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

In the Matter of the Accusation Against:

TITA P. PADAYAO, dba
BELL DRUGS,
Pharmacy Permit No. PHY 30070,

and

TITA P. PADAYAO,
Pharmacist License No. RPH 32781,

Respondents.

Agency Case No. 6946

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on March 2, 2022.

It is so ORDERED on January 31, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

Seung W. Oh, Pharm.D.
Board President

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

In the Matter of the Accusation Against: **TITA P. PADAYAO, DBA BELL DRUGS** **3809 E. Gage Ave.** **Bell, CA 90201** **Pharmacy Permit No. PHY 30070,** **and** **TITA P. PADAYAO** **11341 Anegada St.** **Cypress, CA 90630** **Pharmacist License No. RPH 32781** Respondent.	Case No. 6946 OAH No. 2021080867 **STIPULATED SURRENDER OF LICENSE AND ORDER AS TO PHARMACIST LICENSE NO. RPH 32781**

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

PARTIES

1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy (Board). She brought this action solely in her official capacity and is represented in this matter by

Rob Bonta, Attorney General of the State of California, by Kevin J. Schettig, Deputy Attorney General.

2. Tita P. Padayao, dba Bell Drugs (Respondent Padayao) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.

3. On or about March 2, 1979, the Board issued Pharmacist License Number RPH 32781 to Respondent Padayao. The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 6946 and will expire on March 31, 2023, unless renewed.

JURISDICTION

4. Accusation No. 6946 was filed before the Board, and is currently pending against Respondent Padayao. The Accusation and all other statutorily required documents were properly served on Respondent Padayao on February 23, 2021. Respondent Padayao timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 6946 is attached as Exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

5. Respondent Padayao has carefully read, and understands the charges and allegations in Accusation No. 6946. Respondent Padayao also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.

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

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

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CULPABILITY

8. Respondent Padayao admits the truth of each and every charge and allegation in Accusation No. 6946, agrees that cause exists for discipline and hereby surrenders her Pharmacist License Number RPH 32781 for the Board's formal acceptance.

9. Respondent Padayao understands that by signing this stipulation she enables the Board to issue an order accepting the surrender of her Pharmacist License without further process.

CONTINGENCY

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

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

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

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

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ORDER

IT IS HEREBY ORDERED that Pharmacist License Number RPH 32781, issued to Respondent Padayao is surrendered and accepted by the Board. The effective date of the Decision shall be stayed one hundred twenty (120) days after the date on which Respondent Padayao has signed this Stipulated Surrender of License and Order, at which time Bell Drugs shall be sold or closed.

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

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

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

4. If Respondent Padayao ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent Padayao must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 6946 shall be deemed to be true, correct and admitted by Respondent Padayao when the Board determines whether to grant or deny the application or petition.

5. Respondent Padayao and Respondent Pharmacy shall be jointly and severally responsible to pay the Board its costs of investigation and enforcement in the amount of $22,527.50 prior to issuance of a new or reinstated license.

6. If Respondent Padayao should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 6946 shall be deemed to be true, correct, and admitted by Respondent Padayao for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

7. Respondent Padayao may not apply, reapply, or petition for any Board-issued licensure or registration for three (3) years from the effective date of the Decision and Order.

8. Respondent Padayao shall not own, have any legal or beneficial interest in, nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent Padayao shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within one hundred twenty (120) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

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ACCEPTANCE

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

DATED: _____

_____
TITA P. PADAYAO
Respondent

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ACCEPTANCE

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

DATED: 12/15/21

Tita P. Padayao

TITA P. PADAYAO
Respondent

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ENDORSEMENT

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

DATED: December 16, 2021

Respectfully submitted,

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

Kevin J. Schettig

KEVIN J. SCHETTIG
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6946

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Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General
KEVIN J. SCHETTIG
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Attorneys for Complainant

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

In the Matter of the Accusation Against: **TITA P. PADAYAO, DBA BELL DRUGS** **3809 E. Gage Ave.** **Bell, CA 90201** **Pharmacy Permit No. PHY 30070,** **and** **TITA P. PADAYAO** **11341 Anegada St.** **Cypress, CA 90630** **Pharmacist License No. RPH 32781** Respondents.	Case No. 6946 **ACCUSATION**

PARTIES

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

2. On or about June 1, 1983, the Board of Pharmacy issued Pharmacy Permit Number PHY 30070 to Tita P. Padayao, dba Bell Drugs (Respondent Pharmacy). The Pharmacy Permit

was in full force and effect at all times relevant to the charges brought herein and will expire on May 1, 2021, unless renewed.

3. On or about March 2, 1979, the Board of Pharmacy issued Pharmacist License Number RPH 32781 to Tita P. Padayao (Respondent Tita Padayao). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2021, unless renewed.

JURISDICTION

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

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

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

7. Section 4300.1 of the Code states:

"The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license."

STATUTORY PROVISIONS

8. Code section 4063 states:

"No prescription for any dangerous drug or dangerous device may be refilled except upon authorization of the prescriber. The authorization may be given orally or at the time of giving the original prescription. No prescription for any dangerous drug that is a controlled substance may be designated refillable as needed."

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9. Code section 4076 states, in pertinent part:

"(a) A pharmacist shall not dispense any prescription except in a container that meets the requirements of state and federal law and is correctly labeled with all of the following:

…

(11)(A) Commencing January 1, 2006, the physical description of the dispensed medication, including its color, shape, and any identification code that appears on the tablets or capsules, except as follows:

(i) Prescriptions dispensed by a veterinarian.

(ii) An exemption from the requirements of this paragraph shall be granted to a new drug for the first 120 days that the drug is on the market and for the 90 days during which the national reference file has no description on file.

(iii) Dispensed medications for which no physical description exists in any commercially available database.

…"

10. Code section 4081, subdivision (a), states:

"(a) All records of manufacture and of sale, acquisition, receipt, shipment, or disposition of dangerous drugs or dangerous devices shall be at all times during 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 4187, 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."

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11. Code section 4301 states, in pertinent part:

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

…

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

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

…

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

…

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

…"

12. Code section 4307 states:

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

revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control of a licensee as follows:

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

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

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

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

13. Code section 4342, subdivision (a), states:

"(a) The board may institute any action or actions as may be provided by law and that, in its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not conform to the standard and tests as to quality and strength, provided in the latest edition of the United States Pharmacopoeia or the National Formulary, or that violate any provision of the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of the Health and Safety Code)."

14. Health and Safety Code section 11165, subdivision (d), states:

"(d) For each prescription for a Schedule II, Schedule III, Schedule IV, or Schedule V controlled substance, as defined in the controlled substances schedules in federal law and

regulations, specifically Sections 1308.12, 1308.13, 1308.14, and 1308.15, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the department or contracted prescription data processing vendor as soon as reasonably possible, but not more than one working day after the date a controlled substance is released to the patient or patient's representative, in a format specified by the department:

(1) Full name, address, and, if available, telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

(2) The prescriber's category of licensure, license number, national provider identifier (NPI) number, if applicable, the federal controlled substance registration number, and the state medical license number of a prescriber using the federal controlled substance registration number of a government-exempt facility.

(3) Pharmacy prescription number, license number, NPI number, and federal controlled substance registration number.

(4) National Drug Code (NDC) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) The International Statistical Classification of Diseases (ICD) Code contained in the most current ICD revision, or any revision deemed sufficient by the State Board of Pharmacy, if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Prescribing date of the prescription.

(10) Date of dispensing of the prescription.

(11) The serial number for the corresponding prescription form, if applicable."

15. Health and Safety Code section 111295 states:

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

16. Health and Safety Code section 111440 states:

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

REGULATORY PROVISIONS

17. California Code of Regulations, title 16, section 1714, states, in pertinent part:

…

"(c) The pharmacy and fixtures and equipment shall be maintained in a clean and orderly condition. The pharmacy shall be dry, well-ventilated, free from rodents and insects, and properly lighted. The pharmacy shall be equipped with a sink with hot and cold running water for pharmaceutical purposes.

…

(e) The pharmacy owner, the building owner or manager, or a family member of a pharmacist owner (but not more than one of the aforementioned) may possess a key to the pharmacy that is maintained in a tamper evident container for the purpose of 1) delivering the key to a pharmacist or 2) providing access in case of emergency. An emergency would include fire, flood or earthquake. The signature of the pharmacist-in-charge shall be present in such a way that the pharmacist may readily determine whether the key has been removed from the container.

…"

18. California Code of Regulations, title 16, section 1717, subdivision (c), states:

"(c) Promptly upon receipt of an orally transmitted prescription, the pharmacist shall reduce it to writing, and initial it, and identify it as an orally transmitted prescription. If the prescription is then dispensed by another pharmacist, the dispensing pharmacist shall also initial the prescription to identify him or herself. All orally transmitted prescriptions shall be received and transcribed by a pharmacist prior to compounding, filling, dispensing, or furnishing. Chart orders as defined in section 4019 of the Business and Professions Code are not subject to the provisions of this subsection."

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19. 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."

20. California Code of Regulations, title 16, section 1761, subdivision (a), 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."

21. California Code of Regulations, title 16, section 1793.1, states, in pertinent part:

"Only a pharmacist, or an intern pharmacist acting under the supervision of a pharmacist, may:

(a) Receive a new prescription order orally from a prescriber or other person authorized by law.

…"

COST RECOVERY

22. Section 125.3 provides 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.

CONTROLLED SUBSTANCES/DANGEROUS DRUGS

23. Section 4021 of the Code states, in pertinent part:

"Controlled substances: means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code."

24. Section 4022 of the Code 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."

25. Acetaminophen/Codeine is commonly known by the trade name "Tylenol #4." It is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e)(2), and a dangerous drug pursuant to section 4022 of the Code. It is used for the treatment of pain.

26. Amoxicillin is commonly known by the trade name "Amoxil." It is a dangerous drug pursuant to section 4022 of the Code. It is used as an antibiotic.

27. Canagliflozin/Metformin is commonly known by the trade name "Invokamet." It is a dangerous drug pursuant to section 4022 of the Code. It is used for the treatment of diabetes.

28. Cefdinir is commonly known by the trade name "Omnicef." It is a dangerous drug pursuant to section 4022 of the Code. It is used as an antibiotic.

29. Cefuroxime is commonly known by the trade name "Ceftin." It is a dangerous drug pursuant to section 4022 of the Code. It is used as an antibiotic.

30. Diazepam is commonly known by the trade name "Valium." It is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d)(9) and a dangerous drug pursuant to section 4022 of the Code. It is used for the treatment of anxiety.

31. Duloxetine DR is commonly known by the trade name "Cymbalta." It is a dangerous drug pursuant to section 4022 of the Code. It is used for the treatment of depression.

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32. Fenofibrate is commonly known by the trade name "TriCor." It is a dangerous drug pursuant to section 4022 of the Code. It is used for the treatment of hyperlipidemia.

33. Ibuprofen is commonly known by the trade name "Motrin." It is a dangerous drug pursuant to section 4022 of the Code. It is used for the treatment of pain.

34. Levofloxacin is commonly known by the trade name "Levaquin." It is a dangerous drug pursuant to section 4022 of the Code. It is used as an antibiotic.

35. Memantine is commonly known by the trade name "Namenda." It is a dangerous drug pursuant to section 4022 of the Code. It is used for the treatment for dementia.

36. Nortriptyline is commonly known by the trade name "Pamelor." It is a dangerous drug pursuant to section 4022 of the Code. It is used for the treatment of depression.

37. Oseltamivir is commonly known by the trade name "Tamiflu." It is a dangerous drug pursuant to section 4022 of the Code. It is used as an influenza treatment.

38. Quinapril is commonly known by the trade name "Accupril." It is a dangerous drug pursuant to section 4022 of the Code. It is used for the treatment of hypertension.

39. Tramadol is commonly known by the trade name "Ultram." It is a Schedule IV controlled substance pursuant to Code of Federal Regulations, title 21, section 1308.14, subdivision (b)(3), and a dangerous drug pursuant to section 4022 of the Code. It is used for the treatment of pain.

40. Valsartan/HCTZ is commonly known by the trade name "Diovan HCT." It is a dangerous drug pursuant to section 4022 of the Code. It is used for the treatment of hypertension.

FACTUAL ALLEGATIONS

Failure to Submit Controlled Substance Dispensing to CURES

41. On or about September 14, 2018, the Board received an online complaint from a doctor at LAC-USC Internal Medicine Primary Care Clinic indicating Patient B.B. fills controlled substance prescriptions at Respondent Pharmacy and Patient B.B.'s prescription for Tylenol #4 from May 2018, written by one of their clinic's prescribers, was not in B.B.'s Controlled Substance Utilization Review and Evaluation System (CURES) report.

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42. On or about June 18, 2019, the Board's inspector received California State Board of Pharmacy CURES Patient Activity Report for Patient B.B. from the Board CURES analyst. According to B.B.'s CURES activity report, there were no controlled substance prescriptions dispensed in May 2018.

43. On or about June 20, 2019, the Board's inspector conducted an inspection and investigation of Respondent Pharmacy. Respondent Tita Padayao was present and assisted with the investigation and inspection. The Board's inspector requested to see Patient B.B.'s prescriptions from May 2018. Respondent Tita Padayao provided a copy of an orally transmitted prescription for Patient B.B.'s Tylenol #4 quantity 120 and Diazepam 5 mg quantity 30 written on May 18, 2018. According to the back-tag label of the prescription, Diazepam 5 mg (Rx #1280724) was filled on May 18, 2018 and Tylenol #4 (Rx #1280725) was filled on May 21, 2018.

44. On or about July 24, 2019, the Board's inspector received and reviewed the California State Board of Pharmacy CURES Pharmacy Transaction by Patient for Respondent Pharmacy for May 1, 2018 through July 24, 2019 from the Board CURES analyst. According to the provided CURES Pharmacy Transaction by Patient report, Patient B.B. did not have any record of dispensed controlled prescriptions submitted to CURES by Respondent Pharmacy in May 2018.

45. The Board's inspector conducted a further review of Patient B.B.'s dispensing history provided by Respondent Pharmacy and compared it to the information reported to CURES for Patient B.B. The inspector located the following three dispensing records for APAP /Codeine #4 that were not in Patient B.B.'s CURES report:

1) Rx #1282411 filled on August 24, 2018
2) Rx #1282900 filled on September 17, 2018
3) Rx #1285905 filled on February 7, 2019

46. On or about January 28, 2020, the Board's inspector obtained and reviewed the CURES Pharmacy Transaction by Patient for Respondent Pharmacy for June 21, 2019 through January 28, 2020, which indicated Respondent Pharmacy dispensed about 399 controlled

prescriptions from June 21, 2019 through January 28, 2020. On average, about thirteen (13) controlled substance prescriptions were dispensed per week and about two to three controlled substance prescriptions were dispensed per day.

47. The Board inspector's review indicated the following controlled substance prescriptions, dispensed by Respondent Pharmacy to Patient B.B., were not reported to CURES as of July 24, 2019:

1) Rx #1280724 for Diazepam 5 mg filled on May 18, 2018
2) Rx #1280725 for APAP/Codeine #4 filled on May 21, 2018
3) Rx #1282411 for APAP/Codeine #4 filled on August 21, 2018
4) Rx #1282900 for APAP/Codeine #4 filled on September 17, 2018
5) Rx #1285905 for APAP/Codeine #4 filled on February 7, 2019

Dispensing of an Unauthorized Refill

48. On or about May 3, 2019, the Board received a complaint from a prescriber alleging that Respondent Pharmacy dispensed a refill of a controlled substance medication that was not authorized by the prescriber.

49. On or about June 20, 2019, the Board's inspector conducted an inspection and investigation at Respondent Pharmacy. The Board's inspector obtained and reviewed Rx #1287374 for Patient B.B. as identified in the prescriber's complaint. The prescription was for Patient B.B.'s Tylenol #4 with directions to take 1 tablet every 6 hours and was written on April 8, 2019. The Board inspector believed the prescription appeared to be an orally transmitted prescription. The prescription did not indicate any transfer information. Additionally, the prescription indicated total quantity #120 with #60 prescribed. The Board inspector requested to see if Rx #1287374 was refilled on April 22, 2019. Respondent Tita Padayao showed the Board inspector a refill record indicating Rx #l287374 was filled for Patient B.B. for 60 tablets on April 22, 2019.

50. On or about July 12, 2019, the Board inspector reviewed a screenshot from the prescriber showing Patient B.B.'s active orders, indicating the prescription for Patient B.B.'s Tylenol #4 was sent to Walgreens Pharmacy #09842 on April 5, 2019. The prescription was for

Tylenol #4 #60 with directions to take 1 tablet every 6 hours as needed for pain without additional refills.

51. On or about July 15, 2019, pharmacy manager Ernie Padayao (unlicensed) provided the Board inspector with a copy of the transferred prescription for Patient B.B. dated April 6, 2019. The copy of the Patient B.B.'s transferred prescription on April 6, 2019 includes the transfer details indicating the prescription for Tylenol #4 was never filled and there were no additional refills listed. The prescription included quantity #60 with directions to take 1 tablet every 6 hours as needed for pain. Additionally, the prescription listed Walgreens pharmacy, as the transferring pharmacy with "Tracy" as a transferring pharmacist.

52. On or about December 9, 2019, the Board inspector spoke to pharmacist Traci Tran (RPH Tran) at Walgreens Pharmacy #09842. RPH Tran stated Patient B.B. received an electronic prescription for Tylenol #4 quantity #60 without additional refills written by the prescriber on April 5, 2019. The prescription was transferred to Respondent Pharmacy on April 6, 2019. RPH Tran provided the Board inspector with a copy of Patient B.B.'s electronic prescription for Tylenol #4 written on April 5, 2019 and the prescription transfer information. According to the prescription transfer information, the pharmacist receiving the prescription at Respondent Pharmacy was Ernie Padayao, who is the pharmacy manager and the son of Respondent Tita Padayao. Ernie Padayao is not a licensed pharmacist or a pharmacy intern.

53. On or about January 30, 2020, Board inspectors conducted a re-inspection of Respondent Pharmacy. The Board inspectors reviewed about 1000 random prescriptions for controlled and non-controlled substances from August 2019 to January 2020. There were approximately 20 telephonic prescriptions identified. There were no prescription transfers located. Out of 20 identified prescriptions, three prescriptions appeared to be written in a slightly different hand writing. Respondent Tita Padayao stated that three identified prescriptions were taken and written by her son Ernie Padayao (unlicensed). The following prescriptions were taken over the phone and reduced to writing by Ernie Padayao:

1) Rx #1289556 for Amoxicillin 500 mg and Rx #1289557 for Motrin 800 mg for patient R.M. written and dispensed on August 3, 2019.

2) Rx#1292293 for Tramadol 50 mg for patient E.B. written and dispensed on December 23, 2019.

3) Rx#1292626 for Tamiflu 75 mg for patient J.E. written and dispensed on January 13, 2020.

54. During the re-inspection of Respondent Pharmacy on or about January 30, 2020, the Board inspectors found that the pharmacy key was not in a tamper evident container, but rather it was on Ernie Padayao's key chain. Additionally, the Board inspectors found that Respondent Tita Padayao allowed Ernie Padayao to open the pharmacy when Respondent Tita Padayao was running late.

Substandard Pharmacy Practices

55. On or about May 6, 2019, the Board received a complaint from a United Healthcare Investigator alleging Respondent Pharmacy had numerous expired drugs on the pharmacy shelves, prescription containers from other pharmacies, improperly labeled prescription containers, and improperly labeled amber vials with prescriptions drugs.

56. On or about June 20, 2019, the Board inspector conducted an inspection and investigation at Respondent Pharmacy. Upon entry, the inspector observed that the pharmacy area appeared poorly maintained and in disrepair. There was possible water damage on one of the walls by the back entry and ceiling. Once inside the prescription medication area, the inspector observed dust and spider webs above the shelves with active prescription drug supply. Additionally, the shelves with active drug supply had noticeable dust accumulation and the area around Respondent Tita Padayao's computer had loose papers.

57. The Board's inspector identified the following expired drugs at Respondent Pharmacy:

Drug Name	Expiration Date
Doryx DR 150 mg	10/2016
Invokamet 50/500 mg	02/2017
Misoprostol 200 mg	04/2017
Cefdinir 300 mg	05/2017

Quinapril 5 mg	06/2017
Cefaclor 250 mg	07/2017
Cefuroxime 250 mg	07/2017
Disulfiram 250 mg	07/2017
Rabeprazole DR 20 mg	08/2017
Misoprostol 200 mg	09/2017
Dexamethasone 1mg/1ml	09/2017
Fenofibric Acid DR 135 mg	09/2017
Metoprolol 50 mg	10/2017
Benztropine 2 mg	10/2017
Diclofenac DR 25 mg	11/2017
Fenofibrate 54 mg	11/2017
Namenda XR 28 mg	12/2017
Valacyclovir 500 mg	12/2017
Namenda 5 mg	01/2018
Fluconazole 200 mg	01/2018
Doxycycline 100 mg	02/2018
Sildenafil 20 mg	02/2018
Doxycycline 50 mg	03/2018
Raloxifene 60 mg	03/2018
Nortriptyline 10 mg	04/2018
Valsartan/HCTZ 160/25 mg	05/2018
Duloxetine DR 20 mg	05/2018
Nortriptyline 50 mg	05/2018
Crestor 20 mg	06/2018
Piroxicam 20 mg	06/2018
Fenofibrate 200 mg	06/2018

Metformin 850 mg	07/2018
Valsartan/HCTZ 80/12.5 mg	07/2018
Quinapril 20 mg	07/2018
Levofloxacin 500 mg	08/2018
Levofloxacin 750 mg	08/2018
Nortriptyline 10 mg	08/2018
Metoclopramide 5 mg	10/2018
Diclofenac/Misoprostol 75/200 mg	11/2018
Fenofibrate 145 mg	11/2018
Clarithromycin 500 mg	12/2018
Indomethacin 50 mg	12/2018
Megestrol 40mg/ml	01/2019
Quinapril/HCTZ 10/12.5 mg	02/2019
Diovan 160 mg	03/2019
Fenofibrate 134 mg	03/2019
Cefprozil oral suspension 250 mg/5ml	04/2019
Fluconazole 200 mg	04/2019
Eri-Tab 250 mg	04/2019

58. In addition to the expired drugs, the Board's inspector located three improperly labeled vials with prescription medications inside. The vials had the names of the medications; some of the vials had expiration dates. None of the vials had lot numbers. The inspector also located one prescription container that had a patient prescription label that was partially removed and did not have the drug expiration date.

59. The Board's inspector observed a small room to the side of the prescription area. Upon entry, the inspector observed a prescription container with medication inside from Kaiser

Pharmacy located on the top of the cabinet. The prescription container was for Venlafaxine ER 75 mg for Patient M.C.

60. In the office area, the Board's inspector also observed a large trash bag filled with medications. Respondent Tita Padayao indicated they were expired medication samples. The inspector observed several prescription medication samples for the following drugs:

1) Tofranil 75 mg exp. 02/2006
2) Antabuse 250 mg
3) Effexor XR 37.5 mg /75 mg exp. 02/2004
4) Micardis HCT 80 mg/12.5 mg
5) Prevacid 30 mg exp. 01/2004
6) Zelnorm 6 mg
7) Lescol XL 80 mg

61. The Board's inspector requested to see some prescriptions from the will call area at Respondent Pharmacy. The pharmacy clerk pointed the inspector to the area by the register where the will call prescriptions were located. The inspector selected a few random bags and discovered that none of the selected prescription containers from the will call area had a physical description of tablet or capsule on the label. The following reviewed prescription containers had no physical description of the medication on the prescription container label:

- Rx#l285734 for Olmesartan 20 mg
- Rx#1287791 for Furosemide 40 mg
- Rx#1282491 for Omeprazole 20 mg
- Rx#1285877 for Cephalexin 500 mg
- Rx#l285878 for Ibuprofen 800 mg
- Rx#1283066 for Omeprazole 20 mg
- Rx#l283067 for Glipizide 5 mg

62. During the inspection of Respondent Pharmacy on June 20, 2019, while writing her inspection report at the prescription counter, the Board's inspector developed uncontrolled itching on her ankles. The inspector went outside the pharmacy and noted insect bites on her ankles.

Unlicensed pharmacy manager Ernie Padayao came in towards the end of the inspection. The inspector asked him if he was aware of any insect problems in the pharmacy. Ernie Padayao stated Respondent Pharmacy might have fleas because the house next to the back entrance of the pharmacy has a few dogs.

63. On or about January 30, 2020, Board inspectors conducted a re-inspection at Respondent Pharmacy. The pharmacy appeared improved since the inspection on June 20, 2019. The water damage on the back wall and ceiling appeared to be fixed; however, there was a white residue scattered in the pharmacy including the drawers with empty prescription containers. Additionally, the pharmacy carpet still appeared dirty. The Board inspectors observed a large cluster of residue hanging from the pharmacy light fixture. A Board inspector touched the top of the shelves holding the active drug supply and noted a large dust accumulation.

64. During the Board's re-inspection at Respondent Pharmacy on or about January 30, 2020, the inspectors pulled the following expired drugs from a random section of Respondent Pharmacy's stock:

Drug Name	Expiration Date
Cyclafem 7/7/7	02/2019
HealthPro Glucose Test Strips	07/2019
Zenpep	08/2019
Tri-Lo-Sprintec	12/2019

65. During the re-inspection on January 30, 2020, the Board's inspectors inspected the Respondent Pharmacy's refrigerator and observed the following expired drugs:

Drug Name	Expiration Date
Phenadoz	11/2016
Compro	04/2017
NovoLog	02/2018
Zostavax	03/13/2018

66. The Board inspector requested and received the pharmacy Self-Assessment completed on June 28, 2019 after the initial inspection on June 20, 2019. According to the completed pharmacy Self-Assessment, Respondent Tita Padayao wrote a corrective action which states, "Make a schedule for regular cleaning intervals." The provided Self-Assessment was signed by Respondent Tita Padayao attesting that any deficiency identified herein will be corrected. At the time of the re-inspection, the Board inspector did not locate a schedule for regular cleaning intervals. Additionally, the pharmacy still had dust accumulation and scattered white residues.

FIRST CAUSE FOR DISCIPLINE

(Failure to Transmit CURES Data)

67. Respondent Pharmacy and Respondent Tita Padayao are subject to disciplinary action under Code section 4301, subdivisions (f) and (j), in conjunction with Health and Safety Code section 11165, subdivision (d), in that: Respondents failed to transmit relevant CURES data to the Department of Justice. Specifically, as of July 24, 2019, Respondents, failed to report Patient B.B.'s dispensed prescriptions Rx #1280724 for Diazepam 5 mg filled on May 18, 2018, Rx #1280725 for Tylenol #4 filled on May 21, 2018, Rx #1282411 for Tylenol #4 filled on August 21, 2018, Rx #1282900 for Tylenol #4 filled on September 17, 2018, and Rx #1285905 for Tylenol #4 filled on February 7, 2019 to the Department of Justice no later than seven days from dispensing. Complainant refers to, and by this reference incorporates paragraphs 41 through 47, as though set forth in full.

SECOND CAUSE FOR DISCIPLINE

(Failure to Obtain Prescriber Authorization for Refill of Dangerous Drug)

68. Respondent Pharmacy and Respondent Tita Padayao are subject to disciplinary action under Code section 4301, subdivision (j), and section 4063, in conjunction with California Code of Regulations, title 16, section 1761, subdivision (a), in that: On April 22, 2019, Respondent Pharmacy refilled and dispensed transferred Rx #1287374 for Tylenol# 4 quantity #60 for Patient B.B. without the prescriber's authorization. The transferred prescription only included 60 tablets. Respondent Tita Padayao erroneously added 60 tablets to the transferred prescription.

Complainant refers to, and by this reference incorporates paragraphs 48 through 54, as though set forth in full.

THIRD CAUSE FOR DISCIPLINE

(Duties of a Pharmacist)

69. Respondent Pharmacy and Respondent Tita Padayao are subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with California Code of Regulations, title 16, section 1793.1, subdivision (a), and section 1717, subdivision (c) in that:

a) On or about April 6, 2019, Respondent Pharmacy received an orally transferred prescription Rx #l287374 from Walgreens Pharmacy #09842 for Tylenol #4 quantity #60 for Patient B.B. that was completed by the pharmacy manager Ernie Padayao. Ernie Padayao is not licensed by the Board. Ernie Padayao received new orally transmitted prescriptions from a prescriber's office and reduced them to writing.

b) The Board's inspection conducted on January 30, 2020 at Respondent Pharmacy revealed the pharmacy manager Ernie Padayao received new and additional orally transmitted prescriptions from a prescriber's office and reduced them to writing.

70. Complainant refers to, and by this reference incorporates paragraphs 48 through 54, as though set forth in full.

FOURTH CAUSE FOR DISCIPLINE

(Holding a Misbranded Drug)

71. Respondent Pharmacy and Respondent Tita Padayao are subject to disciplinary action under Code section 4301, subdivisions (j) and (o), and section 4342, subdivision (a), in conjunction with Health and Safety Code 111440, in that: On June 20, 2019, an inspection of active drug inventory at Respondent Pharmacy, revealed the presence of three misbranded vials filled with prescription medications. The vials were not labeled with the medication lot numbers. Complainant refers to, and by this reference incorporates paragraphs 55 through 66, as though set forth in full.

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FIFTH CAUSE FOR DISCIPLINE

(Expired Drugs in Inventory)

72. Respondent Pharmacy and Respondent Tita Padayao are subject to disciplinary action under Code section 4301, subdivisions (j) and (o), and section 4342, subdivision (a), in conjunction with Health and Safety Code section 111295, in that: On June 20, 2019 and January 30, 2020, an inspection of active drug inventory at Respondent Pharmacy, revealed the presence of numerous expired (adulterated) drugs on the shelves ready to be dispensed. Complainant refers to, and by this reference incorporates paragraphs 55 through 66, as though set forth in full.

SIXTH CAUSE FOR DISCIPLINE

(Failure to Maintain Records for Dangerous Drugs and Devices)

73. Respondent Pharmacy and Respondent Tita Padayao are subject to disciplinary action under Code section 4301, subdivisions (j) and (o), and section 4342, subdivision (a), in conjunction with Health and Safety Code section 111295, in that: On June 20, 2019, an inspection at Respondent Pharmacy, revealed that the pharmacy failed to maintain records of acquisition and disposition of free medication samples present in the pharmacy. Respondent Pharmacy was in possession of several free prescription medication samples for Tofranil 75 mg, Antabuse 250 mg, Effexor XR 37.5 mg/75 mg, Micardis HCT 80 mg/12.5 mg, Prevacid 30 mg, Zelnorm 6 mg, and Lescol XL 80 mg without any records of acquisition and disposition. Complainant refers to, and by this reference incorporates paragraphs 55 through 66, as though set forth in full.

SEVENTH CAUSE FOR DISCIPLINE

(Prescription Container – Requirements for Labeling)

74. Respondent Pharmacy and Respondent Tita Padayao are subject to disciplinary action under Code section 4301, subdivisions (j) and (o), and section 4076 subdivision (a)(11)(A), in that: On June 20, 2019, an inspection at Respondent Pharmacy, revealed that prescription containers from the will call area for Rx #1285734 for Olmesartan 20 mg, Rx #1287791 for Furosemide 40 mg, Rx #1282491 for Omeprazole 20 mg, Rx #1285877 for Cephalexin 500 mg, Rx #1285878 for Ibuprofen 800 mg, Rx #l283066 for Omeprazole 20 mg, and Rx #1283067 for Glipizide 5 mg did not have the physical description of the dispensed medication on the

prescription container label. Complainant refers to, and by this reference incorporates paragraphs 55 through 66, as though set forth in full.

EIGHTH CAUSE FOR DISCIPLINE

(Failure to Maintain Operational Standards and Security)

75. Respondent Pharmacy and Respondent Tita Padayao are subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with Code of Regulations, title 16, section 1714, subdivisions (c) and (e), in that:

a) The inspection on June 20, 2019 at Respondent Pharmacy revealed the pharmacy and fixtures were not maintained in clean and orderly condition. Large dust accumulation was noted on shelves with active prescription drug inventory. Respondent Pharmacy's ceiling and back wall had substantial water damage that was not fixed. Respondent Pharmacy also had large spider webs above the shelves with active drug inventory. There were unidentified insects in the pharmacy that resulted in the inspector being bitten. Additionally, an inspection on January 30, 2020 revealed Respondent Pharmacy had dust and white residue accumulation.

b) The Board's inspection revealed the pharmacy manager Ernie Padayao (non-pharmacist) was in a possession of the pharmacy key that was not in a tamper evident container. Additionally, Respondent Tita Padayao allowed Ernie Padayao to open the pharmacy when Respondent Tita Padayao was running late.

76. Complainant refers to, and by this reference incorporates paragraphs 48 through 66, as though set forth in full.

NINTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

77. Respondent Pharmacy and Respondent Tita Padayao are subject to disciplinary action under Code section 4301 subdivision (g), in that: On June 28, 2019, Respondent Tita Padayao signed Community Pharmacy Self-Assessment for Respondent Pharmacy, under penalty of perjury, attesting to the accuracy of the provided information and attesting that identified deficiencies will be corrected. The signed Self-Assessment included a corrective plan written by Respondent Padayao which stated, "Make a schedule for regular cleaning intervals." However,

re-inspection on January 30, 2020 revealed the pharmacy had dust and white residue accumulation. Additionally, there was no schedule for regular cleaning intervals located at the time of the inspection. Complainant refers to, and by this reference incorporates paragraphs 55 through 66 as though set forth in full.

OTHER MATTERS

78. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 30070 issued to Tita P. Padayao, dba Bell Drugs while Tita P. Padayao has been an owner and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, Tita P. Padayao shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 30070 is placed on probation or until Pharmacy Permit Number PHY 30070 is reinstated if it is revoked.

PRAYER

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

1. Revoking or suspending Pharmacy Permit Number PHY 30070, issued to Tita P. Padayao, dba Bell Drugs;

2. Revoking or suspending Pharmacist License Number RPH 32781, issued to Tita P. Padayao;

3. Prohibiting Tita P. Padayao from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 30070 is placed on probation or until Pharmacy Permit Number PHY 30070 is reinstated if Pharmacy Permit Number PHY 30070 issued to Tita P. Padayao is revoked;

4. Ordering Tita P. Padayao, dba Bell Drugs and Tita P. Padayao to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 2/17/2021

Signature on File

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

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