

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

In the Matter of the Accusation Against:

**GINIKA INC., dba
CARE-PRO PHARMACY,
Pharmacy Permit No. PHY 51509;**

**NITAL GIRISH PATEL,
Pharmacist License No. RPH 48678;**

and

**TUAN DUC DOAN,
Pharmacist License No. RPH 54387,**

Respondents.

Agency Case No. 6980

OAH No. 2021020918

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 February 24, 2022.

It is so ORDERED on January 25, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" being clearly legible, and "W." in the middle.

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General
3 LAURO A. PAREDES
Deputy Attorney General
4 State Bar No. 254663
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9439
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

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

13 In the Matter of the Accusation Against:

Case No. 6980

14 **GINIKA INC.,**
15 **DBA CARE-PRO PHARMACY**
1307 W. Sixth Street, Suite 107
Corona, CA 92882

OAH No. 2021020918

**STIPULATED SURRENDER OF
LICENSE AND ORDER FOR GINIKA
INC., DBA CARE-PRO PHARMACY
ONLY**

16 **Permit Number No. 51509,**

17 **NITAL GIRISH PATEL**
1220 Teroro Way
18 Corona, CA 91719

19 **Pharmacist License No. RPH 48678,**

20 **and**

21 **TUAN DUC DOAN**
2531 E. Riles Circle
22 Anaheim, CA 92806

23 **Pharmacist License No. RPH 54387**

24 Respondents.

25
26 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
27 entitled proceedings that the following matters are true:

28 ///

1 **PARTIES**

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

6 2. Ginika Inc., dba Care-Pro Pharmacy (Respondent) is represented in this proceeding
7 by attorney Lucy S. McAllister, whose address is: 255 N. Market Street, Suite 100, San Jose, CA
8 95110.

9 3. On or about August 2, 2013, the Board issued Pharmacy Permit Number PHY 51509
10 to Ginika Inc., dba Care-Pro Pharmacy. The Pharmacy Permit was in full force and effect at all
11 times relevant to the charges brought herein and will expire on August 1, 2021. Since August 2,
12 2013, Nital Girish Patel has been the Chief Executive Officer, Director and owner of fifty percent
13 of the outstanding stock of Ginika Inc. Since August 2, 2013, Tuan Duc Doan has been the
14 Secretary and owner of fifty percent of the outstanding stock of Ginika Inc. and the Pharmacist-
15 in-Charge of Care-Pro Pharmacy.

16 **JURISDICTION**

17 4. Accusation No. 6980 was filed before the Board, and is currently pending against
18 Respondent. The Accusation and all other statutorily required documents were properly served
19 on Respondent on October 12, 2020. Respondent timely filed its Notice of Defense contesting
20 the Accusation. A copy of Accusation No. 6980 is attached as Exhibit A and incorporated by
21 reference.

22 **ADVISEMENT AND WAIVERS**

23 5. Respondent has carefully read, fully discussed with counsel, and understands the
24 charges and allegations in Accusation No. 6980. Respondent also has carefully read, fully
25 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
26 Order.

27 6. Respondent is fully aware of its legal rights in this matter, including the right to a
28 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine

1 the witnesses against them; the right to present evidence and to testify on its own behalf; the right
2 to the issuance of subpoenas to compel the attendance of witnesses and the production of
3 documents; the right to reconsideration and court review of an adverse decision; and all other
4 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

7 **CULPABILITY**

8 8. Respondent admits the truth of each and every charge and allegation in Accusation
9 No. 6980, agrees that cause exists for discipline and hereby surrenders its Pharmacy Permit
10 Number 51509 for the Board's formal acceptance.

11 9. Respondent understands that by signing this stipulation it enables the Board to issue
12 an order accepting the surrender of its Pharmacy Permit Number 51509 without further process.

13 **CONTINGENCY**

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

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

26 12. This Stipulated Surrender of License and Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

1 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
2 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
3 executed by an authorized representative of each of the parties.

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

6 **ORDER**

7 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 51509 issued to Respondent
8 Ginika Inc., dba Care-Pro Pharmacy, dba Care-Pro Pharmacy, Nital Girish Patel, Shareholder,
9 Tuan Duc Doan, Shareholder, is surrendered and accepted by the Board. However, the surrender
10 will be stayed for a period of 90 days from the effective date, by which time the pharmacy shall
11 be sold or closed. In addition, upon signature of the stipulated settlement Respondent Pharmacy
12 shall designate a new Pharmacist-in-Charge within 14 days.

13 1. In the event that the Pharmacy is not sold within the ninety-day period upon the
14 effective date of decision Respondent Doan shall, within ten (10) days of the stayed 90 days of
15 the effective date of this decision, arrange for the destruction of, the transfer to, sale of or storage
16 in a facility licensed and approved by the Board of all controlled substances and dangerous drugs
17 and/or dangerous devices. Respondent Doan, shall further arrange for the transfer of all records of
18 acquisition and disposition of dangerous drugs to premises licensed and approved by the Board.
19 Respondent Doan, shall further provide written proof of such disposition and submit a completed
20 Discontinuance of Business form according to Board guidelines.

21 2. During the ninety-day stay, Respondent Pharmacy shall retain an independent
22 consultant at its own expense who shall be responsible for conducting an inspection to review the
23 operations of Respondent Pharmacy on a bi-monthly (twice-a-month) basis for compliance by
24 Respondent Pharmacy with state and federal laws and regulations governing the practice of
25 pharmacy, and compliance by respondent. During the stay period, the Board or its designee,
26 retains the discretion to modify the frequency of the inspection of the pharmacist consultant's
27 review.
28

1 The consultant shall be a pharmacist licensed by and not on probation with the Board and
2 whose name shall be submitted to the Board or its designee, for prior approval, within ten (10)
3 days of the effective date of this decision.

4 Failure to timely retain, seek approval of, or ensure timely reporting by the consultant shall
5 be considered a violation.

6 3. In the event that Respondent Pharmacy is not sold within the ninety-day period upon
7 the effective date of decision, Respondent Doan, shall within ten (10) days of the stayed 90 days
8 of the effective date of this decision, arrange for the continuation of care for ongoing patients of
9 the pharmacy by, at minimum, providing a written notice to ongoing patients that specifies the
10 anticipated closing date of the pharmacy and that identifies one or more area pharmacies capable
11 of taking up the patients' care, and by cooperating as may be necessary in the transfer of records
12 or prescriptions for ongoing patients. Within five days of its provision to the pharmacy's ongoing
13 patients, Respondent Doan, shall provide a copy of the written notice to the Board. For the
14 purposes of this provision, "ongoing patients" means those patients for whom the pharmacy has
15 on file a prescription with one or more refills outstanding, or for whom the pharmacy has filled a
16 prescription within the preceding ninety (90) days.

17 4. The surrender of the Pharmacy License by the Board shall constitute the imposition
18 of discipline. This stipulation constitutes a record of the discipline and shall become a part of
19 Respondents Doan and Patel's, license history with the Board of Pharmacy.

20 5. Respondent Pharmacy shall lose all rights and privileges as a Pharmacy in California
21 as of the effective date of the Board's Decision and Order.

22 6. Respondents Doan and Patel understand and agree that if they ever file an application
23 for licensure or a licensed premises or a petition for reinstatement in the State of California, the
24 Board shall treat it as a new application for licensure.

25 7. Respondent Pharmacy may not reapply for any license from the Board for three (3)
26 years from the effective date of this decision. Respondent stipulates that should they apply for any
27 license from the Board on or after the effective date of this decision, all allegations set forth in the
28 Accusation No. 6980 shall be deemed to be true, correct and admitted by Respondents when the

Board determines whether to grant or deny the application. Respondent shall satisfy all requirements applicable to that license as of the date the application is submitted to the Board, including, but not limited to, taking and passing licensing examination(s) as well as fulfilling any education or experience requirements prior to the issuance of a new license.

8. Respondent Pharmacy shall relinquish its pharmacy permit, including any indicia of licensure issued by the Board, within ten (10) days of the stayed 90 days of the effective date of this decision. Respondent shall relinquish the premises wall license and renewal license to the Board within ten (10) days of the stayed 90 days of the effective date of this decision.

ACCEPTANCE

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

DATED: _____

NITAL GIRISH PATEL
CHIEF EXECUTIVE OFFICER/DIRECTOR
AND OWNER
GINIKA INC., DBA CARE-PRO
PHARMACY

DATED: _____

TUAN DUC DOAN
SECRETARY AND OWNER
GINIKA INC., DBA CARE-PRO
PHARMACY

1 Board determines whether to grant or deny the application. Respondent shall satisfy all
2 requirements applicable to that license as of the date the application is submitted to the Board,
3 including, but not limited to, taking and passing licensing examination(s) as well as fulfilling any
4 education or experience requirements prior to the issuance of a new license.

5 8. Respondent Pharmacy shall relinquish its pharmacy permit, including any indicia of
6 licensure issued by the Board, within ten (10) days of the stayed 90 days of the effective date of
7 this decision. Respondent shall relinquish the premises wall license and renewal license to the
8 Board within ten (10) days of the stayed 90 days of the effective date of this decision.

9 **ACCEPTANCE**

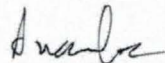
10 I have carefully read the above Stipulated Surrender of License and Order and have fully
11 discussed it with my attorney Lucy S. McAllister. I understand the stipulation and the effect it
12 will have on my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order
13 voluntarily,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

15 DATED: 10/5/2021



16
17 NITAL GIRISH PATEL
18 CHIEF EXECUTIVE OFFICER/DIRECTOR
19 AND OWNER
GINIKA INC., DBA CARE-PRO
20 PHARMACY

21 DATED: 10/6/2021



22
23 TUAN DUC DOAN
24 SECRETARY AND OWNER
25 GINIKA INC., DBA CARE-PRO
26 PHARMACY
27
28

1 I have read and fully discussed with Respondent Ginika Inc., dba Care-Pro Pharmacy the
2 terms and conditions and other matters contained in this Stipulated Surrender of License and
3 Order. I approve its form and content.

4
5 DATED: _____

LUCY S. MCALLISTER
Attorney for Respondent

6
7
8 **ENDORSEMENT**

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

11 DATED: _____

Respectfully submitted,

12 ROB BONTA
13 Attorney General of California
14 MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General

15
16 LAURO A. PAREDES
17 Deputy Attorney General
Attorneys for Complainant

18
19
20 SD2020800445
83074273

1 I have read and fully discussed with Respondent Ginika Inc., dba Care-Pro Pharmacy the
2 terms and conditions and other matters contained in this Stipulated Surrender of License and
3 Order. I approve its form and content.

4
5 DATED: 10/6/2021

Lucy McAllister

6 LUCY S. MCALLISTER
7 Attorney for Respondent

8 **ENDORSEMENT**

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

11 DATED: 12/1/2021

Respectfully submitted,

12 ROB BONTA
13 Attorney General of California
14 MARICHELLE S. TAHIMIC
15 Supervising Deputy Attorney General



16 LAURO A. PAREDES
17 Deputy Attorney General
18 Attorneys for Complainant

19
20 SD2020800445
83074273.docx

Exhibit A

Accusation No. 6980

1 XAVIER BECERRA
Attorney General of California
2 THEODORE S. DRCAR
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9429
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 6980

14 **GINIKA INC.**
15 **DBA CARE-PRO PHARMACY,**
16 **NITAL GIRISH PATEL AND TUAN DUC**
17 **DOAN OWNERS, DIRECTORS AND/OR**
18 **OFFICERS**
19 **1307 W. Sixth Street, Suite 107**
20 **Corona, CA 92882**

ACCUSATION

21 **Pharmacy Permit No. PHY 51509,**

22 **NITAL GIRISH PATEL**
23 **1220 Teroro Way**
24 **Corona, CA 91719**

25 **Pharmacist License No. RPH 48678,**

26 **and**

27 **TUAN DUC DOAN**
28 **2531 E. Riles Circle**
Anaheim, CA 92806

Pharmacist License No. RPH 54387

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 August 2, 2013, the Board of Pharmacy issued Pharmacy Permit Number
5 PHY 51509 to Ginika Inc., dba Care-Pro Pharmacy (Care-Pro Pharmacy). The Pharmacy Permit
6 was in full force and effect at all times relevant to the charges brought herein and will expire on
7 August 1, 2021. Since August 2, 2013, Nital Girish Patel has been the Chief Executive Officer,
8 Director and owner of fifty percent of the outstanding stock of Ginika Inc. Since August 2, 2013,
9 Tuan Duc Doan has been the Secretary and owner of fifty percent of the outstanding stock of
10 Ginika Inc. and the Pharmacist-in-Charge of Care-Pro Pharmacy.

11 3. On or about May 9, 1996, the Board of Pharmacy issued Pharmacist License Number
12 RPH 48678 to Nital Girish Patel. The Pharmacist License was in full force and effect at all times
13 relevant to the charges brought herein and will expire on July 31, 2021, unless renewed.

14 4. On or about March 24, 2003, the Board of Pharmacy issued Pharmacist License
15 Number RPH 54387 to Tuan Duc Doan. The Pharmacist License was in full force and effect at
16 all times relevant to the charges brought herein and will expire on July 31, 2022, unless renewed.

17 **JURISDICTION**

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

21 6. Section 4011 of the Code provides that the Board shall administer and enforce both
22 the Pharmacy Law (Bus. & Prof. Code, § 4000 *et seq.*) and the Uniform Controlled Substances
23 Act (Health & Safety Code, § 11000 *et seq.*).

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

26 ///

27 ///

28 ///

1 8. Code section 4300.1 states:

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

8 **STATUTORY PROVISIONS**

9 9. Code section 4022 states:

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

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

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

18 (c) Any other drug or device that by federal or state law can be lawfully
19 dispensed only on prescription or furnished pursuant to Section 4006.

20 10. Code section 4113, subdivision (c) states:

21 The pharmacist-in-charge shall be responsible for a pharmacy's compliance
22 with all state and federal laws and regulations pertaining to the practice of pharmacy.

23 11. Code section 4301 states in pertinent part:

24 The board shall take action against any holder of a license who is guilty of
25 unprofessional conduct or whose license has been procured by fraud or
26 misrepresentation or issued by mistake. Unprofessional conduct shall include, but is
27 not limited to, any of the following:

28 ...

(j) The violation of any of the statutes of this state, or 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 any other state or federal regulatory
agency.

...

12. Code section 4306.5, subdivisions (a) and (b) states:

Unprofessional conduct for a pharmacist may include any of the following:

(a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.

(b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement his or her best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services.

...

13. Code section 4307, subdivision (a) states:

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

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

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

14. Health and Safety Code section 11153, subdivision (a), states:

A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

///

15. Health and Safety Code section 11162.1, subdivision (a) states:

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

(1) A latent, repetitive 'void' pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a pattern across the entire front of the prescription.

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

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermochromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form so that the prescriber may indicate the quantity by checking the applicable box where the following quantities shall appear:

1-24

25-49

50-74

75-100

101-150

151 and over.

(b) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(8) Prescription blanks shall contain a statement printed on the bottom of the prescription blank that the "Prescription is void if the number of drugs prescribed is not noted."

(9) The preprinted name, category of licensure, license number, federal controlled substance registration number, and address of the prescribing practitioner.

(10) Check boxes shall be printed on the form so that the prescriber may indicate the number of refills ordered.

(11) The date of origin of the prescription.

(12) A check box indicating the prescriber's order not to substitute.

1 (13) An identifying number assigned to the approved security printer by the
2 Department of Justice.

3 (14) (A) A check box by the name of each prescriber when a prescription form
4 lists multiple prescribers.

5 (B) Each prescriber who signs the prescription form shall identify himself or
6 herself as the prescriber by checking the box by his or her name.

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

10 . . .

11 16. Health and Safety Code section 11164 states:

12 Except as provided in Section 11167, no person shall prescribe a controlled
13 substance, nor shall any person fill, compound, or dispense a prescription for a
14 controlled substance, unless it complies with the requirements of this section.

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

19 (1) The prescription shall be signed and dated by the prescriber in ink and
20 shall contain the prescriber's address and telephone number; the name of the
21 ultimate user or research subject, or contact information as determined by the
22 Secretary of the United States Department of Health and Human Services; refill
23 information, such as the number of refills ordered and whether the prescription is a
24 first-time request or a refill; and the name, quantity, strength, and directions for
25 use of the controlled substance prescribed.

26 (2) The prescription shall also contain the address of the person for whom
27 the controlled substance is prescribed. If the prescriber does not specify this
28 address on the prescription, the pharmacist filling the prescription or an employee
acting under the direction of the pharmacist shall write or type the address on the
prescription or maintain this information in a readily retrievable form in the
pharmacy.

....

REGULATORY PROVISIONS

17. Code of Federal Regulations, Title 21, section 1306.04, subdivision (a), states:

A prescription for a controlled substance to be effective must be issued for a
legitimate medical purpose by an individual practitioner acting in the usual course of
his professional practice. The responsibility for the proper prescribing and dispensing
of controlled substances is upon the prescribing practitioner, but a corresponding
responsibility rests with the pharmacist who fills the prescription. An order
purporting to be a prescription issued not in the usual course of professional treatment
or in legitimate and authorized research is not a prescription within the meaning and

1 intent of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such
2 a purported prescription, as well as the person issuing it, shall be subject to the
penalties provided for violations of the provisions of law relating to controlled
substances.

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

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

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

10 **COST RECOVERY**

11 19. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
12 administrative law judge to direct a licensee found to have committed a violation or violations of
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
14 enforcement of the case.

15 **DRUGS**

16 20. Phenergan with Codeine is the brand name for promethazine with codeine, a
17 Schedule V controlled substance pursuant to Health and Safety Code section 11058, subdivision
18 (c)(1), and is a dangerous drug as defined by Business and Professions Code section 4022.

19 21. Roxicodone is the brand name for oxycodone, a Schedule II controlled substance
20 pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M) and a dangerous drug as
21 defined by Business and Professions Code section 4022.

22 **FACTUAL ALLEGATIONS**

23 22. At all relevant times, Respondent Care-Pro Pharmacy was an independent community
24 pharmacy located in Corona, California. At all relevant times, Respondent Doan was the
25 Pharmacist-in-Charge and Respondent Patel was a staff pharmacist. Both of them were the
26 owners of Respondent Care-Pro Pharmacy (collectively Respondents).

27 23. On May 29, 2015, Doan, on behalf of Care-Pro Pharmacy, certified under penalty of
28 perjury under the laws of the State of California that pharmacists at Care-Pro Pharmacy were

1 aware of their corresponding responsibility to determine that a prescription written for a
2 controlled substance was issued for legitimate medical purposes only. He also verified that he
3 was aware that a pharmacist must not dispense a controlled substance prescription if he knew or
4 had objective reason to know that the prescription was not issued for a legitimate medical purpose
5 and all written controlled substances prescriptions (with limited exceptions) dispensed by Care-
6 Pro Pharmacy were on California Security Prescription forms. He also verified that before
7 dispensing a prescription with a significant irregularity or error, pharmacists should contact the
8 prescriber to obtain information needed to validate the prescription.

9 24. A Board of Pharmacy inspector conducted an inspection of Care-Pro Pharmacy.
10 Respondents Doan and Patel were present during the inspection. Based on the facts set forth
11 below, her educational and professional background and knowledge of pharmacy and drug laws,
12 the Board's inspector determined that on numerous occasions, Respondents failed to exercise
13 their corresponding responsibility and best professional judgment to dispense only controlled
14 substance prescriptions issued for legitimate medical purposes.

15 25. The inspector focused on three prescribers, Dr. R.G., Dr. J.B. and Physician Assistant
16 (PA) J.E. The inspector found those prescribers' prescriptions contained significant irregularities
17 and "red flags," suggesting that prescriptions were not written or filled for a legitimate medical
18 purpose. Respondents' prescribing profiles for these physicians indicated that promethazine with
19 codeine and/or oxycodone 30mg immediate-release, drugs associated with high rates of abuse and
20 diversion, were the most commonly prescribed drugs for these prescribers. Most, if not all of the
21 prescriptions from these prescribers exhibited obvious red flags of drug abuse that Respondents
22 ignored when filling them, in spite of the Respondents' corresponding responsibility to ensure
23 that all prescriptions dispensed were for a legitimate medical purpose.

24 Those red flags included:

- 25 • Irregularities on the face of the prescriptions;
- 26 • Cash payments;
- 27 • Prescriptions written for an unusually large quantity of drugs;
- 28 • The same combinations of drugs prescribed for multiple patients;

- Initial prescriptions written for strong opiates;
- Prescriptions written on non-compliant controlled substance prescription forms;
- Long distances traveled from the patient's home to the prescriber's office or pharmacy.

26. From July 1, 2016 through August 22, 2019, Respondents dispensed **318** prescriptions for controlled substances under the prescribing authority of Dr. R.G., Dr. J.B. and PA J.E., **145** of those prescriptions were dispensed based on prescription forms that were not compliant with the requirements of the Health and Safety Code.

27. In connection with the aforementioned prescriptions, Respondents dispensed an aggregate total of **25,627 tablets** of oxycodone immediate-release 30mg, **180 tablets** of oxycodone immediate-release 20mg and **37,666 mL** of promethazine with codeine.

28. Respondents dispensed controlled substances without ensuring they were for a legitimate medical use when obvious, objective, and systemic signs of irregularities and red flags of illegitimacy existed as described below.

29. Respondents dispensed controlled substances even though customers paid for almost all of the 318 medications in cash even though pharmacists know that almost all patients seek reimbursement from insurance companies or government agencies for medications.

30. In many instances, Respondents charged more than the fair market value for 150 tablets of oxycodone 30mg and 1 pint of promethazine with codeine, allegedly prescribed by Dr. R.G., Dr. J.B. and PA J.E. Namely, Respondents charged customers \$890.60 for 150 tablets of Oxycodone 30mg and \$140.00 for 1 pint of promethazine with codeine when neighboring pharmacies charged \$244.99, \$57.00, \$374.99 and \$538.00 for the same quantity and strength of oxycodone and \$61.59, \$26.00, \$36.99 and \$59.00 for the same quantity of promethazine with codeine.

31. Respondents filled prescriptions written by Dr. R.G. and Dr. J.B. for oxycodone and promethazine with codeine even though it is uncommon for family practitioners to prescribe those controlled substances. Respondents could have reviewed the Medical Board website and concluded that Dr. R.G. reported his primary area of practice as family medicine with emergency

1 and internal medicine as his secondary practices on the Medical Board website while Dr. J.B.
2 reported his primary area of practice as family medicine and geriatric medicine as his secondary
3 area of practice.

4 32. An unusually high percentage, approximately half of the prescriptions that
5 Respondents filled from prescriptions issued by Dr. R.G. and Dr. J.B. were for a drug of high
6 potential for diversion and drug abuse, oxycodone 30mg immediate-release in the highest strength
7 available, and for the unusually high quantity of 150 tablets, to multiple customers. Many of
8 Respondents' customers with prescriptions from these doctors were dispensed the highest
9 strength of oxycodone as a starting dose even though it is not recommended to prescribe the
10 highest strength to opioid naïve patients. Eight of the same customers were dispensed
11 prescriptions for the same controlled substance, oxycodone 30mg from both Dr. R.G. and J.B,
12 around the period, indicating that those customers may have been "doctor shopping."

13 33. An unusually high percentage, approximately one third of the prescriptions that
14 Respondents filled from prescriptions issued by PA J.E., were for a drug of high potential for
15 diversion and drug abuse, promethazine with codeine, written for the unusually large quantity of
16 473 mL (one pint), to multiple patients. Respondents filled sixteen of PA J.E.'s prescriptions for
17 both oxycodone 30mg and promethazine with codeine even though a pharmacist knows that those
18 drugs have the duplicative effect on a patient and they are both controlled substances that are
19 addictive and prone to abuse. Similarly, Respondents dispensed PA J.E.'s prescriptions for two
20 antihistamines, promethazine with codeine and loratadine at the same time; pharmacists know
21 that is irregular to prescribe two antihistamines concurrently because it increases the side effects
22 of those drugs. Respondents also dispensed three of PA J.E.'s prescriptions for promethazine with
23 codeine 17, 72 and 79 days after issuance of the prescriptions even though patients with
24 respiratory infections would immediately fill their prescriptions for their acute condition.
25 Respondents dispensed oxycodone to opioid naïve patients from PA J.E.'s prescriptions in the
26 highest or second highest strength (30mg and 20mg) available even though such a practice is
27 medically not recommended.

28 ///

34. Respondents filled prescriptions even though certain customers' addresses on prescriptions or identification cards were located many miles away from Care-Pro Pharmacy. Likewise, Dr. R.G.'s, Dr. J.B.'s and P.A. J.E.'s offices were also located far from Care-Pro Pharmacy (Dr. R.G.'s offices were 22 and 47 miles away from Care-Pro Pharmacy, Dr. J.B.'s office was 47 miles away and P.A. J.E.'s offices were 23-51 miles away). Dr. R.G.'s and Dr. J.B.'s prescriptions had the same office address on them.

35. Respondents dispensed controlled substances despite the fact that drugs on Dr. R.G.'s prescriptions were misspelled. Respondents also dispensed controlled substances when customers concurrently submitted unusual documents such as doctor's progress notes and diagnoses to justify the issuance of those controlled substances. Those documents contained misspellings and/or listings of drugs unavailable on the market or the documents were incomplete.

36. Respondents dispensed controlled substances even though 145 of the prescription forms used by Dr. R.G. and Dr. J.B. lacked a “California Security Prescription” watermark, refill checkboxes and/or a lot number.

37. Respondents did not resolve the red flags of illegitimacy previously described.

FIRST CAUSE FOR DISCIPLINE

(Failing to Comply with Corresponding Responsibility)

for Controlled Substance Prescriptions Against All Respondents)

38. Respondents are subject to disciplinary action under Code sections 4301, subdivisions (j) and (o), for violating Health and Safety Code section 11153, subdivision (a), and Code of Federal Regulations, Title 21, section 1306.04, subdivision (a), because they failed to comply with their corresponding responsibility to ensure that controlled substances were dispensed for a legitimate medical purpose. As described above, Respondents repeatedly furnished prescriptions for controlled substances even though obvious and systemic “red flags” were present to indicate those prescriptions were not issued for a legitimate medical purpose.

///

///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions,**
3 **Irregularities, Uncertainties, Ambiguities or Alterations Against All Respondents)**

4 39. Respondents are subject to disciplinary action under Code section 4301, subdivision
5 (o), for violating title 16, California Code of Regulations, sections 1761, subdivisions (a) and (b)
6 because they dispensed controlled substances based on prescriptions which contained significant
7 errors, omissions, irregularities, uncertainties, ambiguities or alterations, as described above.

8 **THIRD CAUSE FOR DISCIPLINE**

9 **(Failing to Exercise or Implement Best Professional Judgment or Corresponding**
10 **Responsibility when Dispensing Controlled Substances**
11 **Against Respondents Tuan Duc Doan and Nital Girish Patel)**

12 40. Respondents Tuan Duc Doan and Nital Girish Patel are subject to disciplinary action
13 under Code section 4301, subdivision (o), for violating Business and Professions Code section
14 4306.5, subdivisions (a) and (b), because they failed to exercise or implement their best
15 professional judgment or corresponding responsibility when dispensing controlled substances, as
16 described above.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 **(Dispensing Controlled Substance Prescriptions Written**
19 **on Unauthorized Forms Against All Respondents)**

20 41. Respondents are subject to disciplinary action under Code sections 4301, subdivisions
21 (j) and (o), for violating Health and Safety Code section 11164, subdivision (a), because they
22 filled and dispensed controlled substances from prescription forms that did not comply with the
23 requirements of Health and Safety Code section 11162.1, as described above.

24 **FIFTH CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct against All Respondents)**

26 42. Respondents are subject to disciplinary action under Code section 4301 for
27 unprofessional conduct because they engaged in the activities described above.

28 ///

OTHER MATTERS

43. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY 51509 issued to Ginika Inc., doing business as Care-Pro Pharmacy, it 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 51509 is placed on probation or until the Pharmacy Permit is reinstated if it is revoked.

44. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY 51509 issued to Ginika Inc., doing business as Care-Pro Pharmacy, while Tuan Duc Doan has been an owner or manager and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, he shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if the Pharmacy Permit is placed on probation or until the Pharmacy Permit is reinstated, if it is revoked.

45. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY 51509 issued to Ginika Inc., doing business as Care-Pro Pharmacy while Nital Girish Patel has been an owner or manager and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, she shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if the Pharmacy Permit is placed on probation or until the Pharmacy Permit is reinstated, if it is revoked.

46. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No. RPH 54387 issued to Tuan Duc Doan, he shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if the Pharmacist License is placed on probation or until the Pharmacist License is reinstated, if it is revoked.

47. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No. RPH 48678 issued to Nital Girish Patel, she shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if

1 the Pharmacist License is placed on probation or until the Pharmacist License is reinstated, if it is
2 revoked.

3 **DISCIPLINARY CONSIDERATIONS**

4 48. To determine the degree of discipline, if any, to be imposed on Respondent Care-Pro
5 Pharmacy and Respondent Doan, Complainant alleges as follows. On September 7, 2017, the
6 Board issued Citation number CI 2016 72971 against Respondent Care-Pro Pharmacy and
7 Citation number CI 2017 76189 against Respondent Doan for violating California Code of
8 Regulations, title 16, section 1715, subdivision (a) (failing to complete a community pharmacy
9 self-assessment). The Board issued a fine against Respondent Doan, which he paid.

10 **PRAYER**

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

- 13 1. Revoking or suspending Pharmacy Permit Number 51509, issued to Ginika Inc., dba
14 Care-Pro Pharmacy;
- 15 2. Revoking or suspending Pharmacist License Number RPH 48678, issued to Nital
16 Girish Patel;
- 17 3. Revoking or suspending Pharmacist License Number RPH 54387, issued to Tuan Duc
18 Doan;
- 19 4. Prohibiting Ginika Inc., dba Care-Pro Pharmacy from serving as a manager,
20 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
21 Pharmacy Permit Number PHY 51509 is placed on probation or until the Pharmacy Permit is
22 reinstated, if it is revoked;
- 23 5. Prohibiting Tuan Duc Doan from serving as a manager, administrator, owner,
24 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
25 Number PHY 51509 is placed on probation or until the Pharmacy Permit is reinstated, if it is
26 revoked;
- 27 6. Prohibiting Nital Girish Patel from serving as a manager, administrator, owner,
28 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit

Number PHY 51509 is placed on probation or until the Pharmacy Permit is reinstated, if it is revoked;

7. Prohibiting Tuan Duc Doan from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 54387 is placed on probation or until the Pharmacist License is reinstated, if it is revoked;

8. Prohibiting Nital Girish Patel from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 48678 is placed on probation or until the Pharmacist License is reinstated, if it is revoked;

9. Ordering Ginika Inc., dba Care-Pro Pharmacy, Nital Girish Patel and Tuan Duc Doan 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,

10. 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

SD2020800445
82471683.docx