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

In the Matter of Accusation Against:

PRESTIGE PHARMACY, INC., DBA ST. PAULS PHARMACY 2,
TRAMANH NU TON,

Pharmacy Permit No. PHY 50331,

and

TRAMANH NU TON,

Pharmacist License No. RPH 59598

Respondents

Agency Case No. 6886

OAH Case No. 2021020641

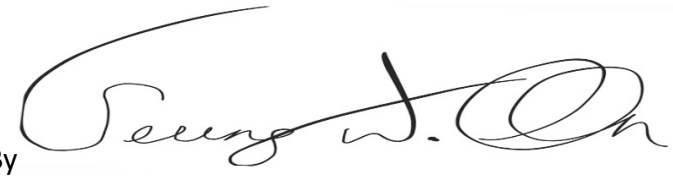
DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on September 29, 2021.

It is so ORDERED on August 30, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

Seung W. Oh, Pharm D
Board President

ROB BONTA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General
STEPHANIE J. LEE
Deputy Attorney General
State Bar No. 279733
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6185
Facsimile: (916) 731-2126
Attorneys for Complainant

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

In the Matter of the Accusation Against**:** **PRESTIGE PHARMACY, INC., DBA ST. PAULS PHARMACY 2, TRAMANH NU TON** 8809 Whitter Blvd. Pico Rivera, CA 90660 **Pharmacy Permit No. PHY 50331,** **and** **TRAMANH NU TON** 12235 Beach Blvd. Ste. 104C Stanton, CA 90680 **Pharmacist License No. RPH 59598** Respondents.	Case No. 6886 OAH No. 2021020641 **STIPULATED SURRENDER OF LICENSE AND ORDER** As to Respondent Prestige Pharmacy, Inc. dba St Pauls Pharmacy 2 only

In the interest of a prompt and speedy settlement of this matter, consistent with the public interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs, the parties hereby agree to the following Stipulated Surrender and Disciplinary Order which will be submitted to the Board for approval and adoption as the final disposition of the Accusation solely with respect to Prestige Pharmacy, Inc. dba St. Pauls Pharmacy 2. It does not apply to Tramanh Nu Ton.

PARTIES

1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy (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 Stephanie J. Lee, Deputy Attorney General.

2. Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2, (Respondent) is represented in this proceeding by attorney Herbert L. Weinberg, whose address is: Fenton Law Group, LLP, 1990 S. Bundy Drive Suite 777, Los Angeles, CA 90025.

3. On or about June 14, 2010, the Board issued Pharmacy Permit No. PHY 50331 to Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2 (Respondent). From June 14, 2010 to February 12, 2019, Tramanh Nu Ton was the President, 100% shareholder, and Pharmacist-in-Charge of Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2. The Pharmacy Permit was in full force and effect at all times relevant to the charges and expired on February 12, 2019, and has not been renewed.

JURISDICTION

4. Accusation No. 6886 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 29, 2020. Respondent timely filed its Notice of Defense contesting the Accusation. A copy of Accusation No. 6886 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 6886. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order.

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 Accusation; 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.

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

CULPABILITY

8. Respondent understands that the charges and allegations in Accusation No. 6886, if proven at a hearing, constitute cause for imposing discipline upon its Pharmacy Permit.

9. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondent hereby gives up its right to contest that cause for discipline exists based on those charges.

10. Respondent understands that by signing this stipulation Respondent enables the Board to issue an order accepting the surrender of its Pharmacy Permit without further process.

CONTINGENCY

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

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

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

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

ORDER

IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 50331, issued to Respondent Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2, is surrendered and accepted by the Board.

1. The surrender of Respondent's Pharmacy Permit and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board.

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

3. Respondent shall cause to be delivered to the Board its pocket license and, if one was issued, its wall certificate on or before the effective date of the Decision and Order.

4. Respondent shall not apply for licensure or petition for reinstatement for a period of three (3) years following the effective date of the Decision and Order. If Respondent ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 6886 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. Respondent shall pay the agency its costs of investigation and enforcement in the total amount of $15,000.00, in a payment plan as outlined in the Stipulated Settlement and Disciplinary Order for Tramanh Nu Ton. Respondent and Tramanh Nu Ton shall be jointly and severally liable for payment of these costs.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 6886 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney. I understand the stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

Tramanh Nu Ton, President
PRESTIGE PHARMACY, INC., DBA ST. PAULS PHARMACY 2
Respondent

I have read and fully discussed with Respondent Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2 the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: _____

HERBERT L. WEINBERG
Attorney for Respondent

///

5. Respondent shall pay the agency its costs of investigation and enforcement in the total amount of $15,000.00, in a payment plan as outlined in the Stipulated Settlement and Disciplinary Order for Tramanh Nu Ton. Respondent and Tramanh Nu Ton shall be jointly and severally liable for payment of these costs.

6. If Respondent should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 6886 shall be deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney. I understand the stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 7-21-2021

Tramanh Nu Ton, President
PRESTIGE PHARMACY, INC., DBA ST. PAULS PHARMACY 2
Respondent

I have read and fully discussed with Respondent Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2 the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 7/21/2021

HERBERT L. WEINBERG
Attorney for Respondent

///

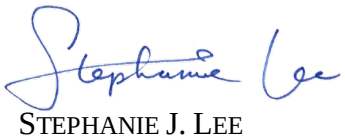
ENDORSEMENT

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

DATED: 7/21/2021

Respectfully submitted,

ROB BONTA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



STEPHANIE J. LEE
Deputy Attorney General
Attorneys for Complainant

LA2020500610
64377168_2

Exhibit A

Accusation No. 6886

XAVIER BECERRA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General
STEPHANIE J. LEE
Deputy Attorney General
State Bar No. 279733
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6185
Facsimile: (916) 731-2126
Attorneys for Complainant

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

In the Matter of the Accusation Against**:** **PRESTIGE PHARMACY, INC., DBA ST. PAULS PHARMACY 2, TRAMANH NU TON (PRESIDENT AND 100% OWNER)** 8809 Whitter Blvd. Pico Rivera, CA 90660 **Pharmacy Permit License No. PHY 50331,** **and** **TRAMANH NU TON** 12235 Beach Blvd. Ste. 104C Stanton, CA 90680 **Pharmacist License No. RPH 59598** Respondents.	Case No. 6886 **ACCUSATION**

PARTIES

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

///

2. On or about June 14, 2010, the Board of Pharmacy issued Pharmacy Permit License Number PHY 50331 to Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2, President, Tramanh Nu Ton (Respondent St. Paul's Pharmacy). Tramanh Nu Ton was the Pharmacist-in-Charge, President, and 100% owner of Respondent St. Paul's Pharmacy from June 14, 2010 to February 12, 2019. The Pharmacy Permit License expired on February 12, 2019, and has not been renewed.

3. On or about June 6, 2007, the Board of Pharmacy issued Pharmacist License Number RPH 59598 to Tramanh Nu Ton (Respondent Ton). 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, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Code sections 4000 *et seq*.] and the Uniform Controlled Substances Act [Health & Safety Code sections 11000 *et seq*].

6. Section 4300 of the Code states, in pertinent part, that "[e]very license issued may be suspended or revoked."

7. 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.

8. Section 4302 states:

> The board may deny, suspend, or revoke any license of a corporation where conditions exist in relation to any person holding 10 percent or more of the corporate stock of the corporation, or where conditions exist in relation to any officer or director of the corporation that would constitute grounds for disciplinary action against a licensee.

///

STATUTORY PROVISIONS

9. Section 4059 of the Code states:

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

10. Section 4113 of the Code states, in pertinent part: "(c) The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy."

11. Section 4301 of the Code 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 includes, but is not limited to, any of the following:
>
> . . .
>
> (d) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153 of the Health and Safety Code.
>
> . . .
>
> (j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.
>
> . . .
>
> (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

12. Section 4306.5 of the Code states:

> Unprofessional conduct for a pharmacist may include any of the following:
>
> (b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement his or her best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services.

13. Section 4307 states, in pertinent part:

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

14. Health and Safety Code Section 11153 states, in pertinent part:

(a) A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions:

(1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or

(2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

15. Health and Safety Code section 11162.1 states:

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

. . .

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words “California Security Prescription.”

. . .

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

16. 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.

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

REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 1761 states:

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

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

18. Federal Code of Regulations, title 21, section 1306.04 states, in pertinent part:

(a) A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

19. Federal Code of Regulations, title 21, section 1306.05 states, in pertinent part:

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.

DEFINITIONS

20. Section 4022 states:

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

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

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

(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.

21. Section 4036.5 states:

"Pharmacist-in-charge" means a pharmacist proposed by a pharmacy and approved by the board as the supervisor or manager responsible for ensuring the pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

22. Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(d)(1), and a dangerous drug pursuant to Business and Professions Code section 4022. Alprazolam is an anxiety treatment medication.

23. Hydrocodone/acetaminophen (APAP) is a Schedule II controlled substance pursuant to Health and Safety Code section 11055(b)(1)(I), and a dangerous drug pursuant to Business and Professions Code section 4022. Hydrocodone is a pain medication.

24. Promethazine/codeine is a Schedule V controlled substance pursuant to Health and Safety Code section 11058(c)(1), and a dangerous drug pursuant to Business and Professions Code section 4022. Promethazine/codeine is a cough treatment medication.

COST RECOVERY

25. Section 125.3 states, 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.

///

///

///

FACTUAL ALLEGATIONS

26. The Controlled Substance Utilization Review and Evaluation System (CURES) is California's Prescription Drug Monitoring Program (PDMP). Pharmacies in California are required to report all filled prescriptions for Schedule II, III, and IV controlled substances to the database every week. The data is collected statewide and can be used by licensed prescribers and pharmacists to evaluate and determine whether their patients are utilizing controlled substances correctly and whether a patient has used multiple prescribers and multiple pharmacies to fill controlled substance prescriptions. Law enforcement and regulatory agencies such as the Board have access to the CURES database for official oversight or investigatory purposes.

27. In May 2019, the Board began an investigation into Respondent St. Paul's Pharmacy. The Board inspector reviewed CURES dispensing data reported by Respondent St. Paul's Pharmacy for the period of May 7, 2016 through May 7, 2019. The inspector determined that while Respondent Ton was the pharmacist-in-charge, the pharmacy had filled a number of prescriptions for controlled substances during that period that appeared to exhibit multiple objective factors of irregularity—or red flags—indicating that the prescriptions were not issued for a legitimate medical purpose.

28. On or about June 5, 2019, the Board inspector visited Respondent St. Paul's Pharmacy at the address of record and discovered the business was closed. Signs posted on the premises advised patients that their prescriptions could be obtained at the CVS Pharmacy No. 9769 nearby. The Board inspector visited CVS Pharmacy No. 9769 and spoke with the pharmacist-in-charge, who indicated that Respondent St. Paul's Pharmacy's prescriptions and records had been transferred to CVS Pharmacy No. 9769.

29. On or about September 20, 2019, upon requests to CVS Pharmacy No. 9769, the Board inspector received Respondent St. Paul's Pharmacy's dispensing records and available original prescription records for the time period of May 7, 2016 through May 7, 2019. The dispensing records lacked drug cost and payment information. The Board inspector's review of the records during this time period identified the following dispensing trends and patterns of

///

irregularity indicating that numerous prescriptions were not issued for a legitimate medical purpose:

(a) Patterns of irregularities were identifiable because of low percentages of controlled substance prescriptions.

30. In total, the prescriptions dispensed by Respondent St. Paul's Pharmacy were largely for non-controlled substances. Low percentages of controlled substance prescriptions were dispensed by Respondent St. Paul's Pharmacy during this time period, which would cause patterns of irregularities from specific prescribers of controlled substances to stand out, especially if multiple identical or similar prescriptions were presented to the pharmacy on the same date.

DRUG CLASS (SCHEDULE)	NUMBER OF PRESCRIPTIONS	PERCENT OF TOTAL DISPENSED
0	81,361	96.1
2	544	0.6
3	254	0.3
4	1,947	2.3
5	554	0.7
TOTAL	84,660	100.00%

(b) Two particular prescribers exhibited multiple and apparent patterns of irregularity in their controlled substance prescriptions overall.

1) ***There was minimal variety in the controlled substance prescriptions of Dr. Armen Hovannisyan and Dr. Joseph Park.***

31. Among the most common prescribers of controlled substances dispensed by Respondent St. Paul's Pharmacy, all but two prescribers prescribed a wide variety of controlled substances. The following two prescribers each prescribed only three (3) controlled substances during the three-year period:

PRESCRIBER	CONTROLLED SUBSTANCE	NUMBER OF PRESCRIPTIONS
Armen Hovannisyan	Promethazine/codeine	118
	Alprazolam 2 mg	101
	Hydrocodone/APAP 10/325 mg	39
Joseph Harng Park	Hydrocodone/APAP 10/325 mg	60
	Promethazine/codeine	43
	Alprazolam 2 mg	41
	Total	402

32. This pattern of minimal variety in controlled substance prescriptions is commonly seen with illegitimate prescriptions. It is a pattern of irregularity for these controlled substances, which are commonly abused and have very specific treatment purposes, to be the only ones dispensed through a prescriber's prescriptions.

2) *Identical controlled substance prescriptions from multiple patients of the same two prescribers were received and dispensed on the same day.*

33. On numerous dates, Respondent St. Paul's Pharmacy received and dispensed identical or similar controlled substance prescriptions on the same day from multiple patients of Dr. Hovannisyan. Often, these prescriptions were assigned consecutive or nearly consecutive prescription numbers by the dispensing computer software, indicating that the pharmacy processed the prescriptions consecutively or nearly consecutively. For example, on December 23, 2016, Respondent St. Paul's Pharmacy was presented with and dispensed the following controlled substance prescriptions from Dr. Hovannisyan's patients:

DATE	RX NO.	PATIENT	CONTROLLED SUBSTANCE	QUANTITY
12/23/16	692355	E.M.	Hydrocodone/APAP	120
12/23/16	692354	J.G.	Alprazolam 2 mg	100
12/23/16	692353		Promethazine/codeine	240
12/23/16	692351	J.F.	Alprazolam 2 mg	100
12/23/16	692350		Promethazine/codeine	240
12/23/16	692356	L.A.	Hydrocodone/APAP	120
12/23/16	692348	Y.I.	Alprazolam 2 mg	100
12/23/16	692347		Promethazine/codeine	240

///

///

///

///

///

///

///

///

34. This pattern of irregularity also occurred with Dr. Park's prescriptions and patients on numerous dates. For example, on November 4, 2016, Respondent St. Paul's Pharmacy was presented with and dispensed the following controlled substance prescriptions from Dr. Park's patients:

DATE	RX NO.	PATIENT	CONTROLLED SUBSTANCE	QUANTITY
11/4/16	689999	W.D.	Hydrocodone/APAP	120
11/4/16	689994	E.P.	Alprazolam 2 mg	100
11/4/16	689993		Promethazine/codeine	240
11/4/16	689997	M.R.	Alprazolam 2 mg	100
11/4/16	689996		Promethazine/codeine	240
11/4/16	689980	Ma.R.	Alprazolam 2 mg	100
11/4/16	689979		Promethazine/codeine	240
11/4/16	689978	R.C.	Hydrocodone/APAP	120

3) *Dr. Hovannisyan and Dr. Park's written prescriptions lacked required security features.*

35. The Board inspector also reviewed the available original prescription documents from both prescribers that had been dispensed by Respondent St. Paul's Pharmacy during this time period. All of Dr. Hovannisyan's written prescription documents failed to include a "California Security Prescription" watermark and a lot number—all security features that are required by law. Similarly, all of Dr. Park's written prescription documents failed to include a "California Security Prescription" watermark and a lot number. Some of Dr. Hovannisyan and Dr. Park's prescriptions were also not dated—another basic requirement—but nevertheless filled by Respondent St. Paul's Pharmacy. These omitted security features alone invalidated the prescriptions and visibly indicated that the prescriptions were not written legitimately.

4) *Dr. Hovannisyan, Dr. Park, and many of their respective patients had addresses excessively far from St. Paul's Pharmacy.*

36. Dr. Hovannisyan's prescriptions listed an office address that was over 22 miles from St. Paul's Pharmacy. Similarly, Dr. Park's prescriptions listed an office address that was over 17 miles from St. Paul's Pharmacy. Many patients of both prescribers also had addresses of record that were unusually long distances from either the prescriber's office or St. Paul's Pharmacy.

Long distances traveled by the patient to either the prescriber's office or the pharmacy are a red flag that would necessitate the pharmacy taking additional steps of verification to ensure the legitimacy of the prescriber's prescription.

(c) The same two prescribers issued the majority of Alprazolam 2 mg prescriptions, which also exhibited multiple and apparent patterns of irregularity.

37. Alprazolam 2 mg tablets are a commonly abused prescription medication. The strength of a 2 mg tablet is at least four times the recommended starting strength for patients not accustomed to taking this medication.

38. Dr. Hovannisyan and Dr. Park, the same two prescribers who exhibited multiple patterns of irregularity in their controlled substance prescriptions overall, also issued the vast majority of prescriptions for Alprazolam 2 mg dispensed by Respondent St. Paul's Pharmacy:

PRESCRIBER	QUANTITY PER PRESCRIPTION	NUMBER OF PRESCRIPTIONS
D.B.	30	1
E.M.	60	30
C.A.	90	1
A.A.	100	1
Armen Hovannisyan		101
Joseph Harng Park		41
	Total	175

1) *Dr. Hovannisyan and Dr. Park prescribed Alprazolam 2 mg exclusively in 100 tablet quantities, the highest quantity dispensed by Respondents.*

39. These same two prescribers prescribed Alprazolam 2 mg only in 100 tablet quantities, with 100 tablets being the highest recorded quantity during this time period, which was indicative of another pattern of irregularity. In total, these two prescribers were responsible for 98.6% of all Alprazolam 2 mg prescriptions in a quantity over 60 tablets.

2) *Dr. Hovannisyan and Dr. Park prescribed Alprazolam exclusively in the highest available strength.*

40. These same two prescribers also prescribed Alprazolam exclusively in 2 mg, the highest available strength for this medication, even though other lower strengths of Alprazolam are available. Because inter-patient variability exists in age, weight, diagnosis, drug allergies,

medical histories, severity of symptoms being treated, tolerance to drugs, patient preferences regarding drug therapy plans, and other patient-related factors, it is a pattern of irregularity for these prescribers to uniformly prescribe Alprazolam at the highest strength to all their patients.

41. Of the total 105 patients who had Dr. Hovannisyan's prescriptions dispensed by Respondent St. Paul's Pharmacy, 55 patients were prescribed Alprazolam 2 mg. According to CURES patient data, which was accessible to Respondents, many of these 55 patients had no prior history of taking Alprazolam in an amount or for a period of time that would justify the prescription issued for the highest available strength.

42. Of the total 53 patients who had Dr. Park's prescriptions dispensed by Respondent St. Paul's Pharmacy, 26 patients were prescribed Alprazolam 2 mg. According to CURES patient data, which was accessible to Respondents, many of these 26 patients also had no prior history of taking Alprazolam in an amount or for a period of time that would justify the prescription issued for the highest available strength.

3) *Respondents concurrently dispensed Alprazolam 2 mg and Promethazine/Codeine to multiple patients of Dr. Hovannisyan and Dr. Park, despite the potential for serious drug interaction.*

43. In at least 67 instances, the 55 patients who were prescribed Alprazolam 2 mg by Dr. Hovannisyan also received concurrent prescriptions for another interacting drug, specifically Promethazine/Codeine, which is another commonly abused controlled substance. In each of these instances, Respondents concurrently dispensed both Alprazolam 2 mg and Promethazine/Codeine to the same patient, despite the potential for serious drug interaction. There was no documentation in Respondents' available dispensing or prescription records to indicate that Respondents inquired about or validated this pattern of irregularity.

44. In at least 33 instances, nearly all of the 26 patients who were prescribed Alprazolam 2 mg by Dr. Park also received concurrent prescriptions for another interacting drug, specifically Promethazine/Codeine. In each of these instances, Respondents concurrently dispensed both Alprazolam 2 mg and Promethazine/Codeine to the same patient, despite the potential for serious drug interaction. There was no documentation in Respondents' available dispensing or

///

prescription records to indicate that Respondents inquired about or validated this pattern of irregularity.

FIRST CAUSE FOR DISCIPLINE

(Failure to Exercise or Implement Corresponding Responsibility)

45. Respondent St. Paul's Pharmacy and Respondent Ton are subject to disciplinary action under sections 4301, subdivisions (d), (j), and (o); 4306.5, subdivision (b); and 4113, subdivision (c); in conjunction with Health and Safety Code section 11153, subdivision (a); California Code of Regulations, title 16, section 1761; and Federal Code of Regulations, title 21, section 1306.04, in that Respondents failed to exercise or implement their best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances or dangerous drugs, or with regard to the provision of services. Complainant refers to, and by this reference incorporates, the allegations set forth in above paragraphs 26 through 44, as though set forth in full herein.

SECOND CAUSE FOR DISCIPLINE

(Filling or Dispensing Improper Prescriptions for Controlled Substances)

46. Respondent St. Paul's Pharmacy and Respondent Ton are subject to disciplinary action under sections 4301, subdivisions (d), (j), and (o); 4306.5, subdivision (b); and 4113, subdivision (c); in conjunction with Health and Safety Code sections 11162.1, subdivisions (a) and (b), and 11164; California Code of Regulations, title 16, section 1761; and Federal Code of Regulations, title 21, section 1306.05; in that Respondents filled or dispensed controlled substance prescriptions that did not comply with the form requirements of Health and Safety Code section 11162.1, or contained any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Complainant refers to, and by this reference incorporates, the allegations set forth in above paragraphs 26 through 44, as though set forth in full herein.

///

///

///

///

DISCIPLINE CONSIDERATIONS

47. To determine the degree of discipline, if any, to be imposed on Respondents, Complainant alleges the following:

a. On or about March 10, 2015, the Board issued a final Citation No. CI 2011-49360 against Respondent St. Paul's Pharmacy for violating Code section 4067 [dispensing dangerous drugs on the internet without prescription issued pursuant to good faith examination] and California Code of Regulations, title 16, section 1707.5 [mailing prescriptions to patient with non-conforming prescription labels]. A total $20,000 fine was issued pursuant to the final Citation. The basis for the citation was that on or about January 10, 2011, Respondent St. Paul's Pharmacy engaged in providing dangerous drugs for delivery in partnership with the Alliance Health Group, and had confirmed 5,240 prescriptions, of which 148 were confirmed as being mailed to California residents. The basis for the citation was also that on or about September 27, 2012, during a Board inspection at Respondent St. Paul's Pharmacy, the pharmacy engaged in mailing prescriptions within California with prescription labels that did not conform to state labeling requirements.

b. On or about March 10, 2015, the Board issued a final Citation No. CI 2013-59714 against Respondent Ton for violating Code section 4067 [dispensing dangerous drugs on the internet without prescription issued pursuant to good faith examination] and California Code of Regulations, title 16, section 1707.5 [mailing prescriptions to patient with non-conforming prescription labels]. A total $20,000 fine was issued pursuant to the final Citation. The bases for the citation were the same as those for Citation No. CI 2011-49360, alleged above in paragraph 47(a), and Respondent Ton was the pharmacist-in-charge at the time of these incidents.

OTHER MATTERS

48. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 50331 issued to Respondent St. Paul's Pharmacy, Respondent St. Paul's Pharmacy shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50331 is placed on probation or until Pharmacy Permit Number PHY 50331 is reinstated if it is revoked.

49. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 50331 issued to Respondent St. Paul's Pharmacy while Respondent Ton has been a manager, administrator, owner, member, officer, director, associate, partner, and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, Respondent Ton shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50331 is placed on probation or until Pharmacy Permit Number PHY 50331 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 Pharmacy Permit License Number PHY 50331, issued to Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2, Pharmacist-in-Charge Tramanh Nu Ton;

2. Revoking or suspending Pharmacist License Number RPH 59598, issued to Tramanh Nu Ton;

3. Prohibiting Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2 from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50331 is placed on probation or until Pharmacy Permit Number PHY 50331 is reinstated if Pharmacy Permit Number PHY 50331 issued to Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2 is revoked;

4. Prohibiting Tramanh Nu Ton from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50331 is placed on probation or until Pharmacy Permit Number PHY 50331 is reinstated if Pharmacy Permit Number PHY 50331 issued to Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2 is revoked;

///

///

///

///

5. Ordering Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2 and Tramanh Nu Ton to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 9/19/2020

Anne Sodergren

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

LA2020500610
63193300_4.docx