

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

In the Matter of the Accusation Against:

**PHARMACEUTICAL SERVICES, INC. DBA PREFERRED
COMPOUNDING PHARMACY, TREPENE CHARLENE BROWN**

Permit No. PHY 54528,

and

CECILIA TSE

Pharmacist License No. RPH 46128

Respondents.

Agency Case No. 7038

OAH No. 2021110201

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 May 25, 2022.

It is so ORDERED on April 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" clearly visible, and "W." in the middle.

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 KIM KASRELIOVICH
Supervising Deputy Attorney General
3 NANCY CALERO
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **PHARMACEUTICAL SERVICES, INC.**
14 **DBA PREFERRED COMPOUNDING**
15 **PHARMACY, TREPENE CHARLENE**
BROWN

16 **Permit No. PHY 54528,**

17 **and**

18 **CECILIA TSE**
19 **Pharmacist License No. RPH 46128**

20 Respondents.

Case No. 7038

OAH No. 2021110201

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT CECILIA TSE [RPH
46128] ONLY

21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 **PARTIES**

25 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
26 (Board). She brought this action solely in her official capacity and is represented in this matter by
27 Rob Bonta, Attorney General of the State of California, by Nancy Calero, Deputy Attorney
28 General.

2. Respondent Cecilia Tse (Respondent) is represented in this proceeding by attorney Luis Andre P. Vizcocho of California Pharmacy Lawyers, Law Office of Tony J. Park, Inc., APC; 9090 Irvine Center Dr., Irvine, CA 92618; (949) 336-7854, Ext. 105.

3. On or about March 26, 1993, the Board of Pharmacy issued Pharmacist License Number RPH 46128 to Respondent. The license was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2022, unless renewed.

4. On or about August 5, 2016, the Board of Pharmacy issued Permit Number PHY 54528 to Pharmaceutical Services, Inc. dba Preferred Compounding Pharmacy, Trephene Charlene Brown. Trephene Charlene Brown is and has been the Chief Executive Officer, Secretary and Chief Financial Officer since August 5, 2016. Respondent Cecilia was the Pharmacist-in-Charge¹ from August 5, 2016 to June 30, 2019. The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein. The Pharmacy Permit expired on August 1, 2019, and has not been renewed.

JURISDICTION

5. Accusation No. 7038 was filed before the Board, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 30, 2021. Respondent timely filed her Notice of Defense contesting the Accusation.

6. A copy of Accusation No. 7038 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

7. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 7038. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

¹ Pursuant to Business and Professions Code section 4036.5, a "Pharmacist-in-Charge" refers to a pharmacist proposed by a pharmacy and approved by the Board as the supervisor or manager responsible for ensuring the pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

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

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

CULPABILITY

10. Respondent understands and agrees that the charges and allegations in Accusation No. 7038, if proven at a hearing, constitute cause for imposing discipline upon her pharmacist license.

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

12. Respondent agrees that her pharmacist license is subject to discipline and she agrees to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

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

16. 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 Pharmacist License No. RPH 46128 issued to Respondent Cecilia Tse is revoked. However, the revocation is stayed and Respondent is placed on probation for three (3) years on the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the board, in writing, within seventy- two (72) hours of such occurrence:

an arrest or issuance of a criminal complaint for violation of any provision of the

Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws

a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment

a conviction of any crime

the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves

respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

Failure to timely report such occurrence shall be considered a violation of probation.

2. Report to the Board

Respondent shall report to the board quarterly, on a schedule as directed by the board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, Respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation.

Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the board.

3. Interview with the Board

Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two (2) or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

Respondent shall timely cooperate with the board's inspection program and with the board's monitoring and investigation of Respondent's compliance with the terms and conditions of probation, including but not limited to: timely responses to requests for information by board staff; timely compliance with directives from board staff regarding requirements of any term or condition of probation; and timely completion of documentation pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a violation of probation.

///

1 **5. Continuing Education**

2 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
3 pharmacist as directed by the board or its designee.

4 **6. Reporting of Employment and Notice to Employers**

5 During the period of probation, Respondent shall notify all present and prospective
6 employers of the decision in case number 7038 and the terms, conditions and restrictions imposed
7 on Respondent by the decision, as follows:

8 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
9 undertaking any new employment, Respondent shall report to the board in writing the name,
10 physical address, and mailing address of each of her employer(s), and the name(s) and telephone
11 number(s) of all of her direct supervisor(s), as well as any pharmacist(s)-in-charge, designated
12 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work
13 schedule, if known. Respondent shall also include the reason(s) for leaving the prior
14 employment. Respondent shall sign and return to the board a written consent authorizing the
15 board or its designee to communicate with all of Respondent's employer(s) and supervisor(s), and
16 authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,
17 concerning Respondent's work status, performance, and monitoring. Failure to comply with the
18 requirements or deadlines of this condition shall be considered a violation of probation.

19 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
20 Respondent undertaking any new employment, Respondent shall cause (a) her direct supervisor,
21 (b) her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
22 compliance supervisor, and (c) the owner or owner representative of her employer, to report to the
23 board in writing acknowledging that the listed individual(s) has/have read the decision in case
24 number 7038, and terms and conditions imposed thereby. If one person serves in more than one
25 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the Respondent's
26 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
27 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
28 of probation, Respondent shall cause the person(s) taking over the role(s) to report to the board in

1 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
2 in case number 7038, and the terms and conditions imposed thereby.

3 If Respondent works for or is employed by or through an employment service, Respondent
4 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
5 of the decision in case number 7038, and the terms and conditions imposed thereby in advance of
6 Respondent commencing work at such licensed entity. A record of this notification must be
7 provided to the board upon request.

8 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
9 (15) days of Respondent undertaking any new employment by or through an employment service,
10 Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment
11 service to report to the board in writing acknowledging that he or she has read the decision in case
12 number, and the terms and conditions imposed thereby. It shall be Respondent's responsibility to
13 ensure that these acknowledgment(s) are timely submitted to the board.

14 Failure to timely notify present or prospective employer(s) or failure to cause the identified
15 person(s) with that/those employer(s) to submit timely written acknowledgments to the board
16 shall be considered a violation of probation.

17 "Employment" within the meaning of this provision includes any full-time, part-time,
18 temporary, relief, or employment/management service position as a Pharmacist, or any position
19 for which a Pharmacist is a requirement or criterion for employment, whether the respondent is an
20 employee, independent contractor or volunteer.

21 **7. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

22 Respondent shall further notify the board in writing within ten (10) days of any change in
23 name, residence address, mailing address, e-mail address or phone number.

24 Failure to timely notify the board of any change in employer, name, address, or phone
25 number shall be considered a violation of probation.

26 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

27 During the period of probation, Respondent shall not supervise any intern pharmacist, be
28 the pharmacist-in-charge, designated representative-in-charge, responsible manager or other

1 compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption
2 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

3 **9. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, respondent shall pay to the
5 board its costs of investigation and prosecution in the amount of \$8,000. Respondent shall make
6 payments through a schedule agreed upon with the board or its designee.

7 There shall be no deviation from this schedule absent prior written approval by the board or
8 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
9 probation.

10 Respondent shall be permitted to pay these costs in a payment plan approved by the board
11 or its designee, so long as full payment is completed no later than one (1) year prior to the end
12 date of probation.

13 **10. Probation Monitoring Costs**

14 Respondent shall pay any costs associated with probation monitoring as determined by the
15 board each and every year of probation. Such costs shall be payable to the board on a schedule as
16 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
17 be considered a violation of probation.

18 **11. Status of License**

19 Respondent shall, at all times while on probation, maintain an active, current Permit with
20 the board, including any period during which suspension or probation is tolled. Failure to
21 maintain an active, current Permit shall be considered a violation of probation.

22 If Respondent's Permit expires or is cancelled by operation of law or otherwise at any time
23 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
24 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
25 probation not previously satisfied.

26 **12. License Surrender While on Probation/Suspension**

27 Following the effective date of this decision, should Respondent cease practice due to
28 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,

1 respondent may relinquish her license, including any indicia of licensure issued by the board,
2 along with a request to surrender the license. The board or its designee shall have the discretion
3 whether to accept the surrender or take any other action it deems appropriate and reasonable.
4 Upon formal acceptance of the surrender of the license, Respondent will no longer be subject to
5 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
6 become a part of the Respondent's license history with the board.

7 Upon acceptance of the surrender, Respondent shall relinquish her pocket and/or wall
8 license, including any indicia of licensure not previously provided to the board within ten (10)
9 days of notification by the board that the surrender is accepted if not already provided.
10 Respondent may not reapply for any license from the board for three (3) years from the effective
11 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
12 of the date the application for that license is submitted to the board, including any outstanding
13 costs.

14 **13. Practice Requirement – Extension of Probation**

15 Except during periods of suspension, Respondent shall, at all times while on probation, be
16 employed as a Pharmacist in California for a minimum of 120 hours per calendar month. Any
17 month during which this minimum is not met shall extend the period of probation by one month.
18 During any such period of insufficient employment, Respondent must nonetheless comply with
19 all terms and conditions of probation, unless Respondent receives a waiver in writing from the
20 board or its designee.

21 If Respondent does not practice as a Pharmacist in California for the minimum number of
22 hours in any calendar month, for any reason (including vacation), Respondent shall notify the
23 board in writing within ten (10) days of the conclusion of that calendar month. This notification
24 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the
25 interruption or reduction in practice; and the anticipated date(s) on which Respondent will resume
26 practice at the required level. Respondent shall further notify the board in writing within ten (10)
27 days following the next calendar month during which Respondent practices as a Pharmacist in
28

1 California for the minimum of hours. Any failure to timely provide such notification(s) shall be
2 considered a violation of probation.

3 It is a violation of probation for Respondent's probation to be extended pursuant to the
4 provisions of this condition for a total period, counting consecutive and non-consecutive months,
5 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended
6 probation period on its website.

7 **14. Violation of Probation**

8 If Respondent has not complied with any term or condition of probation, the board shall
9 have continuing jurisdiction over Respondent, and the board shall provide notice to Respondent
10 that probation shall automatically be extended, until all terms and conditions have been satisfied
11 or the board has taken other action as deemed appropriate to treat the failure to comply as a
12 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
13 board or its designee may post a notice of the extended probation period on its website.

14 If Respondent violates probation in any respect, the board, after giving Respondent notice
15 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
16 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
17 probation, or the preparation of an accusation or petition to revoke probation is requested from
18 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
19 probation shall be automatically extended until the petition to revoke probation or accusation is
20 heard and decided, and the charges and allegations in Accusation No. 7038 shall be deemed true
21 and correct.

22 **15. Completion of Probation**

23 Upon written notice by the board or its designee indicating successful completion of
24 probation, Respondent's license will be fully restored.

25 **16. Remedial Education**

26 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
27 board or its designee, for prior approval, an appropriate program of remedial education related to
28 pharmacy law and pharmacy operations. The program of remedial education shall consist of at

1 least 6 hours per year in the subjects of pharmacy law and operations, which shall be completed
2 within the probationary period at Respondent's own expense. All remedial education shall be in
3 addition to, and shall not be credited toward, continuing education (CE) courses used for license
4 renewal purposes for pharmacists. 50% of the education annually must be via live webinar or in
5 person.

6 Failure to timely submit for approval or complete the approved remedial education shall be
7 considered a violation of probation. The period of probation will be automatically extended until
8 such remedial education is successfully completed and written proof, in a form acceptable to the
9 board, is provided to the board or its designee.

10 Following the completion of each course, the board or its designee may require the
11 Respondent, at her own expense, to take an approved examination to test the Respondent's
12 knowledge of the course. If the Respondent does not achieve a passing score on the examination
13 that course shall not count towards satisfaction of this term. Respondent shall take another course
14 approved by the board in the same subject area.

15 **17. Ethics Course**

16 Within sixty (60) calendar days of the effective date of this decision, Respondent shall
17 enroll in a course in ethics, at Respondent's expense, approved in advance by the board or its
18 designee that complies with Title 16 California Code of Regulations section 1773.5. Respondent
19 shall provide proof of enrollment upon request. Within five (5) days of completion, Respondent
20 shall submit a copy of the certificate of completion to the board or its designee. Failure to timely
21 enroll in an approved ethics course, to initiate the course during the first year of probation, to
22 successfully complete it before the end of the second year of probation, or to timely submit proof
23 of completion to the board or its designee, shall be considered a violation of probation.

24 **18. No Ownership or Management of Licensed Premises**

25 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
26 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
27 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
28 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)

1 days following the effective date of this decision and shall immediately thereafter provide written
2 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
3 documentation thereof shall be considered a violation of probation.

4 **ACCEPTANCE**

5 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
6 discussed it with my attorney, Luis Andre P. Vizcocho. I understand the stipulation and the effect
7 it will have on my License. I enter into this Stipulated Settlement and Disciplinary Order
8 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
9 Board of Pharmacy.

10 DATED: _____

11 CECILIA TSE
Respondent

12 I have read and fully discussed with Respondent Cecilia Tse the terms and conditions and
13 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its
14 form and content.

15 DATED: _____

16 LUIS ANDRE P. VIZCOCHO
Attorney for Respondent

17 **ENDORSEMENT**

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Board of Pharmacy.

20 DATED: March 14, 2022

21 Respectfully submitted,

22 ROB BONTA
Attorney General of California
23 KIM KASRELIOVICH
Supervising Deputy Attorney General

24 

25 NANCY CALERO
26 Deputy Attorney General
27 Attorneys for Complainant

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1 days following the effective date of this decision and shall immediately thereafter provide written
2 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
3 documentation thereof shall be considered a violation of probation.

4 **ACCEPTANCE**

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8 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
9 Board of Pharmacy.

10 DATED: 3/15/22


11 CECILIA TSE
Respondent

12 I have read and fully discussed with Respondent Cecilia Tse the terms and conditions and
13 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its
14 form and content.

15 DATED: 03-16-2022


16 LUIS ANDRE P. VIZCOCHO
Attorney for Respondent

17 **ENDORSEMENT**

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Board of Pharmacy.

20 DATED: March 14, 2022

21 Respectfully submitted,

22 ROB BONTA
Attorney General of California
23 KIM KASRELIOVICH
Supervising Deputy Attorney General



24 NANCY CALERO
25 Deputy Attorney General
26 Attorneys for Complainant
27

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Exhibit A

Accusation No. 7038

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14 **DBA PREFERRED COMPOUNDING**
15 **PHARMACY, TREPHENE CHARLENE**
16 **BROWN, Chief Executive Officer, Secretary**
17 **and Chief Financial Officer**
17547 Chatsworth St.
Granada Hills, CA 91344

ACCUSATION

17 Permit No. PHY 54528,

18 **and**

19 **CECILIA TSE**
17002 River Birch Ct.
Santa Clarita, CA 91387

21 Pharmacist License No. RPH 46128

22 Respondents.

23
24 **PARTIES**

25 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
26 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
27
28

2. On or about August 5, 2016, the Board of Pharmacy issued Permit Number PHY 54528 to Pharmaceutical Services, Inc. dba Preferred Compounding Pharmacy (Respondent Preferred Compounding Pharmacy). Respondent Trephene Charlene Brown (Respondent Brown) is and has been the Chief Executive Officer, Secretary and Chief Financial Officer since August 5, 2016. Respondent Cecilia Tse (Respondent Tse) was the Pharmacist-in-Charge from August 5, 2016 to June 30, 2019. The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein. The Pharmacy Permit expired on August 1, 2019, and has not been renewed.

3. On or about March 26, 1993, the Board of Pharmacy issued Pharmacist License Number RPH 46128 to Respondent Tse. The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2022, unless renewed.

JURISDICTION

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

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

6. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Bus. & Prof. Code § 400 et. seq.] and the Uniform Controlled Substances Act [Health & Safety Code § 11100 et seq.].

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

8. Section 4300.1 of the Code states that the expiration, cancellation, forfeiture, or suspension of a Board-issued license by operation of law or by order of 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 license shall not deprive the Board of jurisdiction to commence or proceed with any

1 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision
2 suspending or revoking the license.

3 9. Section 4307 of the Code states:

4 (a) Any person who has been denied a license or whose license has been revoked or is
5 under suspension, or who has failed to renew his or her license while it was under suspension, or
6 who has been a manager, administrator, owner, member, officer, director, associate, partner, or
7 any other person with management or control of any partnership, corporation, trust, firm, or
8 association whose application for a license has been denied or revoked, is under suspension or has
9 been placed on probation, and while acting as the manager, administrator, owner, member,
10 officer, director, associate, partner, or any other person with management or control had
11 knowledge of or knowingly participated in any conduct for which the license was denied,
12 revoked, suspended, or placed on probation, shall be prohibited from serving as a manager,
13 administrator, owner, member, officer, director, associate, partner, or in any other position with
14 management or control of a licensee as follows:

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

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

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

22 (c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to
23 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.
24 However, no order may be issued in that case except as to a person who is named in the caption,
25 as to whom the pleading alleges the applicability of this section, and where the person has been
26 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part
27 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision
28

1 shall be in addition to the board's authority to proceed under Section 4339 or any other provision
2 of law.

3 **STATUTORY PROVISIONS**

4 10. Section 4022 states:

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

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

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

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

14 11. Section 4081 of the code states in pertinent part:

15 (a) All records of manufacture and of sale, acquisition, receipt, shipment, or
16 disposition of dangerous drugs or dangerous devices shall be at all times during business hours
17 open to inspection by authorized officers of the law, and shall be preserved for at least three years
18 from the date of making. A current inventory shall be kept by every manufacturer, wholesaler,
19 third-party logistics provider, pharmacy, veterinary food-animal drug retailer, outsourcing
20 facility, physician, dentist, podiatrist, veterinarian, laboratory, licensed correctional clinic, as
21 defined in Section 4187, clinic, hospital, institution, or establishment holding a currently valid
22 and unrevoked certificate, license, permit, registration, or exemption under Division 2
23 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing
24 with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of
25 dangerous drugs or dangerous devices.

26 ///

27 ///

1 12. Section 4105 of the Code states in pertinent part:

2 (a) All records or other documentation of the acquisition and disposition of dangerous
3 drugs and dangerous devices by an entity licensed by the Board shall be retained on the licensed
4 premises in a readily retrievable form.

5 13. Section 4169 of the Code states in pertinent part:

6 (a) Any person or entity shall not do any of the following:

7 (5) Fail to maintain records of the acquisition or disposition of dangerous drugs or
8 dangerous devices for at least three years.

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

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

13 (q) Engaging in any conduct that subverts or attempts to subvert an investigation of the
14 board.

15 ...

16 15. Section 4333 subdivision (a) of the Code state:

17 (a) All Prescriptions filled by a pharmacy and all other records required by section 4081
18 shall be maintained on the premises and available for inspection by authorized officers of the law
19 for a period of at least three years. In cases where the pharmacy discontinues business, these
20 records shall be maintained in a board-licensed facility for three years.

21 **REGULATORY PROVISIONS**

22 16. California Code of Regulations, title 16, section 1708.2 states:

23 Any permit holder shall contact the board prior to transferring or selling any dangerous
24 drugs, devices or hypodermics inventory as a result of termination of business or bankruptcy
25 proceedings and shall follow official instructions given by the Board applicable to the transaction.

26 17. California Code of Regulations, title 16, section 1718 states:

27 “Current Inventory” as used in Sections 4081 and 4332 of the Business and Professions
28 Code shall be considered to include complete accountability for all dangerous drugs handled by

every licensee enumerated in Sections 4081 and 4332. The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory.

18. California Code of Regulations, title 16, section 1761 states in pertinent part:

(a) Nor pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.

...

COST RECOVERY

19. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a 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, with failure of the licensee to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

DRUG CLASSIFICATIONS

20.

Brand Name	Generic Name	Dangerous Drug Per Bus & Prof. Code §4022	Controlled Substance Per Health & Safety Code (HSC)	Indications for Use
Xylocaine ointment	Lidocaine ointment	Yes	No	Topical anesthesia
Emla cream	Lidocaine/prilocaine cream	Yes	No	Topical anesthesia
Voltaren gel	Diclofenac gel	Yes	No	Pain and inflammation

///

1 **FACTUAL ALLEGATION AND BACKGROUND**

2 21. The Board initiated an investigation into Respondent Preferred Compounding
3 Pharmacy upon receiving a complaint against Respondent on or about November 8, 2017.

4 22. On February 7, 2018, the Board Inspector conducted an inspection of Respondent
5 Preferred Compounding Pharmacy.

6 21. Respondent Tse was present during the inspection and provided pharmacy records to
7 the Board Inspector.

8 23. During the course of investigation into Respondents, the Board Inspector found
9 violations of pharmacy law related to audit overages and the discontinuance of the business.

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Maintenance of Records/Current Inventory Defined)

12 24. Respondent Preferred Compounding Pharmacy and Respondent Tse are subject to
13 disciplinary action under Code section 4081 subdivision (a) and California Code of Regulations
14 section 1718 in that Respondents failed to a maintain current inventory of dangerous drugs. The
15 circumstances are as follows:

16 25. On or about February 7, 2018, Respondent Tse provided the Board Inspector with
17 inventory lists from March 23, 2017 and February 6, 2018. Respondent Tse told the Board
18 Inspector that she conducted the inventory counts for of all drugs listed. Respondent Tse
19 provided the following inventory count:

20

Inventory Date	Lidocaine 5% ointment 35.44 grams tubes/jars	Lidocaine/Prilocaine cream 30 gram tubes	Diclofenac 3% gel 100 gram tubes
3/23/2017	49 tubes/jars	1772 tubes	20 tubes
2/6/2018	768 tubes/jars	552 tubes	2 tubes

21
22

23 26. Between April 28, 2020 and May 2, 2020, the Board Inspector requested purchase/
24 return summaries from the wholesalers utilized by Respondent Preferred Compounding
25 Pharmacy. The wholesalers provided the following information for all brand and generic Emla
26 30mg, lidocaine 5% ointment 35.44 gm and diclofenac 3% gel 100gm for the date range of March
27 23, 2017 to February 6, 2018:
28

Wholesaler	Date reply received	Exhibit No.	Lidocaine 5% Ointment 33.44 gm [tubes/jars]	Lidocaine/Prilocaine 30gm [tubes]	Diclofenac 3% Gel 100mg [tubes]
Safeway Distributors	4/29/2020	83	0	0	14
KY Meds	4/29/2020	84	502	0	0
Anda	5/1/2020	85	0	0	0
Outdate Rx	5/1/2020	86	0	0	0
Republic Pharmaceuticals	5/1/2020	87	0	0	30
Amerisource Bergen [on behalf of SmartSource]	5/4/2020	89	0	0	0
QPharma	5/5/2020	90	204	0	0
McKesson [on behalf of Masters]	5/6/2020	91	1500	1000	0
Totals			2206 tubes/jars	1000 tubes	44 tubes

27. The Board Inspector conducted an inventory audit using the pharmacy inventory list provided by Respondent Tse and the purchase/return summaries provided by the wholesalers. The Board Inspector determined that Respondents had inventory overages of twenty-eight (28) 35.44 gram jars of lidocaine 5% ointment for a total of 992.32 grams and an overage of twelve (12) 30 gram tubes of lidocaine/prilocaine cream ointment for a total of 360 grams.

SECOND CAUSE FOR DISCIPLINE

(Erroneous or Uncertain Prescriptions)

28. Respondent Preferred Compounding Pharmacy and Respondent Tse are subject to disciplinary action under California Code of Regulations section 1761(a) in that Respondents dispensed prescriptions for large quantities of dangerous drugs without validation. The circumstances are as follows:

29. On or about February 7, 2018, Respondent Tse provided the Board Inspector with Prescription Summary Reports and Prescription Detail Reports for diclofenac 3% gel, lidocaine/prilocaine 2.5%/2.5% cream and lidocaine 5% ointment. The reports showed the following totals:

1 A. 22 filled prescriptions of Diclofenac 3% gel. A total of sixty-two (62) 100 gram tubes
2 were dispensed with the following prescription breakdowns:

3 a) 19 prescriptions for three (3) 100 gram tubes

4 b) 2 prescriptions for two (2) 100 gram tubes.

5 c) 1 prescription for one (1) 100 gram tube.

6 B. 186 filled prescriptions of Lidocaine/Prilocaine cream, each prescription was for twelve
7 (12) 30 gram tubes.

8 C. 173 filled prescriptions for Lidocaine 5% ointment. A total of 1,515 jars/tubes were
9 dispensed with the following prescription breakdowns:

10 a) 19 prescriptions for one (1) 35.44 gram jars/tubes

11 b) 3 prescriptions for two (2) 35.44 gram jars/tubes

12 c) 5 prescriptions for six (6) 35.44 gram jars/tubes

13 d) 146 prescriptions for ten (10) 35.44 gram jars/tubes

14 30. Respondent Tse was the verification and filling pharmacist for all prescriptions from
15 March 23, 2017 to February 6, 2018. Respondent Tse did not verify the authenticity of the
16 prescriptions.

17 **THIRD CAUSE FOR DISCIPLINE**

18 (Failure to Maintain Records Relating to Dangerous Drugs)

19 31. Respondent Preferred Compounding Pharmacy and Respondent Brown are subject to
20 disciplinary action under Code sections 4333 subdivision (a), 4081 subdivision (a), 4105
21 subdivision (a) and 4169 subdivision (a) in that Respondents failed to maintain records of
22 acquisition and disposition in a Board-licensed facility for a period of at least three (3) years. The
23 circumstances are as follows:

24 32. On or about July 1, 2019, Respondent Preferred Compounding Pharmacy
25 discontinued business. Respondent did not file a Discontinuance of Business with the Board.

26 33. On or about July 15, 2019, the Board received a letter from Respondent Preferred
27 Compounding Pharmacy dated July 1, 2019 informing the Board that Respondent Brown was in
28

1 possession of prescription files and dangerous drugs belonging to the pharmacy. Respondent
2 Brown is not licensed with the Board to store records of acquisition and disposition.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 (Discontinuance of Business)

5 34. Respondent Preferred Compounding Pharmacy and Respondent Brown are subject to
6 disciplinary action under California Code of Regulations section 1708.2 in that Respondents
7 failed to notify the Board prior to transferring its inventory of dangerous drugs. The
8 circumstances are as follows:

9 35. On or about July 1, 2019, Respondent Preferred Compounding Pharmacy
10 discontinued business. Respondent did not file a Discontinuance of Business with the Board.

11 36. On or about July 15, 2019, the Board received a letter from Respondent Preferred
12 Compounding Pharmacy dated July 1, 2019 informing the Board that its inventory of dangerous
13 drugs had been transferred to Respondent Brown.

14 **SEVENTH CAUSE FOR DISCIPLINE**

15 (Unprofessional Conduct- Subverting a Board Investigation)

16 37. Respondent Preferred Compounding Pharmacy, Respondent Tse and Respondent
17 Brown are subject to disciplinary action under Code section 4301(q) in that Respondents engaged
18 in conduct that subverts an investigation by the Board. The circumstances are as follows:

19 38. On February 7, 2018, February 14, 2018 and February 25, 2018 , the Board Inspector
20 asked Respondents to provide proof of patient copays and patient signature logs for each
21 prescription filled of lidocaine 5% ointment 35.44 grams, lidocaine/prilocaine cream 30 grams,
22 and diclofenac 3% gel 100 grams. Respondents' failed to provide the requested records.

23 **OTHER MATTERS**

24 39. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
25 PHY 54528 issued to Pharmaceutical Services, Inc. dba Preferred Compounding Pharmacy then
26 Respondent Pharmaceutical Services, Inc. dba Preferred Compounding Pharmacy shall be
27 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
28

1 or partner of a licensee for five years if Pharmacy Permit Number PHY 54528 is placed on
2 probation or until Pharmacy Permit Number PHY 54528 is revoked.

3
4 40. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
5 PHY 54528 issued to Pharmaceutical Services, Inc. dba Preferred Compounding Pharmacy, while
6 Respondent Brown has been an officer and owner and had knowledge of or knowingly
7 participated in any conduct for which the licensee was disciplined, Respondent Brown shall be
8 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
9 or partner of a licensee for five years if Pharmacy Permit Number PHY 54528 is placed on
10 probation or until Pharmacy Permit Number PHY 52407 is reinstated if it is revoked.

11 41. Pursuant to Code section 4307, if disciplined is imposed on Pharmacist License
12 Number RPH 46128 issued to Cecilia Tse, Respondent Tse shall be prohibited from serving as a
13 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
14 five years if Pharmacist License Number RPH 46128 is placed on probation or until Pharmacist
15 License Number RPH 46128 is reinstated if it is revoked.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacy Permit Number PHY 54528, issued to
20 Pharmaceutical Services, Inc. dba Preferred Compounding Pharmacy

21 2. Revoking or suspending Pharmacist License Number RPH 46128, issued to Cecilia
22 Tse;

23 3. Prohibiting Pharmaceutical Services, Inc. dba Preferred Compounding Pharmacy,
24 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
25 of a license for five years if Pharmacy Permit Number PHY 54528 is placed on probation or until
26 Pharmacy Permit Number PHY 54528 is reinstated if Pharmacy Permit Number PHY 54528
27 issued to Pharmaceutical Services, Inc. dba Preferred Compounding Pharmacy, Trephene
28 Charlene Brown is revoked;

4. Prohibiting Trephene Charlene Brown from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a license for five years if Pharmacy Permit Number PHY 54528 is placed on probation or until Pharmacy Permit Number PHY 54528 is reinstated if Pharmacy Permit Number PHY 54528 issued to Pharmaceutical Services, Inc. dba Preferred Compounding Pharmacy is revoked;

5. Prohibiting Cecilia Tse from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 46128 is placed on probation or until Pharmacist License Number RPH 46128 is reinstated if it is revoked.

6. Ordering Preferred Compounding Pharmacy, Trepheene Brown and Cecilia Tse 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,

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

DATED: 3/21/2021

Signature on File

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

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