
Designated Representative License No. EXC 17318,**

Respondents

Agency Case No. 6850

OAH No. 2021050035

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Repeval 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 24, 2022.

It is so ORDERED on February 22, 2022.

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" clearly visible, and "W." in the middle.

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
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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 First Amended Accusation
Against:

13 **MCKESSON CORPORATION, DBA**
14 **MCKESSON DRUG COMPANY**
15 **9501 Norwalk Boulevard**
16 **Santa Fe Springs, CA 90670**
17 **Wholesale Permit No. WLS 3076,**

18 **and**

19 **JOHN F. BOHLINGER**
20 **9501 Norwalk Blvd.**
21 **Santa Fe Springs, CA 90670**
22 **Designated Representative No. EXC 17318**

23 Respondents.

Case No. 6850

OAH No. 2021050035
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL (AS TO MCKESSON
CORPORATION, DBA MCKESSON
DRUG COMPANY, ONLY)**

[Bus. & Prof. Code § 495]

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
Rob Bonta, Attorney General of the State of California, by Christina Thomas, Deputy Attorney
General.

2. Respondent McKesson Corporation, dba McKesson Drug Company (Respondent) is represented in this proceeding by attorney Alissa Brice Castenada, whose address is: Quarles & Brady LLP One Renaissance Square Two North Central Avenue Phoenix, AZ 85004-2391

JURISDICTION

3. On or about October 2, 1995, the Board issued Wholesale Permit No. WLS 3076 to McKesson Corporation, dba McKesson Drug Company. The Wholesale Permit was in full force and effect at all times relevant to the charges brought in First Amended Accusation No. 6850 and will expire on October 1, 2022, unless renewed.

4. First Amended Accusation No. 6850 was filed before the Board of Pharmacy, Department of Consumer Affairs and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent on January 4, 2021. Respondent timely filed its Notice of Defense contesting the First Amended Accusation. A copy of First Amended Accusation No. 6850 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in First Amended Accusation No. 6850. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reproval.

6. Respondent is fully aware of its legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to be represented by counsel at its own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

1 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
2 every right set forth above.

3 **CULPABILITY**

4 8. Respondent denies the allegations in First Amended Accusation No. 6850.

5 9. For the purpose of resolving the First Amended Accusation without the expense and
6 uncertainty of further proceedings, Respondent hereby gives up its right to contest those charges.

7 10. Respondent agrees that its Wholesale Permit is subject to discipline and they agree to
8 be bound by the Disciplinary Order below.

9 **CONTINGENCY**

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

20 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
21 copies of this Stipulated Settlement and Disciplinary Order for Public Repeval, including PDF
22 and facsimile signatures thereto, shall have the same force and effect as the originals.

23 13. This Stipulated Settlement and Disciplinary Order for Public Repeval is intended by
24 the parties to be an integrated writing representing the complete, final, and exclusive embodiment
25 of their agreement. It supersedes any and all prior or contemporaneous agreements,
26 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
27 Settlement and Disciplinary Order for Public Repeval may not be altered, amended, modified,
28

1 supplemented, or otherwise changed except by a writing executed by an authorized representative
2 of each of the parties.

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

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Wholesale Permit No. WLS 3076 issued to Respondent
8 McKesson Corporation, dba McKesson Drug Company, shall be publicly reprovod by the Board
9 of Pharmacy under Business and Professions Code section 495 in resolution of First Amended
10 Accusation No. 6850, attached as exhibit A.

11 **Cost Recovery.** No later than 60 days from the effective date of the Decision, Respondent
12 shall pay \$147,780.00 to the Board for its costs associated with the investigation and enforcement
13 of this matter pursuant to Business and Professions Code section 125.3. If Respondent fails to
14 pay the Board costs as ordered, Respondent shall not be allowed to renew its Wholesale Permit
15 Number until Respondent pays costs in full. In addition, the Board may enforce this order for
16 payment of its costs in any appropriate court, in addition to any other rights the Board may have.

17 **Full Compliance.** As a resolution of the charges in First Amended Accusation No. 6850,
18 this stipulated settlement is contingent upon Respondent's full compliance with all conditions of
19 this Order. If Respondent fails to satisfy any of these conditions, such failure to comply
20 constitutes cause for discipline, including outright revocation, of Respondent's Wholesale Permit
21 No. WLS 3076.

22 **ACCEPTANCE**

23 I have carefully read the above Stipulated Settlement and Disciplinary Order for Public
24 Reproval and have fully discussed it with my attorney, Alissa Brice Castaneda. I understand the
25 stipulation and the effect it will have on my Wholesale Permit. I enter into this Stipulated
26 Settlement and Disciplinary Order for Public Reproval voluntarily, knowingly, and intelligently,
27 and agree to be bound by the Decision and Order of the Board of Pharmacy.
28

1 DATED: _____

MCKESSON CORPORATION, DBA
MCKESSON DRUG COMPANY
Respondent

2
3 I have read and fully discussed with Respondent McKesson Corporation, dba McKesson
4 Drug Company the terms and conditions and other matters contained in the above Stipulated
5 Settlement and Disciplinary Order for Public Reproval. I approve its form and content.
6

7 DATED: _____

ALISSA BRICE CASTANEDA
Attorney for Respondent

9
10 **ENDORSEMENT**

11 The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval is hereby
12 respectfully submitted for consideration by the Board of Pharmacy of the Department of
13 Consumer Affairs.

14 DATED: _____

Respectfully submitted,

15 ROB BONTA
16 Attorney General of California
17 SHAWN P. COOK
Supervising Deputy Attorney General

18
19 CHRISTINA THOMAS
20 Deputy Attorney General
Attorneys for Complainant

21
22
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1 DATED: 12/17/2021



2 MCKESSON CORPORATION, DBA
3 MCKESSON DRUG COMPANY
4 Respondent

5 I have read and fully discussed with Respondent McKesson Corporation, dba McKesson
6 Drug Company the terms and conditions and other matters contained in the above Stipulated
7 Settlement and Disciplinary Order for Public Reproval. I approve its form and content.

8 DATED: 12/17/2021

9 
10 ALISSA BRICE CASTANEDA
11 Attorney for Respondent


12 **ENDORSEMENT**

13 The foregoing Stipulated Settlement and Disciplinary Order for Public Reproval is hereby
14 respectfully submitted for consideration by the Board of Pharmacy of the Department of
15 Consumer Affairs.

16 DATED: 12/17/21

17 Respectfully submitted,

18 ROB BONTA
19 Attorney General of California
20 SHAWN P. COOK
21 Supervising Deputy Attorney General

22 
23 CHRISTINA THOMAS
24 Deputy Attorney General
25 Attorneys for Complainant

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28

Exhibit A

First Amended Accusation No. 6850

1 XAVIER BECERRA
Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
3 CHRISTINA THOMAS
Deputy Attorney General
4 State Bar No. 171168
300 So. Spring Street, Suite 1702
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Attorneys for Complainant
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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. 6850

13 **MCKESSON CORPORATION, DBA**
14 **MCKESSON DRUG COMPANY**
15 **9501 S. Norwalk**
16 **Santa Fe Springs, CA 90670**

FIRST AMENDED ACCUSATION

17 **Wholesale Permit No. WLS 3076,**

18 **and**

19 **JOHN F. BOHLINGER**
20 **9501 Norwalk Blvd.**
21 **Santa Fe Springs, CA 90670**

22 **Designated Representative No. EXC 17318**

23 Respondents.

24 **PARTIES**

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

28 2. On or about October 2, 1995, the Board of Pharmacy issued Wholesale Permit
Number WLS 3076 to McKesson Corporation, dba McKesson Drug Company (Respondent

McKesson). The Wholesale Permit was in full force and effect at all times relevant to the charges brought herein and will expire on October 1, 2021, unless renewed.

3. On or about January 21, 2004, the Board of Pharmacy issued Original Certificate Number EXC 17318 to John F. Bohlinger (Respondent Bohlinger) to act as a Designated Representative. The certificate was in full force and effect at all times relevant to the charges brought herein and will expire on January 1, 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 of the Code states:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

6. Section 4307 of the Code states:

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

1 (1) Where a probationary license is issued or where an existing license is
2 placed on probation, this prohibition shall remain in effect for a period not to
exceed five years.

3 (2) Where the license is denied or revoked, the prohibition shall continue until
4 the license is issued or reinstated.

5 (b) "Manager, administrator, owner, member, officer, director, associate,
6 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.

7 (c) The provisions of subdivision (a) may be alleged in any pleading filed
8 pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of
9 the Government Code. However, no order may be issued in that case except as to a
10 person who is named in the caption, as to whom the pleading alleges the
11 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 **STATUTORY PROVISIONS**

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

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

16 ...

17 (e) The clearly excessive furnishing of controlled substances in violation of
18 subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be
19 considered in determining whether the furnishing of controlled substances is clearly
20 excessive shall include, but not be limited to, the amount of controlled substances
furnished, the previous ordering pattern of the customer (including size and frequency
of orders), the type and size of the customer, and where and to whom the customer
distributes its product.

21 ...

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

24 ...

25 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
26 abetting the violation of or conspiring to violate any provision or term of this chapter
27 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.

28 ///

1 8. California Health and Safety Code section 11153.5 states, in pertinent part:

2 (a) No wholesaler or manufacturer, or agent or employee of a wholesaler or
3 manufacturer, shall furnish controlled substances for other than legitimate medical
4 purposes.”

5 ...

6 (c) Factors to be considered in determining whether a wholesaler or
7 manufacturer, or agent or employee of a wholesaler or manufacturer, furnished
8 controlled substances knowing or having a conscious disregard for the fact that the
9 controlled substances are for other than legitimate medical purposes shall include,
but not be limited to, whether the use of controlled substances was for purposes of
increasing athletic ability or performance, the amount of controlled substances
furnished, the previous ordering pattern of the customer (including size and
frequency of orders), the type and size of the customer, and where and to whom the
customer distributes the product.

10 9. Section 4169.1 of the Code (effective January 1, 2018), states:

11 A wholesaler, upon discovery, shall notify the board in writing of any suspicious
12 orders of controlled substances placed by a California-licensed pharmacy or
13 wholesaler by providing the board a copy of the information that the wholesaler
14 provides to the United States Drug Enforcement Administration. Suspicious orders
include, but are not limited to, orders of unusual size, orders deviating substantially
from a normal pattern, and orders of unusual frequency.

15 10. Section 4059.5, subsection (a), of the Code states:

16 (a) Except as otherwise provided in this chapter, dangerous drugs or dangerous
17 devices may only be ordered by an entity licensed by the board and shall be
18 delivered to the licensed premises and signed for and received by a pharmacist.
Where a licensee is permitted to operate through a designated representative, or in
the case of a reverse distributor a designated representative-reverse distributor, that
individual shall sign for and receive the delivery.

19 **REGULATORY PROVISIONS**

20 11. Code of Federal Regulations, title 21, section 1301.74, subsection (b), states:

21 The registrant shall design and operate a system to disclose to the registrant
22 suspicious orders of controlled substances. The registrant shall inform the Field
23 Division Office of the Administration in his area of suspicious orders when
24 discovered by the registrant. Suspicious orders include orders of unusual size,
orders deviating substantially from a normal pattern, and orders of unusual
frequency.

25 12. California Code of Regulations, title 16, section 1783, states, in pertinent part:

26 (a) A manufacturer or wholesaler shall furnish dangerous drugs or devices only to
27 an authorized person; prior to furnishing dangerous drugs and devices to a person
28 not known to the furnisher, the manufacturer or wholesaler shall contact the board
or, if the person is licensed or registered by another government entity, that entity,
to confirm the recipient is an authorized person.

1 (b) "Authorized person" means a person to whom the board has issued a permit
2 which enables the permit holder to purchase dangerous drugs or devices for use
3 within the scope of its permit. "Authorized person" also means any person in this
4 state or in another jurisdiction within the United States to the extent such
5 furnishing is authorized by the law of this state, any applicable federal law, and
the law of the jurisdiction in which that person is located. The manufacturer or
wholesaler furnishing to such person shall, prior to furnishing the dangerous drugs
and devices, establish the intended recipient is legally authorized to receive the
dangerous drugs or devices.

6 (c) Dangerous drugs or devices furnished by a manufacturer or wholesaler shall
7 be delivered only to the premises listed on the permit; provided that a
8 manufacturer or wholesaler may furnish drugs to an authorized person or an agent
9 of that person at the premises of the manufacturer or wholesaler if (1) the identity
10 and authorization of the recipient is properly established and (2) this method of
11 receipt is employed only to meet the immediate needs of a particular patient of the
12 authorized person. Dangerous drugs or devices may be furnished to a hospital
pharmacy receiving area provided that a pharmacist or authorized receiving
personnel signs, at the time of delivery, a receipt showing the type and quantity of
the dangerous drugs or devices so received. Any discrepancy between the receipt
and the type and quantity of dangerous drugs and devices actually received shall
be reported to the delivering manufacturer or wholesaler by the next business day
after the delivery to the pharmacy receiving area.

13 **COST RECOVERY**

14 13. Section 125.3 of the Code states, in pertinent part, that the Board may request the
15 administrative law judge to direct a licensee found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case.

18 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

19 14. Section 4021 of the Code states: "'Controlled substance' means any substance
20 listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety
21 Code."

22 15. Section 4022 of the Code states: "'Dangerous drug' or 'dangerous device' means
23 any drug or device unsafe for self use, except veterinary drugs that are labeled as such, and
24 includes the following:

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

27 ...

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

1 16. Phenergan with Codeine Syrup 6.25 mg – 10 mg / 5 ml is the brand name for
2 promethazine with codeine syrup 6.25 mg-10 mg / 5 ml (P/C), a Schedule V controlled substance
3 designated by California Health and Safety Code section 11058(c)(1) and a dangerous drug
4 designated by California Business and Professions Code section 4022. It is used to treat
5 coughing.

6 17. Xanax is the brand name for alprazolam, a Schedule IV controlled substance
7 designated by California Health and Safety Code section 11057(d)(1) and a dangerous drug
8 designated by California Business and Professions Code section 4022. It is used to treat anxiety.

9 **FACTUAL ALLEGATIONS – CHILDREN’S MEDICAL CENTER PHARMACY**

10 18. At all times relevant herein, the Children’s Medical Center Pharmacy, also known as
11 the Rady Children’s Outpatient Pharmacy (Rady Pharmacy), was part of the Rady Children’s
12 Hospital of San Diego. According to its website, it is the only hospital in the San Diego area
13 dedicated exclusively to pediatric healthcare.

14 19. Between May 7, 2017 and June 26, 2018, the Rady Pharmacy could not account for
15 an inventory shortage of approximately 119 pints of P/C and 5,300 tablets of alprazolam 2mg. A
16 pharmacy technician at the Rady Pharmacy had stolen these dangerous drugs and controlled
17 substances for herself and her friends.

18 **Promethazine with codeine syrup 6.25 mg-10 mg / 5 ml (P/C)**

19 20. Based on Lexicomp Online, a collection of clinical database and clinical decision
20 support tools, P/C is not recommended in pediatrics due to risk of adverse effects, such as slowed
21 or difficult breathing, misuse, abuse, addiction, overdose, and death.

22 21. According to the pharmacy manager, the Rady Pharmacy did not use or dispense P/C
23 because pediatric doctors did not prescribe P/C to children. On the rare occasion the doctor
24 prescribed P/C, it would be during the winter season according to the pharmacy manager.

25 22. According to Respondent McKesson’s sales records, Respondent McKesson sold, on
26 average, less than two 16-ounce bottles of P/C **per year** to the Rady Pharmacy between January
27 2014 and August 2017. Beginning in September 2017, the sales of P/C displayed an irregular
28 pattern compared to the previous ordering pattern:

P/C Sold from Respondent McKesson to the Rady Pharmacy	
Date	Bottles (16oz) of P/C Sold
September 2017	11
October 2017	7
November 2017	7
December 2017	10
January 2018	14
February 2018	10
March 2018	15
April 2018	10
May 2018	18
June 2018	17

23. When calculating the monthly percentage change in sales, there were sales of P/C which varied from 40% to 80% more than the sale from the previous month.

24. The orders for P/C beginning in September 2017 were significantly larger and were shipped in consecutive months from September 2017 to June 2018, which totaled approximately 119 pints or 56,287 ml of P/C.

Alprazolam 2mg

25. Alprazolam is available in dosages of 0.25 mg, 0.5 mg, 1 mg, and 2mg.

26. According to Lexicomp Online, alprazolam should be titrated and used at the lowest effective dose. Lexicomp provided the following dosing information: “*Children ≥ 7 years and Adolescents < 18 years: Limited data available... Initial: 0.005 to 0.02 mg/kg/dose 3 times daily... maximum of 0.02 mg/kg/dose.*” For example, if a child is 40 kg (about 88 pounds), the dosing range is from 0.2 to 0.8 mg per dose.

27. According to Respondent McKesson’s sales records, Respondent McKesson sold, on average, one bottle of 100-count alprazolam 2mg **per year** between January 2014 and September 2017. Beginning in October 2017, the sales of alprazolam 2mg displayed an irregular pattern compared to the previous ordering pattern:

///

///

///

///

Alprazolam 2mg Sold from Respondent McKesson to the Rady Pharmacy	
Date	Bottles (100-count) of alprazolam 2mg Sold
October 2017	7
November 2017	9
December 2017	8
January 2018	4
February 2018	4
March 2018	4
April 2018	0
May 2018	15

28. When calculating the monthly percentage change in sales, there were sales of alprazolam 2mg which varied from 250% to 275% more than the sale from the previous month.

29. The orders for alprazolam 2mg beginning in October 2017 were significantly larger and were shipped in consecutive months (except April 2018) from October 2017 to May 2018, which totaled approximately 5,100 tablets of alprazolam 2 mg.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct – Excessive Furnishing of Controlled Substances)

30. Respondents are subject to disciplinary action under Code section 4301, subsection (e), in that Respondents clearly and excessively furnished controlled substances in violation of California Health and Safety Code section 11153.5, subsection (a), as follows:

a. Respondents furnished the Rady Pharmacy one to two pints of P/C in non-consecutive months from January 2014 to August 2017. Sales increased to seven to 18 pints ordered in consecutive months from September 2017 to June 2018.

b. Respondents furnished the Rady Pharmacy 100 to 200 tablets of alprazolam 2mg in non-consecutive months from January 2014 to September 2017. Sales increased to 400 to 1,500 tablets ordered in consecutive months from October 2017 to May 2018 (except April 2018).

c. Respondents furnished the Rady Pharmacy large quantities of controlled substances (P/C and alprazolam 2mg) that are not typically distributed to pediatric patients.

d. The P/C and alprazolam 2mg furnished by Respondents were not dispensed to patients for legitimate medical purposes but were diverted by a pharmacy technician.

Paragraphs 18 to 29 are re-alleged as if fully set forth herein.

///

1 **FACTUAL ALLEGATIONS – CARING PHARMACY**

2 31. On January 7, 2020, a Board inspector conducted an inspection of Caring Pharmacy
3 (Caring Pharmacy), located at 25802 Hemingway Avenue #103, Stevenson Ranch, CA 91381.
4 K.F. is a licensed pharmacist and the owner of Caring Pharmacy. S.F. is K.F.'s wife and is an
5 unlicensed individual.

6 32. During this inspection at approximately 9:30 a.m., the Board inspector observed
7 Respondent McKesson's delivery driver bring a drug tote (Drug Tote) to S.F.'s car in front of
8 Caring Pharmacy. S.F. signed for the delivery, and the delivery driver left. S.F. subsequently
9 brought the Drug Tote into Caring Pharmacy.

10 33. Shortly thereafter, the Board inspector entered Caring Pharmacy, and S.F. stated that
11 no pharmacist was present at Caring Pharmacy at that time. The invoice that accompanied the
12 Drug Tote revealed that the Drug Tote consisted of Emgality and Repatha, both of which are
13 dangerous drugs under California Business and Professions Code section 4022.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (Violation of Statute Regulating Dangerous Drugs)

16 34. Respondents are subject to disciplinary action under Code section 4301, subsection
17 (j), in that Respondents committed unprofessional conduct by violating California Business and
18 Professions Code section 4059.5, subsection (a). Specifically, on or about January 7, 2020,
19 Respondents delivered dangerous drugs to Caring Pharmacy, but the drugs were not signed for or
20 received by a pharmacist. The drugs were signed for by an unlicensed individual.

21 **THIRD CAUSE FOR DISCIPLINE**

22 (Violation of Pharmacy Law)

23 35. Respondents are subject to disciplinary action under Code section 4301, subsection
24 (o), in that Respondents committed unprofessional conduct by violating the following Pharmacy
25 Law and regulations:

26 ///

27 ///

28 ///

1 a. California Business and Professions Code section 4059.5, subsection (a): On or
2 about January 7, 2020, Respondents delivered dangerous drugs to Caring Pharmacy, but the drugs
3 were not signed for and received by a pharmacist. The drugs were signed for by an unlicensed
4 individual.

5 b. California Code of Regulations, title 16, section 1783: On or about January 7,
6 2020, Respondents delivered dangerous drugs to an unlicensed person at Caring Pharmacy who
7 was not an “authorized person” under California Code of Regulations, title 16, section 1783,
8 subsection (b).

9 **DISCIPLINARY CONSIDERATIONS**

10 36. On April 5, 2018, the Board issued Citation No. CI 2014 63111 to Respondent
11 McKesson for violating California Health and Safety Code section 11153.5 [wholesaler
12 furnishing controlled substance other than for legitimate medical purposes] and assessed a fine of
13 \$5,000.00. Respondent McKesson has paid the fine.

14 37. On June 27, 2018, the Board issued a Letter of Admonishment to Respondent
15 McKesson for violating California Business and Professions Code sections 4163(a) [unauthorized
16 furnishing by wholesaler]; 4169(a)(1) [prohibited acts; purchase, trade, sell, or transfer dangerous
17 drugs to unlicensed person or entity]; and 4059.5 [who may order dangerous drugs or devices].

18 38. On September 21, 2018, the Board issued a Letter of Admonishment to Respondent
19 McKesson for violating California Business and Professions Code section 4059.5(a) [dangerous
20 drugs and devices may only be ordered by and shall be delivered to licensed premises and signed
21 for and received by a pharmacist].

22 39. On June 27, 2018, the Board issued a Letter of Admonishment to Respondent
23 Bohlinger for violating California Business and Professions Code sections 4163(a) [unauthorized
24 furnishing by wholesaler]; 4169(a)(1) [prohibited acts; purchase, trade, sell, or transfer dangerous
25 drugs to unlicensed person or entity]; and 4059.5 [who may order dangerous drugs or devices].

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40. On September 21, 2018, the Board issued a Letter of Admonishment to Respondent Bohlinger for violating California Business and Professions Code section 4059.5(a) [dangerous drugs and devices may only be ordered by and shall be delivered to licensed premises and signed for and received by a pharmacist].

OTHER MATTERS

41. Pursuant to Code section 4307, if discipline is imposed on Wholesale Permit Number WLS 3076 issued to McKesson Corporation, McKesson Corporation shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Wholesale Permit Number WLS 3076 is placed on probation or until Wholesale Permit Number WLS 3076 is reinstated if it is revoked.

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 Wholesale Permit Number WLS 3076, issued to McKesson Corporation, dba McKesson Drug Company;

2. Revoking or suspending Designated Representative Number EXC 17318, issued to John F. Bohlinger;

3. Prohibiting McKesson Corporation from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Wholesale Permit Number WLS 3076 is placed on probation or until Wholesale Permit Number WLS 3076 is reinstated if Wholesale Permit Number WLS 3076 issued to McKesson Corporation is revoked;

4. Ordering McKesson Corporation and John F. Bohlinger to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 11/16/2020

Signature on File

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

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