

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

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

**HOFFMANN HOME CARE, INC., dba  
HOFFMANN HOMECARE;  
THOMAS A. HOFFMANN, PRESIDENT;  
BETH HOFFMANN, VICE-PRESIDENT,  
Pharmacy Permit No. PHY 37014; and**

**THOMAS ALAN HOFFMANN,  
Registered Pharmacist License No. RPH 38673; and**

**RENEE SUE BISCHOFF,  
Pharmacy Technician Registration No. TCH 1061,**

**Respondents**

**Agency Case No. 6945**

**OAH No. 2020120417**

## DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on August 18, 2021.

It is so ORDERED on July 19, 2021.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

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

Seung W. Oh, Pharm.D.  
Board President

1 ROB BONTA  
Attorney General of California  
2 SHAWN P. COOK  
Supervising Deputy Attorney General  
3 ANDREW AMARA  
Deputy Attorney General  
4 State Bar No. 271311  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6531  
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 **HOFFMANN HOME CARE, INC., DBA**  
14 **HOFFMANN HOMECARE; THOMAS A.**  
15 **HOFFMANN, PRESIDENT; BETH**  
16 **HOFFMAN, VICE-PRESIDENT**  
2225 E. Street, Suite 200  
Bakersfield, CA 93301

17 **Pharmacy Permit No. PHY 37014,**

18 **THOMAS ALAN HOFFMANN**  
19 **306 Penzance Dr.,**  
Bakersfield, CA 93312

20 **Registered Pharmacist License No. RPH**  
21 **38673**

22 **and**

23 **RENEE SUE BISCHOFF**  
24 **4816 Planz Rd., #5**  
25 **Bakersfield, CA 93309**

26 **Pharmacy Technician Registration No. TCH**  
27 **1061,**

28 Respondents.

Case No. 6945

OAH No. 2020120417

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER FOR  
SURRENDER AND PUBLIC REPROVAL**

[Bus. & Prof. Code § 495]

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

3 **PARTIES**

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

8 2. Respondent Hoffmann Home Care, Inc., dba Hoffmann Homecare; Thomas Hoffman,  
9 President; Beth Hoffman, Vice-President (Respondent Hoffman Homecare); Thomas A.  
10 Hoffmann (Respondent Hoffman) are represented in this proceeding by attorney Tony Park and  
11 Andre Vizcocho whose address is: 55 Cetus, 1<sup>st</sup> Floor, Irvine, CA 92618

12 **JURISDICTION**

13 3. On or about March 26, 1991, the Board issued Pharmacy Permit No. PHY 37014 to  
14 Respondent Hoffman Homecare. The Pharmacy Permit expired on October 1, 2019, and has not  
15 been renewed.

16 4. On or about August 14, 1984, the Board of Pharmacy issued Registered Pharmacist  
17 License Number RPH 38673 to Respondent Hoffman. The Registered Pharmacist License was in  
18 full force and effect at all times relevant to the charges brought herein and will expire on  
19 December 31, 2021, unless renewed.

20 5. Section 118, subdivision (b), of California's Business and Professions Code provides  
21 that the suspension, expiration surrender, or cancellation of a license shall not deprive the Board  
22 of jurisdiction to proceed with a disciplinary action during the period within which the license  
23 may be renewed, restored, reissued or reinstated.

24 6. Accusation No. 6945 was filed before the Board of Pharmacy (Board), Department of  
25 Consumer Affairs and is currently pending against Respondents. The Accusation and all other  
26 statutorily required documents were properly served on Respondents on October 1, 2020.  
27 Respondents timely filed their Notices of Defense contesting the Accusation. A copy of  
28 Accusation No. 6945 is attached as exhibit A and incorporated herein by reference.

1 **ADVISEMENT AND WAIVERS**

2 7. Respondents have carefully read, fully discussed with counsel, and understands the  
3 charges and allegations in Accusation No. 6945. Respondents have also carefully read, fully  
4 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
5 Order for Surrender and Public Repeval.

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

13 9. Respondents voluntarily, knowingly, and intelligently waives and gives up each and  
14 every right set forth above.

15 **CULPABILITY**

16 10. Respondent Hoffman Homecare admits the truth of each and every charge and  
17 allegation in Accusation No. 6945.

18 11. Respondent Hoffman Homecare agrees that its Pharmacy Permit is subject to  
19 discipline and agrees to be bound by the Disciplinary Order below.

20 12. Respondent Hoffman understands and agrees that the charges and allegations in  
21 Accusation No. 6945, if proven at a hearing, constitute cause for imposing discipline upon its  
22 Pharmacy Permit.

23 13. For the purpose of resolving the Accusation without the expense and uncertainty of  
24 further proceedings, Respondent Hoffman agrees that, at a hearing, Complainant could establish a  
25 factual basis for the charges in the Accusation, and that Respondent Hoffman hereby gives up its  
26 right to contest those charges. Respondent Hoffman further agrees and stipulates that if  
27 Respondent Hoffman commits an actionable violation within five (5) years of the effective date  
28

1 of this Decision and Order, Respondent Hoffman shall be deemed to admit the truth of each and  
2 every allegation in Accusation No. 6945.

3 **CONTINGENCY**

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

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

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

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

28 ///

1 **SURRENDER ORDER**

2 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 37014, issued to Respondent  
3 Hoffmann Home Care is surrendered and accepted by the Board.

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

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

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

13 4. Respondent Hoffmann Homecare may only seek a new or reinstated license from the  
14 Board by way of a new application for licensure. Respondent Hoffmann Homecare shall not be  
15 eligible to petition for reinstatement of licensure.

16 5. Respondent Hoffmann Homecare may not reapply for any license from the Board for  
17 three (3) years from the effective date of this Decision and Order. Respondent Hoffman  
18 Homecare stipulates that should Respondent Hoffmann Homecare apply for any license from the  
19 Board on or after the effective date of this Decision and Order, all allegations set forth in the  
20 Accusation No. 6945 shall be deemed to be true, correct and admitted by Respondent Hoffman  
21 Homecare when the Board determines whether to grant or deny the application. Respondent  
22 Hoffman Homecare shall satisfy all requirements applicable to that license as of the date the  
23 application is submitted to the Board. Respondent Hoffmann Homecare is required to report this  
24 surrender as disciplinary action.

25 **DISCIPLINARY ORDER**

26 IT IS HEREBY ORDERED that Registered Pharmacist License Number RPH 38673 to  
27 Respondent Hoffman shall be publicly reprovved by the Board of Pharmacy under Business and  
28 Professions Code section 495 in resolution of Accusation No. 6945, attached as exhibit A.


1           **Cost Recovery.** No later than 36 months from the effective date of the Decision,  
 2 Respondent Hoffman shall pay \$12,500.00 to the Board for its costs associated with the  
 3 investigation and enforcement of this matter pursuant to Business and Professions Code Section  
 4 125.3. If Respondent Hoffman fails to pay the Board costs as ordered, Respondent Hoffman shall  
 5 not be allowed to renew his Pharmacists License until Respondent Hoffman pays costs in full. In  
 6 addition, the Board may enforce this order for payment of its costs in any appropriate court, in  
 7 addition to any other rights the Board may have.

8           **Full Compliance.** As a resolution of the charges in Accusation No. 6945, this stipulated  
 9 settlement is contingent upon Respondent Hoffman’s full compliance with all conditions of this  
 10 Order. If Respondent Hoffman fails to satisfy any of these conditions, such failure to comply  
 11 constitutes cause for discipline, including outright revocation, of Respondent Hoffman’s  
 12 Registered Pharmacist License Number RPH 38673.

13   ACCEPTANCE

14           I have carefully read the above Stipulated Settlement and Disciplinary Order for Surrender  
 15 and Public Repeval and have fully discussed it with my attorneys, Tony J. Park and Andre  
 16 Vizcocho. I understand the stipulation and the effect it will have on my Pharmacy Permit. I enter  
 17 into this Stipulated Settlement and Disciplinary Order for Surrender and Public Repeval  
 18 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the  
 19 Board of Pharmacy.

20  
 21 DATED: 4/28/21

22   
 \_\_\_\_\_  
 RESPONDENT HOFFMAN HOMECARE  
*Respondent*

23 ///  
 24 ///  
 25 ///  
 26 ///  
 27 ///  
 28 ///



1 I have carefully read the above Stipulated Settlement and Disciplinary Order for Surrender  
2 and Public Repeval and have fully discussed it with my attorneys, Tony J. Park and Andre  
3 Vizcocho. I understand the stipulation and the effect it will have on my Registered Pharmacist  
4 License. I enter into this Stipulated Settlement and Disciplinary Order for Surrender and Public  
5 Repeval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and  
6 Order of the Board of Pharmacy.

7  
8 DATED: 4/28/21

  
\_\_\_\_\_  
RESPONDENT HOFFMAN  
*Respondent*

10 I have read and fully discussed with Respondent Hoffmann Home Care, and Respondent  
11 Hoffman the terms and conditions and other matters contained in the above Stipulated Settlement  
12 and Disciplinary Order for Surrender and Public Repeval. I approve its form and content.

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

\_\_\_\_\_  
TONY J. PARK/ANDRE VIZCOCHO  
*Attorney for Respondent*

14  
15  
16 **ENDORSEMENT**

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

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

Respectfully submitted,

21 ROB BONTA  
Attorney General of California  
22 SHAWN P. COOK  
Supervising Deputy Attorney General

23  
24 ANDREW AMARA  
Deputy Attorney General  
25 *Attorneys for Complainant*

26  
27 LA2020600741  
Hoffman Stip Doc.docx

1 I have carefully read the above Stipulated Settlement and Disciplinary Order for Surrender  
2 and Public Repeval and have fully discussed it with my attorneys, Tony J. Park and Andre  
3 Vizcocho. I understand the stipulation and the effect it will have on my Registered Pharmacist  
4 License. I enter into this Stipulated Settlement and Disciplinary Order for Surrender and Public  
5 Repeval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and  
6 Order of the Board of Pharmacy.

7  
8 DATED: \_\_\_\_\_  
9 RESPONDENT HOFFMAN  
10 *Respondent*

11 I have read and fully discussed with Respondent Hoffmann Home Care, and Respondent  
12 Hoffman the terms and conditions and other matters contained in the above Stipulated Settlement  
13 and Disciplinary Order for Surrender and Public Repeval. I approve its form and content.

14 DATED: April 28, 2021  
15 \_\_\_\_\_  
16 TONY J. PARK/ANDRE VIZCOCHO  
17 *Attorney for Respondent*

18 **ENDORSEMENT**

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

22 DATED: April 28, 2021

23 Respectfully submitted,

24 ROB BONTA  
25 Attorney General of California  
26 SHAWN P. COOK  
27 Supervising Deputy Attorney General

28 *Andrew Amara*

ANDREW AMARA  
Deputy Attorney General  
*Attorneys for Complainant*

LA2020600741  
Hoffman Stip Doc.docx

**Exhibit A**

**Accusation No. 6945**

1 XAVIER BECERRA  
Attorney General of California  
2 SHAWN P. COOK  
Supervising Deputy Attorney General  
3 ANDREW AMARA  
Deputy Attorney General  
4 State Bar No. 271311  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 269-6531  
6 Facsimile: (916) 731-2126  
*Attorneys for Complainant*  
7

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14 **HOFFMANN HOMECARE; THOMAS A.**  
15 **HOFFMANN, PRESIDENT; BETH**  
16 **HOFFMAN, VICE-PRESIDENT**  
17 **2225 E. Street, Suite 200**  
18 **Bakersfield, CA 93301**

**ACCUSATION**

19 **Pharmacy Permit No. PHY 37014,**

20 **THOMAS ALAN HOFFMANN**  
21 **306 Penzance Dr.,**  
22 **Bakersfield, CA 93312**

23 **Registered Pharmacist License No. RPH**  
24 **38673**

25 **and**

26 **RENEE SUE BISCHOFF**  
27 **4816 Planz Rd., #5**  
28 **Bakersfield, CA 93309**

**Pharmacy Technician Registration No. TCH**  
**1061,**

Respondents.

///

1 **PARTIES**

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

4 2. On or about March 26, 1991, the Board of Pharmacy issued Pharmacy Permit  
5 Number PHY 37014 to Hoffmann Home Care, Inc., dba Hoffmann Homecare; Thomas Hoffman,  
6 President; Beth Hoffman, Vice-President (Respondent Hoffman Homecare); Thomas A.  
7 Hoffmann (Respondent Hoffman). The Pharmacy Permit expired on October 1, 2019, and has  
8 not been renewed.

9 3. On or about August 14, 1984, the Board of Pharmacy issued Registered Pharmacist  
10 License Number RPH 38673 to Respondent Hoffman. The Registered Pharmacist License was in  
11 full force and effect at all times relevant to the charges brought herein and will expire on  
12 December 31, 2021, unless renewed.

13 4. On or about October 28, 1992, the Board of Pharmacy issued Pharmacy Technician  
14 Registration Number TCH 1061 to Renee Sue Bischoff (Respondent Bischoff). The Pharmacy  
15 Technician Registration expired on September 30, 2018, and has not been renewed.

16 **JURISDICTION**

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

20 6. Section 118, subdivision (b), of the Code provides that the suspension, expiration  
21 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
22 disciplinary action during the period within which the license may be renewed, restored, reissued  
23 or reinstated.

24 7. Section 4300, subdivision (a), of the Code provides that every license issued by the  
25 Board may be suspended or revoked.

26 8. Section 4300.1 of the Code states:

27 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
28

1 by operation of law or by order or decision of the board or a court of law, the  
2 placement of a license on a retired status, or the voluntary surrender of a license by a  
3 licensee shall not deprive the board of jurisdiction to commence or proceed with any  
4 investigation of, or action or disciplinary proceeding against, the licensee or to render  
5 a decision suspending or revoking the license.

6 **STATUTORY AND REGULATORY PROVISIONS**

7 9. Section 4022 of the Code states:

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

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

12 10. Section 4307 of the Code states:

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

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

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

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

(c) The provisions of subdivision (a) may be alleged in any pleading filed  
pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of  
the Government Code. However, no order may be issued in that case except as to a  
person who is named in the caption, as to whom the pleading alleges the applicability  
of this section, and where the person has been given notice of the proceeding as  
required by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of  
the Government Code. The authority to proceed as provided by this subdivision shall  
be in addition to the board's authority to proceed under Section 4339 or any other  
provision of law."

11. Section 4060 of the Code states:

1 No person shall possess any controlled substance, except that furnished to a  
2 person upon the prescription of a physician, dentist, podiatrist, optometrist,  
3 veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant  
4 to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a  
5 nurse practitioner pursuant to Section 2836.1, or a physician assistant pursuant to  
6 Section 3502.1, or naturopathic doctor pursuant to Section 3640.5, or a pharmacist  
7 pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of  
8 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section  
9 shall not apply to the possession of any controlled substance by a manufacturer,  
10 wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist,  
11 veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or  
12 physician assistant, when in stock in containers correctly labeled with the name and  
13 address of the supplier or producer.

14 Nothing in this section authorizes a certified nurse-midwife, a nurse  
15 practitioner, a physician assistant, or a naturopathic doctor, to order his or her own  
16 stock of dangerous drugs and devices.

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

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

21 . . . .

22 (f) The commission of any act involving moral turpitude, dishonesty, fraud;  
23 deceit, or corruption, whether the act is committed in the course of relations as a  
24 licensee or otherwise, and whether the act is a felony or misdemeanor or not.

25 . . . .

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

28 . . . .

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

1 dismissing the accusation, information, or indictment.

2 . . . .

3 (o) Violating or attempting to violate, directly or indirectly, or assisting in or  
4 abetting the violation of or conspiring to violate any provision or term of this chapter  
5 or of the applicable federal and state laws and regulations governing pharmacy,  
6 including regulations established by the board or by any other state or federal  
7 regulatory agency.

8 13. Section 4116, subdivision (a), of the Code states:

9 (a) No person other than a pharmacist, an intern pharmacist, an authorized  
10 officer of the law, or a person authorized to prescribe shall be permitted in that area,  
11 place, or premises described in the license issued by the board wherein controlled  
12 substances or dangerous drugs or dangerous devices are stored, possessed, prepared,  
13 manufactured, derived, compounded, dispensed, or repackaged. However, a  
14 pharmacist shall be responsible for any individual who enters the pharmacy for the  
15 purposes of receiving consultation from the pharmacist or performing clerical,  
16 inventory control, housekeeping, delivery, maintenance, or similar functions relating  
17 to the pharmacy if the pharmacist remains present in the pharmacy during all times as  
18 the authorized individual is present.

19 14. Section 4059, subdivision (a), of the Code states, in pertinent part:

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

25 15. Section 4081, subdivision (a), of the Code states:

26 (a) All records of manufacture and of sale, acquisition, receipt, shipment, or  
27 disposition of dangerous drugs or dangerous devices shall be at all times during  
28 business hours open to inspection by authorized officers of the law, and shall be  
preserved for at least three years from the date of making. A current inventory shall  
be kept by every manufacturer, wholesaler, third-party logistics provider, pharmacy,  
veterinary food-animal drug retailer, outsourcing facility, physician, dentist,  
podiatrist, veterinarian, laboratory, licensed correctional clinic, as defined in Section  
clinic, hospital, institution, or establishment holding a currently valid and  
unrevoked certificate, license, permit, registration, or exemption under Division 2  
(commencing with Section 1200) of the Health and Safety Code or under Part 4  
(commencing with Section 16000) of Division 9 of the Welfare and Institutions Code  
who maintains a stock of dangerous drugs or dangerous devices.

16. California Code of Regulations, Title 16, section 1714, subdivision (b) and (d) states:

17 . . . .

18 (b) Each pharmacy licensed by the board shall maintain its facilities, space,  
19 fixtures, and equipment so that drugs are safely and properly prepared, maintained,  
20 secured and distributed. The pharmacy shall be of sufficient size and unobstructed



area to accommodate the safe practice of pharmacy.

....

(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of dangerous drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.

17. California Code of Regulations, Title 16, section 1718 states: "Current Inventory" as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory.

18. Health and Safety Code section 11173, subdivision (a) states:

(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the concealment of a material fact.

....

### **COST RECOVERY**

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

### **DRUGS**

20. Prior to August 18, 2014, Tramadol was classified as a dangerous drug. Effective August 18, 2014, federal law scheduled tramadol (brand name: Ultram) as a Schedule IV controlled substance pursuant to 21 C.F.R. 1308.4(b)(3) and a dangerous drug pursuant to section 4022. Tramadol is used as an analgesic.

**FACTUAL ALLEGATIONS**

1  
2           21. On or about November 27, 2017, the Board received a written notification from  
3 owner and pharmacist-in-charge Respondent Hoffman of Respondent Hoffman Homecare, stating  
4 technician Respondent Bischoff was terminated for shipping drugs using the pharmacy's UPS  
5 (United Parcel Service) shipping service. Respondent Hoffman stated the following in his letter:

- 6           • Food and Drug Administration (FDA) Special Agent Larry Henderhan (SA  
7           Henderhan) notified [Respondent Hoffman] of Respondent Bischoff's endeavors.  
8           Respondent Bischoff used UPS to ship drugs back east for many months. The  
9           drugs were obtained from another source.
- 10          • On November 3, 2017, [Respondent Hoffman] terminated Respondent Bischoff's  
11          employment.

12           22. On or about August 13, 2018, a Board Investigator (Investigator) spoke with  
13 Respondent Hoffman who stated he had previously been contacted by SA Henderhan informing  
14 him Respondent Bischoff shipped drugs to Ohio using the pharmacy's UPS service. Respondent  
15 Hoffman stated he reviewed the shipping records and discovered shipments were made to Ohio  
16 and Kentucky. Respondent Hoffman stated he did not know that Respondent Bischoff was using  
17 the pharmacy's UPS service and did not witness it.

18           23. Respondent Hoffman additionally confirmed the following to the Investigator:

- 19          • Respondent Bischoff was responsible for shipping items using UPS for the  
20          pharmacy business, and Hoffman Homecare staff used the UPS service for  
21          personal use;
- 22          • Sometimes Hoffman Homecare staff used the UPS service and paid the  
23          bookkeeper for the service;
- 24          • Respondent Hoffman never personally witnessed Respondent Bischoff ship items  
25          for personal use, but while reviewing the shipping records he discovered  
26          Respondent Bischoff used the UPS service and reimbursed some but not all of her  
27          personal shipments.

1           24. On or about August 21, 2018, Respondent Hoffman e-mailed the Investigator another  
2 written statement stating the following:

- 3           • On November 1, 2017, SA Henderhan informed Respondent Hoffman that  
4           Respondent Bischoff shipped illegal drugs to friends and family. Hoffman  
5           Homecare was not the drug provider but provided the shipping;
- 6           • Respondent Hoffman investigated and reviewed the UPS shipping manifest for  
7           items shipped east. Respondent Bischoff accrued \$453.94 in shipping charges in  
8           2016. Respondent Bischoff paid for five invoices in 2017 but did not reimburse  
9           Hoffman Homecare for any personal shipping charges accrued in 2016;
- 10          • On November 1, 2017, Respondent Hoffman sent Respondent Bischoff home after  
11          conducting his own review of the shipping records, and Respondent Bischoff  
12          having stated she was shipping to her friends and family;
- 13          • On November 3, 2017, Respondent Hoffman terminated Respondent Bischoff's  
14          employment.

15           25. The Investigator spoke with Respondent Hoffman to clarify documentation he  
16 provided, and Respondent Hoffman stated the following:

- 17          • After SA Henderhan informed Respondent Hoffman about the investigation, he  
18          reviewed the UPS shipping records for zip codes outside of California because the  
19          pharmacy only conducted business in California. Respondent Hoffman discovered  
20          numerous shipments were out of state;
- 21          • Respondent Hoffman asked Respondent Bischoff about the 2016 shipments, and  
22          she stated she shipped items but did not pay for the service;
- 23          • Respondent Bischoff did not inform Respondent Hoffman about using the  
24          pharmacy's UPS service, and he did not know what the shipments contained.

25           26. On or about August 24, 2018, the Investigator spoke with SA Henderhan of the FDA,  
26 who was investigating controlled substances shipments, along with drug distribution with intent  
27 to sell, from California to Canton, Ohio. SA Henderhan stated it was a years long operation and  
28 primarily involved the drug tramadol.

1           27. SA Henderhan informed the Investigator that Respondent Bischoff shipped the drugs  
2 to her mother in Ohio, and her brother, Randall Borntreger in Ohio, who sold the drugs or used  
3 them for himself. SA Henderhan stated search warrants were executed on Respondent Bischoff's  
4 mother and Randall Borntreger, and admissions were obtained from Respondent Bischoff and  
5 Randall Borntreger. SA Henderhan further stated Respondent Bischoff and her brother had been  
6 arraigned, pled guilty, and were awaiting sentencing.

7           28. SA Henderhan stated he believed Respondent Bischoff obtained the drugs from the  
8 pharmacy waste [at Respondent Hoffman Homecare] because it was a closed door pharmacy with  
9 returned waste from facilities. Further supporting that view, SA Henderhan interviewed  
10 Respondent Hoffman, who informed him that Respondent Hoffman Homecare pharmacy did not  
11 have a strict protocol for handling waste.

12           29. On or about August 25, 2018, SA Henderhan e-mailed the Investigator a copy of  
13 Respondent Bischoff's indictment, which contained the following:

- 14           • *United States of America vs. Randall S. Borntreger and Renee Bischoff*; United  
15 States District Court for the Northern District of Ohio, Eastern Division; Case No.  
16 5:18 CR 388;
- 17           • Count 1: Conspiracy to possess with intent to distribute and distribute a Controlled  
18 Substances Act Level IV (CIV controlled substance), 21 USC 841(a)(1) and  
19 (b)(1)(E) in violation of 21 USC 846;
- 20           • From in or around 2013 to on or about June 30, 2017, Mr. Borntreger (Respondent  
21 Bischoff's brother) and Respondent Bischoff knowingly and intentionally  
22 combined, conspired, confederated, and agreed together and with each other, to  
23 possess with intent to distribute and distribute a CIV controlled substance. While  
24 employed as a technician at a pharmacy, Respondent Bischoff shipped tramadol to  
25 Ohio. On or about March 7, 2017; March 30, 2017; May 2, 2017; and June 29,  
26 2017, Respondent Bischoff shipped a parcel via UPS from Hoffman Homecare to  
27 Canton, Ohio. On July 1, 2017, Randall Borntreger distributed approximately 100  
28 tablets of tramadol 50 mg to another person for \$120;

- 1 • Count 2: Conspiracy to ship misbranded drugs in interstate commerce, 21 USC 33
- 2 1 (a) in violation of 21 USC 846;
- 3 • From in or around 2013 to on or about June 30, 2017, Randall Borntrager and
- 4 Respondent Bischoff knowingly and intentionally conspired to cause the
- 5 introduction and delivery of tramadol, that was adulterated and misbranded, into
- 6 interstate commerce to Ohio through UPS, and Respondent Bischoff fraudulently
- 7 used Hoffman Homecare's UPS shipping account to send tramadol to Randall
- 8 Borntrager, and knowingly dispensed tramadol without a valid prescription. While
- 9 employed as a technician at a pharmacy, Respondent Bischoff shipped misbranded
- 10 tramadol to Ohio without a valid prescription.

11 30. A CURES (Controlled Substance Utilization Review and Evaluation System) patient  
12 activity report was generated for Respondent Bischoff, which showed that from January 1, 2013,  
13 to August 27, 2018, there were only two controlled substances dispensed to Respondent Bischoff:  
14 On or about June 22, 2018, for 20 tablets of hydrocodone/acetaminophen; and 5 tablets of 5 mg's  
15 of diazepam.

16 31. On or about September 5, 2018, the Investigator informed Respondent Bischoff of the  
17 complaint investigation. Respondent Bischoff admitted the following to the Investigator:

- 18 • She was terminated from Hoffman Homecare on November 5, 2017;
- 19 • She pled guilty to two counts of conspiracy and was awaiting sentencing in Ohio;
- 20 • She mailed drugs to her brother, Randall Borntrager, in Ohio using Hoffman
- 21 Homecare's UPS shipping service;
- 22 • She had access to the UPS shipping system and shipped the drugs without the
- 23 pharmacy's authorization or knowledge;
- 24 • She shipped the drug tramadol, which she also admitted to shipping in her plea
- 25 agreement.

26 32. On or about September 6, 2018, the U.S. Attorney in Ohio handling the matter e-  
27 mailed the Investigator a copy of Respondent Bischoff's indictment and plea agreement.  
28 Respondent Bischoff's plea agreement contained the following:

- 1 • Respondent Bischoff stipulated and admitted that the number of drugs conspired  
2 possessed with the intent to distribute and distributed in Count 1 was 80,000 units  
3 or more of tramadol 50 mg;
- 4 • As to Count 1, from 2013 to June 30, 2017, Respondent Bischoff and Randall  
5 Borntrager unlawfully, knowingly, and intentionally conspired with each other to  
6 possess with intent to distribute a controlled substance in violation of 21 USC  
7 841(a)(1) and (b)(1)(E). Part of the conspiracy included Respondent Bischoff  
8 shipping tramadol to Ohio for distribution by Randall Borntrager;
- 9 • As to Count 2, from 2013 to June 30, 2017, Respondent Bischoff and Randall  
10 Borntrager with the intent to defraud and mislead, knowingly and intentionally  
11 conspired to deliver into interstate commerce, a drug that was adulterated and  
12 misbranded, and Respondent Bischoff fraudulently used her employer's shipping  
13 account to send tramadol to Randall Borntrager without a valid prescription in  
14 violation of 21 USC 331(a);
- 15 • The amount of drugs possessed and distributed by Respondent Bischoff during  
16 the conspiracy and/or attributable to Respondent Bischoff's actions was at least  
17 80,000 units of tramadol, which Respondent Bischoff knew was a CIV drug;

18 33. Subsequently, the Investigator spoke with Respondent Bischoff's attorney, David  
19 Torres, who informed the Investigator he believed tramadol was the only drug used in  
20 Respondent Bischoff's operation.

### 21 **Hoffman Homecare Pharmacy Inspection**

22 34. On or about September 11, 2018, the Investigator attempted to conduct an inspection  
23 and complaint investigation at Respondent Hoffman Homecare's facility. In the course of that  
24 inspection, the Investigator encountered D.S., the pharmacy biller, who was the only person on  
25 the premises.

26 35. D.S. informed the Investigator the pharmacy was not open, Respondent Hoffman was  
27 out of town, and there were no other pharmacists employed there. D.S. further stated she was  
28 there to do billing and entered by using her own front door key. D.S. explained that she and other

1 staff members possessed keys to the main entrance, but not to the pharmacy drug area. D.S.  
2 stated she was nearing her final day of work with Hoffman Homecare and came in to help with  
3 the billing.

4 36. D.S. stated the pharmacy compounding and drug areas were locked and Respondent  
5 Hoffman alone had access to that area, which the Investigator confirmed. The Investigator next  
6 walked through the pharmacy and found dangerous devices in the area just outside the pharmacy  
7 drug area and prescription records in the office area. The dangerous devices were stored on a  
8 small portable storage unit and included the following items:

- 9 • PICC Dressing Change Kit, One-Link Needle Tree IV Connector, IV Start Kit,  
10 Primary Solution Set with Flow Regulator, Smallbore Extension Set, Shielded IV  
11 Catheter;
- 12 • Quick-Set, Port Access Infusion Set, Safety Huber Needle Set, Dressing Change  
13 Tray with Chloraprep, and Liftloc Safety Infusion Set

14 37. The Investigator instructed D.S. to request that Respondent Hoffman coordinate a  
15 meeting with him to transfer the pharmacy key to Respondent Hoffman, which D.S. placed in a  
16 sealed envelope and turned over to the Investigator. The Investigator reviewed the inspection  
17 report with D.S. and issued the following written notices of non-compliance.

- 18 • Business and Professions Code section 4116 (a): D.S., a non-pharmacist, was  
19 inside the pharmacy where dangerous devices and pharmacy records were stored  
20 without a pharmacist present;
- 21 • C.C.R., Title 16, section 1714 (b), in conjunction with C.C.R., Title 16, Section  
22 1714 (d) and (e): D.S. a non-pharmacist, was inside the pharmacy where  
23 dangerous devices and pharmacy records were stored without a pharmacist  
24 present and was in possession of the pharmacy key.

25 38. The investigator placed a copy of the report under the pharmacy door with  
26 instructions for Respondent Hoffman to contact him immediately. The Investigator noted that  
27 D.S. refused to sign the report despite her request that she so sign.

28 ///

1 **Discovery of Additional Dangerous Drugs**

2 39. Upon exiting the building, the Investigator noticed eleven boxes of acetic acid 0.25%  
3 irrigation solution. The label indicated the products were delivered to Hoffman Homecare from  
4 Amerisourcebergen.

5 40. After confirming the acetic acid irrigation solution was a dangerous drug, the  
6 Investigator moved all the acetic acid boxes into the pharmacy with D.S.'s permission.

7 41. D.S. locked the pharmacy and placed the pharmacy key into a new signed and sealed  
8 envelope of which the Investigator took possession. D.S. and the Investigator then exited the  
9 building.

10 **Interview with Respondent Hoffman and Further Hoffman Homecare Inspection**

11 42. On or about September 13, 2018, the Investigator spoke with Respondent Hoffman  
12 who stated the pharmacy was a closed door pharmacy (a pharmacy that provides pharmaceutical  
13 care to a defined and exclusive group). Respondent Hoffman stated he sold most of his pharmacy  
14 business to Rina's Pharmacy on September 9, 2018. Respondent Hoffman stated his pharmacy  
15 was still open and licensed and was filling some intravenous prescriptions for hospice patients.

16 43. Respondent Hoffman stated he was unaware that the dangerous devices and  
17 pharmacy records were required to be in a locked area.

18 44. On or about September 17, 2018, the Investigator conducted a routine inspection and  
19 complaint investigation at Respondent Hoffman Homecare's facility. Respondent Hoffman was  
20 present and assisted with the inspection.

21 45. Respondent Hoffman stated he believed all the required items were moved into the  
22 pharmacy drug area when he sold the pharmacy to Hina's Pharmacy but must have missed a few  
23 items. Regarding the pharmacy records, Respondent Hoffman stated he was unsure and unaware  
24 of the requirement to have the records locked.

25 46. The Investigator stated to Respondent Hoffman that D.S. and other pharmacy staff  
26 had keys to the front pharmacy entrance door, which Respondent Hoffman admitted. Respondent  
27 Hoffman claimed the staff was not scheduled to work until the pharmacist was on premise.

28



1           47. Respondent Hoffman stated he had a stroke in October 2014 and was away from the  
2 pharmacy until 2016. Respondent Hoffman stated he was still the pharmacist in charge because  
3 he was unable to find someone to fill that role, but he was unable to oversee the pharmacy.  
4 Respondent Hoffman stated staff pharmacists B.C., S.K., and A.M. ran the pharmacy while he  
5 was away. The Investigator asked if one person was designated as head pharmacist, and  
6 Respondent Hoffman stated B.C. was the supervisor and oversaw the staff. Respondent Hoffman  
7 stated his health improved and he returned to the pharmacy in 2016.

8           48. Respondent Hoffman stated he was not aware of any drug loss or drug diversion and  
9 did not have any suspicions of drug loss or diversion. Respondent Hoffman admitted the  
10 pharmacy did not closely account for tramadol because there were other controlled substances  
11 with a higher potential for abuse. Respondent Hoffman stated he maintained a schedule II  
12 controlled substance perpetual inventory but did not maintain one for schedule III through V  
13 controlled substances.

14           49. When asked if he reviewed the pharmacy's controlled substance purchase summaries  
15 provided by wholesalers, Respondent Hoffman stated he reviewed them for schedule II and III  
16 drugs but not for schedule IV and V drugs.

17           50. Respondent Hoffman stated SA Henderhan came to the pharmacy and reviewed the  
18 shipping records and discovered that Respondent Bischoff had shipped packages out of state.  
19 After SA Henderhan left, Respondent Hoffman stated that he spoke with Respondent Bischoff,  
20 who denied shipping pharmacy drugs but admitted shipping from the pharmacy. Respondent  
21 Hoffman stated he sent Respondent Bischoff home that day upon learning this and later  
22 terminated her employment.

23           51. Respondent Hoffman stated he audited all of Hoffman Homecare's schedule II drugs  
24 and benzodiazepines and there was no discrepancy. Respondent Hoffman stated he did not  
25 consider tramadol as a drug that one would attempt to divert, so he did not audit it. Respondent  
26 Hoffman stated SA Henderhan did not inform him which drugs were involved in Respondent  
27 Bischoff's conspiracy, or that the drugs originated from Hoffman Homecare  
28

1           52. Respondent Hoffman stated that Respondent Bischoff denied diverting drugs from the  
2 pharmacy. Respondent Hoffman stated because his schedule II drug and benzodiazepines audit  
3 found no discrepancies, he did not investigate any further.

4 **Review of Biennial Controlled Substance Inventory**

5           53. The Investigator also reviewed Hoffman Homecare's DEA (Drug Enforcement  
6 Administration) biennial controlled substance inventory, which was conducted at the start of  
7 business on January 24, 2016, by B.C. and another individual, C.V. The tramadol 50 mg  
8 inventory on January 24, 2016, was 244 tablets. From January 1, 2014, to January 23, 2016, a  
9 total of 8,497 tablets of tramadol 50 mg were dispensed, and from January 24, 2016, to  
10 September 8, 2018, a total of 11,340 tablets were dispensed. From January 1, 2014, to September  
11 8, 2018, a total of 19,837 tablets of tramadol 50 mg were dispensed by Respondent Hoffman  
12 Homecare.

13           54. The tramadol 50 mg inventory on January 24, 2016 was 244 tablets, and 180 tablets  
14 on September 8, 2018.

15           55. Hoffman Homecare purchased a total of 34,400 tablets of tramadol from  
16 Amerisourcebergen, Anda, and McKesson from January 1, 2014, to September 8, 2018. From  
17 January 1, 2014, to September 8, 2018, the pharmacy purchased 19,100 tablets of tramadol.

18 **Drug Audit**

19 **(1) AMERISOURCEBERGEN**

20           On or about September 19, 2018, the Investigator sent a record request for acquisition and  
21 disposition records concerning Hoffman Homecare's acquisition of tramadol 50 mg from  
22 Amerisourcebergen between January 1, 2014, and September 8, 2018. On or about September  
23 24, 2018, an Amerisourcebergen Legal Specialist, S.M., provided the tramadol sales history to the  
24 Investigator, which showed Hoffman Homecare purchased 2,800 tablets of tramadol 50 mg from  
25 January 1, 2014, to September 8, 2018. The purchases were in the following increments:

- 26           • From January 1, 2014, to January 23, 2016, the pharmacy purchased 300 tablets; and
- 27           • From January 24, 2016, to September 8, 2018, the pharmacy purchased 2,500 tablets.

28 ///

1 **(2) ANDA**

2 On or about September 19, 2018, the Investigator sent a record request for acquisition and  
3 disposition records concerning Hoffman Homecare's acquisition of tramadol 50 mg from Anda  
4 between January 1, 2014, and September 8, 2018. On or about September 27, 2018, an Anda  
5 Regulatory Compliance Associate Director indicated there were no sales of tramadol to Hoffman  
6 Homecare.

7 **(3) MCKESSON:**

8 On or about September 19, 2018, the Investigator sent a record request for acquisition and  
9 disposition records concerning Hoffman Homecare's acquisition of tramadol 50 mg from  
10 McKesson between January 1, 2014, and September 8, 2018. On or about September 20, 2018, a  
11 McKesson Senior Legal Analyst, E.M., provided the tramadol sales history to the Investigator,  
12 which indicated Hoffman Homecare purchased 31,600 tablets of tramadol 50 mg from January 1,  
13 2014 to September 8, 2018. Those purchases were in the following increments:

- 14 • From January 1, 2014, to January 23, 2016, the pharmacy purchased 14,900  
15 tablets; and
- 16 • From January 24, 2016, to September 8, 2018, the pharmacy purchased 16,600  
17 tablets.

18 **Audit of Tramadol**

19 The Investigator's audit determined that from January 1, 2014, to January 23, 2016,  
20 Respondent Hoffman Homecare dispensed 8,497 tablets of tramadol 50 mg, and from January 24,  
21 2016, to September 8, 2018, 11,340 tablets. In total, from January 1, 2014, to September 8, 2018,  
22 Respondent Hoffman Homecare dispensed 19,837 tablets of tramadol 50 mg.

23 Respondent Hoffman Homecare's tramadol 50 mg inventory on January 24, 2016, was 244  
24 tablets, and on September 8, 2018, 180 tablets. Respondent Hoffman Homecare purchased a total  
25 of 34,400 tablets of tramadol from Amerisourcebergen, Anda, and McKesson from January 1,  
26 2014, to September 8, 2018. And, from January 24, 2016, to September 8, 2018, the pharmacy  
27 purchased 19,100 tablets of tramadol. The following charts provide a breakdown of the  
28 inventory:

**Table 1: Audit from January 1, 2014 to September 8, 2018**

Drug	Total Acquisition (a)	Total Disposition (b)	Inventory on 9/8/18 (c)	Variance d=b+c-a	% Variance of Total Acquisition
Tramadol 50mg	34,400	19,837	180	-14,383	41.8%

**Table 2: Audit from January 24, 2016 to September 8, 2018**

Drug	Inventory on 1/24/16 (a)	Total Acquisition (b)	Total Disposition (c)	Inventory on 9/8/18 (d)	Variance = c + d - a - b	% Variance of Total Acquisition
Tramadol 50mg	244	19,100	11,340	180	-7,824	41%

56. On or about October 9, 2018, the Investigator issued letters and written notices of non-compliance to Respondent Hoffman Homecare, Respondent Hoffman, and Respondent Bischoff. The written notices of non-compliance to Respondent Hoffman Homecare and Respondent Hoffman included the following:

- C.C.R., Title 16, section 1714 (b): An audit from January 24, 2016, to September 8, 2018, at Respondent Hoffman Homecare’s facility revealed a shortage of 7,824 tablets of tramadol 50 mg.
- Section 4116(a) and C.C.R., Title 16, section 1714, subdivisions (b) and (d): On September 11, 2018, an inspection at Respondent Hoffman Homecare’s facility revealed non-pharmacist, D.S., possessed the pharmacy key, and dangerous devices and pharmacy records were stored inside the pharmacy without a pharmacist present. In addition, eleven cases of acetic acid 0.25% irrigation solution were stored outside the pharmacy secured area.
- Section 4081(a) and C.C.R., Title 16, section 1718: An audit from January 24, 2016, to September 8, 2018, at Respondent Hoffman Homecare revealed the pharmacy was unable to account for 7,824 tablets of tramadol 50 mg. Therefore, the pharmacy failed to maintain an accurate inventory or complete accountability for all dangerous drugs.

57. The Investigator also issued notices of non-compliance to Respondent Bischoff which contained the following:

- 1 • Section 4301(f), (j), (1), & (o): On July 26, 2018, Respondent Bischoff pled  
2 guilty to two felony counts of conspiracy for shipping with intent to distribute at  
3 least 80,000 tablets of tramadol 50 mg, a schedule IV controlled substance  
4 without a prescription in violation of 21 United States Code 841(a)(1) and  
5 (b)(1)(E) and 21 United States Code 331(a).
- 6 • Section 4059 (a): From on or about 2013 to on or about June 29, 2017,  
7 Respondent Bischoff furnished at least 80,000 tablets of tramadol, a schedule IV  
8 controlled substance, to her brother Randall Borntrager without a prescription.
- 9 • Section 4060 and Health and Safety Code section 11173 (a): From on or about  
10 2013 to on or about June 29, 2017, Respondent Bischoff was in possession of at  
11 least 80,000 tablets of tramadol, a schedule IV controlled substance, without a  
12 prescription.

13 58. On or about October 9, 2018, the Investigator informed Respondent Hoffman that the  
14 audit showed a drug loss of over 7,800 tramadol tablets from 2016 to 2018, and a loss of over  
15 14,000 tablets from 2014 to 2018. The Investigator further informed Respondent Hoffman that  
16 written notice provided to him of the drug loss at that time was exclusively based on the DEA  
17 inventory conducted on January 24, 2016 and September 8, 2018 resulting in the loss of 7,824  
18 tablets of tramadol 50 mg.

19 **Respondent Hoffman Homecare, Inc.**

20 **FIRST CAUSE FOR DISCIPLINE**

21 (Failure to Maintain Operational Standards and Security)

22 59. Respondent Hoffman Homecare is subject to disciplinary action under C.C.R. Title  
23 16, Section 1714, subdivision (b), in that Respondent Hoffman Homecare failed to maintain its  
24 facilities, space, fixtures, and equipment so that drugs are safely and properly prepared,  
25 maintained, secured, and distributed.

26 60. As set forth in paragraphs 20 through 57, above, which are incorporated herein by  
27 reference, an audit of Respondent Hoffman Homecare's facility revealed a shortage of 7,824  
28 tablets of tramadol 50 mg.

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Failure to Maintain Records and Current Inventory)

3 61. Respondent Hoffman Homecare is subject to disciplinary action under, Section 4081,  
4 subdivision (a), of the Code in that Respondent Hoffman Homecare failed to maintain records of  
5 manufacture and of sale, acquisition, receipt, shipment, or disposition of dangerous drugs and  
6 dangerous devices at all times during business hours for inspection by authorized officers of the  
7 law. Respondent Hoffman Homecare further failed to preserve for at least three years from the  
8 making, and a current inventory of its stock of dangerous drugs or dangerous devices.

9 62. As set forth in paragraphs 20 through 57, above, which are incorporated herein by  
10 reference, an audit of Respondent Hoffman Homecare’s facility revealed the pharmacy was  
11 unable to account for the loss of 7,824 tablets of tramadol 50 mg.

12 63. Respondent is subject to disciplinary action under C.C.R. Title 16, Section 1718, in  
13 that Respondent failed to maintain a current inventory of dangerous drugs.

14 64. As set forth in paragraphs 20 through 57, above, which are incorporated herein by  
15 reference, an audit of Respondent Hoffman Homecare’s facility revealed the pharmacy was  
16 unable to account for the loss of 7,824 tablets of tramadol 50 mg.

17 **THIRD CAUSE FOR DISCIPLINE**

18 (Failure to Maintain Pharmacy Security)

19 65. Respondent Hoffman Homecare is subject to disciplinary action under, Section 4116,  
20 subdivision (a), of the Code in that Respondent Hoffman Homecare allowed non-pharmacists into  
21 areas where controlled substances, or dangerous drugs, or dangerous devices were stored,  
22 possessed, prepared, manufactured, derived, compounded, dispensed, or repackaged.

23 66. As set forth in paragraphs 20 through 57, above, which are incorporated herein by  
24 reference, an inspection of Respondent Hoffman Homecare’s pharmacy revealed non-pharmacist,  
25 D.S., was in possession of the pharmacy key and present at the pharmacy where dangerous  
26 devices and pharmacy records were stored without a pharmacist present. In addition, eleven cases  
27 of acetic acid 0.25% irrigation solution were stored outside the pharmacy secured area.

28

1           67. Respondent Hoffman Homecare is further subject to disciplinary action under C.C.R.  
2 Title 16, section 1714, subdivisions (b) and (d) in that Respondent Hoffman Homecare failed to  
3 maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly  
4 prepared, maintained, secured, and distributed; and failed to maintain responsibility for the  
5 security of the prescription department, including provisions for effective control against theft or  
6 diversion of dangerous drugs and devices, and records for such drugs and devices, and possession  
7 of a key to the pharmacy where dangerous drugs are stored shall be restricted to a pharmacist.

8           68. As set forth in paragraphs 20 through 57, above, which are incorporated herein by  
9 reference, an inspection of Respondent Hoffman Homecare's pharmacy revealed D.S., who was  
10 not a pharmacist, was in possession of the pharmacy key and inside the pharmacy where  
11 dangerous devices and pharmacy records were stored without a pharmacist present. In addition,  
12 eleven cases of acetic acid 0.25% irrigation solution were stored outside the pharmacy secured  
13 area.

14 **Respondent Hoffman**

15 **FOURTH CAUSE FOR DISCIPLINE**

16 (Failure to Maintain Operational Standards and Security)

17           69. Respondent Hoffman is subject to disciplinary action under C.C.R. Title 16, Section  
18 1714, subdivision (b), in that Respondent Hoffman failed to maintain Respondent Hoffman  
19 Homecare's facilities, space, fixtures, and equipment so that drugs were safely and properly  
20 prepared, maintained, secured, and distributed.

21           70. As set forth in paragraphs 20 through 57, above, which are incorporated herein by  
22 reference, an audit of Respondent Hoffman Homecare's facility, in which Respondent Hoffman  
23 was pharmacist-in-charge, revealed a shortage of 7,824 tablets of tramadol 50 mg.

24 **FIFTH CAUSE FOR DISCIPLINE**

25 (Failure to Maintain Records and Current Inventory)

26           71. Respondent Hoffman is subject to disciplinary action under, Section 4081,  
27 subdivision (a), of the Code in that Respondent Hoffman failed to maintain Respondent Hoffman  
28 Homecare's records of manufacture and of sale, acquisition, receipt, shipment, or disposition of

1 dangerous drugs and dangerous devices at all times during business hours for inspection by  
2 authorized officers of the law. Respondent Hoffman further failed to preserve the foregoing  
3 records for at least three years from the making, and failed to maintain an accurate and true  
4 current inventory of Respondent Hoffman Homecare's stock of dangerous drugs or dangerous  
5 devices.

6 72. As set forth in paragraphs 20 through 57, above, which are incorporated herein by  
7 reference, an audit of Respondent Hoffman Homecare's facility revealed that while Respondent  
8 Hoffman was the pharmacist in charge, Respondent Hoffman Homecare was unable to account  
9 for the loss of 7,824 tablets of tramadol 50 mg.

10 73. Respondent Hoffman is further subject to disciplinary action under C.C.R. Title 16,  
11 section 1718 in that Respondent Hoffman failed to maintain complete accountability for all  
12 dangerous drugs handled by every licensee.

13 74. As set forth in paragraphs 20 through 57, above, which are incorporated herein by  
14 reference, an audit of Respondent Hoffman Homecare's facility revealed that while Respondent  
15 Hoffman was the pharmacist in charge, Respondent Hoffman Homecare was unable to account  
16 for the loss of 7,824 tablets of tramadol 50 mg.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 (Failure to Maintain Security)

19 75. Respondent Hoffman is subject to disciplinary action under, Section 4116,  
20 subdivision (a), of the Code in that Respondent Hoffman allowed a non-pharmacist into an area,  
21 place, or premises described in the license issued by the board wherein controlled substances or  
22 dangerous drugs or dangerous devices were stored, possessed, prepared, manufactured, derived,  
23 compounded, dispensed, or repackaged.

24 76. As set forth in paragraphs 20 through 57, above, which are incorporated herein by  
25 reference, an inspection of Respondent Hoffman Homecare's pharmacy revealed that D.S., who  
26 was not a pharmacist, was in possession of the pharmacy key and present inside the pharmacy  
27 where dangerous devices and pharmacy records were stored without a pharmacist being present.  
28



1 In addition, eleven cases of acetic acid 0.25% irrigation solution were stored outside the  
2 pharmacy secured area.

3 77. Respondent is further subject to disciplinary action under C.C.R. Title 16, section  
4 1714, subdivisions (b) and (d) in that Respondent failed to maintain Respondent Hoffman  
5 Homecare's facilities, space, fixtures, and equipment so that drugs were safely and properly  
6 prepared, maintained, secured, and distributed; and failed to maintain responsibility for the  
7 security of the prescription department, including provisions for effective control against theft or  
8 diversion of dangerous drugs and devices, and records for such drugs and devices, and possession  
9 of a key to the pharmacy where dangerous drugs are stored that are required to be restricted to a  
10 pharmacist.

11 78. As set forth in paragraphs 20 through 57, above, which are incorporated herein by  
12 reference, an inspection of Respondent Hoffman Homecare's pharmacy revealed non-pharmacist,  
13 D.S., was in possession of the pharmacy key and present at the pharmacy where dangerous  
14 devices and pharmacy records were stored without a pharmacist being present. In addition, eleven  
15 cases of acetic acid 0.25% irrigation solution were stored outside the pharmacy secured area.

16 **Respondent Bischoff**

17 **SEVENTH CAUSE FOR DISCIPLINE**

18 (Unprofessional Conduct)

19 79. Respondent is subject to disciplinary action under Section 4301, subdivisions (f), (j),  
20 (l), and (o) of the Code in that Respondent committed acts of unprofessional conduct.

21 80. As set forth in paragraphs 20 through 57, above, which are incorporated herein by  
22 reference, on or about July 26, 2018, Respondent Bischoff pled guilty to two felony counts of  
23 conspiracy for shipping with intent to distribute at least 80,000 tablets of tramadol 50 mg without  
24 a prescription in violation of 21 United States Code 841(a)(1) and (b)(1)(E), 21 United States Code  
25 846 and 21 United States Code 331 (a), in *The United States vs. Randall S. Borntrager and Renee*  
26 *Bischoff*, United States District Court for the Northern District of Ohio, Eastern Division; Case  
27 No. 5:18 CR 388.

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1 **EIGHTH CAUSE FOR DISCIPLINE**

2 (Furnishing Dangerous Devices Prohibited Without Prescription)

3 81. Respondent Bischoff is subject to disciplinary action under Section 4059, subdivision  
4 (a), of the Code in that Respondent Bischoff furnished a dangerous drug without a prescription.

5 82. As set forth in paragraphs 20 through 57, above, which are incorporated herein by  
6 reference, Respondent Bischoff shipped with the intent to distribute at least 80,000 tablets of  
7 tramadol 50 mg, a schedule IV controlled substance, without a valid prescription.

8 **NINTH CAUSE FOR DISCIPLINE**

9 (Controlled Substance Prescription Required)

10 83. Respondent Bischoff is subject to disciplinary action under Section 4060 of the Code  
11 and California Health and Safety Code section 11173, subdivision (a) in that Respondent Bischoff  
12 furnished a dangerous drug without a prescription.

13 84. As set forth in paragraphs 20 through 57, above, which are incorporated herein by  
14 reference, Respondent Bischoff shipped with the intent to distribute at least 80,000 tablets of  
15 tramadol 50 mg, a schedule IV controlled substance, without a valid prescription.

16 **OWNERSHIP PROHIBITION**

17 85. As set forth above, section 4307, subdivision (a), provides, in pertinent part, that any  
18 person whose license has been revoked or is under suspension shall be prohibited from serving as  
19 a manager, administrator, owner, member, officer, director, associate or partner of a licensee.

20 86. Pursuant to section 4307, if Respondent Hoffman had knowledge of, or knowingly  
21 participated in, any conduct for which Pharmacy Permit PHY 37014 was revoked, suspended or  
22 placed on probation, while acting as administrator, owner, officer, director, or any other person  
23 with management or control of Hoffman Homecare, Inc. dba Hoffman Homecare, he shall be  
24 prohibited from serving as administrator, owner, member, officer, director, associate, or partner  
25 of a licensee for five years if Pharmacy Permit Number PHY 37014 is placed on probation, or  
26 until Pharmacy Permit Number PHY 37014 is reinstated if Pharmacy Permit Number PHY 37014  
27 is revoked.

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1 87. Pursuant to section 4307, if Respondent Bischoff had knowledge of, or knowingly  
 2 participated in, any conduct for which Pharmacy Permit PHY 37014 was revoked, suspended or  
 3 placed on probation, while acting as administrator, owner, officer, director, or any other person  
 4 with management or control of Hoffman Homecare, Inc. dba Hoffman Homecare, she shall be  
 5 prohibited from serving as administrator, owner, member, officer, director, associate, or partner  
 6 of a licensee for five years if Pharmacy Permit Number PHY 37014 is placed on probation, or  
 7 until Pharmacy Permit Number PHY 37014 is reinstated if Pharmacy Permit Number PHY 37014  
 8 is revoked.

9 **PRAYER**

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

12 1. Revoking or suspending Pharmacy Permit Number PHY 37014, issued to Respondent  
 13 Hoffmann Home Care, Inc., dba Hoffmann Homecare;

14 2. Revoking or suspending Pharmacy Technician Registration Number TCH 1061,  
 15 issued to Respondent Renee Sue Bischoff;

16 3. Revoking or suspending Registered Pharmacist License Number RPH 38673, issued  
 17 to Respondent Thomas Alan Hoffmann;

18 4. Ordering Hoffmann Homecare, Renee Sue Bischoff and Thomas Alan Hoffmann to  
 19 pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,  
 20 pursuant to Business and Professions Code section 125.3;

21 5. Prohibiting Renee Sue Bischoff and Thomas Alan Hoffmann from serving as a  
 22 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for  
 23 five years if Pharmacy Permit Number PHY 37014 is placed on probation or until Pharmacy  
 24 Permit Number PHY 37014 is reinstated if Pharmacy Permit Number PHY 37014 is revoked;  
 25 and,

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

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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