

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

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

1 ROB BONTA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 STEPHANIE J. LEE
Deputy Attorney General
4 State Bar No. 279733
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6185
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

13 **PRESTIGE PHARMACY, INC., DBA ST.**
14 **PAULS PHARMACY 2, TRAMANH NU**
15 **TON**
8809 Whitter Blvd.
Pico Rivera, CA 90660

16 **Pharmacy Permit License No. PHY 50331,**

17 **and**

18 **TRAMANH NU TON**
12235 Beach Blvd. Ste. 104C
19 Stanton, CA 90680

20 **Pharmacist License No. RPH 59598**

21 Respondents.

Case No. 6886

OAH No. 2021020641

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

As to Respondent Tramanh Nu Ton only

22
23 In the interest of a prompt and speedy settlement of this matter, consistent with the public
24 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
25 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
26 be submitted to the Board for approval and adoption as the final disposition of the Accusation
27 solely with respect to Tramanh Nu Ton. It does not apply to Prestige Pharmacy, Inc. dba St.
28 Pauls Pharmacy 2.

1 **PARTIES**

2 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
3 (Board). She brought this action solely in her official capacity and is represented in this matter by
4 Rob Bonta, Attorney General of the State of California, by Stephanie J. Lee, Deputy Attorney
5 General.

6 2. Respondent Tramanh Nu Ton (Respondent) is represented in this proceeding by
7 attorney Herbert L. Weinberg, whose address is: Fenton Law Group, LLP, 1990 S. Bundy Drive
8 Suite 777, Los Angeles, CA 90025.

9 3. On or about June 6, 2007, the Board issued Original Pharmacist License Number
10 RPH 59598 to Tramanh Nu Ton (Respondent). The Pharmacist License was in full force and
11 effect at all times relevant to the charges and will expire on May 31, 2023, unless renewed.

12 **JURISDICTION**

13 4. Accusation No. 6886 was filed before the Board, and is currently pending against
14 Respondent. The Accusation and all other statutorily required documents were properly served
15 on Respondent on September 29, 2020. Respondent timely filed a Notice of Defense contesting
16 the Accusation.

17 5. A copy of Accusation No. 6886 is attached as Exhibit A and incorporated herein by
18 reference.

19 **ADVISEMENT AND WAIVERS**

20 6. Respondent has carefully read, fully discussed with counsel, and understands the
21 charges and allegations in Accusation No. 6886. Respondent has also carefully read, fully
22 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
23 Order.

24 7. Respondent is fully aware of their legal rights in this matter, including the right to a
25 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
26 the witnesses against them; the right to present evidence and to testify on their own behalf; the
27 right to the issuance of subpoenas to compel the attendance of witnesses and the production of
28 documents; the right to reconsideration and court review of an adverse decision; and all other

1 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

4 **CULPABILITY**

5 9. Respondent understands and agrees that the charges and allegations in Accusation
6 No. 6886, if proven at a hearing, constitute cause for imposing discipline upon Respondent's
7 Pharmacist License.

8 10. For the purpose of resolving the Accusation without the expense and uncertainty of
9 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
10 basis for the charges in the Accusation, and that Respondent hereby gives up their right to contest
11 those charges.

12 11. Respondent agrees that her Pharmacist License is subject to discipline and they agree
13 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

14 **CONTINGENCY**

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

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

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

2 **2. Report to the Board**

3 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its
4 designee. The report shall be made either in person or in writing, as directed. Among other
5 requirements, Respondent shall state in each report under penalty of perjury whether there has
6 been compliance with all the terms and conditions of probation.

7 Failure to submit timely reports in a form as directed shall be considered a violation of
8 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
9 total period of probation. Moreover, if the final probation report is not made as directed,
10 probation shall be automatically extended until such time as the final report is made and accepted
11 by the Board.

12 **3. Interview with the Board**

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

18 **4. Cooperate with Board Staff**

19 Respondent shall timely cooperate with the Board's inspection program and with the
20 Board's monitoring and investigation of Respondent's compliance with the terms and conditions
21 of Respondent's probation, including but not limited to: timely responses to requests for
22 information by Board staff; timely compliance with directives from Board staff regarding
23 requirements of any term or condition of probation; and timely completion of documentation
24 pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a
25 violation of probation.

26 **5. Continuing Education**

27 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
28 pharmacist as directed by the Board or its designee.

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

2 During the period of probation, Respondent shall notify all present and prospective
3 employers of the decision in case number 6886 and the terms, conditions and restrictions imposed
4 on Respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
6 undertaking any new employment, Respondent shall report to the Board in writing the name,
7 physical address, and mailing address of each of Respondent’s employer(s), and the name(s) and
8 telephone number(s) of all of Respondent’s direct supervisor(s), as well as any pharmacist(s)-in-
9 charge, designated representative(s)-in-charge, responsible manager, or other compliance
10 supervisor(s) and the work schedule, if known. Respondent shall also include the reason(s) for
11 leaving the prior employment. Respondent shall sign and return to the Board a written consent
12 authorizing the Board or its designee to communicate with all of Respondent’s employer(s) and
13 supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the Board
14 or its designee, concerning Respondent’s work status, performance, and monitoring. Failure to
15 comply with the requirements or deadlines of this condition shall be considered a violation of
16 probation.

17 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
18 Respondent undertaking any new employment, Respondent shall cause (a) Respondent’s direct
19 supervisor, (b) Respondent’s pharmacist-in-charge, designated representative-in-charge,
20 responsible manager, or other compliance supervisor, and (c) the owner or owner representative
21 of Respondent’s employer, to report to the Board in writing acknowledging that the listed
22 individual(s) has/have read the decision in case number 6886, and terms and conditions imposed
23 thereby. If one person serves in more than one role described in (a), (b), or (c), the
24 acknowledgment shall so state. It shall be the Respondent’s responsibility to ensure that these
25 acknowledgment(s) are timely submitted to the Board. In the event of a change in the person(s)
26 serving the role(s) described in (a), (b), or (c) during the term of probation, Respondent shall
27 cause the person(s) taking over the role(s) to report to the Board in writing within fifteen (15)
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1 days of the change acknowledging that he or she has read the decision in case number 6886, and
2 the terms and conditions imposed thereby.

3 If Respondent works for or is employed by or through an employment service, Respondent
4 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board
5 of the decision in case number 6886, and the terms and conditions imposed thereby in advance of
6 Respondent commencing work at such licensed entity. A record of this notification must be
7 provided to the Board upon request.

8 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
9 (15) days of Respondent undertaking any new employment by or through an employment service,
10 Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment
11 service to report to the Board in writing acknowledging that he or she has read the decision in
12 case number, and the terms and conditions imposed thereby. It shall be Respondent's
13 responsibility to ensure that these acknowledgment(s) are timely submitted to the Board.

14 Failure to timely notify present or prospective employer(s) or failure to cause the identified
15 person(s) with that/those employer(s) to submit timely written acknowledgments to the Board
16 shall be considered a violation of probation.

17 "Employment" within the meaning of this provision includes any full-time, part-time,
18 temporary, relief, or employment/management service position as a pharmacist, or any position
19 for which a pharmacist is a requirement or criterion for employment, whether the Respondent is
20 an employee, independent contractor or volunteer.

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

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

24 Failure to timely notify the Board of any change in employer, name, address, or phone
25 number shall be considered a violation of probation.

26 **8. Restrictions on Supervision and Oversight of Licensed Facilities –**

27 During the period of probation, respondent shall not supervise any intern pharmacist, be the
28 pharmacist-in-charge, designated representative-in-charge, responsible manager or other

1 compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption
2 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

3 **9. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, Respondent shall pay to the
5 Board its costs of investigation and prosecution in the total amount of \$15,000.00. Respondent
6 and Prestige Pharmacy, Inc. dba St. Pauls Pharmacy 2 shall be jointly and severally liable for
7 payment of these costs.

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

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

14 **10. Probation Monitoring Costs**

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

19 **11. Status of License**

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

24 If Respondent's Pharmacist License expires or is cancelled by operation of law or otherwise
25 at any time during the period of probation, including any extensions thereof due to tolling or
26 otherwise, upon renewal or reapplication Respondent's license shall be subject to all terms and
27 conditions of this probation not previously satisfied.

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1 **12. License Surrender While on Probation/Suspension**

2 Following the effective date of this decision, should Respondent cease practice due to
3 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
4 Respondent may relinquish Respondent’s license, including any indicia of licensure issued by the
5 Board, along with a request to surrender the license. The Board or its designee shall have the
6 discretion whether to accept the surrender or take any other action it deems appropriate and
7 reasonable. Upon formal acceptance of the surrender of the license, Respondent will no longer be
8 subject to the terms and conditions of probation. This surrender constitutes a record of discipline
9 and shall become a part of the Respondent’s license history with the Board.

10 Upon acceptance of the surrender, Respondent shall relinquish her pocket and/or wall
11 license, including any indicia of licensure not previously provided to the Board within ten (10)
12 days of notification by the Board that the surrender is accepted if not already provided.
13 Respondent may not reapply for any license from the Board for three (3) years from the effective
14 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
15 of the date the application for that license is submitted to the Board, including any outstanding
16 costs.

17 **13. Practice Requirement – Extension of Probation**

18 Except during periods of suspension, Respondent shall, at all times while on probation, be
19 employed as a pharmacist in California for a minimum of 80 hours per calendar month. Any
20 month during which this minimum is not met shall extend the period of probation by one month.
21 During any such period of insufficient employment, Respondent must nonetheless comply with
22 all terms and conditions of probation, unless Respondent receives a waiver in writing from the
23 Board or its designee.

24 If Respondent does not practice as a pharmacist in California for the minimum number of
25 hours in any calendar month, for any reason (including vacation), Respondent shall notify the
26 Board in writing within ten (10) days of the conclusion of that calendar month. This notification
27 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the
28 interruption or reduction in practice; and the anticipated date(s) on which Respondent will resume

1 practice at the required level. Respondent shall further notify the Board in writing within ten (10)
2 days following the next calendar month during which Respondent practices as a pharmacist in
3 California for the minimum of hours. Any failure to timely provide such notification(s) shall be
4 considered a violation of probation.

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

9 **14. Violation of Probation**

10 If Respondent has not complied with any term or condition of probation, the Board shall
11 have continuing jurisdiction over Respondent, and the Board shall provide notice to Respondent
12 that probation shall automatically be extended, until all terms and conditions have been satisfied
13 or the Board has taken other action as deemed appropriate to treat the failure to comply as a
14 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
15 Board or its designee may post a notice of the extended probation period on its website.

16 If Respondent violates probation in any respect, the Board, after giving Respondent notice
17 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
18 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
19 probation, or the preparation of an accusation or petition to revoke probation is requested from
20 the Office of the Attorney General, the Board shall have continuing jurisdiction and the period of
21 probation shall be automatically extended until the petition to revoke probation or accusation is
22 heard and decided, and the charges and allegations in Accusation No. 6886 shall be deemed true
23 and correct.

24 **15. Completion of Probation**

25 Upon written notice by the Board or its designee indicating successful completion of
26 probation, Respondent's license will be fully restored.

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1 **16. Diversion Training Program**

2 Within the first year of probation, Respondent shall enroll in and successfully complete the
3 Board’s diversion training program, “Prescription Drug Abuse and Diversion What a Pharmacist
4 Needs to Know,” at Respondent’s expense. Respondent shall provide proof of enrollment upon
5 request. Within thirty (30) days of completion, Respondent shall submit a copy of the certificate
6 of completion to the Board or its designee. Failure to timely enroll in the program, to initiate the
7 program during the first year of probation, to successfully complete it before the end of the first
8 year of probation, or to timely submit proof of completion to the Board or its designee, shall be
9 considered a violation of probation.

10 **17. Remedial Education**

11 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
12 Board or its designee, for prior approval, an appropriate program of remedial education related
13 the following areas: corresponding responsibility and/or prescription drug abuse. The program of
14 remedial education shall consist of at least ten (10) hours per year, which shall be completed in
15 each year of probation at Respondent's own expense. All remedial education shall be in addition
16 to, and shall not be credited toward, continuing education (CE) courses used for license renewal
17 purposes for pharmacists.

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

22 Following the completion of each course, the Board or its designee may require the
23 Respondent, at Respondent’s own expense, to take an approved examination to test the
24 Respondent's knowledge of the course. If the Respondent does not achieve a passing score on the
25 examination that course shall not count towards satisfaction of this term. Respondent shall take
26 another course approved by the Board in the same subject area.

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1 **18. Ethics Course**

2 Within sixty (60) calendar days of the effective date of this decision, Respondent shall
3 enroll in a course in ethics, at Respondent’s expense, approved in advance by the Board or its
4 designee that complies with Title 16 California Code of Regulations section 1773.5. Respondent
5 shall provide proof of enrollment upon request. Within five (5) days of completion, Respondent
6 shall submit a copy of the certificate of completion to the Board or its designee. Failure to timely
7 enroll in an approved ethics course, to initiate the course during the first year of probation, to
8 successfully complete it before the end of the second year of probation, or to timely submit proof
9 of completion to the Board or its designee, shall be considered a violation of probation.

10 **19. No Ownership or Management of Licensed Premises**

11 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
12 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
13 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell
14 or transfer any legal or beneficial interest in any entity licensed by the Board within one hundred
15 fifty (150) days following the effective date of this decision and shall immediately thereafter
16 provide written proof thereof to the Board. Failure to timely divest any legal or beneficial
17 interest(s) or provide documentation thereof shall be considered a violation of probation.

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1 **ACCEPTANCE**

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it
4 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
5 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
6 of the Board of Pharmacy.

7
8 DATED: _____
9 **TRAMANH NU TON**
Respondent

10
11 I have read and fully discussed with Respondent Tramanh Nu Ton the terms and conditions
12 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
13 its form and content.

14
15 DATED: _____
16 **HERBERT L. WEINBERG**
Attorney for Respondent

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary 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
Respondent

I have read and fully discussed with Respondent Tramanh Nu Ton the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 7/21/2021



HERBERT L. WEINBERG
Attorney for Respondent

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ENDORSEMENT

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

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

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Exhibit A

Accusation No. 6886

1 XAVIER BECERRA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 STEPHANIE J. LEE
Deputy Attorney General
4 State Bar No. 279733
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6185
7 Facsimile: (916) 731-2126
Attorneys for Complainant

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BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 6886

13 **PRESTIGE PHARMACY, INC., DBA**
14 **ST. PAULS PHARMACY 2, TRAMANH**
15 **NU TON (PRESIDENT AND 100%**
OWNER)
16 8809 Whitter Blvd.
Pico Rivera, CA 90660

ACCUSATION

17 **Pharmacy Permit License No. PHY 50331,**

18 **and**

19 **TRAMANH NU TON**
20 12235 Beach Blvd. Ste. 104C
21 Stanton, CA 90680

22 **Pharmacist License No. RPH 59598**

23 Respondents.

24
25 **PARTIES**

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

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1 **STATUTORY PROVISIONS**

2 9. Section 4059 of the Code states:

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

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

11 11. Section 4301 of the Code states:

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

15 ...

16 (d) The clearly excessive furnishing of controlled substances in violation of
17 subdivision (a) of Section 11153 of the Health and Safety Code.

18 ...

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

21 ...

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

27 12. Section 4306.5 of the Code states:

28 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.

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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.

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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.

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FACTUAL ALLEGATIONS

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

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

17 28. On or about June 5, 2019, the Board inspector visited Respondent St. Paul’s
18 Pharmacy at the address of record and discovered the business was closed. Signs posted on the
19 premises advised patients that their prescriptions could be obtained at the CVS Pharmacy No.
20 9769 nearby. The Board inspector visited CVS Pharmacy No. 9769 and spoke with the
21 pharmacist-in-charge, who indicated that Respondent St. Paul’s Pharmacy’s prescriptions and
22 records had been transferred to CVS Pharmacy No. 9769.

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

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

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

5 30. In total, the prescriptions dispensed by Respondent St. Paul's Pharmacy were largely
 6 for non-controlled substances. Low percentages of controlled substance prescriptions were
 7 dispensed by Respondent St. Paul's Pharmacy during this time period, which would cause
 8 patterns of irregularities from specific prescribers of controlled substances to stand out, especially
 9 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%

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

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

19 31. Among the most common prescribers of controlled substances dispensed by
 20 Respondent St. Paul's Pharmacy, all but two prescribers prescribed a wide variety of controlled
 21 substances. The following two prescribers each prescribed only three (3) controlled substances
 22 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 Harnng Park	Hydrocodone/APAP 10/325 mg	60
	Promethazine/codeine	43
	Alprazolam 2 mg	41
	Total	402

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

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

7 33. On numerous dates, Respondent St. Paul's Pharmacy received and dispensed identical
8 or similar controlled substance prescriptions on the same day from multiple patients of Dr.
9 Hovannisyan. Often, these prescriptions were assigned consecutive or nearly consecutive
10 prescription numbers by the dispensing computer software, indicating that the pharmacy
11 processed the prescriptions consecutively or nearly consecutively. For example, on
12 December 23, 2016, Respondent St. Paul's Pharmacy was presented with and dispensed the
13 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

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

12 **3) Dr. Hovannisyan and Dr. Park’s written prescriptions lacked required**
13 **security features.**

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

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

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

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

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

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

9 38. Dr. Hovannisyan and Dr. Park, the same two prescribers who exhibited multiple
10 patterns of irregularity in their controlled substance prescriptions overall, also issued the vast
11 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 Harnng Park		41
	Total	175

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

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

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

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

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

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

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

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

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

23 44. In at least 33 instances, nearly all of the 26 patients who were prescribed Alprazolam
24 2 mg by Dr. Park also received concurrent prescriptions for another interacting drug, specifically
25 Promethazine/Codeine. In each of these instances, Respondents concurrently dispensed both
26 Alprazolam 2 mg and Promethazine/Codeine to the same patient, despite the potential for serious
27 drug interaction. There was no documentation in Respondents' available dispensing or

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

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Failure to Exercise or Implement Corresponding Responsibility)**

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

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Filling or Dispensing Improper Prescriptions for Controlled Substances)**

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

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1 **DISCIPLINE CONSIDERATIONS**

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

4 a. On or about March 10, 2015, the Board issued a final Citation No. CI 2011-49360
5 against Respondent St. Paul’s Pharmacy for violating Code section 4067 [dispensing dangerous
6 drugs on the internet without prescription issued pursuant to good faith examination] and
7 California Code of Regulations, title 16, section 1707.5 [mailing prescriptions to patient with
8 non-conforming prescription labels]. A total \$20,000 fine was issued pursuant to the final
9 Citation. The basis for the citation was that on or about January 10, 2011, Respondent St. Paul’s
10 Pharmacy engaged in providing dangerous drugs for delivery in partnership with the Alliance
11 Health Group, and had confirmed 5,240 prescriptions, of which 148 were confirmed as being
12 mailed to California residents. The basis for the citation was also that on or about September 27,
13 2012, during a Board inspection at Respondent St. Paul’s Pharmacy, the pharmacy engaged in
14 mailing prescriptions within California with prescription labels that did not conform to state
15 labeling requirements.

16 b. On or about March 10, 2015, the Board issued a final Citation No. CI 2013-59714
17 against Respondent Ton for violating Code section 4067 [dispensing dangerous drugs on the
18 internet without prescription issued pursuant to good faith examination] and California Code of
19 Regulations, title 16, section 1707.5 [mailing prescriptions to patient with non-conforming
20 prescription labels]. A total \$20,000 fine was issued pursuant to the final Citation. The bases for
21 the citation were the same as those for Citation No. CI 2011-49360, alleged above in paragraph
22 47(a), and Respondent Ton was the pharmacist-in-charge at the time of these incidents.

23 **OTHER MATTERS**

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

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

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

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6 DATED: 9/19/2020

Anne Sodergren

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

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