

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

**In the Matter of the Accusation Against:**

**APOTHECARY OPTIONS, INC., dba APOTHECARY OPTIONS;  
MATTHEW D. SCHULER, OWNER AND PRESIDENT;  
STEVEN P. EDGAR, PHARMACIST-IN-CHARGE,  
OWNER AND SECRETARY,  
Pharmacy Permit No. PHY 45637; and**

**MATTHEW D. SCHULER,  
Pharmacist License No. RPH 42166; and**

**STEVEN P. EDGAR,  
Pharmacist License No. RPH 36563,**

**Respondents**

**Agency Case No. 6862**

**OAH No. 2020070265**

## 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 July 14, 2021.

It is so ORDERED on June 14, 2021.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is written in a cursive style with a large initial "S" and "O".

Seung W. Oh, Pharm.D.  
Board President

1 ROB BONTA  
Attorney General of California  
2 DAVID E. BRICE  
Supervising Deputy Attorney General  
3 SUMMER D. HARO  
Deputy Attorney General  
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8  
9 **BEFORE THE**  
10 **BOARD OF PHARMACY**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

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15 **APOTHECARY OPTIONS;**  
16 **MATTHEW D. SCHULER, OWNER AND**  
17 **PRESIDENT;**  
18 **STEVEN P. EDGAR, PHARMACIST-IN-**  
19 **CHARGE, OWNER AND SECRETARY**  
3006 Esplanade Suite I  
Chico, CA 95973

20 **Pharmacy Permit No. PHY 45637,**

21 **MATTHEW D. SCHULER**  
1929 Manzanita Ave.  
Chico, CA 95926

22 **Pharmacist License No. RPH 42166,**

23 **and**

24 **STEVEN P. EDGAR**  
14 Dahlia Way  
Chico, CA 95926

25 **Pharmacist License No. RPH 36563**

26 Respondents.  
27

Case No. 6862

OAH No. 2020070265  
**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER FOR PUBLIC**  
**REPROVAL AS TO MATTHEW D.**  
**SCHULER ONLY**

[Bus. & Prof. Code § 495]

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

3 **PARTIES**

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

8 2. Respondent Matthew D. Schuler (Respondent) is represented in this proceeding by  
9 attorney Gregory P. Matzen, whose address is: 2104 Big Sandy Court, Gold River, CA 95670-  
10 8399.

11 **JURISDICTION**

12 3. On or about January 2, 2002, the Board issued Pharmacist License Number RPH  
13 42166 to Respondent. The Pharmacist License was in full force and effect at all times relevant to  
14 the charges brought in Accusation No. 6862 and will expire on May 31, 2022, unless renewed.

15 4. Accusation No. 6862 was filed before the Board and is currently pending against  
16 Respondent. The Accusation and all other statutorily required documents were properly served  
17 on Respondent on April 7, 2020. Respondent timely filed his Notice of Defense contesting the  
18 Accusation. A copy of Accusation No. 6862 is attached as Exhibit A and incorporated herein by  
19 reference.

20 **ADVISEMENT AND WAIVERS**

21 5. Respondent has carefully read, fully discussed with counsel, and understands the  
22 charges and allegations in Accusation No. 6862. Respondent has also carefully read, fully  
23 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
24 Order for Public Reapproval.

25 6. Respondent is fully aware of his legal rights in this matter, including the right to a  
26 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at  
27 his own expense; the right to confront and cross-examine the witnesses against him; the right to  
28 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel

1 the attendance of witnesses and the production of documents; the right to reconsideration and  
2 court review of an adverse decision; and all other rights accorded by the California  
3 Administrative Procedure Act and other applicable laws.

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

6 **CULPABILITY**

7 8. Respondent admits the truth of each and every charge and allegation in Accusation  
8 No. 6862.

9 9. Respondent agrees that his Pharmacist License is subject to discipline and he agrees  
10 to be bound by the Disciplinary Order below.

11 **CONTINGENCY**

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

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

25 12. This Stipulated Settlement and Disciplinary Order for Public Repeval is intended by  
26 the parties to be an integrated writing representing the complete, final, and exclusive embodiment  
27 of their agreement. It supersedes any and all prior or contemporaneous agreements,  
28 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated

1 Settlement and Disciplinary Order for Public Repeval may not be altered, amended, modified,  
2 supplemented, or otherwise changed except by a writing executed by an authorized representative  
3 of each of the parties.

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

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Pharmacist License No. 42166 issued to Respondent  
9 Matthew D. Schuler shall be publicly reprovved by the Board of Pharmacy under Business and  
10 Professions Code section 495 in resolution of Accusation No. 6862, attached as Exhibit A, on the  
11 following terms and conditions:

12 **1. Remedial Education**

13 Within sixty (60) days from the effective date of this decision, Respondent shall submit to  
14 the board or its designee, for prior approval, an appropriate program of remedial education related  
15 to medication errors, non-sterile compounding, and pharmacy laws and operations. The program  
16 of remedial education shall consist of at least the following: two (2) hours in medication error  
17 reduction strategies, four (4) hours in non-sterile compounding USP 795, and four (4) hours in  
18 pharmacy law and operations, which shall be completed within one (1) year from the effective  
19 date of this decision at Respondent's own expense. All remedial education shall be in addition to,  
20 and shall not be credited toward, continuing education (CE) courses used for license renewal  
21 purposes for pharmacists.

22 Failure to timely submit for approval or complete the approved remedial education shall be  
23 considered cause for discipline.

24 Following the completion of each course, the board or its designee may require the  
25 respondent, at his own expense, to take an approved examination to test the respondent's  
26 knowledge of the course. If the respondent does not achieve a passing score on the examination  
27 that course shall not count towards satisfaction of this term and respondent shall be required to  
28 take another course approved by the board in the same subject area.

1           **2. No Ownership or Management of Licensed Premises**

2           Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,  
3 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
4 partnership, or corporation currently or hereinafter licensed by the board, for a period of three (3)  
5 years from the effective date of this decision. Respondent shall sell or transfer any legal or  
6 beneficial interest in any entity licensed by the board within ninety (90) days following the  
7 effective date of this decision and shall immediately thereafter provide written proof thereof to  
8 the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation  
9 thereof shall be considered cause for discipline.

10           **3. Cost Recovery**

11           No later than one (1) year from the effective date of the Decision, Respondent shall pay  
12 \$7,000 to the Board for its costs associated with the investigation and enforcement of this matter  
13 pursuant to Business and Professions Code Section 125.3. If Respondent fails to pay the Board  
14 costs as ordered, Respondent shall not be allowed to renew his Pharmacist License until  
15 Respondent pays costs in full. In addition, the Board may enforce this order for payment of its  
16 costs in any appropriate court, in addition to any other rights the Board may have.

17           **4. Full Compliance**

18           As a resolution of the charges in Accusation No. 6862, this stipulated settlement is  
19 contingent upon Respondent’s full compliance with all conditions of this Order. If Respondent  
20 fails to satisfy any of these conditions, such failure to comply constitutes cause for discipline,  
21 including outright revocation, of Respondent’s Pharmacist License No. 42166.

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**ACCEPTANCE**

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Repeval and have fully discussed it with my attorney, Gregory P. Matzen, Esq. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order for Public Repeval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: \_\_\_\_\_  
MATTHEW D. SCHULER  
*Respondent*

I have read and fully discussed with Respondent Matthew D. Schuler the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Repeval. I approve its form and content.

DATED: \_\_\_\_\_  
GREGORY P. MATZEN, ESQ.  
*Attorney for Respondent*

**ENDORSEMENT**

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

DATED: \_\_\_\_\_

Respectfully submitted,  
ROB BONTA  
Attorney General of California  
DAVID E. BRICE  
Supervising Deputy Attorney General

SUMMER D. HARO  
Deputy Attorney General  
*Attorneys for Complainant*

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DATED: 5/3/2021   
MATTHEW D. SCHULER  
*Respondent*


I have read and fully discussed with Respondent Matthew D. Schuler the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Repeval. I approve its form and content.

DATED: 5/11/21   
GREGORY P. MATZEN, ESQ.  
*Attorney for Respondent*

**ENDORSEMENT**

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

DATED: May 10, 2021

Respectfully submitted,  
ROB BONTA  
Attorney General of California  
DAVID E. BRICE  
Supervising Deputy Attorney General  
  
SUMMER D. HARO  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 6862**

1 XAVIER BECERRA  
Attorney General of California  
2 DAVID E. BRICE  
Supervising Deputy Attorney General  
3 SUMMER D. HARO  
Deputy Attorney General  
4 State Bar No. 245482  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-7510  
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7 E-mail: Summer.Haro@doj.ca.gov  
*Attorneys for Complainant*

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17 **PRESIDENT;**  
18 **STEVEN P. EDGAR, PHARMACIST-IN-**  
19 **CHARGE, OWNER AND SECRETARY**  
3006 Esplanade Suite I  
Chico, CA 95973

20 **Pharmacy Permit No. PHY 45637,**

21 **MATTHEW D. SCHULER**  
1929 Manzanita Ave.  
Chico, CA 95926

22 **Pharmacist License No. RPH 42166,**

23 **and**

24 **STEVEN P. EDGAR**  
14 Dahlia Way  
Chico, CA 95926

25 **Pharmacist License No. RPH 36563**

26 Respondents.

Case No. 6862

**ACCUSATION**

1 **PARTIES**

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

5 2. On or about January 2, 2002, the Board issued Pharmacy Permit Number PHY 45637  
6 to Apothecary Options, Inc. dba Apothecary Options (“Respondent Apothecary”). At all times  
7 relevant to the charges brought herein, Respondent Apothecary’s owners and officers were  
8 Matthew D. Schuler as President (“Respondent Schuler”), and Steven P. Edgar as Secretary  
9 (“Respondent Edgar”). On or about January 1, 2003, Respondent Edgar became the pharmacist-  
10 in-charge. The Pharmacy Permit was in full force and effect at all times relevant to the charges  
11 brought herein. The Pharmacy Permit was canceled on February 26, 2020, due to a change of  
12 ownership.

13 3. On or about August 26, 1988, the Board issued Pharmacist License Number RPH  
14 42166 to Respondent Schuler. The Pharmacist License was in full force and effect at all times  
15 relevant to the charges brought herein and will expire on May 31, 2020, unless renewed.

16 4. On or about August 20, 1981, the Board issued Pharmacist License Number RPH  
17 36563 to Respondent Edgar. The Pharmacist License was in full force and effect at all times  
18 relevant to the charges brought herein and will expire on December 31, 2020, unless renewed.

19 **JURISDICTION**

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

23 6. Code section 4300 states, in pertinent part:

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

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

27 (1) Suspending judgment.

28 (2) Placing him or her upon probation.

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(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 . . .

7. Code section 4300.1 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.

8. Code section 4307 states:

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

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

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

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

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

1 this subdivision shall be in addition to the board’s authority to proceed under  
2 Section 4339 or any other provision of law.

3 **STATUTORY AND REGULATORY PROVISIONS**

4 **A. Business & Professions Code**

5 9. Code section 4113, subdivision (c), states that “[t]he pharmacist-in-charge shall be  
6 responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining  
7 to the practice of pharmacy.”

8 10. Code section 4169 states, in pertinent part:

9 (a) A person or entity shall not do any of the following:

10 ...

11 (3) Purchase, trade, sell, or transfer dangerous drugs that the person  
12 knew or reasonably should have known were misbranded, as defined in Section  
13 111335 of the Health and Safety Code.

14 11. Code section 4301 states, in pertinent part:

15 The board shall take action against any holder of a license who is guilty of  
16 unprofessional conduct . . . Unprofessional conduct shall include, but is not  
17 limited to, any of the following:

18 . . . .

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

21 . . . .

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

27 . . . .

28 **B. Health & Safety Code**

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

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

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

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13. Health and Safety Code section 11164 states, in pertinent part:

Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance, unless it complies with the requirements of this section.

....

(b)(1) Notwithstanding paragraph (1) of subdivision (a) of Section 11162.1, any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be produced in hard copy form and signed and dated by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code. Any person who transmits, maintains, or receives any electronically transmitted prescription shall ensure the security, integrity, authority, and confidentiality of the prescription.

....

14. Health and Safety Code section 111330 states:

Any drug or device is misbranded if its labeling is false or misleading in any particular.

15. Health and Safety Code section 111335 states:

Any drug or device is misbranded if its labeling or packaging does not conform to the requirements of Chapter 4 (commencing with Section 110290).

16. Health and Safety Code section 111340 states:

Any drug or device is misbranded unless it bears a label containing all of the following information:

- (a) The name and place of business of the manufacturer, packer, or distributor.
- (b) An accurate statement of the quantity of the contents in terms of weight, measure, or numerical count.

Reasonable variations from the requirements of subdivision (b) shall be permitted. Requirements for placement and prominence of the information and exemptions as to small packages shall be established in accordance with regulations adopted pursuant to Section 110380.

17. Health and Safety Code section 111440 states:

It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is misbranded.

1 ///

2 **C. Civil Code**

3 18. California Civil Code section 56.10 states, in pertinent part:

4 (a) A provider of health care, health care service plan, or contractor shall  
5 not disclose medical information regarding a patient of the provider of health care  
6 or an enrollee or subscriber of a health care service plan without first obtaining an  
7 authorization, except as provided in subdivision (b) or (c).

7 **D. California Code of Regulations**

8 19. California Code of Regulations, title 16 (“CCR”), section 1711 states, in pertinent  
9 part:

10 ...

11 (d) Each pharmacy shall use the findings of its quality assurance program  
12 to develop pharmacy systems and workflow processes designed to prevent  
13 medication errors. An investigation of each medication error shall commence as  
14 soon as is reasonably possible, but no later than 2 business days from the date the  
15 medication error is discovered. All medication errors discovered shall be subject  
16 to a quality assurance review.

15 (e) The primary purpose of the quality assurance review shall be to  
16 advance error prevention by analyzing, individually and collectively, investigative  
17 and other pertinent data collected in response to a medication error to assess the  
18 cause and any contributing factors such as system or process failures. A record of  
19 the quality assurance review shall be immediately retrievable in the pharmacy.  
20 The record shall contain at least the following:

18 (1) the date, location, and participants in the quality assurance  
19 review;

19 (2) the pertinent data and other information relating to the  
20 medication error(s) reviewed and documentation of any patient contact required  
21 by subdivision (c);

21 (3) the findings and determinations generated by the quality  
22 assurance review; and,

22 (4) recommend changes to pharmacy policy, procedure, systems, or  
23 processes, if any.

24 The pharmacy shall inform pharmacy personnel of changes to pharmacy policy,  
25 procedure, systems, or processes made as a result of recommendations generated  
26 in the quality assurance program.

26 20. CCR section 1716 states, in pertinent part:

27 Pharmacists shall not deviate from the requirements of a prescription except  
28 upon the prior consent of the prescriber or to select the drug product in  
accordance with Section 4073 of the Business and Professions Code.

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Nothing in this regulation is intended to prohibit a pharmacist from exercising commonly-accepted pharmaceutical practice in the compounding or dispensing of a prescription.

21. CCR section 1735.2 states, in pertinent part:

...

(l) Packages of ingredients, both active and inactive, that lack a supplier's expiration date are subject to the following limitations:

(1) such ingredients cannot be used for any non-sterile compounded drug preparation more than three (3) years after the date of receipt by the pharmacy.

...

22. CCR section 1764 states, in pertinent part:

No pharmacist shall exhibit, discuss, or reveal the contents of any prescription, the therapeutic effect thereof, the nature, extent, or degree of illness suffered by any patient or any medical information furnished by the prescriber with any person other than the patient or his or her authorized representative, the prescriber or other licensed practitioner then caring for the patient, another licensed pharmacist serving the patient, or a person duly authorized by law to receive such information.

**OUT OF STATE AUTHORITY**

23. Revised Code of Washington, section 18.64.011 states, in pertinent part:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

...

(5) "Commission" means the pharmacy quality assurance commission.

...

(25) "Pharmacist" means a person duly licensed by the commission to engage in the practice of pharmacy.

(26) "Pharmacy" means every place properly licensed by the commission where the practice of pharmacy is conducted.

...

24. Revised Code of Washington, section 18.64.020 states:

It shall hereafter be unlawful for any person to practice pharmacy or to institute or operate any pharmacy unless such person shall be a licensed pharmacist or shall place in charge of said pharmacy a licensed pharmacist:

1 PROVIDED, That persons licensed as manufacturers or as wholesalers, and their  
2 employees, acting within the scope of their licenses, shall be exempt from this  
3 section.

4 25. Revised Code of Washington, section 18.64.350 states:

5 (1) The legislature finds and declares that the practice of pharmacy is a  
6 dynamic, patient-oriented health service that applies a scientific body of  
7 knowledge to improve and promote patient health by means of appropriate drug  
8 use and drug-related therapy.

9 (2) The legislature recognizes that with the proliferation of alternate  
10 methods of health delivery, there has arisen among third-party payors and  
11 insurance companies the desire to control the cost and utilization of pharmacy  
12 services through a variety of mechanisms, including the use of mail-order  
13 pharmacies located outside the state of Washington.

14 (3) As a result, the legislature finds and declares that to continue to protect  
15 the Washington consumer-patient, all out-of-state pharmacies, including those  
16 located in Canada, that provide services to Washington residents shall be licensed  
17 by the department of health, disclose specific information about their services,  
18 and provide pharmacy services at a high level of protection and competence.

19 26. Revised Code of Washington, section 18.64.370 states, in pertinent part:

20 (1) A nonresident pharmacy that has not obtained a license from the  
21 department of health shall not conduct the business of selling or distributing drugs  
22 in this state.

23 27. Revised Code of Washington, section 18.64.390 states, in pertinent part:

24 (1) The commission may deny, revoke, or suspend a nonresident pharmacy  
25 license or impose a fine not to exceed one thousand dollars per violation for  
26 failure to comply with any requirement of RCW 18.64.350 through 18.64.400.

27 28. Official Code of Georgia Annotated 26-4-114.1 states, in pertinent part:

28 (a) Any person, pharmacy, or facility located outside this state may apply  
to the board for a nonresident pharmacy permit which shall entitle the holder  
thereof to ship, mail, or deliver dispensed drugs, including but not limited to  
dangerous drugs and controlled substances, into this state. The board shall  
establish an application and require such information as the board deems  
reasonably necessary to carry out a background investigation of applicants and to  
ensure that the purposes of this Code section are met. Such application shall  
include:

(1) Proof of a valid, unexpired license, permit, or registration to  
operate a pharmacy in compliance with the laws and rules of each state in which  
the applicant receives and dispenses prescription drug orders, including but not  
limited to orders for prescription drugs, dangerous drugs, and controlled  
substances;

(2) Addresses, names, and titles of all principal corporate officers  
and the pharmacist in charge of dispensing drugs to residents of this state; and

(3) A statement of whether the applicant is in compliance with all

1 lawful directions and requests for information from the regulatory or licensing  
2 agencies of each state in which the applicant is licensed as well as all requests for  
3 information made by the board pursuant to this Code section.

4 . . . .

5 (g)(1) As a prerequisite to registering or renewing a registration  
6 with the board, a nonresident pharmacy conducting sterile or nonsterile  
7 compounding for practitioners to use in patient care in the practitioner's office shall  
8 submit a copy of the most recent and current inspection report resulting from an  
9 inspection conducted by the regulatory or licensing agency of the jurisdiction in  
10 which it is located that indicates compliance with the requirements of this chapter,  
11 including compliance with USP-NF standards for pharmacies performing sterile  
12 and nonsterile compounding. The inspection report required by this subsection  
13 shall not be required if the compounding within the facility is done pursuant to a  
14 prescription. Such inspection report shall be deemed current for the purpose of this  
15 subsection if the inspection was conducted:

16 (A) No more than six months prior to the date of submission of  
17 an application for registration with the board; or

18 (B) No more than two years prior to the date of submission of  
19 an application for renewal of a registration with the board.

### 20 **COST RECOVERY**

21 29. Code section 125.3 provides, in pertinent part, that a Board may request the  
22 administrative law judge to direct a licentiate found to have committed a violation or violations of  
23 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
24 enforcement of the case.

### 25 **DRUG CLASSIFICATIONS**

26 30. Liothyronine is a dangerous drug pursuant to Code section 4022. Liothyronine is  
27 used to treat hypothyroidism. "Cytomel" is a brand of Liothyronine.

28 31. Estriol is a dangerous drug pursuant to Code section 4022. Estriol is used to treat  
vaginal complications.

32. Ciprofloxacin is an antibiotic used to treat bacterial infections.

33. Ketoconazole is a medication used to treat fungal infections.

34. Clotrimazole is a medication used to treat to fungal infections.

### 35 **FACTUAL ALLEGATIONS**

36 35. On or about June 18, 2019, the Board received an e-mailed complaint from S.L. that  
37 alleged on or about June 14, 2019, Respondent Apothecary sent her a prescription that was not

1 hers. On or about July 23, 2019, Board Inspector S.H. spoke with S.L. on the phone, and S.L.  
2 informed Inspector S.H. that Respondent Apothecary had mailed her a prescription for  
3 liothyronine – T3 5mcg that was not hers. S.L. further told Inspector S.H. that although the  
4 prescription label had her name on it, the prescriber’s name was L.L., and S.L.’s doctor was E.H..

5 36. On or about August 8, 2019, Inspector S.H. and Board Inspector M.M. went to  
6 Respondent Apothecary to conduct an inspection and investigation. Inspector S.H. and Inspector  
7 M.M. were greeted and assisted by Respondent Edgar. Inspector S.H. and Inspector M.M.  
8 reviewed the following:

9 (a) A copy of an electronic prescription dated June 14, 2019, that was transmitted  
10 by physician assistant L.L., for liothyronine 5mcg tablets, #60 with 1 refill, for patient R.A.. The  
11 prescription was assigned prescription number 84129. The backing of prescription number 84129  
12 showed that Respondent Edgar dispensed that prescription to S.L., instead of R.A., on June 14,  
13 2019, for #120 capsules;

14 (b) A copy of an electronic prescription dated June 13, 2019, prescribed by Dr.  
15 E.H. for estriol 2mg/gm cream, for patient S.L. The prescription was assigned prescription  
16 number 84131. The backing of prescription number 84131 showed that Respondent Edgar  
17 dispensed that prescription to S.L. on June 14, 2019, for 30 gm;

18 (c) A photocopy of the electronic prescription dated June 14, 2019, that was  
19 transmitted by physician assistant L.L., for liothyronine 5mcg tablets, #60 with 1 refill, for patient  
20 R.A., which had previously been assigned prescription number 84129. This second copy was  
21 assigned prescription number 84154. The backing of prescription number 84154 showed that  
22 Respondent Schuler dispensed this prescription to patient R.A. on June 17, 2019. There was no  
23 documentation of any quality assurance report regarding the medication error from prescription  
24 number 84129 having been erroneously dispensed to patient S.L. on June 14, 2019; and

25 (d) Copies of United States Postal Service shipping documents, dated June 14,  
26 2019, showing two packages were shipped from Respondent Apothecary to patient S.L. on June  
27 14, 2019.

28

1           37. Based on his review of the documents and information provided by Respondent  
2 Edgar, Inspector S.H. determined that on or about June 14, 2019, Respondent Edgar and  
3 Respondent Apothecary incorrectly dispensed and shipped prescription number 84129 to patient  
4 S.L., when that prescription had been prescribed for patient R.A. Inspector S.H. also determined  
5 that when Respondent Schuler discovered that medication error, he did not document a quality  
6 assurance report.

7           38. Also at the August 8, 2019, inspection of Respondent Apothecary, Inspector S.H. and  
8 Inspector M.M. found compounding ingredients and compounding solutions, including  
9 ciprofloxacin, ketoconazole, and clotrimazole that were maintained as inventory beyond the  
10 labeled expiration dates. Inspector S.H. and Inspector M.M. gave Respondent Edgar notice that  
11 those expired ingredients and compounding solutions needed to be disposed of in a timely  
12 manner.

13           39. On or about September 30, 2019, Board Inspector M.I. went to Respondent  
14 Apothecary to conduct an inspection and follow-up on Inspector S.H. and Inspector M.M.'s  
15 findings from the August 8, 2019 inspection and investigation. Respondent Edgar assisted  
16 Inspector M.I. during the inspection. During the inspection Inspector M.I. found boxes of old  
17 prescription records and prescription logs, as well as a cardboard box filled with active, but  
18 expired, pharmaceutical ingredients. Inspector M.I. found that some of those ingredients did not  
19 have expiration dates listed, or dates of when the products were first opened. Inspector M.I. also  
20 found a file cabinet containing controlled substance powders used in compounding that were  
21 expired and no longer usable. Respondent Edgar subsequently e-mailed Inspector M.I. a list of  
22 additional expired medications that were in Respondent Apothecary at the time of Inspector  
23 M.I.'s inspection. Some of the expired ingredients found by Inspector M.I. were the same  
24 expired ingredients that Inspector S.H. and Inspector M.M. had instructed Respondent Edgar to  
25 dispose of on August 8, 2019.

26           40. Also on or about September 30, 2019, Inspector M.I. reviewed a sample of controlled  
27 substance prescriptions that were received by Respondent Apothecary via facsimile. Inspector  
28 M.I. asked Respondent Edgar to explain how faxed refill authorizations and new prescriptions for

1 controlled substances were processed. In response, Respondent Edgar explained that he would  
2 rewrite any refill authorizations or new prescriptions for controlled substances that were received  
3 by facsimile. Respondent Edgar further told Inspector M.I. that he did not know that he needed to  
4 call prescribers or do anything additional to verify the authenticity of controlled substance  
5 prescriptions other than rewriting the prescription. Inspector M.I. found approximately twelve  
6 (12) controlled substance prescriptions dispensed which were not properly verified as authentic  
7 by Respondent Edgar.

8 41. During the September 30, 2019, inspection, Respondent Edgar also told Inspector  
9 M.I. that some of the medications compounded at Respondent Apothecary were sent to out-of-  
10 state patients. Respondent Edgar further informed Inspector M.I. that he had dispensed to out-of-  
11 state patients, compounded medications for the following out-of-state prescribers: S.D. from  
12 Washington, K.C. from Washington, and W.T. from Georgia. Inspector M.I. subsequently  
13 investigated the license status of those prescribers and found the following:

14 a. S.D. did not have a license with the Medical Board of California. As of  
15 October 22, 2019, S.D.'s license with the State of Washington Department of Health, Board of  
16 Osteopathic Medicine and Surgery, was subject to an enforcement action for unprofessional  
17 conduct, which had been filed in 2016;

18 b. K.C. did not have a license with the Medical Board of California or California's  
19 Naturopathic Medicine Committee. K.C.'s Naturopathic Physician License in Washington was  
20 active and did not have any discipline listed on his license.

21 c. W.T. did not have a license with the Medical Board of California. W.T.'s  
22 license with the Georgia Composite Medical Board was surrendered on or about October 30,  
23 2017. W.T.'s license surrender was considered to be and had the same effect as a revocation of  
24 his license.

25 42. At the September 30, 2019, inspection, Respondent Edgar provided Inspector M.I.  
26 with prescription logs, which Respondent Edgar confirmed were an accurate representation of the  
27 medications dispensed by Respondent Apothecary. Inspector M.I. reviewed those prescription  
28 logs regarding the prescriptions dispensed by Respondent Edgar and Respondent Scholar to out of

1 state patients from September 30, 2018, to September 30, 2019. From that review, Inspector M.I.  
2 determined the following:

3 (a) From September 30, 2018, to September 30, 2019, Respondent Edgar  
4 dispensed approximately 145 prescriptions to patients in Washington pursuant to prescriptions  
5 from prescribers S.D. and K.C., and approximately 8 prescriptions to patients in Georgia pursuant  
6 to prescriptions from prescriber W.T.;

7 (b) From September 30, 2018, to September 30, 2019, Respondent Schuler  
8 dispensed approximately 112 prescriptions to patients in Washington pursuant to prescriptions  
9 from prescribers S.D. and K.C., and approximately 2 prescriptions to patients in Georgia pursuant  
10 to prescriptions from prescriber W.T.; and

11 (c) From September 30, 2018, to September 30, 2019, Respondent Apothecary  
12 dispensed a total of 257 prescriptions to patients in Washington pursuant to prescriptions from  
13 prescribers S.D. and K.C., and 10 prescriptions to patients in Georgia pursuant to prescriptions  
14 from prescriber W.T.

## 15 **CAUSES FOR DISCIPLINE**

### 16 **A. Respondent Apothecary**

#### 17 **FIRST CAUSE FOR DISCIPLINE**

#### 18 **(Variation from Requirements of a Prescription – Respondent Apothecary)**

19 43. Respondent Apothecary is subject to disciplinary action for dispensing drugs that  
20 varied from the requirements of a prescription, in violation of California Code of Regulations,  
21 title 16, section 1716, by and through Code section 4301, subdivision (o), in that on or about June  
22 14, 2019, an employee working at Respondent Apothecary incorrectly dispensed prescription  
23 number 84129, prescribed for patient R.A., to the wrong patient, as set forth in detail above in  
24 paragraphs 35 to 37, and their subparts.

#### 25 **SECOND CAUSE FOR DISCIPLINE**

#### 26 **(Unauthorized Disclosure of Prescriptions – Respondent Apothecary)**

27 44. Respondent Apothecary is subject to disciplinary action for the unauthorized  
28 disclosure of prescriptions, in violation of California Code of Regulations, title 16, section 1764,

1 and Civil Code section 56.10, by and through Code section 4301 subdivision (o), in that on or  
2 about June 14, 2019, Respondent Apothecary's staff disclosed protected health information  
3 without authorization, when they sold prescription number 84129, prescribed for patient R.A., to  
4 the wrong patient, as set forth in detail above in paragraphs 35 to 37, and their subparts.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Failure to Conduct Quality Assurance Review – Respondent Apothecary)**

7 45. Respondent Apothecary is subject to disciplinary action for failing to conduct a  
8 quality assurance review, in violation of California Code of Regulations, title 16, section 1711  
9 subdivision (d), by and through Code section 4301 subdivision (o), in that on or about June 17,  
10 2019, Respondent Apothecary's employee learned of a medication error regarding prescription  
11 number 84129, but failed to document a quality assurance report, as set forth in detail above in  
12 paragraphs 35 to 37, and their subparts.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Compounding Limitations and Requirements – Respondent Apothecary)**

15 46. Respondent Apothecary is subject to disciplinary action for failing to comply with  
16 compounding limitations and requirements in violation of Code section 1735.2 subdivision (l)(1),  
17 by and through Code section 4301 subdivision (o), in that Respondent Apothecary maintained as  
18 inventory outdated compounding ingredients and compounding solutions that were identified as  
19 not having an expiration date, beyond the labeled expiration dates, as set forth in detail above in  
20 paragraphs 36, and 38 to 39.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Misbranded Drugs – Respondent Apothecary)**

23 47. Respondent Apothecary is subject to disciplinary action for holding misbranded  
24 drugs, in violation of Health and Safety Code sections 111330, 111335, 111340, 111440, and  
25 Code section 4169 subdivision (a)(3), all by and through Code section 4301 subdivision (o), in  
26 that on or about September 30, 2019, Respondent Apothecary continued to store expired  
27 medications after Board Inspectors had instructed it to dispose of them, as set forth in detail above  
28 in paragraphs 36, and 38 to 39.

1 ///

2 ///

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Requirements for Prescriptions – Respondent Apothecary)**

5 48. Respondent Apothecary is subject to disciplinary action for failing to verify the  
6 authenticity of controlled substance prescriptions sent electronically by facsimile, in violation of  
7 Health and Safety Code section 11164 subdivision (b)(1), by and through Code section 4301  
8 subdivision (o), in that from June 2019, through August 2019, controlled substance refill  
9 authorizations were not verified by Respondent Apothecary’s Pharmacist-in-Charge, as set forth  
10 in detail above in paragraphs 40 to 42, and their subparts.

11 **SEVENTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct – Respondent Apothecary)**

13 49. Respondent Apothecary is subject to disciplinary action for unprofessional conduct,  
14 in violation of Code section 4301 subdivisions (j) and (o), the Revised Code of Washington  
15 sections 18.64.350(3), 18.64.370(1), and 18.64.390(1), by and through Code section 4301  
16 subdivision (o), and the Official Code of Georgia Annotated sections 26-4-114.1(a), and 26-4-  
17 114.1(g)(1) , by and through Code section 4301 subdivision (o), in that from September 30, 2018,  
18 to September 30, 2019, Respondent Apothecary dispensed a total of 257 compounded  
19 medications to residents located in Washington, and a total of 10 compounded medications to  
20 residents located in Georgia, without obtaining a nonresident pharmacy license in those states, as  
21 set forth in detail above in paragraphs 40 to 42, and their subparts.

22 **B. Respondent Schuler**

23 **EIGHTH CAUSE FOR DISCIPLINE**

24 **(Failure to Conduct Quality Assurance Review – Respondent Schuler)**

25 50. Respondent Schuler is subject to disciplinary action for failing to conduct a quality  
26 assurance review, in violation of California Code of Regulations, title 16, section 1711  
27 subdivision (d), by and through Code section 4301 subdivision (o), in that on or about June 17,  
28 2019, Respondent Schuler learned of a medication error regarding prescription number 84129,

1 but failed to document a quality assurance report, as set forth in detail above in paragraphs 35 to  
2 37, and their subparts.

3 **NINTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Respondent Schuler)**

5 51. Respondent Schuler is subject to disciplinary action for unprofessional conduct, in  
6 violation of Code section 4301 subdivisions (j) and (o), the Revised Code of Washington sections  
7 18.64.350(3), 18.64.370(1), and 18.64.390(1), by and through Code section 4301 subdivision (o),  
8 and the Official Code of Georgia Annotated sections 26-4-114.1(a), and 26-4-114.1(g)(1), by and  
9 through Code section 4301 subdivision (o), in that from September 30, 2018, to September 30,  
10 2019, Respondent Schuler dispensed a total of 112 compounded medications to residents located  
11 in Washington, and a total of 2 compounded medications to residents located in Georgia, without  
12 obtaining licenses in those states, as set forth in detail above in paragraphs 40 to 42, and their  
13 subparts.

14 **C. Respondent Edgar**

15 52. Respondent Edgar has been designated the Pharmacist-In-Charge for Respondent  
16 Apothecary under Code section 4113, subdivision (a) since January 1, 2003. As Pharmacist-In-  
17 Charge for Respondent Apothecary, Respondent Edgar was responsible for Respondent  
18 Apothecary’s compliance with all state and federal laws and regulations to the practice of  
19 pharmacy under Code section 4113 subdivision (c).

20 **TENTH CAUSE FOR DISCIPLINE**

21 **(Variation from the Requirements of a Prescription – Respondent Edgar)**

22 53. Respondent Edgar is subject to disciplinary action for dispensing drugs that varied  
23 from the requirements of a prescription, in violation of California Code of Regulations, title 16,  
24 section 1716, by and through Code section 4301 subdivision (o), in that on or about June 14,  
25 2019, Respondent Edgar incorrectly dispensed prescription number 84129, prescribed for patient  
26 R.A., to the wrong patient, as set forth in detail above in paragraphs 35 to 37, and their subparts.

27 **ELEVENTH CAUSE FOR DISCIPLINE**

28 **(Unauthorized Disclosure of Prescriptions – Respondent Edgar)**



1 2019, Respondent Edgar dispensed a total of 145 compounded medications to residents located in  
2 Washington, and a total of 8 compounded medications to residents located in Georgia, without  
3 obtaining licenses in those states, as set forth in detail above in paragraphs 40 to 42, and their  
4 subparts.

### 5 **DISCIPLINE CONSIDERATIONS**

6 58. To determine the degree of discipline, if any, to be imposed on Respondent  
7 Apothecary, Complainant alleges that on or about March 21, 2016, the Board issued Citation  
8 Number CI 2014 65280, against Respondent Apothecary for (a) failing to maintain written  
9 documentation demonstrating that pharmacy personnel have the skills and training required to  
10 properly and accurately perform their assigned responsibilities relating to compounding, in  
11 violation of CCR section 1735.7(a) and (b), and (b) for failing to perform annual reviews of its  
12 compounding policies and procedures, in violation of CCR section 1735.5(b). Respondent  
13 Apothecary was ordered to maintain written documentation sufficient to demonstrate that  
14 pharmacy personnel have the skills and training required to properly and accurately perform their  
15 assigned responsibilities relating to compounding. Respondent Apothecary was further ordered  
16 to have its Pharmacist-In-Charge review its policy and procedure manual on an annual basis, and  
17 to update it whenever changes in processes are implemented. That Citation is now final.

18 59. To determine the degree of discipline, if any, to be imposed on Respondent Edgar,  
19 Complainant alleges that on or about March 21, 2016, in a prior action, the Board issued Citation  
20 Number CI 2015 69540 against Respondent Edgar, as the Pharmacist-In-Charge at Respondent  
21 Apothecary, for (a) failing to maintain written documentation demonstrating that pharmacy  
22 personnel have the skills and training required to properly and accurately perform their assigned  
23 responsibilities relating to compounding, in violation of CCR section 1735.7(a) and (b), and (b)  
24 for failing to perform annual reviews of its compounding policies and procedures, in violation of  
25 CCR section 1735.5(b). Respondent Edgar was fined \$400.00 for these violation. Respondent  
26 Edgar was ordered to maintain written documentation sufficient to demonstrate that pharmacy  
27 personnel have the skills and training required to properly and accurately perform their assigned  
28 responsibilities relating to compounding. Respondent Apothecary was further ordered to have its

1 Pharmacist-In-Charge review its policy and procedure manual on an annual basis, and to update it  
2 whenever changes in processes are implemented. That Citation is now final.

3 **OTHER MATTERS**

4 60. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number  
5 PHY 45637 issued to Apothecary Options Inc. dba Apothecary Options, while Respondent  
6 Schuler has been a manager, administrator, owner, member, officer, director, associate, or  
7 partner, and had knowledge of or knowingly participated in any conduct for which the licensee  
8 was disciplined, then Respondent Schuler shall be prohibited from serving as a manager,  
9 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if  
10 Pharmacy Permit Number PHY 45637 is placed on probation or until Pharmacy Permit Number  
11 PHY 45637 is reinstated if it is revoked.

12 61. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number  
13 PHY 45637 issued to Apothecary Options Inc. dba Apothecary Options, while Respondent Edgar  
14 has been a manager, administrator, owner, member, officer, director, associate, or partner, and  
15 had knowledge of or knowingly participated in any conduct for which the licensee was  
16 disciplined, then Respondent Edgar shall be prohibited from serving as a manager, administrator,  
17 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy  
18 Permit Number PHY 45637 is placed on probation or until Pharmacy Permit Number PHY 45637  
19 is reinstated if it is revoked.

20 **PRAYER**

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

- 23 1. Revoking or suspending Pharmacy Permit Number PHY 45637, issued to Apothecary  
24 Options, Inc. dba Apothecary Options;
- 25 2. Revoking or suspending Pharmacist License Number RPH 42166, issued to Matthew  
26 D. Schuler;
- 27 3. Revoking or suspending Pharmacist License Number RPH 36563, issued to Steven P.  
28 Edgar;


1           4.     Prohibiting Matthew D. Schuler from serving as a manager, administrator, owner,  
2 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
3 Number PHY 45637 is placed on probation or until Pharmacy Permit Number 45637 is reinstated  
4 if Pharmacy Permit Number 45637 issued to Apothecary Options Inc. dba Apothecary Options is  
5 revoked;

6           5.     Prohibiting Steven P. Edgar from serving as a manager, administrator, owner,  
7 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
8 Number PHY 45637 is placed on probation or until Pharmacy Permit Number 45637 is reinstated  
9 if Pharmacy Permit Number 45637 issued to Apothecary Options Inc. dba Apothecary Options is  
10 revoked;

11          6.     Ordering Apothecary Options, Inc. dba Apothecary Options, Matthew D. Schuler and  
12 Steven P. Edgar to pay the Board of Pharmacy the reasonable costs of the investigation and  
13 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

14          7.     Taking such other and further action as deemed necessary and proper.

15  
16 DATED: March 30, 2020

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

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