

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

In the Matter of Accusation Against:

**OMEGA CARE PHARMACY, INC. DBA OMEGA CARE PHARMACY,
EMIL BURNAZYAN, GEORGE MIKAELIAN, KEN LUNA
Pharmacy Permit No. PHY 53936;**

**CHARLES I. CADIS
Pharmacist License No. RPH 24126;**

**NANCY NAGUIB R. GABALLAH
Pharmacist License No. RPH 78021**

and

**VARDUHI TUMIKYAN
Pharmacy Technician Registration No. TCH 138086**

Respondents

Agency Case No. 7004

OAH Case No. 2021030011

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on September 29, 2021.

It is so ORDERED on August 30, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

Seung W. Oh, Pharm D
Board President

1 ROB BONTA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 MARISSA N. HAMILTON
Deputy Attorney General
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300 So. Spring Street, Suite 1702
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E-mail: Marissa.Hamilton@doj.ca.gov
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

13 **OMEGA CARE PHARMACY INC., DBA**
14 **OMEGA CARE PHARMACY, EMIL**
15 **BURNAZYAN, GEORGE MIKAELIAN,**
16 **KEN LUNA**
4611 Van Nuys Blvd.
17 Sherman Oaks, CA 91403
Pharmacy Permit No. PHY 53936,

18 **CHARLES I. CADIS**
26901 Monet Ln.
19 Valencia, CA 91355
Pharmacist License No. RPH 24126,

20 **NANCY NAGUIB R. GABALLAH**
400 E. Stocker St. Apt. 10
21 Glendale, CA 91207
Pharmacist License No. RPH 78021,

22 and

23 **VARDUHI TUMIKYAN**
7651 Melita Ave.
24 North Hollywood, CA 91605
Pharmacy Technician Registration No.
25 138086

26 Respondents.
27
28

Case No. 7004

OAH No. 2021030011

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL AS TO RESPONDENT
VARDUHI TUMIKYAN, PHARMACY
TECHNICIAN REGISTRATION NO.
138086 ONLY**

[Bus. & Prof. Code § 495]

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

3 **PARTIES**

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

8 2. Respondent Varduhi Tumikyan is represented in this proceeding by attorney Tony J.
9 Park, whose address is: 55 Cetus, 1st Floor, Irvine, CA 92618.

10 3. On or about January 8, 2015, the Board issued Pharmacy Technician Registration
11 Number TCH 138086 to Varduhi Tumikyan (Respondent Tumikyan). The Pharmacy Technician
12 Registration was in full force and effect at all times relevant to the charges brought herein and will
13 expire on December 31, 2022, unless renewed.

14 **JURISDICTION.**

15 4. Accusation No. 7004 was filed before the Board and is currently pending against
16 Respondent Tumikyan. The Accusation and all other statutorily required documents were
17 properly served on Respondent Tumikyan on December 15, 2020. Respondent Tumikyan timely
18 filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 7004 is
19 attached as exhibit A and incorporated herein by reference.

20 **ADVISEMENT AND WAIVERS**

21 5. Respondent Tumikyan has carefully read, fully discussed with counsel, and
22 understands the charges and allegations in Accusation No. 7004. Respondent Tumikyan has also
23 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
24 Settlement and Disciplinary Order for Public Reproval.

25 6. Respondent Tumikyan is fully aware of her legal rights in this matter, including the
26 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
27 counsel at her own expense; the right to confront and cross-examine the witnesses against her; the
28 right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas

1 to compel the attendance of witnesses and the production of documents; the right to
2 reconsideration and court review of an adverse decision; and all other rights accorded by the
3 California Administrative Procedure Act and other applicable laws.

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

6 **CULPABILITY**

7 8. Respondent Tumikyan understands and agrees that the charges and allegations in
8 Accusation No. 7004, if proven at a hearing, constitute cause for imposing discipline upon her
9 Pharmacy Technician Registration.

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

14 10. Respondent Tumikyan agrees that her Pharmacy Technician Registration is subject to
15 discipline and they agree to be bound by the Disciplinary Order below.

16 **CONTINGENCY**

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

27 ///

28 ///

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

13. This Stipulated Settlement and Disciplinary Order for Public Reprimand 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 Settlement and Disciplinary Order for Public Reprimand may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

14. 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 Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 138086 issued to Respondent Varduhi Tumikyan shall be publicly reproved by the Board of Pharmacy under Business and Professions Code section 495 in resolution of Accusation No. 7004, attached as exhibit A.

Cost Recovery. No later than six (6) months from the effective date of the Decision, Respondent Tumikyan shall pay \$3,000 to the Board for its costs associated with the investigation and enforcement of this matter pursuant to Business and Professions Code Section 125.3. If Respondent Tumikyan fails to pay the Board costs as ordered, Respondent Tumikyan shall not be allowed to renew her Pharmacy Technician Registration until Respondent Tumikyan pays costs in full. In addition, the Board may enforce this order for payment of its costs in any appropriate court, in addition to any other rights the Board may have.

No Ownership or Management of Licensed Premises. Respondent Tumikyan 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

1 or hereinafter licensed by the board for five (5) years. Respondent shall sell or transfer any legal
2 or beneficial interest in any entity licensed by the board within ninety (90) days following the
3 effective date of this decision and shall immediately thereafter provide written proof thereof to
4 the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation
5 thereof shall be considered a violation of this Order.

6 **Full Compliance.** As a resolution of the charges in Accusation No. 7004, this stipulated
7 settlement is contingent upon Respondent Tumikyan's full compliance with all conditions of this
8 Order. If Respondent Tumikyan fails to satisfy any of these conditions, such failure to comply
9 constitutes cause for discipline, including outright revocation, of Respondent Tumikyan's
10 Pharmacy Technician Registration No. TCH 138086.

11
12 **ACCEPTANCE**

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

18
19 DATED: _____

20 VARDUHI TUMIKYAN
21 *Respondent Tumikyan*

22 I have read and fully discussed with Respondent Tumikyan the terms and conditions and
23 other matters contained in the above Stipulated Settlement and Disciplinary Order for Public
24 Reprimand. I approve its form and content.

25
26 DATED: _____

27 TONY J. PARK
28 *Attorney for Respondent Tumikyan*

1 currently or hereinafter licensed by the board for five (5) years. Respondent Tumikyan shall sell
2 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
3 days following the effective date of this decision and shall immediately thereafter provide written
4 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
5 documentation thereof shall be considered a violation of this Order.

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16 Disciplinary Order for Public Reprimand voluntarily, knowingly, and intelligently, and agree to be
17 bound by the Decision and Order of the Board of Pharmacy.

18
19 DATED: 7/2/2021



VARDUHI TUMIKYAN
Respondent Tumikyan

21
22 I have read and fully discussed with Respondent Tumikyan the terms and conditions and
23 other matters contained in the above Stipulated Settlement and Disciplinary Order for Public
24 Reprimand. I approve its form and content.

25
26 DATED: _____

TONY J. PARK
Attorney for Respondent Tumikyan

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3 days following the effective date of this decision and shall immediately thereafter provide written
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5 documentation thereof shall be considered a violation of this Order.

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7 settlement is contingent upon Respondent Tumikyan's full compliance with all conditions of this
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11
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15 and the effect it will have on my Pharmacy Permit. I enter into this Stipulated Settlement and
16 Disciplinary Order for Public Reproval voluntarily, knowingly, and intelligently, and agree to be
17 bound by the Decision and Order of the Board of Pharmacy.

18
19 DATED: _____

20 VARDUHI TUMIKYAN
21 *Respondent Tumikyan*

22 I have read and fully discussed with Respondent Tumikyan the terms and conditions and
23 other matters contained in the above Stipulated Settlement and Disciplinary Order for Public
24 Reproval. I approve its form and content.

25
26 DATED: 07/07/2021 _____

27 
28 TONY J. PARK
Attorney for Respondent Tumikyan

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reapproval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: _____

Respectfully submitted,

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

MARISSA N. HAMILTON
Deputy Attorney General
Attorneys for Complainant

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reapproval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: July 8, 2021

Respectfully submitted,

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

Marissa N. Hamilton

MARISSA N. HAMILTON
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 7004

XAVIER BECERRA
Attorney General of California
ARMANDO ZAMBRANO
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MARISSA N. HAMILTON
Deputy Attorney General
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300 So. Spring Street, Suite 1702
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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:

Case No. 7004

**OMEGA CARE PHARMACY INC., DBA
OMEGA CARE PHARMACY, EMIL
BURNAZYAN, GEORGE MIKAELIAN,
KEN LUNA
4611 Van Nuys Blvd.
Sherman Oaks, CA 91403**

ACCUSATION

Pharmacy Permit No. PHY 53936,

**CHARLES I. CADIS
26901 Monet Ln.
Valencia, CA 91355
Pharmacist-In-Charge**

Pharmacist License No. RPH 24126,

**NANCY NAGUIB R. GABALLAH
400 E. Stocker St. Apt. 10
Glendale, CA 91207**

Pharmacist License No. RPH 78021,

and

**VARDUHI TUMIKYAN
7651 Melita Ave.
North Hollywood, CA 91605**

**Pharmacy Technician Registration No. TCH
138086**

Respondents.

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 February 1, 2016, the Board of Pharmacy issued Pharmacy Permit Number PHY 53936 to Omega Care Pharmacy Inc., dba Omega Care Pharmacy (Respondent Omega Care Pharmacy or Pharmacy), with Emil Burnazyan designated as the President and Secretary since February 1, 2016 and the Chief Executive Officer and 1% shareholder since February 1, 2018; George Mikaelian designated as the Treasurer, Chief Financial Officer, and 50% shareholder since February 1, 2016; Ken Luna designated as the Chief Financial Officer, Director, and 49% shareholder since February 1, 2016; and Charles I. Cadis designated as the Pharmacist-In-Charge since February 1, 2018. The Pharmacy Permit expired on February 1, 2020, and has not been renewed.

3. On or about August 13, 1965, the Board of Pharmacy issued Pharmacist License Number RPH 24126 to Charles I. Cadis (Respondent Cadis). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on February 28, 2021, unless renewed.

4. On or about December 4, 2017, the Board of Pharmacy issued Pharmacist License Number RPH 78021 to Nancy Naguib R. Gaballah (Respondent Gaballah). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2021, unless renewed.

5. On or about January 8, 2015, the Board of Pharmacy issued Pharmacy Technician Registration Number TCH 138086 to Varduhi Tumikyan (Respondent Tumikyan). The Pharmacy Technician Registration was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2020, unless renewed.

JURISDICTION

6. 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.

7. Section 4300 of the Code provides, in pertinent part, that every license issued by the Board is subject to discipline, including suspension or revocation.

8. 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

9. Section 4076 of the Code provides, 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

10. Section 4110 of the Code provides, in pertinent part:

(a) No person shall conduct a pharmacy in the State of California unless he or she has obtained a license from the board. A license shall be required for each pharmacy owned or operated by a specific person. A separate license shall be required for each of the premises of any person operating a pharmacy in more than one location. The license shall be renewed annually. The board may, by regulation, determine the circumstances under which a license may be transferred.

11. Section 4113 of the Code states, in pertinent part:

(c) The Pharmacist-In-Charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

12. Section 4126.5 of the Code provides:

(a) A pharmacy may furnish dangerous drugs only to the following:

(1) A wholesaler owned or under common control by the wholesaler from whom the dangerous drug was acquired.

(2) The pharmaceutical manufacturer from whom the dangerous drug was acquired.

(3) A licensed wholesaler acting as a reverse distributor.

1 (4) Another pharmacy or wholesaler to alleviate a temporary shortage of a
2 dangerous drug that could result in the denial of health care. A pharmacy furnishing
3 dangerous drugs pursuant to this paragraph may only furnish a quantity sufficient to
4 alleviate the temporary shortage.

5 (5) A patient or to another pharmacy pursuant to a prescription or as otherwise
6 authorized by law.

7 (6) A health care provider that is not a pharmacy but that is authorized to
8 purchase dangerous drugs.

9 (7) To another pharmacy under common control. During a proclaimed state of
10 emergency, "another pharmacy" as used in this paragraph shall include a mobile
11 pharmacy, as described in subdivision (c) of Section 4062.

12 (b) Notwithstanding subdivision (a), or any other law, a clinic licensed under
13 Section 4180 may furnish dangerous drugs to any of the following during a
14 proclaimed state of emergency:

15 (1) Another clinic or wholesaler to alleviate a temporary shortage of a
16 dangerous drug that could result in the denial of health care. A clinic furnishing
17 dangerous drugs pursuant to this paragraph may only furnish a quantity sufficient to
18 alleviate the temporary shortage.

19 (2) A patient pursuant to a prescription or as otherwise authorized by law.

20 (3) A health care provider that is not a clinic but that is authorized to purchase
21 dangerous drugs.

22 (4) To another clinic under common control, including a mobile clinic, as
23 described in subdivision (c) of Section 4062.

24 (c) Notwithstanding any other law, a violation of this section may subject the
25 person or persons who committed the violation to a fine not to exceed the amount
26 specified in Section 125.9 for each occurrence pursuant to a citation issued by the
27 board.

28 (d) Amounts due from any person under this section on or after January 1,
2005, shall be offset as provided under Section 12419.5 of the Government Code.
Amounts received by the board under this section shall be deposited into the
Pharmacy Board Contingent Fund.

(e) For purposes of this section, "common control" means the power to direct or
cause the direction of the management and policies of another person whether by
ownership, by voting rights, by contract, or by other means.

13. Section 4160 of the Code provides, in pertinent part:

(a) A person shall not act as a wholesaler or third-party logistics provider of
any dangerous drug or dangerous device unless he or she has obtained a license from
the board

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1 14. Section 4301 of the Code states, in pertinent part:

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

5 ...

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

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

11 ...

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

17

18 15. Section 4307 of the Code states:

19 (a) Any person who has been denied a license or whose license has been
20 revoked or is under suspension, or who has failed to renew his or her license while it
21 was under suspension, or who has been a manager, administrator, owner, member,
22 officer, director, associate, partner, or any other person with management or control
23 of any partnership, corporation, trust, firm, or association whose application for a
24 license has been denied or revoked, is under suspension or has been placed on
25 probation, and while acting as the manager, administrator, owner, member, officer,
26 director, associate, partner, or any other person with management or control had
27 knowledge of or knowingly participated in any conduct for which the license was
28 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

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

8 **REGULATORY PROVISIONS**

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

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

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

18 17. California Code of Regulations, title 16, section 1717.3 provides, in pertinent part:

19 (a) No person shall dispense a controlled substance pursuant to a preprinted
20 multiple check-off prescription blank.

21 (b) A person may dispense a dangerous drug, that is not a controlled substance,
22 pursuant to a preprinted multiple checkoff prescription blank and may dispense more
23 than one dangerous drug, that is not a controlled substance, pursuant to such a blank
24 if the prescriber has indicated on the blank the number of dangerous drugs he or she
25 has prescribed.

26 (c) "Preprinted multiple checkoff prescription blank," as used in this section
27 means any form listing more than one dangerous drug where the intent is that a mark
28 next to the name of a drug i.e., a "checkoff," indicates a prescription order for that
29 drug.

30 **DANGEROUS DRUGS**

31 18. Code Section 4022 states:

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

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

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

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

19. Lidocaine/tetracaine is a dangerous drug pursuant to Code section 4022.
20. Parafonforte, also known as chlorzoxazone, is a dangerous drug pursuant to Code section 4022.
21. Zonalon, also known as doxepin, is a dangerous drug pursuant to Code section 4022.
22. Nalfon, also known as fenoprofen, is a dangerous drug pursuant to Code section 4022.
23. Naprelan, also known as naproxen sodium, is a dangerous drug pursuant to Code section 4022.
24. Lidocaine/prilocaine is a dangerous drug pursuant to Code section 4022.
25. Lidocaine is a dangerous drug pursuant to Code section 4022.
26. Triamcinolone is a dangerous drug pursuant to Code section 4022.
27. Carbinoxamine is a dangerous drug pursuant to Code section 4022.
28. Flexeril, also known as cyclobenzaprine, is a dangerous drug pursuant to Code section 4022.
29. Cordran, also known as flurandrenolide, is a dangerous drug pursuant to Code section 4022.
30. Xyzbac tablet is a dangerous drug pursuant to Code section 4022.
31. Sil-K Pad is a dangerous drug pursuant to Code section 4022.

COST RECOVERY

32. Section 125.3 of the Code provides, in pertinent part, that a 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.

FACTUAL ALLEGATIONS

33. On or about February 20, 2019, Board Inspector J.F. conducted an on-site inspection at Respondent Omega Care Pharmacy. During the inspection, Board Inspector J.F. was assisted by Respondent Gaballah and Respondent Tumikyan. Board Inspector J.F. was informed by

1 Respondent Gaballah that the Pharmacy only fills approximately fifty-five prescriptions a day,
2 and that the majority of the prescriptions are mailed to patients.

3 34. In response to Board Inspector J.F.'s questions regarding how Respondent Omega
4 Care Pharmacy obtains the prescriptions, Respondent Gaballah and Respondent Tumikyan
5 described the process as entailing a combination of electronically faxed prescriptions stored in the
6 pharmacy's computer system, Digital Rx, and a refill listing that Pharmacy staff receives from the
7 Pharmacy's main office. Pharmacy staff would receive a daily e-mail from the Pharmacy's main
8 office containing the processed prescriptions, and the Pharmacy staff would then print out the
9 prescription labels and dispense the medication. Respondent Gaballah and Respondent Tumikyan
10 indicated that the billing of prescriptions is done off-site at the Pharmacy's main office. When
11 questioned about the address of the Pharmacy's main office, neither Respondent Gaballah nor
12 Respondent Tumikyan could provide Board Inspector J.F. an address, and they further stated that
13 they only communicated with the Pharmacy's main office via e-mail or phone.

14 35. During the inspection, a patient, C.L., called Respondent Omega Care Pharmacy
15 inquiring as to why C.L. had received a refill of medication when C.L. had not requested it.
16 When questioned about the Pharmacy's policy on prescription refills, Respondent Gaballah and
17 Respondent Tumikyan stated that all patients were automatically placed onto automatic refills.
18 Board Inspector J.F. reviewed the prescription information for patient C.L. on the Pharmacy's
19 computer and discovered that patient C.L.'s initial prescription originated from a preprinted
20 multiple check-off prescription blank. The form had general categories checked with an
21 electronically-generated "X" and prepopulated prescription medications, quantities, and
22 directions listed with most of the listed medications separated by "or". The form appeared to
23 allow the Pharmacy to choose which medication to dispense. The form itself did not indicate how
24 many prescription items were originally marked by the provider. Moreover, all of the items in the
25 "Topical Pain" category had computer-generated refills. Additionally, it appeared that an
26 individual had systematically gone through each prescription medication to determine if the
27 prescription item would be covered by patient C.L.'s insurance and wrote in notes corresponding
28 to commonly known pharmacy phrases, such as "not covered" and "below cost".

36. Board Inspector J.F. is familiar with this type of preprinted multiple check-off prescription blank as often being utilized by marketing groups that seek out patients on certain types of insurance plans and conduct telephone interviews to get the patients to agree to try medications with extremely high insurance reimbursement rates that are then filled by associated networks of pharmacies.

37. Board Inspector J.F. reviewed Respondent Omega Care Pharmacy's dispensing history for patient C.L.'s prescriptions and determined that the Pharmacy was collecting nearly \$1,000 on each medication refill. The following Table 1 reflects a summary of the dispensing history for patient C.L.'s prescriptions:

Table 1:

Medication Name and Prescription Details	Date Pharmacy Dispensed Medication	Cost	Amount Insurance Paid	Amount Patient Paid
Carbinoxamine maleate 6mg tablets, 60 qty, 15-day supply	10/20/2018	\$1,905.00	\$2,853.64	\$0.00
Triamcinolone acetate spray 0.147mg, 400grams, 30-day supply	10/20/2018	\$600.00	\$1,890.11	\$10.00
Carbinoxamine maleate 6mg tablets, 60 qty, 15-day supply	11/19/2018	\$1,905.00	\$2,853.64	\$0.00
Triamcinolone acetate spray 0.147mg, 400grams, 30-day supply	11/19/2018	\$820.00	\$1,890.11	\$10.00
Carbinoxamine maleate 6mg tablets, 60 qty, 15-day supply	1/11/2019	\$1,920.00	\$2,853.64	\$0.00
Triamcinolone acetate spray 0.147mg, 400grams, 30-day supply	1/11/2019	\$820.00	\$1,890.11	\$10.00

38. Board Inspector J.F. proceeded to review Respondent Omega Care Pharmacy's dispensing history for patient S.O. and determined that patient S.O.'s original prescription was also from a preprinted multiple check-off prescription blank. The following Table 2 reflects a summary of the dispensing history for patient S.O.'s prescriptions:

Table 2:

Medication Name	Date Pharmacy Dispensed Medication	Cost	Amount Insurance Paid	Amount Patient Paid
Chlorzoxazone 250mg	9/28/2018	\$1,100.40	\$2,407.12	\$0.00
Lidocaine/tetracaine cream	9/28/2018	\$1,176.00	\$3,257.43	\$25.00
Doxepin 5% cream	9/28/2018	\$1,296.00	\$1,472.21	\$5.00
Lidocaine/tetracaine cream	10/29/2018	\$1,176.00	\$3,257.43	\$25.00
Lidocaine/tetracaine cream	11/25/2018	\$1,176.00	\$3,257.43	\$25.00
Doxepin 5% cream	11/26/2018	\$1,296.00	\$1,472.21	\$5.00

39. Upon request, Board Inspector J.F. was provided with a copy of the daily emails the Pharmacy staff received from the Pharmacy's main office containing the manifest of prescriptions processed for February 18-19, 2019.

40. While reviewing Respondent Omega Care Pharmacy's past inspection reports, Board Inspector J.F. determined that Board Inspector B.M. had conducted a routine inspection at Respondent Omega Care Pharmacy on or about November 29, 2018. During the November 29, 2018 routine inspection, Board Inspector B.M. issued the Pharmacy an Order of Correction for Business and Professions Code section 4076, subdivision (a)(11)(A) (absence of the physical description of the medication on the prescription label).

41. Upon inspection of one of Respondent Omega Care Pharmacy's recent prescription labels, Board Inspector J.F. determined that the Pharmacy had not complied with the November 29, 2018 Order of Correction, as the Pharmacy had not corrected the issue related to the absence of the physical description of the medication on the prescription label.

1 42. Board Inspector J.F. next reviewed Respondent Omega Care Pharmacy's active drug
2 stock shelves and noticed that almost every single active drug stock bottle had a quantity written
3 on the bottle or a tag with a quantity attached to the bottle. Board Inspector J.F. discovered
4 approximately six medication bottles that had quantities written on them that exceeded the
5 original stock bottle quantity as labeled by the manufacturer. Board Inspector J.F. questioned
6 Respondent Gaballah and Respondent Tumikyan as to why the bottles were labeled in this
7 manner and why some of the bottles were overfilled. Respondent Gaballah and Respondent
8 Tumikyan indicated that the bottles were labeled when the inventory was recently taken and the
9 staff decided to put back all of the medication that was dispensed in bubble packs to a large
10 hospice that cancelled their order. Board Inspector J.F. informed Respondent Gaballah and
11 Respondent Tumikyan that the Pharmacy could not place medication previously dispensed into
12 bubble packs back into active drug stock bottles that were not the original source bottles of that
13 medication.

14 43. Board Inspector J.F. located a large number of assorted bottles and creams bearing
15 prescription labels that appeared to originate from a pharmacy named One Stop Pharmacy located
16 in Sugarland, Texas. When Board Inspector J.F. inquired as to how Respondent Omega Care
17 Pharmacy was acquiring medications from an out of state pharmacy, Respondent Gaballah and
18 Respondent Tumikyan provided Board Inspector J.F. with documentation showing the transfer of
19 medication to and from various out of state pharmacies, including:

- 20 • One Stop Pharmacy located in Sugarland, Texas;
- 21 • Eagle Lake Pharmacy located in Lakeland, Florida;
- 22 • Wilson County Pharmacy located in Floresville, Texas; and
- 23 • Sam's Pharmacy located in Houston, Texas.

24 44. Board Inspector J.F. noted that the majority of the types of medications being
25 transferred between Respondent Omega Care Pharmacy and the out of state pharmacies
26 corresponded to the types of medications listed on the various preprinted multiple check-off
27 prescription blanks Board Inspector J.F. had reviewed, among the largest assortment including:

- 28 • Doxepin 5% cream;

- Chlorzoxazone 250mg tablets;
- Omeprazole-sodium bicarbonate;
- Carbinoxamine maleate 6mg tablets;
- Lidocaine/tetracaine cream;
- Flurandrenolide 0.05% solution;
- Xyzbac tablets; and
- Sil-K Pad.

The exchange of medications from pharmacies outside of California is a violation of Pharmacy law when the pharmacy is not licensed as a wholesaler and when there is no need to alleviate a temporary shortage.

45. Board Inspector J.F. issued Official Receipt No. 57122 for the documents collected during the Pharmacy inspection, and reviewed the Inspection Report with Respondent Gaballah. The Inspection Report contained the following:

- Order of Correction for the overfilled active drug stock bottles;
- Written Notice for non-conforming prescription labels missing the physical description of the dispensed medication;
- Written Notice for unlicensed activity for the off-site main office providing the Pharmacy with daily e-mails of the prescriptions to be dispensed;
- Written Notice for unlicensed wholesaler activity;
- Written Notice for erroneous or uncertain prescriptions;
- Written Notice for utilizing preprinted multiple check-off prescription blanks that did not indicate the number of prescriptions ordered by the physician;
- Request for each member of the Pharmacy provide a statement detailing the prescription process and the origin of the prescription documents.

46. After the on-site inspection was completed, Board Inspector J.F. obtained a copy of Board Inspector B.M.'s prior inspection report from November 29, 2018, as well as copies of documents that Respondent Omega Care Pharmacy subsequently provided the Board in connection with the prior inspection. Among these documents included a copy of all

1 prescriptions dispensed by Respondent Omega Care Pharmacy between November 1, 2017 and
2 November 1, 2018. Also included were identical, undated written statements of Respondent
3 Cadis and Respondent Tumikyan, which stated that the Pharmacy does not conduct direct/indirect
4 marketing, has no agreements with any marketing companies, and that the Pharmacy's
5 prescriptions are received via fax and e-script from the physicians. This is contradictory to the
6 information obtained by Board Inspector J.F. during the on-site inspection, which indicated that
7 the processing of prescriptions occurs off-site at the Pharmacy's main office location.

8 47. On or about March 13, 2019, Board Inspector J.F. received an email from Respondent
9 Omega Care Pharmacy. Among the documents provided included a spreadsheet containing the
10 Pharmacy's reported list of doctors, a copy of the Rx Reverse Distributors Inc. invoice showing
11 the return/destruction of medications, and a copy of an updated Pharmacy prescription label
12 showing the physical description of the medication was added. The Pharmacy failed to provide
13 the requested physician information, stating that the Pharmacy is not comfortable releasing
14 proprietary information to an external agency and that the Pharmacy deemed information on who
15 sends prescriptions to the Pharmacy to be a trade secret.

16 48. Among the documents provided also included a March 12, 2019 written statement of
17 Respondent Cadis, which stated that the prescriptions are e-faxed to the Pharmacy and the
18 pharmacy technicians reach out to the patients for processing information. This is contradictory
19 to the information obtained by Board Inspector J.F. during the on-site inspection, which indicated
20 that the processing of prescriptions occurs off-site at the Pharmacy's main office location.

21 49. Among the documents provided also included a written statement of Respondent
22 Gaballah, dated March 4, 2019 and signed March 5, 2019, which stated that the Pharmacy does
23 not conduct direct/indirect marketing, has no agreements with any marketing companies, and that
24 the prescriptions are received via fax and e-script from the physicians. This is contradictory to
25 the information obtained by Board Inspector J.F. during the on-site inspection, which indicated
26 that the processing of prescriptions occurs off-site at the Pharmacy's main office location. The
27 submitted statement of Respondent Gaballah is identical to the written statements of Respondent
28

1 Cadis and Respondent Tumikyan that were previously submitted to Board Inspector B.M. in
2 connection with the November 29, 2018 inspection.

3 50. Among the documents provided also included a written statement of Respondent
4 Tumikyan, dated March 12, 2019, which stated that Respondent Tumikyan processes the
5 prescriptions. This is contradictory to the information obtained by Board Inspector J.F. during the
6 on-site inspection, which indicated that the processing of prescriptions occurs off-site at the
7 Pharmacy's main office location.

8 51. After reviewing the documentation received, Board Inspector J.F. noted that
9 Respondent Cadis is the pharmacist listed on the majority of the prescriptions filled by the
10 Pharmacy. Respondent Gaballah is also listed as the pharmacist on some of the prescription
11 documents. Moreover, the following individuals are listed as pharmacy technicians on the
12 prescription documents: Laura Clark, Autumn Dubcak, Latesha Smith, and Denise Uriostegui.
13 Respondent Tumikyan's name is not listed as a pharmacy technician on the prescription
14 documents. Board Inspector J.F. confirmed that none of these individuals listed as pharmacy
15 technicians on the prescription documents are located in the Board's licensing system as holding
16 a valid pharmacy technician license in California.

17 52. After reviewing the documentation received, Board Inspector J.F. also noted several
18 prescription documents where an individual had crossed out the normal patient co-pay amount
19 and wrote in "0" or "\$0". Board Inspector J.F. is familiar with the practice of providing a patient
20 with a medication and not charging the patient the assigned co-pay as a tactic utilized in order to
21 get a patient to agree to accept a medication at no cost to the patient, while the patient's insurance
22 is still being charged for the medication.

23 53. In furtherance of his investigation, Board Inspector J.F. reviewed the documentation
24 received for instances where a preprinted multiple check-off prescription blank was utilized to
25 dispense medications without the prescriber indicating the total number of prescriptions
26 prescribed, as summarized in the following Table 3.

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Table 3:

Patient Name	Rx No(s).	Prescription Date	Doctor's Last Name
C.L.	Not referenced	10/17/2018	Y
S.O.	8466, 8467, 8468	9/25/2018	Y
M.L.	9527, 9544, 10425	11/8/2018	W
D.R.	8473	9/26/2018	P
K.A.	8476, 8475	9/26/2018	P
M.T.	8477, 8478, 8479, 8482, 8481	9/27/2018	R
D.J.	8482, 8483, 8484, 8485	9/27/2018	R
J.E.	8495, 8496, 8497, 8498, 8499	9/26/2018	R
L.K.	8500, 8501	9/27/2018	P
M.A.	8506, 8507, 8508, 8509, 8010	9/27/2018	C
C.V.	8512, 8513, 8514, 8515	9/27/2018	C

54. In furtherance of his investigation, Board Inspector J.F. reviewed Respondent Omega Care Pharmacy's prescription dispensing history for November 1, 2017 through November 1, 2018, and determined that Respondent Omega Care Pharmacy's prescription dispensing history is not what would be expected for a typical community retail pharmacy business, but rather it appeared that Respondent Omega Care Pharmacy was engaged in dispensing a very narrow range of medications, specifically those found on the preprinted multiple check-off prescription blanks that yield the highest insurance reimbursement rates. The following Table 4 summarizes the corresponding highest dispensed medication types and the number of each medication type dispensed by the Pharmacy during this time period:

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Table 4:

Prescription Medication	Number of Prescriptions Pharmacy Dispensed Between 11/1/2017 – 11/1/2018
CALCIPOTRIENE 0.005% GLMK 120GM	26
CALCIPOTRIENE 0.005% GLMK 120GM (JP)	109
CARBINOXAMINE MALEATE 6MG ORAL TABLET 20CT	58
CHLORZOXAZONE 250MG TABLET (SOLUBIOMIX)	48
CHLORZOXAZONE 250MG TABLET (SOLUBIOMIX) (JP)	201
CLOBETASOL PROP OINT 60GM (TARO) (JP)	92
DOXEPIN 5% CREAM 45GM	94
DOXEPIN 5% CREAM 45GM (JP)	176
FENOPREN CALCIUM 200MG	29
FENOPROFEN CALICUM 200MG (JP)	76
FLUOCINONIDE 0.1% CREAM 120GM (GLMK)	23
FLUOCINONIDE 0.1% CREAM 120GM (GLMK) (JP)	31
FLUOCINONIDE 0.1% CREAM 120GM (IPG)	57
FLURANDRENOLIDE 0.05% LOTION 120ML (JP)	55
LIDOCAINE / PRILOCAINE 2.5% / 2.5% CREAM (IMPAX)	64
LIDOCAINE / PRILOCAINE 2.5% / 2.5% CREAM (IMPAX) (JP)	131
LIDOCAINE / PRILOCAINE CREAM 30GM (JP)	117
LIDOCAINE 5% 50GM (AMNEAL)	78
LIDOCAINE 5% 50GM (AMNEAL) (JP)	119
LIDOCAINE 5% 50GM (GLENMARK)	43
NAPROXEN SODIUM CR 375MG	31
NAPROXEN SODIUM CR 375MG (JP)	29
TRIAMCINALONE ACET SPAY 0.147MG / 1MG 100GM	124
XYZBAC TABLETS	33

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55. In furtherance of his investigation, on or about May 19, 2020 through May 27, 2020, Board Inspector J.F. attempted to contact 9 patients regarding their interactions with Respondent Omega Care Pharmacy. The following Table 5 reflects a summary of the responses received:

Table 5:

Patient Name	Date of Interview by Board Inspector J.F.	Patient Received Phone Call from Marketer (Y/N); Explanation	Patient Requested Medications be Sent (Y/N); Explanation	Doctor's Last Name Utilized on Prescription
S.O.	5/19/2020	Y - Caller identified themselves as a nurse; Patient did not recall speaking to doctor	N - Patient brought medications to primary care doctor for advice	Y
M.A.	5/19/2020	Y - Cold call; Patient did not know who she was speaking with; Caller had her insurance information already; Patient was supposedly transferred to doctor	N - Patient tried to send medications back several times and tried calling Pharmacy and got no help in resolving the issue	R
S.W.	5/19/2020	Y - Caller stated they were from a Wellness Center and had Patient's information already; Patient was supposedly transferred to doctor	N - Patient only received one shipment; Patient refused second shipment and reported incident to her insurance company	Y
M.G.	5/27/2020	Unknown	Unknown	B

56. In furtherance of his investigation, in or about May 2020, Board Inspector J.F. researched the prescribers associated with the Pharmacy's prescription documents to validate their contact information and attempted to contact the prescribers regarding their interactions with Respondent Omega Care Pharmacy. The following Table 6 reflects a summary of the physicians listed as the Pharmacy's prescribers and their responses:

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Table 6:

Doctor's Last Name	Date of Contact by Board Inspector J.F.	Doctor's Contact Info as Listed by Pharmacy	Internet and/or Doctor Confirmed Contact Info	Doctor's Initial Comments re: Pharmacy Prescriptions	Doctor's Additional Info or Comments re: Pharmacy Prescriptions
Y	5/19/2020	Redding, CA	Santa Monica, CA & Loma Linda, CA	Stated it sounds like someone is fraudulently using his name as those are not his patients and he does not have an office in Redding, CA	Stated he serviced those patients through 24/7 Call-A-Doc; Telemedicine patients
R	5/19/2020	Redding, CA	Clovis, CA	Did not recognize any of the patients, but did participate in telemedicine. Now all patients are in Texas	Confirmed the patients were telemedicine patients
C	5/21/2020; 5/27/2020	Irvine, CA	Irvine, CA	Used to do ortho-spine, now with a cosmetic group; Did telemedicine with Locum Tenens USA	Did not recognize any of the prescriptions sent for his review
P	5/21/2020	Redding, CA	Cincinnati, OH	Pediatric specialist and does not see or have adult clients; Has participated in some telemedicine but only in surrounding Tri-State area in Ohio	N/A – No further response provided
B	N/A – Retired in 2015; unable to contact	Redding, CA	St. Paul, MN	N/A - Retired in 2015; unable to contact	N/A - Retired in 2015; unable to contact

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1 ***AS TO RESPONDENT OMEGA CARE PHARMACY***

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Failure to Correct Pharmacy Prescription Label – Respondent Omega Care Pharmacy)**

4 57. Respondent Omega Care Pharmacy is subject to disciplinary action under Code
5 section 4076, subdivision (a)(11)(A), in that on or about February 20, 2019, an inspection at
6 Respondent Omega Care Pharmacy revealed that the Pharmacy's prescription medication labels
7 had not been updated to display the physical description of the dispensed medication in
8 compliance with an Order of Correction issued during a prior inspection of the Pharmacy on or
9 about November 29, 2018. Complainant incorporates by reference paragraphs 40-41 and 45
10 above as though fully set forth herein.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Unlicensed Off-Site Activity – Respondent Omega Care Pharmacy)**

13 58. Respondent Omega Care Pharmacy is subject to disciplinary action under Code
14 section 4110, subdivision (a), in that on or about February 20, 2019, an inspection at Respondent
15 Omega Care Pharmacy revealed that the Pharmacy's prescription documents were being
16 processed at an undisclosed off-site location and were being sent via e-mail to Pharmacy staff
17 members for label printing and dispensing. Complainant incorporates by reference paragraphs
18 33-39 and 45 above as though fully set forth herein.

19 **THIRD CAUSE FOR DISCIPLINE**

20 **(Dispensing Prescription Medications from Erroneous or**
21 **Uncertain Prescriptions – Respondent Omega Care Pharmacy)**

22 59. Respondent Omega Care Pharmacy is subject to disciplinary action under Code
23 section 4301, subdivision (o), in conjunction with California Code of Regulations, title 16,
24 section 1761, subdivision (a), in that on or about February 20, 2019, an inspection at Respondent
25 Omega Care Pharmacy revealed that the Pharmacy dispensed erroneous or uncertain prescriptions
26 utilizing preprinted multiple check-off prescription blanks that did not indicate the number of
27 prescriptions authorized by the prescriber and allowed the Pharmacy staff to choose which
28 medications were dispensed. In addition, the prescriber contact information contained on the

1 preprinted multiple check-off forms did not correspond to the actual contact information for the
2 prescriber. Complainant incorporates by reference paragraphs 33-39, 45, and 51-56 as though
3 fully set forth herein.

4 **FOURTH CAUSE FOR DISCIPLINE**

5 **(Utilizing Preprinted Multiple Check-Off Prescription Blanks –**
6 **Respondent Omega Care Pharmacy)**

7 60. Respondent Omega Care Pharmacy is subject to disciplinary action under Code
8 section 4301, subdivision (o), in conjunction with California Code of Regulations, title 16,
9 section 1717.3, subdivision (b), in that on or about February 20, 2019, an inspection at
10 Respondent Omega Care Pharmacy revealed that the Pharmacy dispensed prescription
11 medications utilizing preprinted multiple check-off prescription blanks that did not indicate the
12 number of prescriptions authorized by the prescriber and allowed the Pharmacy staff to choose
13 which medications were dispensed. Complainant incorporates by reference paragraphs 33-39, 45,
14 and 51-56 as though fully set forth herein.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 **(Exchanging Medication Inventory with Out of State Pharmacies –**
17 **Respondent Omega Care Pharmacy)**

18 61. Respondent Omega Care Pharmacy is subject to disciplinary action under Code
19 sections 4160, subdivision (a), and 4126.5, subdivision (a), in that on or about February 20, 2019,
20 an inspection at Respondent Omega Care Pharmacy revealed that the Pharmacy was exchanging
21 medication inventory with other pharmacies located in Texas and Florida, while not licensed by the
22 Board to act as a wholesaler or third-party logistics provider or to alleviate a temporary shortage.
23 Complainant incorporates by reference paragraphs 43-45 as though fully set forth herein.

24 **SIXTH CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct – Respondent Omega Care Pharmacy)**

26 62. Respondent Omega Care Pharmacy is subject to disciplinary action under Code
27 sections 4301, on the grounds of unprofessional conduct. Complainant incorporates by reference
28 paragraphs 33-56 as though fully set forth herein.

1 ***AS TO RESPONDENT CADIS***

2 **SEVENTH CAUSE FOR DISCIPLINE**

3 **(Failure to Correct Pharmacy Prescription Label – Respondent Cadis)**

4 63. Respondent Cadis is subject to disciplinary action under Code section 4076,
5 subdivision (a)(11)(A), in conjunction with Code section 4113, subdivision (c), in that on or about
6 February 20, 2019, an inspection at Respondent Omega Care Pharmacy, where Respondent Cadis
7 served as Pharmacist-In-Charge during the relevant period, revealed that the Pharmacy's
8 prescription medication labels had not been updated to display the physical description of the
9 dispensed medication in compliance with an Order of Correction issued during a prior inspection
10 of the Pharmacy on or about November 29, 2018. Complainant incorporates by reference
11 paragraphs 40-41 and 45 above as though fully set forth herein.

12 **EIGHTH CAUSE FOR DISCIPLINE**

13 **(Unlicensed Off-Site Activity – Respondent Cadis)**

14 64. Respondent Cadis is subject to disciplinary action under Code section 4110,
15 subdivision (a), in conjunction with Code section 4113, subdivision (c), in that on or about
16 February 20, 2019, an inspection at Respondent Omega Care Pharmacy, where Respondent Cadis
17 served as the Pharmacist-In-Charge during the relevant period, revealed that the Pharmacy's
18 prescription documents were being processed at an undisclosed off-site location and were being
19 sent via e-mail to Pharmacy staff members for label printing and dispensing. Complainant
20 incorporates by reference paragraphs 33-39 and 45 above as though fully set forth herein.

21 **NINTH CAUSE FOR DISCIPLINE**

22 **(Dispensing Prescription Medications from Erroneous or**
23 **Uncertain Prescriptions – Respondent Cadis)**

24 65. Respondent Cadis is subject to disciplinary action under Code section 4301,
25 subdivision (o), in conjunction with Code section 4113, subdivision (c), and California Code of
26 Regulations, title 16, section 1761, subdivision (a), in that on or about February 20, 2019, an
27 inspection at Respondent Omega Care Pharmacy, where Respondent Cadis served as the
28 Pharmacist-In-Charge during the relevant period, revealed that the Pharmacy dispensed erroneous

1 or uncertain prescriptions utilizing preprinted multiple check-off prescription blanks that did not
2 indicate the number of prescriptions authorized by the prescriber and allowed the Pharmacy staff
3 to choose which medications were dispensed. In addition, the prescriber contact information
4 contained on the preprinted multiple check-off forms did not correspond to the actual contact
5 information for the prescriber. Complainant incorporates by reference paragraphs 33-39, 45, and
6 51-56 as though fully set forth herein.

7 **TENTH CAUSE FOR DISCIPLINE**

8 **(Utilizing Preprinted Multiple Check-Off Prescription Blanks – Respondent Cadis)**

9 66. Respondent Cadis is subject to disciplinary action under Code section 4301,
10 subdivision (o), in conjunction with Code section 4113, subdivision (c), and California Code of
11 Regulations, title 16, section 1717.3, subdivision (b), in that on or about February 20, 2019, an
12 inspection at Respondent Omega Care Pharmacy, where Respondent Cadis served as the
13 Pharmacist-In-Charge during the relevant period, revealed that the Pharmacy dispensed
14 prescription medications utilizing preprinted multiple check-off prescription blanks that did not
15 indicate the number of prescriptions authorized by the prescriber and allowed the Pharmacy staff
16 to choose which medications were dispensed. Complainant incorporates by reference paragraphs
17 33-39, 45, and 51-56 as though fully set forth herein.

18 **ELEVENTH CAUSE FOR DISCIPLINE**

19 **(Exchanging Medication Inventory with Out of State Pharmacies – Respondent Cadis)**

20 67. Respondent Cadis is subject to disciplinary action under Code sections 4160,
21 subdivision (a), and 4126.5, subdivision (a), in conjunction with Code section 4113, subdivision
22 (c), in that on or about February 20, 2019, an inspection at Respondent Omega Care Pharmacy,
23 where Respondent Cadis served as the Pharmacist-In-Charge during the relevant period, revealed
24 that the Pharmacy was exchanging medication inventory with other pharmacies located in Texas
25 and Florida, while not licensed by the Board to act as a wholesaler or third-party logistics
26 provider or to alleviate a temporary shortage. Complainant incorporates by reference paragraphs
27 43-45 as though fully set forth herein.

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1 **TWELFTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct – Respondent Cadis)**

3 68. Respondent Cadis is subject to disciplinary action under Code section 4301, in
4 conjunction with Code section 4113, subdivision (c), on the grounds of unprofessional conduct.
5 Complainant incorporates by reference paragraphs 33-56 above as though fully set forth herein.

6 **THIRTEENTH CAUSE FOR DISCIPLINE**

7 **(Unprofessional Conduct Involving Moral Turpitude, Dishonesty, Fraud,**
8 **or Deceit – Respondent Cadis)**

9 69. Respondent Cadis is subject to disciplinary action under Code section 4301,
10 subdivisions (f) and/or (g), in that Respondent Cadis engaged in unprofessional conduct that
11 involved moral turpitude, dishonesty, fraud, or deceit as follows:

12 a. In connection with a Board inspection of the Pharmacy conducted on November 29,
13 2018, the Board was provided with an undated written statement of Respondent Cadis that
14 contained false statement(s), in that Respondent Cadis stated that the prescriptions are received
15 via e-fax from the prescribers and processed by the Pharmacy, when in actuality the prescriptions
16 are processed at Respondent Omega Care Pharmacy's off-site main office location and then e-
17 mailed to Pharmacy staff members for label printing and dispensing.

18 b. In connection with a Board inspection of the Pharmacy conducted on February 20,
19 2019, the Board was provided with a written statement of Respondent Cadis, dated March 12,
20 2019, that contained false statement(s), in that Respondent Cadis stated that the prescriptions are
21 received via e-fax from the prescribers and processed by the Pharmacy, when in actuality the
22 prescriptions are processed at Respondent Omega Care Pharmacy's off-site main office location
23 and then e-mailed to Pharmacy staff members for label printing and dispensing.

24 Complainant incorporates by reference paragraphs 46 and 48 above as though fully set forth
25 herein.

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1 ***AS TO RESPONDENT GABALLAH***

2 **FOURTEENTH CAUSE FOR DISCIPLINE**

3 **(Unprofessional Conduct Involving Moral Turpitude, Dishonesty, Fraud,**
4 **or Deceit – Respondent Gaballah)**

5 70. Respondent Gaballah is subject to disciplinary action under Code section 4301,
6 subdivisions (f) and/or (g), in that Respondent Gaballah engaged in unprofessional conduct that
7 involved moral turpitude, dishonesty, fraud, or deceit when, in connection with a Board
8 inspection of the Pharmacy conducted on February 20, 2019, the Board received a written
9 statement of Respondent Gaballah, dated March 4, 2019 and signed March 5, 2019, that
10 contained false statement(s), in that Respondent Gaballah stated that the prescriptions are
11 received via e-fax or e-script from the prescribers and processed by the Pharmacy, when in
12 actuality the prescriptions are processed at Respondent Omega Care Pharmacy's off-site main
13 office location and then e-mailed to Pharmacy staff members for label printing and dispensing.
14 Complainant incorporates by reference paragraph 49 above as though fully set forth herein.

15 ***AS TO RESPONDENT TUMIKYAN***

16 **FIFTEENTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct Involving Moral Turpitude, Dishonesty, Fraud,**
18 **or Deceit – Respondent Tumikyan)**

19 71. Respondent Tumikyan is subject to disciplinary action under Code section 4301,
20 subdivisions (f) and/or (g), in that Respondent Tumikyan engaged in unprofessional conduct that
21 involved moral turpitude, dishonesty, fraud, or deceit as follows:

22 a. In connection with a Board inspection of the Pharmacy conducted on November 29,
23 2018, the Board received an undated written statement of Respondent Tumikyan that contained
24 false statement(s), in that Respondent Tumikyan stated that the prescriptions are received via e-
25 fax or e-script from the prescribers and processed by the Pharmacy, when in actuality the
26 prescriptions are processed at Respondent Omega Care Pharmacy's off-site main office location
27 and then e-mailed to Pharmacy staff members for label printing and dispensing.

1 b. In connection with a Board inspection of the Pharmacy conducted on February 20,
2 2019, the Board received a written statement of Respondent Tumikyan, dated March 12, 2019,
3 that contained false statement(s), in that Respondent Tumikyan stated that the prescriptions are
4 received via e-fax from the prescribers and processed by Respondent Tumikyan, when in
5 actuality the prescriptions are processed at Respondent Omega Care Pharmacy's off-site main
6 office location and then e-mailed to Pharmacy staff members for label printing and dispensing.

7 Complainant incorporates by reference paragraphs 46 and 50 above as though fully set forth
8 herein.

9 **DISCIPLINARY CONSIDERATIONS**

10 72. To determine the degree of discipline, if any, to be imposed on Respondent Omega
11 Care Pharmacy, Complainant alleges that on or about June 18, 2019, the Board issued Citation
12 Number CI 2018 82934 to Respondent Omega Care Pharmacy for violations of Code sections
13 4113(d) and 4305. This Citation is now final and is incorporated by reference as if fully set forth.

14 73. To determine the degree of discipline, if any, to be imposed on Respondent Cadis,
15 Complainant alleges that on or about January 4, 2017, the Board issued Citation Number CI 2016
16 73409 to Respondent Cadis for violations of California Code of Regulations, title 16, section
17 1761(a) and California Code of Regulations, title 21, section 1305.5(a). This Citation is now final
18 and is incorporated by reference as if fully set forth.

19 **OTHER MATTERS**

20 74. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
21 PHY 53936, issued to Omega Care Pharmacy Inc., dba Omega Care Pharmacy, Respondent
22 Omega Care Pharmacy shall be prohibited from serving as a manager, administrator, owner,
23 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
24 Number PHY 53936 is placed on probation or until Pharmacy Permit Number PHY 53936 is
25 reinstated if it is revoked.

26 75. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
27 PHY 53936, issued to Omega Care Pharmacy Inc., dba Omega Care Pharmacy, while Emil
28 Burnazyan, George Mikaelian, and/or Ken Luna have been an officer, director, and/or owner and

1 had knowledge of or knowingly participated in any conduct for which the licensee was
2 disciplined, Emil Burnazyan, George Mikaelian, and/or Ken Luna shall be prohibited from
3 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
4 licensee for five years if Pharmacy Permit Number PHY 53936 is placed on probation or until
5 Pharmacy Permit Number PHY 53936 is reinstated if it is revoked.

6 76. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
7 Number RPH 24126, issued to Charles I. Cadis, Respondent Cadis shall be prohibited from
8 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
9 licensee for five years if Pharmacist License Number RPH 24126 is placed on probation or until
10 Pharmacist License Number RPH 24126 is reinstated if it is revoked.

11 77. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
12 Number RPH 78021, issued to Nancy Naguib R. Gaballah, Respondent Gaballah shall be
13 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
14 or partner of a licensee for five years if Pharmacist License Number RPH 78021 is placed on
15 probation or until Pharmacist License Number RPH 78021 is reinstated if it is revoked.

16 78. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Technician
17 Registration Number TCH 138086, issued to Varduhi Tumikyan, Respondent Tumikyan shall be
18 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
19 or partner of a licensee for five years if Pharmacy Technician Registration Number TCH 138086
20 is placed on probation or until Pharmacy Technician Registration Number TCH 138086 is
21 reinstated if it is revoked.

22 **PRAYER**

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

25 1. Revoking or suspending Pharmacy Permit Number PHY 53936, issued to Omega
26 Care Pharmacy Inc., dba Omega Care Pharmacy;

27 2. Revoking or suspending Pharmacist License Number RPH 24126, issued to Charles I.
28 Cadis;

1 3. Revoking or suspending Pharmacist License Number RPH 78021, issued to Nancy
2 Naguib R. Gaballah;

3 4. Revoking or suspending Pharmacy Technician Registration Number TCH 138086,
4 issued to Varduhi Tumikyan;

5 5. Prohibiting Omega Care Pharmacy Inc., dba Omega Care Pharmacy, from serving as
6 a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
7 five years if Pharmacy Permit Number PHY 53936 is placed on probation or until Pharmacy
8 Permit Number PHY 53936 is reinstated if it is revoked;

9 6. Prohibiting Emil Burnazyan, George Mikaelian, and/or Ken Luna from serving as a
10 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
11 five years if Pharmacy Permit Number PHY 53936 is placed on probation or until Pharmacy
12 Permit Number PHY 53936 is reinstated if it is revoked;

13 7. Prohibiting Charles I. Cadis from serving as a manager, administrator, owner,
14 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
15 Number RPH 24126 is placed on probation or until Pharmacist License Number RPH 24126 is
16 reinstated if it is revoked;

17 8. Prohibiting Nancy Naguib R. Gaballah from serving as a manager, administrator,
18 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist
19 License Number RPH 78021 is placed on probation or until Pharmacist License Number RPH
20 78021 is reinstated if it is revoked;

21 9. Prohibiting Varduhi Tumikyan from serving as a manager, administrator, owner,
22 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Technician
23 Registration Number TCH 138086 is placed on probation or until Pharmacy Technician
24 Registration Number TCH 138086 is reinstated if it is revoked;

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10. Ordering Omega Care Pharmacy, Charles I. Cadis, Nancy Naguib R. Gaballah and Varduhi Tumikyan 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,

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

DATED: 11/23/2020

Signature on File

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

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