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

12 In the Matter of the Accusation Against:

Case No. 6974

13 **JAKE WILLIAM BACHINO**  
14 **619 Shay Lane**  
15 **Orcutt, CA 93455**

**DEFAULT DECISION AND ORDER**

16 **Pharmacist License No. RPH 67723**

[Gov. Code, §11520]

17 Respondent.  
18  
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20 **FINDINGS OF FACT**

21 1. On or about October 9, 2020, Complainant Anne Sodergren, in her official capacity  
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed  
23 Accusation No. 6974 against Jake William Bachino (Respondent) before the Board of Pharmacy.  
24 (Accusation attached as Exhibit A.)

25 2. On or about August 20, 2012, the Board of Pharmacy (Board) issued Pharmacist  
26 License No. RPH 67723 to Respondent. The Pharmacist License was in full force and effect at  
27 all times relevant to the charges brought in Accusation No. 6974 and will expire on September  
28 30, 2021, unless renewed.

1           3.     On or about December 4, 2020, Respondent was served by Certified and First Class  
2 Mail copies of the Accusation No. 6974, Statement to Respondent, Request for Discovery, and  
3 Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's  
4 address of record which, pursuant to Business and Professions Code section 4100, is required to  
5 be reported and maintained with the Board. Respondent's address of record was and is:  
6 619 Shady Lane, Orcutt, CA 93455.

7           4.     Service of the Accusation was effective as a matter of law under the provisions of  
8 Government Code section 11505(c) and/or Business and Professions Code section 124.

9           5.     Government Code section 11506(c) states, in pertinent part:

10               (c) The respondent shall be entitled to a hearing on the merits if the respondent  
11 files a notice of defense . . . and the notice shall be deemed a specific denial of all  
12 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense  
13 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its  
14 discretion may nevertheless grant a hearing.

15           6.     The Board takes official notice of its records and the fact that Respondent failed to  
16 file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore  
17 waived his right to a hearing on the merits of Accusation No. 6974.

18           7.     California Government Code section 11520(a) states, in pertinent part:

19               (a) If the respondent either fails to file a notice of defense . . . or to appear at  
20 the hearing, the agency may take action based upon the respondent's express  
21 admissions or upon other evidence and affidavits may be used as evidence without  
22 any notice to respondent . . . .

23           8.     Pursuant to its authority under Government Code section 11520, the Board finds  
24 Respondent is in default. The Board will take action without further hearing and, based on the  
25 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,  
26 as well as taking official notice of all the investigatory reports, exhibits and statements contained  
27 therein on file at the Board's offices regarding the allegations contained in Accusation No. 6974,  
28 finds that the charges and allegations in Accusation No. 6974, are separately and severally, found  
to be true and correct by clear and convincing evidence.

          9.     The Board finds that the actual costs for Investigation and Enforcement are  
\$18,001.25 as of January 5, 2021.

**DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondent Jake William Bachino has subjected his Pharmacist License No. RPH 67723 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacist License based upon the following violations alleged in the Accusation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

a. Business and Professions Code section 4301, subdivision (f), for acts of dishonesty, fraud, or deceit.

b. California Code of Regulations, title 16, section 1716, in conjunction with Business and Professions Code section 4301, subdivision (o), for variation from a prescription.

c. Health and Safety Code section 11170, in conjunction with Business and Professions Code section 4301, subdivision (j), for furnishing controlled substances for himself.

d. Health and Safety Code section 11173, subdivision (a), in conjunction with Business and Professions Code section 4301, subdivision (j), for obtaining controlled substances by fraud or deceit.

e. Business and Profession Code section 4060, in conjunction with Business and Professions Code section 4301, subdivision (j), for illegal possession of controlled substances.

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**ORDER**

IT IS SO ORDERED that Pharmacist License No. RPH 67723, issued to Respondent Jake William Bachino, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on March 12, 2021 at 5:00 p.m..

It is so ORDERED February 10, 2021

FOR THE BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS

By



Greg Lippe  
Board President

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DOJ Matter ID:LA2020601199

Attachment:  
Exhibit A:  
Accusation

# Exhibit A

Accusation

1 XAVIER BECERRA  
Attorney General of California  
2 THOMAS L. RINALDI  
Supervising Deputy Attorney General  
3 M. TRAVIS PEERY  
Deputy Attorney General  
4 State Bar No. 261887  
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5 Los Angeles, CA 90013  
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6 Facsimile: (916) 731-2126  
*Attorneys for Complainant*  
7

8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 6974

13 **JAKE WILLIAM BACHINO**  
14 **619 Shay Lane**  
**Orcutt, CA 93455**

**ACCUSATION**

15 **Pharmacist License No. RPH 67723**

16 Respondent.

17  
18 **PARTIES**

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

21 2. On or about August 20, 2012, the Board of Pharmacy issued Pharmacist License  
22 Number RPH 67723 to Jake William Bachino (Respondent). The Pharmacist License was in full  
23 force and effect at all times relevant to the charges brought herein and will expire on September  
24 30, 2021, unless renewed.

25 **JURISDICTION**

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

1           4.     Section 4300 of the Code states:

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

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

5                   (1) Suspending judgment.

6                   (2) Placing him or her upon probation.

7                   (3) Suspending his or her right to practice for a period not exceeding one year.

8                   (4) Revoking his or her license.

9                   (5) Taking any other action in relation to disciplining him or her as the board in  
10 its discretion may deem proper.

11                   ...

12                   (e) The proceedings under this article shall be conducted in accordance with  
Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the  
13 Government Code, and the board shall have all the powers granted therein. The  
action shall be final, except that the propriety of the action is subject to review by the  
14 superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

15           5.     Section 4300.1 of the Code states:

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

21                                   **STATUTORY PROVISIONS**

22           6.     Section 4022 of the Code states

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

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

26                   (b) Any device that bears the statement: Caution: federal law restricts this  
27 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  
28 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.

7. Section 4060 of the Code states:

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

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

8. Section 4301 of the Code states:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct shall include, 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.

...

(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.

9. Health and Safety code section 11170 states:

No person shall prescribe, administer, or furnish a controlled substance for himself.

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10. Health and Safety code section 11073 states in pertinent part:

(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.

### **REGULATORY PROVISIONS**

11. California Code of Regulations, title 16, (CCR) section 1716, states in pertinent part:

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

### **COST RECOVERY**

12. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.

### **CONTROLLED SUBSTANCES AND DANGEROUS DRUGS**

13. "Hydromorphone" is a generic name for "Dilaudid" and is used for pain relief. Hydromorphone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(J), and a dangerous drug pursuant to Business and Professions Code section 4022.

14. "Methadone" is used for pain relief and narcotic drug addiction. Methadone is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (c)(14), and a dangerous drug pursuant to Business and Professions Code section 4022.

15. "Oxycodone/apap" is a generic name for "Percocet" and is used for pain relief. Oxycodone/apap is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M), and a dangerous drug pursuant to Business and Professions Code section 4022.

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**FACTUAL ALLEGATIONS**

16. On or about September 5, 2019, the Board received notification from CVS Pharmacy #16105 (CVS), in Santa Maria, California, that a loss of #180 tablets of oxycodone/apap 10/325mg had occurred. During subsequent investigations conducted by CVS and the Board, Respondent admitted to diverting for self-use the following medications that were prescribed and filled for other patients: oxycodone/apap 10/325mg; methadone 10mg; and hydromorphone 4mg. Further details regarding the subsequent investigations are as follows:

17. On or about May 7, 2019, a prescription for methadone 10mg #40 was presented to CVS to be filled on May 19, 2019. The prescription, RX# 8923450, was typed incorrectly and dispensed to Patient DN on May 8, 2019 by Respondent. Specifically, Respondent incorrectly changed the directions on the prescription from “½ to 1 tablet every 12 hours” to “1 tablet everyday.” There was no prescription written on May 8, 2019 for methadone 10mg #40 with directions to take 1 tablet daily.

18. On or about May 26, 2019, Respondent diverted RX # 8925395 (written for Patient DN) for methadone 10mg #40, by filling the prescription and selling it to himself.

19. On or about June 5, 2019, Respondent diverted RX# 8920668 (written for Patient RP) for hydromorphone 4mg #120, by filling the prescription and selling it to himself. The prescription was billed by Respondent to a discount plan instead of the patient’s Medicare Part D plan.

20. On or about June 22, 2019, Respondent diverted RX# 8927586 (written for Patient EA) for oxycodone/apap 10/325 #180, by selling the prescription to himself. Respondent had filled this prescription on June 20, 2019 even though the prescription should have been void because it had already been filled at another store.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Dishonesty, Fraud, or Deceit)**

3 21. Respondent is subject to disciplinary action under Code section 4301, subdivision (f),  
4 on the grounds of unprofessional conduct, in that Respondent committed acts of dishonesty,  
5 fraud, or deceit when he purchased controlled substance prescriptions for methadone,  
6 hydromorphone, and oxycodone/apap, written for other patients, for the purpose of self-use.  
7 Complainant herby incorporates paragraphs 16 through 20, above, as though set forth fully  
8 herein.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Variation from Prescriptions)**

11 22. Respondent is subject to disciplinary action under CCR section 1716, in conjunction  
12 with Code section 4301, subdivision (o), on the grounds of unprofessional conduct, in that  
13 Respondent dispensed a prescription with directions that varied from what the prescriber ordered,  
14 without the prescriber's authorization. Complainant herby incorporates paragraph 17, above, as  
15 though set forth fully herein.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Furnishing Controlled Substances for Self)**

18 23. Respondent is subject to disciplinary action under Health and Safety Code section  
19 11170, in conjunction with Code section 4301, subdivision (j), on the grounds of unprofessional  
20 conduct, in that Respondent filled and purchased controlled substance prescriptions, written for  
21 other patients, for the purpose of self-use. Complainant herby incorporates paragraphs 16 through  
22 20, above, as though set forth fully herein.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Obtaining Controlled Substances by Fraud or Deceit)**

25 24. Respondent is subject to disciplinary action under Health and Safety Code section  
26 11173, subdivision (a), in conjunction with Code section 4301, subdivision (j), on the grounds of  
27 unprofessional conduct, in that he obtained the controlled substances methadone, hydromorphone,  
28 and oxycodone by fraud or deceit when he filled and purchased controlled substance

1 prescriptions, written for other patients, for the purpose of self-use. Complainant herby  
2 incorporates paragraphs 16 through 20, above, as though set forth fully herein.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Illegal Possession of Controlled Substances)**

5 25. Respondent is subject to disciplinary action under Code section 4060, in conjunction  
6 with Code section 4301, subdivision (j), on the grounds of unprofessional conduct, in that  
7 Respondent illegally possessed controlled substances including methadone, hydromorphone, and  
8 oxycodone/apap by filling and purchasing prescriptions written for other patients for the purpose  
9 of self-use. Complainant herby incorporates paragraphs 16 through 20, above, as though set forth  
10 fully herein.

11 **DISCIPLINARY CONSIDERATION**

12 26. To determine the degree of discipline, if any, to be imposed on Respondent,  
13 Complainant alleges that on or about January 5, 2016, in a prior action, the Board of Pharmacy  
14 issued Citation Number CI 2015 68519 to Respondent and ordered him to pay a \$2,500.00 fine  
15 for violating CCR section 1716 [variation from prescription]. That citation is now final.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacist License Number RPH 67723, issued to Jake  
20 William Bachino;

21 2. Ordering Jake William Bachino to pay the Board of Pharmacy the reasonable costs of  
22 the investigation and enforcement of this case, pursuant to Business and Professions Code section  
23 125.3; and,

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

DATED: 10/9/2020

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

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