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

12 In the Matter of the Accusation Against:

Case No. 7046

13 **SIX DEGREES, INC. DBA SIX DEGREES**
14 **HEALTH DBA PRESCRIPTION SHOPPE,**
15 **ANNA KARINA RUBIO, MARIANNE**
16 **CHRISTIANE ANTONIO**
17 **15247 Eleventh St., 1000A & 1000B**
18 **Victorville, CA 92395**

DEFAULT DECISION AND ORDER AS
TO SIX DEGREES, INC. DBA SIX
DEGREES HEALTH DBA
PRESCRIPTION SHOPPE, ANNA
KARINA RUBIO, MARIANNE
CHRISTIANE ANTONIO ONLY

19 **Permit No. PHY 56833,**

20 **and**

[Gov. Code, §11520]

21 **ASHOK POPAT**
22 **630 Crestview Dr.**
23 **Diamond Bar, CA 91765**

24 **Pharmacist License No. RPH 39954**

25 Respondents.

26 **FINDINGS OF FACT**

27 1. On or about May 17, 2021, Complainant Anne Sodergren, in her official capacity as
28 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
Accusation No. 7046 against Six Degrees, Inc. dba Six Degrees Health dba Prescription Shoppe,

1 Anna Karina Rubio, Marianne Christiane Antonio (Respondent) before the Board of Pharmacy.
2 (Accusation attached as Exhibit A.)

3 2. On or about August 31, 2018, the Board of Pharmacy (Board) issued Permit No. PHY
4 56833 to Respondent. The Permit expired on August 1, 2020, and has not been renewed. On or
5 about May 17, 2021, Respondent was served by Certified and First Class Mail copies of the
6 Accusation No. 7046, Statement to Respondent, Notice of Defense, Request for Discovery, and
7 Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's
8 address of record which, pursuant to Business and Professions Code section 4100, is required to
9 be reported and maintained with the Board. Respondent's address of record was and is:
10 15247 Eleventh St., 1000A & 1000B, Victorville, CA 92395.

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

13 4. Government Code section 11506(c) states, in pertinent part:

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

19 5. The Board takes official notice of its records and the fact that Respondent failed to
20 file a Notice of Defense within 15 days after service upon them of the Accusation, and therefore
21 waived their right to a hearing on the merits of Accusation No. 7046.

22 6. California Government Code section 11520(a) states, in pertinent part:

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

27 7. Pursuant to its authority under Government Code section 11520, the Board finds
28 Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
as well as taking official notice of all the investigatory reports, exhibits and statements contained

therein on file at the Board's offices regarding the allegations contained in Accusation No. 7046, finds that the charges and allegations in Accusation No. 7046, are separately and severally, found to be true and correct by clear and convincing evidence.

8. The Board finds that the actual costs for Investigation and Enforcement are \$37,570.50 as of June 16, 2021.

DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Six Degrees, Inc. dba Six Degrees Health dba Prescription Shoppe, Anna Karina Rubio, Marianne Christiane Antonio has subjected its Permit No. PHY 56833 to discipline.

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

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

a. Violation of Business and Profession Code section 4301, subdivisions (j) and (o), in conjunction with Code of Federal Regulations section 1304.11, subdivisions (a), (b), and (c) (Failure to Complete a Controlled Substance Inventory).

b. Violation of Business and Professions Code section 4113, subdivision (d) (Failure to Timely Notify the Board of a Change in Pharmacist-In-Charge).

c. Violation of Business and Professions Code section 4301, subdivision (j) and (o) for violating California Code of Regulations, title 16, sections 1735.6, subdivisions (a) and (e)(3)(B) (Failure to Maintain Compounding Equipment and Certification).

d. Violation of Business and Professions Code section 4110, subdivision (a) (Unlicensed Activity).

e. Violation of Business and Professions Code section 4115, subdivisions (a) and (e) in conjunction with California Code of Regulations, title 16, sections 1793.2 (Unlicensed Pharmacy Technician Activity).

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1 f. Violation of Business and Professions Code sections 4081, subdivision (d) and 4301,
2 subdivisions (j) and (o) in conjunction with California Code of Regulations, title 16, sections
3 1717.3, subdivision (b) (Dispensing Dangerous Drugs and Diabetic Testing Supplies Pursuant to
4 Pre-Printed Multiple Checkoff Prescription Forms).

5 g. Violation of Business and Professions Code sections 4059, subdivision (a) and 4301,
6 subdivisions (j) and (o) (Unlicensed Pharmacy Staff Signing for Dangerous Drugs).

7 h. Violation of Business and Professions Code section 4301, subdivisions (j) and (o) in
8 conjunction with California Code of Regulations, title 16, section 1714, subdivision (d) and Code
9 of Federal Regulations section 1301.75, subdivision (b) (Unsecured Controlled Substances).

10 i. Violation of Business and Professions Code section 4301, subdivisions (j) and (o) in
11 conjunction with California Code of Regulations, title 16, section 1713, subdivision (a) (Delivery
12 of Compounded Prescription Medications to Doctor's Office for Shipment to Out- of-State
13 Patients).

14 j. Violation of Business and Professions Code section 4076, subdivision (a), subsections
15 (3) through (7) (Failure to Properly Label Compounded Prescription Products).

16 k. Violation of Business and Professions Code section 4301, subdivision (o) in
17 conjunction with California Code of Regulations, title 16, section 1707.2, subdivision (b)(2)
18 (Failure to Provide Notice/Offer of Consultation).

19 l. Violation of Business and Professions Code sections 4301, subdivisions (j) and (o)
20 and 4169, subdivision (a)(3) in conjunction with Health and Safety Code section 111440
21 (Dispensing of Sub-Potent/Misbranded Medications).

22 m. Violation of Business and Professions Code sections 4301, subdivisions (j) and (o)
23 and 4169, subdivision (a)(4) in conjunction with California Code of Regulations, title 16, section
24 1735.2, subdivision (i)(1)(A) (Dispensing Compounded Medications with Incorrect Beyond Use
25 Dates).

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1 n. Violation of section 4301, subdivision (o) in conjunction with California Code of
2 Regulations, title 16, section 1735.6, subdivision (e)(2) (Failure to Monitor and Document a
3 Proper Hazardous Non-Sterile Compounding Environment).

4 o. Violation of Business and Professions Code sections 4081, subdivision (a) and 4105,
5 subdivisions (a), (b), and (c) (Failure to Maintain Prescription Documents).

6 p. Violation of Business and Professions Code sections 4301, subdivision (o) in
7 conjunction with California Code of Regulations, title 16, section 1708.2 (Failure to Notify the
8 Board of Closure).

9 q. Violation of Business and Professions Code sections 4301, subdivision (o) and 4333,
10 subdivision (a) (Failure to Arrange for the Maintenance of Prescription Records).

11 r. Violation of Business and Professions Code sections 4301, subdivisions (j) and (o)
12 and 4312, subdivision (b) (Failure to Arrange for Disposition of Drug Stock).

13 **ORDER**

14 IT IS SO ORDERED that Permit No. PHY 56833, issued to Respondent Six Degrees, Inc.
15 dba Six Degrees Health dba Prescription Shoppe, Anna Karina Rubio, Marianne Christiane
16 Antonio, is revoked.

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

21 This Decision shall become effective on September 8, 2021 at 5:00 p.m.

22 It is so ORDERED on August 9, 2021.

23 FOR THE BOARD OF PHARMACY
24 DEPARTMENT OF CONSUMER AFFAIRS

25
26 64297135.DOCX
27 DOJ Matter ID:LA2020603171
28 Attachment: Exhibit A: Accusation

By



Seung W. Oh, Pharm.D
Board President

Exhibit A

Accusation

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Attorneys for Complainant

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HEALTH DBA PRESCRIPTION SHOPPE,
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15247 Eleventh St., 1000A & 1000B
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ACCUSATION

**Permit No. PHY 56833,
and**

**ASHOK POPAT
630 Crestview Dr.
Diamond Bar, CA 91765**

Pharmacist License No. RPH 39954,

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 August 31, 2018, the Board of Pharmacy issued Permit Number PHY 56833 to Six Degrees, Inc. dba Six Degrees Health dba Prescription Shoppe, Anna Karina Rubio, Marianne Christiane Antonio (Respondent Prescription Shoppe). The Permit expired on August 1, 2020, and has not been renewed.

3. On or about March 18, 1986, the Board of Pharmacy issued Pharmacist License Number RPH 39954 to Ashok Popat (Respondent Popat). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2023, unless renewed.

JURISDICTION

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

5. Section 4300 of the Code states in pertinent part:

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

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

6. 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.

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STATUTORY PROVISIONS

7. Section 4076 of the Code states in pertinent part:

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

(3) The name of the patient or patients.

(4) The name of the prescriber or, if applicable, the name of the certified nurse-midwife who functions pursuant to a standardized procedure or protocol described in Section 2746.51, the nurse practitioner who functions pursuant to a standardized procedure described in Section 2836.1 or protocol, the physician assistant who functions pursuant to Section 3502.1, the naturopathic doctor who functions pursuant to a standardized procedure or protocol described in Section 3640.5, or the pharmacist who functions pursuant to a policy, procedure, or protocol pursuant to Section 4052.1, 4052.2, or 4052.6.

(5) The date of issue.

(6) The name and address of the pharmacy, and prescription number or other means of identifying the prescription.

(7) The strength of the drug or drugs dispensed.

8. Section 4081 of the Code states in relevant part:

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

1 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous
2 drugs or dangerous devices.

3 ***

4 (d) Pharmacies that dispense nonprescription diabetes test devices pursuant to prescriptions
5 shall retain records of acquisition and sale of those nonprescription diabetes test devices for at
6 least three years from the date of making. The records shall be at all times during business hours
7 open to inspection by authorized officers of the law.

8 9. Section 4095.5, subdivision (a) of the Code states:

9 Except as otherwise provided in this chapter, dangerous drugs or dangerous devices may
10 only be ordered by an entity licensed by the board and shall be delivered to the licensed premises
11 and signed for and received by a pharmacist. Where a licensee is permitted to operate through a
12 designated representative, or in the case of a reverse distributor a designated representative-
13 reverse distributor, that individual shall sign for and receive the delivery.

14 10. Section 4101, subdivision (a) of the Code states:

15 A pharmacist may take charge of and act as the pharmacist-in-charge of a pharmacy upon
16 application by the pharmacy and approval by the board. A pharmacist-in-charge who ceases to act
17 as the pharmacist-in-charge of the pharmacy shall notify the board in writing within 30 days of
18 the date of that change in status.

19 11. Section 4105 of the Code states in relevant part:

20 (a) All records or other documentation of the acquisition and disposition of dangerous drugs
21 and dangerous devices by any entity licensed by the board shall be retained on the licensed
22 premises in a readily retrievable form.

23 (b) The licensee may remove the original records or documentation from the licensed
24 premises on a temporary basis for license-related purposes. However, a duplicate set of those
25 records or other documentation shall be retained on the licensed premises.

26 (c) The records required by this section shall be retained on the licensed premises for a
27 period of three years from the date of making.

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1 12. Section 4110 of the Code states in relevant part:

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

8 13. Section 4113 of the Code states in pertinent part:

9 ***

10 (b) The proposed pharmacist-in-charge shall be subject to approval by the board. The board
11 shall not issue or renew a pharmacy license without identification of an approved pharmacist-in-
12 charge for the pharmacy.

13 (c) The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state
14 and federal laws and regulations pertaining to the practice of pharmacy.

15 14. Section 4115 of the Code states in pertinent part:

16 (a) A pharmacy technician may perform packaging, manipulative, repetitive, or other
17 nondiscretionary tasks only while assisting, and while under the direct supervision and control of,
18 a pharmacist. The pharmacist shall be responsible for the duties performed under his or her
19 supervision by a technician.

20 ***

21 (e) A person shall not act as a pharmacy technician without first being licensed by the board
22 as a pharmacy technician.

23 15. Section 4169 of the Code states in pertinent part:

24 (a) A person or entity shall not do any of the following:

25 ***

26 (3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably
27 should have known were misbranded, as defined in Section 111335 of the Health and Safety
28 Code.

(4) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices after the beyond use date on the label.

16. Section 4301 of the Code states in relevant part:

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

* * *

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

* * *

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

17. Section 4306.5 of the Code states:

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

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

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

(c) Acts or omissions that involve, in whole or in part, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function.

(d) Acts or omissions that involve, in whole or in part, the failure to fully maintain and retain appropriate patient-specific information pertaining to the performance of any pharmacy function.

1 18. Section 4307 of the Code states, in pertinent part:

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

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

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

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

20 (c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to
21 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.
22 However, no order may be issued in that case except as to a person who is named in the caption,
23 as to whom the pleading alleges the applicability of this section, and where the person has been
24 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part
25 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision
26 shall be in addition to the board’s authority to proceed under Section 4339 or any other provision
27 of law.

28 ///

1 19. Section 4333 of the Code states in pertinent part:

2 (a) All prescriptions filled by a pharmacy and all other records required by Section 4081
3 shall be maintained on the premises and available for inspection by authorized officers of the law
4 for a period of at least three years. In cases where the pharmacy discontinues business, these
5 records shall be maintained in a board-licensed facility for at least three years.

6 20. Section 4312 of the Code states in pertinent part:

7 ***

8 (b) If the license of a wholesaler, third-party logistics provider, pharmacy, veterinary food-
9 animal drug retailer, or outsourcing facility is canceled pursuant to subdivision (a) or revoked
10 pursuant to Article 19 (commencing with Section 4300), or a wholesaler, third-party logistics
11 provider, pharmacy, veterinary food-animal drug retailer, or outsourcing facility notifies the
12 board of its intent to remain closed or to discontinue business, the licensee shall, within 10 days
13 thereafter, arrange for the transfer of all dangerous drugs and controlled substances or dangerous
14 devices to another licensee authorized to possess the dangerous drugs and controlled substances
15 or dangerous devices. The licensee transferring the dangerous drugs and controlled substances or
16 dangerous devices shall immediately confirm in writing to the board that the transfer has taken
17 place.

18 21. Section 4402 of the Code states:

19 (a) Any pharmacist license that is not renewed within three years following its expiration
20 may not be renewed, restored, or reinstated and shall be canceled by operation of law at the end
21 of the three-year period.

22 (b)(1) Any pharmacist whose license is canceled pursuant to subdivision (a) may obtain a
23 new license if he or she takes and passes the examination that is required for initial license with
24 the board.

25 (2) The board may impose conditions on any license issued pursuant to this section, as it
26 deems necessary.

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28 ///

1 (c) A license that has been revoked by the board under former Section 4411 shall be
2 deemed canceled three years after the board's revocation action, unless the board has acted to
3 reinstate the license in the interim.

4 (d) This section shall not affect the authority of the board to proceed with any accusation
5 that has been filed prior to the expiration of the three-year period.

6 (e) Any other license issued by the board may be canceled by the board if the license is not
7 renewed within 60 days after its expiration. Any license canceled under this subdivision may not
8 be reissued. Instead, a new application will be required.

9 22. Section 111440 of the Health and Safety Code states:

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

12 **REGULATORY PROVISIONS**

13 23. California Code of Regulations, title 16, section 1707.2 states:

14 (a) A pharmacist shall provide oral consultation to his or her patient or the patient's agent in
15 all settings:

16 (1) upon request;

17 (2) whenever the pharmacist deems it warranted in the exercise of his or her professional
18 judgment;

19 (3) whenever the prescription drug has not previously been dispensed to a patient; or

20 (4) whenever a prescription drug not previously dispensed to a patient in the same dosage
21 form, strength or with the same written directions, is dispensed by the pharmacy.

22 (b)(1) When the patient or patient's agent is not present (including, but not limited to, a
23 prescription drug that was shipped by mail or delivery), a pharmacy shall ensure that:

24 (A) the patient receives written notice of his or her right to request consultation;

25 (B) the patient receives written notice of the hours of availability and the telephone number
26 from which the patient may obtain oral consultation from a pharmacist who has ready access to
27 the patient's record; and
28

1 (C) a pharmacist shall be available (i) to speak to the patient or patient's agent during any
2 regular hours of operation, within an average of ten (10) minutes or less, unless a return call is
3 scheduled to occur within one business hour, (ii) for no less than six days per week, and (iii) for a
4 minimum of 40 hours per week.

5 (2) A pharmacist is not required by this subsection to provide oral consultation to an
6 inpatient of a health care facility licensed pursuant to section 1250 of the Health and Safety Code,
7 or to an inmate of an adult correctional facility or a juvenile detention facility, except upon the
8 patient's discharge. A pharmacist is not obligated to consult about discharge medications if a
9 health facility licensed pursuant to subdivision (a) or (b) of Health and Safety Code Section 1250
10 has implemented a written policy about discharge medications which meets the requirements of
11 Business and Professions Code Section 4074.

12 (c) When oral consultation is provided, it shall include at least the following:

13 (1) directions for use and storage and the importance of compliance with directions; and

14 (2) precautions and relevant warnings, including common severe side or adverse effects or
15 interactions that may be encountered.

16 (d) Whenever a pharmacist deems it warranted in the exercise of his or her professional
17 judgment, oral consultation shall also include:

18 (1) the name and description of the medication;

19 (2) the route of administration, dosage form, dosage, and duration of drug therapy;

20 (3) any special directions for use and storage;

21 (4) precautions for preparation and administration by the patient, including techniques for
22 self-monitoring drug therapy;

23 (5) prescription refill information;

24 (6) therapeutic contraindications, avoidance of common severe side or adverse effects or
25 known interactions, including serious potential interactions with known nonprescription
26 medications and therapeutic contraindications and the action required if such side or adverse
27 effects or interactions or therapeutic contraindications are present or occur;

28 (7) action to be taken in the event of a missed dose.

1 (e) Notwithstanding the requirements set forth in subsection (a) and (b), a pharmacist is not
2 required to provide oral consultation when a patient or the patient's agent refuses such
3 consultation.

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

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

8 25. California Code of Regulations, title 16, section 1713, subdivision (a), states:

9 Except as otherwise provided in this Division, no licensee shall participate in any
10 arrangement or agreement, whereby prescriptions, or prescription medications, may be left at,
11 picked up from, accepted by, or delivered to any place not licensed as a retail pharmacy.

12 26. California Code of Regulations, title 16, section 1715 states in relevant part:

13 (a) The pharmacist-in-charge of each pharmacy as defined under section 4029 or section
14 4037 of the Business and Professions Code shall complete a self-assessment of the pharmacy's
15 compliance with federal and state pharmacy law. The assessment shall be performed before July 1
16 of every odd-numbered year. The primary purpose of the self-assessment is to promote
17 compliance through self-examination and education.

18 (b) In addition to the self-assessment required in subdivision (a) of this section, the
19 pharmacist-in-charge shall complete a self-assessment within 30 days whenever:

20 ***

21 (2) There is a change in the pharmacist-in-charge, and he or she becomes the new
22 pharmacist-in-charge of a pharmacy.

23 27. California Code of Regulations, title 16, section 1717.3, subdivision (b), states:

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

28 ///

1 28. California Code of Regulations, title 16, section 1714, subdivision (d), states:

2 Each pharmacist while on duty shall be responsible for the security of the prescription
3 department, including provisions for effective control against theft or diversion of dangerous
4 drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy
5 where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.

6 29. California Code of Regulations, title 16, section 1735.2, subdivision (i)(1)(A), states:

7 ***

8 (i) Every compounded drug preparation shall be given a beyond use date representing the
9 date or date and time beyond which the compounded drug preparation should not be used, stored,
10 transported or administered, and determined based on the professional judgment of the pharmacist
11 performing or supervising the compounding.

12 (1) For non-sterile compounded drug preparation(s), the beyond use date shall not exceed
13 any of the following:

14 (A) the shortest expiration date or beyond use date of any ingredient in the compounded
15 drug preparation.

16 ***

17 (k) Prior to allowing any drug product preparation to be compounded in a pharmacy, the
18 pharmacist-in-charge shall complete a self-assessment for compounding pharmacies developed by
19 the board (Incorporated by reference is “Community Pharmacy & Hospital Outpatient Pharmacy
20 Compounding Self-Assessment” Form 17M-39 Rev. 02/12.) as required by Section 1715 of Title
21 16, Division 17, of the California Code of Regulations. That form contains a first section
22 applicable to all compounding, and a second section applicable to sterile injectable compounding.
23 The first section must be completed by the pharmacist-in-charge before any compounding is
24 performed in the pharmacy. The second section must be completed by the pharmacist-in-charge
25 before any sterile compounding is performed in the pharmacy. The applicable sections of the self-
26 assessment shall subsequently be completed before July 1 of each odd-numbered year, within 30
27 days of the start date of a new pharmacist-in-charge or change of location, and within 30 days of
28

1 the issuance of a new pharmacy license. The primary purpose of the self-assessment is to promote
2 compliance through self-examination and education.

3 30. California Code of Regulations, title 16, section 1735.6 states in relevant part:

4 (a) Any pharmacy engaged in compounding shall maintain written documentation regarding
5 the facilities and equipment necessary for safe and accurate compounding of compounded drug
6 preparations. This shall include records of maintenance and cleaning of the facilities and
7 equipment. Where applicable, this shall also include records of certification(s) of facilities or
8 equipment.

9 ***

10 (e) Hazardous drug compounding shall be completed in an externally exhausted physically
11 separate room with the following requirements:

12 (1) Minimum of 30 air changes per hour except that 12 air changes per hour are acceptable
13 for segregated compounding areas with a BSC or CACI when products are assigned a BUD of 12
14 hours or less or when non sterile products are compounded; and

15 (2) Maintained at a negative pressure of 0.01 to 0.03 inches of water column relative to all
16 adjacent spaces (rooms, above ceiling, and corridors); and

17 (3)

18 ***

19 (B) For nonsterile compounding, a BSC, a CACI, or other containment ventilated enclosure
20 shall be used and shall either use a redundant-HEPA filter in series or be externally exhausted.

21 For purposes of this paragraph, a containment ventilated enclosure means a full or partial
22 enclosure that uses ventilation principles to capture, contain, and remove airborne contaminants
23 through high-efficiency particulate air (HEPA) filtration and to prevent their release into the work
24 environment.

25 31. California Code of Regulations, title 16, section 1793.2 states:

26 “Nondiscretionary tasks” as used in Business and Professions Code section 4115, include:

27 (a) removing the drug or drugs from stock;

28 (b) counting, pouring, or mixing pharmaceuticals;

- (c) placing the product into a container;
- (d) affixing the label or labels to the container;
- (e) packaging and repackaging.

CODE OF FEDERAL REGULATIONS

32. Code of Federal Regulations, title 21, section 1301.75, subdivision (b) states:

Controlled substances listed in Schedules II, III, IV, and V shall be stored in a securely locked, substantially constructed cabinet. However, pharmacies and institutional practitioners may disperse such substances throughout the stock of noncontrolled substances in such a manner as to obstruct the theft or diversion of the controlled substances.

33. Code of Federal Regulations, title 21, section 1304.11, states in pertinent part:

(a) General requirements. Each inventory shall contain a complete and accurate record of all controlled substances on hand on the date the inventory is taken, and shall be maintained in written, typewritten, or printed form at the registered location. An inventory taken by use of an oral recording device must be promptly transcribed. Controlled substances shall be deemed to be "on hand" if they are in the possession of or under the control of the registrant, including substances returned by a customer, ordered by a customer but not yet invoiced, stored in a warehouse on behalf of the registrant, and substances in the possession of employees of the registrant and intended for distribution as complimentary samples. A separate inventory shall be made for each registered location and each independent activity registered, except as provided in paragraph (e)(4) of this section. In the event controlled substances in the possession or under the control of the registrant are stored at a location for which he/she is not registered, the substances shall be included in the inventory of the registered location to which they are subject to control or to which the person possessing the substance is responsible. The inventory may be taken either as of opening of business or as of the close of business on the inventory date and it shall be indicated on the inventory.

(b) Initial inventory date. Every person required to keep records shall take an inventory of all stocks of controlled substances on hand on the date he/she first engages in the manufacture, distribution, or dispensing of controlled substances, in accordance with paragraph (e) of this

1 section as applicable. In the event a person commences business with no controlled substances on
2 hand, he/she shall record this fact as the initial inventory.

3 (c) Biennial inventory date. After the initial inventory is taken, the registrant shall take a
4 new inventory of all stocks of controlled substances on hand at least every two years. The
5 biennial inventory may be taken on any date which is within two years of the previous biennial
6 inventory date.

7 **COST RECOVERY**

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

12 **FACTUAL ALLEGATIONS**

13 **November 6, 2018 Inspection**

14 35. On October 9, 2018 and on October 11, 2018, the Board received complaints from
15 R.W. regarding Prescription Shoppe. Prescription Shoppe was originally licensed under owners
16 L.L. and C.B. Owners, L.L. and C.B., sold Prescription Shoppe to Six Degrees, Inc. and Six
17 Degrees Inc. dba Six Degrees Health dba Prescription Shoppe was issued a license by the Board
18 on August 31, 2018.

19 36. The corporate members and directors of Six Degrees, Inc. hired R.W. on or about
20 July 2018 and made him the Pharmacist-in-Charge (PIC) shortly thereafter in that same month.
21 The new owners terminated R.W. at the end of August 2018. R.W. notified the Board via letter on
22 October 21, 2018 that he had disassociated as the PIC of Prescription Shoppe on August 31, 2018.

23 37. A review of the Change of PIC application submitted to the Board by Prescription
24 Shoppe showed a receipt date of November 13, 2018. The application indicated that R.W. was
25 actually disassociated from Prescription Shoppe, effective September 4, 2018 and that
26 Respondent Popat's effective date for being the new PIC at Prescription Shoppe was September
27 4, 2018. Respondent Popat was the only one that signed the Change of PIC application. Also,
28

1 Respondent Popat did not document that he reviewed and signed the Community Pharmacy Self-
2 Assessment until October 7, 2018.

3 38. C.C., the pharmacy technician at Prescription Shoppe since June 1998 saw the new
4 manager, K.M. onsite at Prescription Shoppe several months before the new change of ownership
5 took place. On September 4, 2018, C.C. was terminated from Prescription Shoppe.

6 39. On November 6, 2018, the Board inspected Prescription Shoppe with the assistance
7 of the PIC, Respondent Popat and pharmacy technician, S.R.

8 40. Respondent Popat informed the Board inspector that the pharmacy was mainly set up
9 as a compounding pharmacy. Respondent Popat was unable to produce a completed/signed
10 Compounding Self-Assessment upon the Board inspector's request. The Board inspector
11 informed Respondent Popat that the Compounding Self-Assessment had to be completed before
12 any compounding could take place. Respondent Popat thumbed through the Compounding Self-
13 Assessment, placed it down on the pharmacy counter and then proceeded back into the
14 pharmacy's compounding room and continued to engage in his compounding activities.

15 41. The Board inspector reviewed the pharmacy's Biennial Inventories for controlled
16 substances, which was almost entirely blank with no quantities filled in, no documented time and
17 date of the inventory, and no signatures.

18 42. Upon review of the compounding logs, the Board inspector discovered that S.R. had
19 engaged in pharmacy technician compounding activities between June 2018 through September
20 2018 prior to being licensed as a pharmacy technician by the Board. In October 2018, S.R. was
21 licensed by the Board as a pharmacy technician. A review of the training records for S.R. also
22 showed an employee performance evaluation dated June 9, 2018, which was signed under the
23 supervisor's signature area by K.M., the new manager of Prescription Shoppe.

24 43. In addition, Prescription Shoppe's non-sterile compounding hood and compounding
25 room, where the pharmacy compounds National Institute for Occupational Safety and Health
26 (NIOSH) classified hazardous medications, were not properly exhausted or certified. The hood in
27 the compounding room was not functioning under negative pressure and the hood and ducting
28 was in need of repair.

March 19, 2019 Inspection

44. On November 18, 2018, the Board received another complaint regarding Prescription Shoppe, which prompted an additional inspection of the pharmacy on March 19, 2019.

45. On January 28, 2019, the Board received a package from Prescription Shoppe containing prescription hard copies requested by the Board. These copies included examples of the prescription format utilized to acquire diabetic testing equipment and supplies.

46. Most of the prescription documents for the diabetic supplies were on a pre-formatted prescription form that listed a series of diabetic testing supplies that were being prescribed, with instructions on some of the prescription forms instructing the prescriber to cross out those items that were not being prescribed. The various ways in which the prescribers attempted to make their indications included crossing items out, circling certain item, or placing check marks next to certain items, thereby making the prescriptions ambiguous as to the prescriber's intent. Also, the prescription documents lacked an area for the prescriber to indicate the number of items prescribed or which topical cream was to be chosen from multiple topical creams. Additionally, the majority of the prescription documents did not indicate where the documents were to be faxed to or include the prescription numbers or back tags to document which items Prescription Shoppe filled.

47. On March 19, 2019, the Board conducted an inspection of Prescription Shoppe. Respondent Popat, the PIC, assisted with the inspection.

48. While standing near the front counter of the pharmacy, the Board inspectors witnessed B.W., a non-licensed clerk/manager at Prescription Shoppe, sign for a prescription drug order. Respondent Popat informed the Board inspector that B.W. sometimes signed for prescription drug orders.

49. During the inspection, the Board inspectors discovered that the drawer containing Schedule II medications was unlocked. Respondent Popat was unable to locate the key for the drawer and he indicated that he would have to ask Prescription Shoppe's manager, K.M. Manager K.M. is not a licensed pharmacist or pharmacy technician.

1 50. The Board inspectors then reviewed a series of boxes that were on top of a counter.
2 The shipping boxes contained liquids, foams, and capsules under the company name of Stop &
3 Regrow Hair. Respondent Popat informed the Board inspectors that Prescription Shoppe acquired
4 a contract from the office of a Dr. Nettles to compound specific products for a line of oral and
5 topical medications known as SRH. The doctor's office supplies specific containers and labels
6 and the orders come directly from Dr. Nettles' office. Prescription Shoppe compounds the
7 requested items and then either ships the orders directly to the patient or the doctor's office.

8 51. The shipping boxes for the completed product include Prescription Shoppe's
9 prescription label on the inside lid of the shipping box. The vials/bottles of medications are
10 labeled with an SRH product line label and a small sticker with Prescription Shoppe's
11 prescription number, lot number, Beyond Use Date (BUD), date of preparation, and a number for
12 Dr. Nettles' office for refills. The packages do not include a notice that consultation is available
13 from the pharmacist at Prescription Shoppe.

14 52. Prescriptions for patients located in states other than California are shipped from
15 Prescription Shoppe to Dr. Nettles' office and prescriptions for patients located in California were
16 shipped directly to the patient.

17 53. The Board inspectors found that Prescription Shoppe had dispensed a compounded
18 medication, Latanoprost-Dutasteride 0.005%/0.1% solution to patients. A review of a Certificate
19 of Analysis document for this SRH product indicated that the Dutasteride component of the
20 combination product failed to be with +/- 10% of the stated concentration. Respondent Popat
21 informed the Board inspectors that they did not do anything when Prescription Shoppe was
22 notified that the product had failed. Prescription Shoppe did not do anything based on the
23 recommendation of their consultant pharmacist who believed that the testing lab failed to properly
24 shake the product well before testing.

25 54. A review of the compounding logs revealed:

26 (a) Compounding log for Testosterone/Chrysin 10%/10%/ml PLO Cream showing Chrysin,
27 lot number C183706, expiration date of February 28, 2019, was utilized to compound the cream
28

1 and the final product was given an expiration date of July 10, 2019; the product was verified by
2 Respondent Popat.

3 (b) Compounding log for Testosterone/Chrysin 8%/10%/ml PLO Cream showing Chrysin,
4 lot number C183706, expiration date of February 28, 2019, was utilized to compound the cream
5 and the final product was given an expiration date of July 10, 2019; the product was verified by
6 Respondent Popat.

7 (c) Compounding log for Testosterone/Chrysin 15%/15%/ml PLO Cream showing Chrysin,
8 lot number C183706, expiration date of 2/28/2019, was utilized to compound the cream and the
9 final product was given an expiration date of 7/10/2019; the product was verified by Respondent
10 Popat.

11 (d) Compounding log for Ergotamine 0.6mg/Belladonna 0.2mg/Phenobarbital 20mg SR
12 capsules showing Belladonna Extract, lot number C169524, expiration date of January 31, 2019,
13 was utilized to compound the capsules and the final product was given an expiration date of July
14 14, 2019; the product was verified by Respondent Popat.

15 (e) Compounding log for Ergotamine 0.6mg/Belladonna 0.2mg/Phenobarbital 40mg SR
16 capsules showing Belladonna Extract, lot number C169524, expiration date of January 31, 2019,
17 was utilized to compound the capsules and the final product was given an expiration date of July
18 14, 2019; the product was verified by Respondent Popat.

19 55. A review of the non-sterile compounding hood and cleanroom where hazardous drugs
20 are compounded revealed the lack of continuous monitoring to maintain negative pressure in the
21 cleanroom. Prescription Shoppe does not have a gauge to monitor negative pressure and has two
22 trash cans for hazardous disposal, that are not labeled and are disposed of in the building trash
23 dumpsters.

24 56. Finally, Prescription Shoppe was evicted from its leased space on or about September
25 4, 2019. On December 18, 2019, Respondent Popat sent a letter to the Board informing the Board
26 that he was no longer the PIC at Prescription Shoppe.

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1 **June 3, 2019 Inspection**

2 57. The Board received an additional complaint claiming that Prescriptions Shoppe had
3 sent L.M. some dermatology medication that was not authorized by her or her physician. During
4 the inspection on June 3, 2019, Respondent Popat, S.R, the pharmacy technician, and the
5 pharmacy clerk, B.W., assisted the Board inspector.

6 58. S.R. was unable to locate any patient profile for L.M. in their computer system. B.W.
7 informed the inspector that the computer that processed and dispensed diabetic supplies and
8 topical creams crashed on May 12 2019 and that the entire computer had been sent off for
9 repair/recovery.

10 **February 13, 2020 Inspection**

11 59. On January 23, 2020, the Board received notification that Prescription Shoppe had
12 been evicted from its lease space on September 4, 2019 for lack of payment. The notification
13 came from A.M., the compliance/privacy officer representing Victor Valley Global Medical
14 Center (VVGMC), the entity that leased space to Prescription Shoppe.

15 60. Prescription Shoppe and the PIC, Respondent Popat, left behind and abandoned
16 prescription records, dangerous drugs and controlled substance inventory, and patient records
17 after Prescription Shoppe was evicted from the premises.

18 61. The Board visited Prescription Shoppe on February 13, 2020 to determine the status
19 of the pharmacy and found that Prescription Shoppe was closed for business. The Board
20 inspectors met with A.M. and R.L., PIC at VVGMC, during their visit. A.M. and R.L. informed
21 the Board inspectors that they had made multiple attempts to contact the owners of Prescription
22 Shoppe and Respondent Popat to arrange for the pharmacy to handle the abandoned drugs and
23 patient records.

24 62. A review of the Board's records showed that Prescription Shoppe had failed to file a
25 Discontinuous of Business form or otherwise notify the Board that the pharmacy was closed.
26 Respondent Popat, as the PIC of Prescription Shoppe, notified the Board on December 18, 2019
27 that he was disassociating from Prescription Shoppe. Respondent Popat later emailed the Board
28 on February 12, 2020 stating that his disassociation date should be September 4, 2019.

1 **PRESCRIPTION SHOPPE**

2 **FIRST CAUSE FOR DISCIPLINE**

3 **(Failure to Complete a Controlled Substance Inventory)**

4 63. Respondent Prescription Shoppe is subject to disciplinary action pursuant to section
5 4301, subdivisions (j) and (o), in that Respondent Prescription Shoppe violated Code of Federal
6 Regulations section 1304.11, subdivisions (a), (b), and (c). The circumstances are that during the
7 inspection of Prescription Shoppe on November 6, 2018, it was discovered that Prescription
8 Shoppe had no controlled substance inventory records available for review and provided a blank
9 inventory document as to the pharmacy's controlled substance inventory, as set forth more
10 particularly in paragraphs 35-43.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Failure to Timely Notify the Board of a Change in Pharmacist-In-Charge)**

13 64. Respondent Prescription Shoppe is subject to disciplinary action pursuant to Code
14 section 4113, subdivision (d) in that a Change of PIC application received by the Board on
15 November 13, 2018, documented that there was a change of PIC at Prescription Shoppe on
16 September 4, 2018. The notification to the Board about the change in PIC surpassed the 30-day
17 notification requirement, as set forth more particularly in paragraph 37.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Failure to Maintain Compounding Equipment and Certification)**

20 65. Respondent Prescription Shoppe is subject to disciplinary action under section 4301,
21 subdivision (j) and (o) for violating California Code of Regulations, title 16, sections 1735.6,
22 subdivisions (a) and (e)(3)(B) in that the pharmacy's non-sterile compounding hood and
23 compounding room, where the pharmacy engaged in the compounding of NIOSH classified
24 hazardous medications, were not properly exhausted or certified, as set forth more particularly in
25 paragraph 43.

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1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unlicensed Activity)**

3 66. Respondent Prescription Shoppe is subject to disciplinary action pursuant to Code
4 section 4110, subdivision (a) in that while Prescription Shoppe was still licensed under L.L. and
5 C.B., the corporate members and directors of Six Degrees, Inc. entered into a purchase
6 agreement, instilled their own operating managers, signed off on pharmacy technician training
7 documents, and hired a new PIC in July 2018, all prior to Six Degrees, Inc. being approved for
8 licensure by the Board on August 31, 2018, as set forth more particularly in paragraphs 35-43.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Unlicensed Pharmacy Technician Activity)**

11 67. Respondent Prescription Shoppe is subject to disciplinary action pursuant to Code
12 section 4115, subdivisions (a) and (e) in conjunction with California Code of Regulations, title
13 16, sections 1793.2 in that a review of the compounding logs revealed that a pharmacy staff
14 member had engaged in pharmacy technician compounding activities prior to being licensed as a
15 pharmacy technician by the Board, as set forth more particularly in paragraph 42.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 **(Dispensing Dangerous Drugs and Diabetic Testing Supplies Pursuant to Pre-Printed**
18 **Multiple Checkoff Prescription Forms)**

19 68. Respondent Prescription Shoppe is subject to disciplinary action under sections 4081,
20 subdivision (d) and 4301, subdivisions (j) and (o) in conjunction with California Code of
21 Regulations, title 16, sections 1717.3, subdivision (b) in that from May 2018 through June 2019,
22 Prescription Shoppe engaged in dispensing hundreds of non-controlled dangerous drugs and
23 diabetic supplies from pre-printed multiple checkoff prescription forms where the prescriber did
24 not indicate the number of dangerous drugs prescribed and could not provide specific patient
25 details related to the dispensing of the non-prescription diabetic test devices, as set forth more
26 particularly in paragraphs 44-46.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **(Unlicensed Pharmacy Staff Signing for Dangerous Drugs)**

3 69. Respondent Prescription Shoppe is subject to disciplinary action under sections 4059,
4 subdivision (a) and 4301, subdivisions (j) and (o) in that on March 19, 2019, unlicensed
5 pharmacy staff member, B.W., was witnessed signing for an order of dangerous drugs, as set
6 forth more particularly in paragraphs 47-48.

7 **EIGHTH CAUSE FOR DISCIPLINE**

8 **(Unsecured Controlled Substances)**

9 70. Respondent Prescription Shoppe is subject to disciplinary action under section 4301,
10 subdivisions (j) and (o) in conjunction with California Code of Regulations, title 16, section 1714,
11 subdivision (d) and Code of Federal Regulations section 1301.75, subdivision (b) in that
12 Prescription Shoppe's Schedule II medications were located in an unlocked drawer. When the
13 PIC was asked to lock the drawer, the PIC was unable to locate the key for the drawer and
14 informed the Board inspector that the key may be in the possession of an unlicensed pharmacy
15 manger, as set forth more particularly in paragraph 49.

16 **NINTH CAUSE FOR DISCIPLINE**

17 **(Delivery of Compounded Prescription Medications to Doctor's Office for Shipment to Out-**
18 **of-State Patients)**

19 71. Respondent Prescription Shoppe is subject to disciplinary action under section 4301,
20 subdivisions (j) and (o) in conjunction with California Code of Regulations, title 16, section 1713,
21 subdivision (a) in that compounded prescription medications for patients residing outside of
22 California were being sent to the original prescribing doctor's office for the eventual shipment of
23 the prescriptions to the out-of-state patients, as set forth more particularly in paragraphs 50-52.

24 **TENTH CAUSE FOR DISCIPLINE**

25 **(Failure to Properly Label Compounded Prescription Products)**

26 72. Respondent Prescription Shoppe is subject to disciplinary action pursuant to section
27 4076, subdivision (a), subsections (3) through (7) because the actual physical containers of
28 compounded prescription medications were being labeled with a doctor's 'product line label' and

1 the pharmacy's prescription label was only being applied to the shipping box, as set forth more
2 particularly in paragraphs 50-51.

3 **ELEVENTH CAUSE FOR DISCIPLINE**

4 **(Failure to Provide Notice/Offer of Consultation)**

5 73. Respondent Prescription Shoppe is subject to disciplinary action under section 4301,
6 subdivision (o) in conjunction with California Code of Regulations, title 16, section 1707.2,
7 subdivision (b)(2) in that Prescription Shoppe was not providing any notice or offer of
8 consultation to patients that were being shipped compounded prescription medications, as set
9 forth more particularly in paragraphs 50-51.

10 **TWELFTH CAUSE FOR DISCIPLINE**

11 **(Dispensing of Sub-Potent/Misbranded Medications)**

12 74. Respondent Prescription Shoppe is subject to disciplinary action under sections 4301,
13 subdivisions (j) and (o) and 4169, subdivision (a)(3) in conjunction with Health and Safety Code
14 section 111440 in that Prescription Shoppe sent a compounded prescription medication,
15 Latanoprost-Dutasteride 0.005%/0.1% solution, for end-product testing that failed to meet the +/-
16 10% of the stated potency (sub-potent) of the compounded medication for the Dutasteride
17 component; and Prescription Shoppe proceeded to dispense the compounded medication to
18 patients, as set forth more particularly in paragraph 53.

19 **THIRTEENTH CAUSE FOR DISCIPLINE**

20 **(Dispensing Compounded Medications with Incorrect Beyond Use Dates)**

21 75. Respondent Prescription Shoppe is subject to disciplinary action under sections 4301,
22 subdivisions (j) and (o) and 4169, subdivision (a)(4) in conjunction with California Code of
23 Regulations, title 16, section 1735.2, subdivision (i)(1)(A) in that Prescription Shoppe had
24 compounded multiple medications with medications and/or components that were labeled by the
25 manufacturer to expire before the BUD date applied to the finished compounded medication, as
26 set forth more particularly in paragraph 54.

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1 **FOURTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Monitor and Document a Proper Hazardous Non-Sterile Compounding**
3 **Environment)**

4 76. Respondent Prescription Shoppe is subject to disciplinary action under section 4301,
5 subdivision (o) in conjunction with California Code of Regulations, title 16, section 1735.6,
6 subdivision (e)(2) for failing to obtain a negative pressure certification for the hazardous non-
7 sterile compounding room and for not equipping the room with a pressure gauge to continuously
8 monitor the pressure differential between the hazardous non-sterile compounding room and the
9 adjacent spaces, as set forth more particularly in paragraph 55.

10 **FIFTEENTH CAUSE FOR DISCIPLINE**

11 **(Failure to Maintain Prescription Documents)**

12 77. Respondent Prescription Shoppe is subject to disciplinary action under sections 4081,
13 subdivision (a) and 4105, subdivisions (a), (b), and (c) in that during the June 3, 2019 inspection,
14 staff members of Prescription Shoppe claimed the computer system holding patient profile
15 information and electronic prescription records had crashed and was not available; Prescription
16 Shoppe never provided the requested patient prescription records to the Board, as set forth more
17 particularly in paragraphs 57-58.

18 **SIXTEENTH CAUSE FOR DISCIPLINE**

19 **(Failure to Notify the Board of Closure)**

20 78. Respondent Prescription Shoppe is subject to disciplinary action under sections 4301,
21 subdivision (o) in conjunction with California Code of Regulations, title 16, section 1708.2 for
22 failing to notify the Board of its closure prior to the discontinuance of business. On January 23,
23 2020, the Board received notification that Prescription Shoppe had been evicted from its lease
24 space on September 4, 2019 from A.M., the compliance/privacy officer representing VVGMC,
25 the entity that leased space to Prescription Shoppe, as set forth more particularly in paragraphs
26 59-62.

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1 **SEVENTEENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Arrange for the Maintenance of Prescription Records)**

3 79. Respondent Prescription Shoppe is subject to disciplinary action under sections 4301,
4 subdivision (o) and 4333, subdivision (a) for failing to arrange for the storage or maintenance of
5 its prescription records at a Board-licensed facility after it was evicted from its location for non-
6 payment of rent; instead, the prescription records were abandoned at Prescription Shoppe's
7 location, as set forth more particularly in paragraphs 59-62.

8 **EIGHTEENTH CAUSE FOR DISCIPLINE**

9 **(Failure to Arrange for Disposition of Drug Stock)**

10 80. Respondent Prescription Shoppe is subject to disciplinary action under sections 4301,
11 subdivisions (j) and (o) and 4312, subdivision (b) for failing to arrange for the transfer of all its
12 dangerous drugs and controlled substances inventory to another licensee; and instead, abandoning
13 the dangerous drugs and controlled substances at Prescription Shoppe's location after it
14 discontinued its business, as set forth more particularly in paragraphs 59-62.

15 **ASHOK POPAT**

16 **NINETEENTH CAUSE FOR DISCIPLINE**

17 **(Failure to Timely Complete Pharmacy Self-Assessment)**

18 81. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
19 (c) and 4301, subdivision (o) for violating California Code of Regulations, title 16, section
20 1715(b)(2) for failing to timely complete the pharmacy's Self-Assessment within 30 days of
21 becoming the PIC, as set forth more particularly in paragraph 37.

22 **TWENTIETH CAUSE FOR DISCIPLINE**

23 **(Failure to Complete the Compounding Self-Assessment Prior to Compounding)**

24 82. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
25 (c) and 4301, subdivision (o) for violating California Code of Regulations, title 16, section
26 1735.2(k) for failing to complete the Compounding Self-Assessment prior to engaging in
27 compounding activities, as set forth more particularly in paragraph 40.

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1 **TWENTY-FIRST CAUSE FOR DISCIPLINE**

2 **(Unlicensed Pharmacy Technician Activity)**

3 83. Respondent Popat is subject to disciplinary action pursuant to Code sections 4113,
4 subdivision (c) and 4115, subdivisions (a) and (e) in conjunction with California Code of
5 Regulations, title 16, sections 1793.2 in that during the November 16, 2018 inspection, a review
6 of the compounding logs revealed that while Respondent Popat served as the PIC, a pharmacy
7 staff member had engaged in pharmacy technician compounding activities prior to being licensed
8 as a pharmacy technician by the Board, as set forth more particularly in paragraph 42.

9 **TWENTY-SECOND CAUSE FOR DISCIPLINE**

10 **(Failure to Complete a Controlled Substance Inventory)**

11 84. Respondent Popat is subject to disciplinary action pursuant to disciplinary action
12 under sections 4113, subdivision (c) and 4301, subdivisions (j) and (o), in that Respondent Popat
13 violated Code of Federal Regulations section 1304.11, subdivisions (a), (b), and (c). The
14 circumstances are that during the inspection of Prescription Shoppe on November 6, 2018, it was
15 discovered that Prescription Shoppe had no controlled substance inventory records available for
16 review and provided a blank inventory document as to the pharmacy's controlled substance
17 inventory, as set forth more particularly in paragraphs 35-43.

18 **TWENTY-THIRD CAUSE FOR DISCIPLINE**

19 **(Failure to Maintain Compounding Equipment and Certification)**

20 85. Respondent Popat is subject to disciplinary action pursuant to disciplinary action
21 under sections 4113, subdivision (c) and 4301, subdivisions (j) and (o), for violating California
22 Code of Regulations, title 16, sections 1735.6, subdivisions (a) and (e)(3)(B) in that the
23 pharmacy's non-sterile compounding hood and compounding room, where the pharmacy engaged
24 in the compounding of NIOSH classified hazardous medications, were not properly exhausted or
25 certified, as set forth more particularly in paragraph 43.

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1 **TWENTY-FOURTH CAUSE FOR DISCIPLINE**

2 **(Dispensing Dangerous Drugs and Diabetic Testing Supplies Pursuant to Pre-Printed**
3 **Multiple Checkoff Prescription Forms)**

4 86. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
5 (c); 4081, subdivision (d), and 4301, subdivision (j) and (o) in conjunction with California Code
6 of Regulations, title 16, sections 1717.3, subdivision (b) in that while Respondent was the PIC,
7 Prescription Shoppe engaged in dispensing hundreds of non-controlled dangerous drugs and
8 diabetic supplies from pre-printed multiple checkoff prescription forms where the prescriber did
9 not indicate the number of dangerous drugs prescribed and could not provide specific patient
10 details related to the dispensing of the non-prescription diabetic test devices, as set forth more
11 particularly in paragraphs 44-46.

12 **TWENTY-FIFTH CAUSE FOR DISCIPLINE**

13 **(Unlicensed Pharmacy Staff Signing for Dangerous Drugs)**

14 87. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
15 (c); 4059, subdivision (a), and 4301, subdivision (j) and (o) in that on March 19, 2019, unlicensed
16 pharmacy staff member, B.W., was witnessed signing for an order of dangerous drugs, as set
17 forth more particularly in paragraphs 47-48.

18 **TWENTY-SIXTH CAUSE FOR DISCIPLINE**

19 **(Unsecured Controlled Substances)**

20 88. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
21 (c), 4301, subdivisions (j) and (o) in conjunction with California Code of Regulations, title 16,
22 section 1714, subdivision (d) and Code of Federal Regulations section 1301.75, subdivision (b) in
23 that Prescription Shoppe's Schedule II medications were located in an unlocked drawer. When
24 Respondent Popat was asked to lock the drawer, he was unable to locate the key for the drawer
25 and informed the Board inspector that the key may be in the possession of an unlicensed
26 pharmacy manger, as set forth more particularly in paragraph 49.

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1 **TWENTY-SEVENTH CAUSE FOR DISCIPLINE**

2 **(Delivery of Compounded Prescription Medications to Doctor's Office for Shipment to Out-**
3 **of-State Patients)**

4 89. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
5 (c), 4301, subdivisions (j) and (o) in conjunction with California Code of Regulations, title 16,
6 section 1713, subdivision (a) in that compounded prescription medications for patients residing
7 outside of California were being sent to the original prescribing doctor's office for the eventual
8 shipment of the prescriptions to the out-of-state patients, as set forth more particularly in
9 paragraphs 50-52.

10 **TWENTY-EIGHTH CAUSE FOR DISCIPLINE**

11 **(Failure to Properly Label Compounded Prescription Products)**

12 90. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
13 (c), section 4076, subdivision (a), subsections (3) through (7) because the actual physical
14 containers of compounded prescription medications were being labeled with a doctor's 'product
15 line label' and the pharmacy's prescription label was only being applied to the shipping box, as
16 set forth more particularly in paragraphs 50-51.

17 **TWENTY-NINTH CAUSE FOR DISCIPLINE**

18 **(Failure to Provide Notice/Offer of Consultation)**

19 91. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
20 (c) and 4301, subdivision (o) in conjunction with California Code of Regulations, title 16, section
21 1707.2, subdivision (b)(2) in that Prescription Shoppe was not providing any notice or offer of
22 consultation to patients that were being shipped compounded prescription medications, as set
23 forth more particularly in paragraphs 50-51.

24 **THIRTIETH CAUSE FOR DISCIPLINE**

25 **(Dispensing of Sub-Potent/Misbranded Medications)**

26 92. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
27 (c); 4301, subdivisions (j) and (o), and 4169, subdivision (a)(3) in conjunction with Health and
28 Safety Code section 111440 in that Prescription Shoppe sent a compounded prescription

1 medication, Latanoprost-Dutasteride 0.005%/0.1% solution, for end-product testing that failed to
2 meet the +/- 10% of the stated potency (sub-potent) of the compounded medication for the
3 Dutasteride component; and Prescription Shoppe proceeded to dispense the compounded
4 medication to patients, as set forth more particularly in paragraph 53.

5 **THIRTY-FIRST CAUSE FOR DISCIPLINE**

6 **(Dispensing Compounded Medications with Incorrect Beyond Use Dates)**

7 93. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
8 (c); 4301, subdivisions (j) and (o), and 4169, subdivision (a)(4) in conjunction with California
9 Code of Regulations, title 16, section 1735.2, subdivision (i)(1)(A) in that Prescription Shoppe
10 had compounded multiple medications with medications and/or components that were labeled by
11 the manufacturer to expire before the BUD date applied to the finished compounded medication,
12 as set forth more particularly in paragraph 54.

13 **THIRTY-SECOND CAUSE FOR DISCIPLINE**

14 **(Failure to Monitor and Document a Proper Hazardous Non-Sterile Compounding**
15 **Environment)**

16 94. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
17 (c) and 4301, subdivision (o) in conjunction with California Code of Regulations, title 16, section
18 1735.6, subdivision (e)(2) for failing to obtain a negative pressure certification for the hazardous
19 non-sterile compounding room and for not equipping the room with a pressure gauge to
20 continuously monitor the pressure differential between the hazardous non-sterile compounding
21 room and the adjacent spaces, as set forth more particularly in paragraph 55.

22 **THIRTY-THIRD CAUSE FOR DISCIPLINE**

23 **(Failure to Timely Notify the Board of Ceasing to Act as the Pharmacist-In-Charge)**

24 95. Respondent Popat is subject to disciplinary action pursuant to Code section 4101,
25 subdivision (a) in that on or about December 18, 2019, Respondent Popat notified the Board that
26 he was no longer the PIC at Prescription Shoppe. Prescription Shoppe had been evicted from its
27 leased space on or about September 4, 2019, which made Respondent Popat's December 18, 2019
28

1 notice beyond the 30-day notification requirement. The facts in support of this cause for
2 discipline are set forth more particularly in paragraph 56.

3 **THIRTY-FOURTH CAUSE FOR DISCIPLINE**

4 **(Failure to Maintain Prescription Documents)**

5 96. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
6 (c); 4081, subdivision (a) and 4105, subdivisions (a), (b), and (c) in that during the June 3, 2019
7 inspection, staff members of Prescription Shoppe claimed the computer system holding patient
8 profile information and electronic prescription records had crashed and was not available;
9 Prescription Shoppe never provided the requested patient prescription records to the Board, as set
10 forth more particularly in paragraphs 57-58.

11 **THIRTY-FIFTH CAUSE FOR DISCIPLINE**

12 **(Failure to Notify the Board of Closure)**

13 97. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
14 (c) and 4301, subdivision (o) in conjunction with California Code of Regulations, title 16, section
15 1708.2 for failing to notify the Board of its closure prior to the discontinuance of business. On
16 January 23, 2020, the Board received notification that Prescription Shoppe had been evicted from
17 its lease space on September 4, 2019 from A.M., the compliance/privacy officer representing
18 VVGMC, the entity that leased space to Prescription Shoppe, as set forth more particularly in
19 paragraphs 59-62.

20 **THIRTY-SIXTH CAUSE FOR DISCIPLINE**

21 **(Failure to Arrange for the Maintenance of Prescription Records)**

22 98. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
23 (c); 4301, subdivision (o), and 4333, subdivision (a) for failing to arrange for the storage or
24 maintenance of its prescription records at a Board-licensed facility after Prescription Shoppe was
25 evicted from its location for non-payment of rent; instead, the prescription records were
26 abandoned at Prescription Shoppe's location, as set forth more particularly in paragraphs 59-62.

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1 **THIRTY-SEVENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Arrange for Disposition of Drug Stock)**

3 99. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
4 (c), section 4301, subdivisions (j) and (o) and 4312, subdivision (b) for failing to arrange for the
5 transfer of all of Prescription Shoppe's dangerous drugs and controlled substances inventory to
6 another licensee; and instead, abandoned the dangerous drugs and controlled substances at
7 Prescription Shoppe's location after it discontinued its business, as set forth more particularly in
8 paragraphs 59-62.

9 **THIRTY-EIGHTH CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct)**

11 100. Respondent Popat is subject to disciplinary action under sections 4113, subdivision
12 (c) and 4306.5 for failing to exercise professional judgment, training, and experience as a PIC
13 when he failed to arrange for the storage of prescription drugs and records after Prescription
14 Shoppe was evicted; instead abandoning the prescription drugs and records. Further, Respondent
15 Popat only notified the Board on December 18, 2019 that he was disassociating from Prescription
16 Shoppe even though he had disassociated on September 4, 2019. The facts in support of this
17 cause for discipline are set forth more particularly in paragraphs 59-62.

18 **OTHER MATTERS**

19 101. Pursuant to Code section 4307, if discipline is imposed on Permit Number PHY
20 56833 issued to Six Degrees, Inc. dba Six Degrees Health dba Prescription Shoppe, Anna Karina
21 Rubio, Marianne Christiane Antonio, then they shall be prohibited from serving as a manager,
22 administrator, owner, member, officer, director, associate, or partner of a licensee for 5 years if
23 Permit Number PHY 56833 is placed on probation or until Permit Number PHY 56833 is
24 reinstated if it is revoked.

25 102. Pursuant to Code section 4307, if discipline is imposed on Permit Number PHY
26 56833 issued to Six Degrees, Inc. dba Six Degrees Health dba Prescription Shoppe while Anna
27 Karina Rubio has been an officer and owner and had knowledge of or knowingly participated in
28 any conduct for which the licensee is disciplined, Anna Karina Rubio shall be prohibited from

1 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
2 licensee for 5 years if Permit Number PHY 56833 is placed on probation or until Permit Number
3 PHY 56833 is reinstated if revoked.

4 103. Pursuant to Code section 4307, if discipline is imposed on Permit Number PHY
5 56833 issued to Six Degrees, Inc. dba Six Degrees Health dba Prescription Shoppe while
6 Marianne Christiane Antonio has been an officer and owner and had knowledge of or knowingly
7 participated in any conduct for which the licensee is disciplined, Marianne Christiane Antonio
8 shall be prohibited from serving as a manager, administrator, owner, member, officer, director,
9 associate, or partner of a licensee for 5 years if Permit Number PHY 56833 is placed on probation
10 or until Permit Number PHY 56833 is reinstated if revoked.

11 104. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
12 Number RPH 39954 issued to Ashok Popat, then he shall be prohibited from serving as a
13 manager, administrator, owner, member, officer, director, associate, partner, or in any other
14 position with management or control of a licensee for 5 years if Pharmacist License Number RPH
15 39954 is placed on probation or until Pharmacist License Number RPH 39954 is reinstated if
16 revoked.

17 **PRAYER**

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

20 1. Revoking or suspending Permit Number PHY 56833, issued to Six Degrees, Inc. dba
21 Six Degrees Health dba Prescription Shoppe, Anna Karina Rubio, Marianne Christiane Antonio;

22 2. Revoking or suspending Pharmacist License Number RPH 39954, issued to Ashok
23 Popat;

24 3. Ordering Prescription Shoppe and Ashok Popat to pay the Board of Pharmacy the
25 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
26 Professions Code section 125.3;

27 4. Prohibiting Anna Karina Rubio from serving as a manager, administrator, owner
28 member, officer, director, associate, or partner of a license for 5 years if Permit Number PHY

56833 is placed on probation or until Permit Number PHY 56833 is reinstated if Permit Number PHY 56833 issued to Six Degrees, Inc. dba Six Degrees Health dba Prescription Shoppe is revoked;

5. Prohibiting Marianne Christiane Antonio from serving as a manager, administrator, owner member, officer, director, associate, or partner of a license for 5 years if Permit Number PHY 56833 is placed on probation or until Permit Number PHY 56833 is reinstated if Permit Number PHY 56833 issued to Six Degrees, Inc. dba Six Degrees Health dba Prescription Shoppe is revoked;

6. Prohibiting Ashok Popat from serving as a manager, administrator, owner member, officer, director, associate, or partner of a license for 5 years if Pharmacist License Number RPH 39954 is placed on probation or until Pharmacist License Number RPH 39954 is reinstated if Pharmacist License Number RPH 39954 issued to Ashok Popat is revoked;

and,

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

DATED: 5/4/2021

Signature on File

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

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