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

In the Matter of the Accusation Against:

Case No. 7053

**WECARE HEALTH, INC.,
dba Molina's Pharmacy**
3746 Whittier Blvd
Los Angeles, CA 90023

**STIPULATION FOR
CONTINUING JURISDICTION**

Original Pharmacy Permit No. PHY 46603
Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned parties that the following is true:

1. The parties to this agreement are **Anne Sodergren**, acting in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, and **Gregory W. Tom**, Chief Executive Officer authorized representative of WeCare Health, Inc.

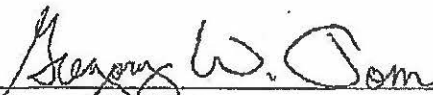
2. On or about December 29, 2022, WeCare Health, Inc., 3746 Whittier Blvd, Los Angeles, CA 90023 (hereinafter "applicant") submitted an application to the Board for a change of ownership of WeCare Health, Inc., dba Molina's Pharmacy, 3746 Whittier Blvd, Los Angeles, CA 90023, (Original Permit No. PHY 46603). The granting of the application would require the cancellation of Original Permit No. PHY 46603 issued to WeCare Health, Inc., dba Molina's Pharmacy, 3746 Whittier Blvd, Los Angeles, CA 90023, and the issuance of a new original permit number to applicant pursuant to Business and Professions Code section 4201(f).

3. The existing permit (Original Permit No. PHY 46603) is currently the subject of a disciplinary order issued effective August 24, 2022, by the Board in the disciplinary matter entitled *In the Matter of the Accusation Against WeCare Health, Inc. dba Molina's Pharmacy, et. al.*, Board of Pharmacy Case No. 7053. A true and correct copy of the decision and order in this matter is attached hereto as **Exhibit A** and incorporated by this reference.

1 4. In exchange for processing and issuance of the new permit pursuant to the change
2 of ownership, applicant understands and agrees that the Board shall have continuing jurisdiction
3 over the new permit issued to applicant such that the disciplinary order issued by the Board in
4 Case No. 7053, including any terms and conditions and remaining tenure of probation, shall
5 carry forward and be applicable to the new permit issued to applicant. The Board hereby waives
6 any right it may have had to deny issuance of the new permit.

7 5. A portable document format (PDF) or facsimile signature on this document shall be
8 binding as an original signature. Parties agree to use of PDF or facsimile signatures in lieu of
9 original signatures for all purposes relevant to enforcement of this Stipulation.

10
11 Dated: 01/10/2023


Gregory W. Tom
Chief Executive Officer

12
13
14 Dated: 1/10/2023

Sodergren,
Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2023.01.10 12:34:05 -08'00'

ANNE SODERGREN
Executive Officer
California Board of Pharmacy

Exhibit A

**Final Decision and Order
Board of Pharmacy Disciplinary Case No. 7053**

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

In the Matter of the Accusation Against:

**WECARE HEALTH, INC. dba
MOLINA'S PHARMACY,
PHILIP CHIANG, THOMAS CHAN, GREGORY TOM,**

Pharmacy Permit No. PHY 46603

Respondent

Agency Case No. 7053

OAH NO. 2021120707

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 August 24, 2022.

It is so ORDERED on July 25, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

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

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 DAVID E. BRICE
Supervising Deputy Attorney General
3 STEVE J. PYUN
Deputy Attorney General
4 State Bar No. 253563
2550 Mariposa Mall, Room 5090
5 Fresno, CA 93721
Telephone: (559) 705-2336
6 Facsimile: (559) 445-5106
Attorneys for Complainant
7

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 **WECARE HEALTH, INC. dba MOLINA'S**
14 **PHARMACY, PHILIP CHIANG,**
15 **THOMAS CHAN, GREGORY TOM**
16 **3746 Whittier Blvd**
17 **Los Angeles, CA 90023**

18 **Permit No. PHY 46603**

19 Respondent.

Case No. 7053

OAH No. 2021120707

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

22 **PARTIES**

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

27 //

28 //

2. Respondent Wecare Health, Inc. dba Molina's Pharmacy, Philip Chiang, Thomas Chan, Gregory Tom (Respondent) is represented in this proceeding by attorney Nicholas D. Jurkowitz of Fenton Law Group LLP, whose address is 1990 S. Bundy Drive, Suite 777, Los Angeles, California 90025.

3. On or about January 7, 2004, the Board issued Permit No. PHY 46603 to Wecare Health, Inc. dba Molina's Pharmacy, Philip Chiang, Thomas Chan, Gregory Tom (Respondent). The Permit was in full force and effect at all times relevant to the charges brought in Accusation No. 7053, and will expire on January 1, 2023, unless renewed.

JURISDICTION

4. Accusation No. 7053 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 May 19, 2021. Respondent timely filed its Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 7053 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 7053. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of its 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 its 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.

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

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation
3 No. 7053.

4 10. Respondent agrees that its Permit is subject to discipline and they agree to be bound
5 by the Board's probationary terms as set forth in the Disciplinary Order below.

6 **CONTINGENCY**

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

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

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

25 14. In consideration of the foregoing admissions and stipulations, the parties agree that
26 the Board may, without further notice or formal proceeding, issue and enter the following
27 Disciplinary Order:

28 //

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Permit No. PHY 46603 issued to Respondent Wecare Health, Inc. dba Molina's Pharmacy, Philip Chiang, Thomas Chan, Gregory Tom is revoked. However, the revocations are stayed and Respondent is placed on probation for four (4) years on the following terms and conditions:

1. Definition: Respondent

For the purposes of these terms and conditions, "Respondent" shall refer to Wecare Health, Inc. dba Molina's Pharmacy. All terms and conditions stated herein shall bind and be applicable to the licensed premises and to all owners, managers, officers, administrators, members, directors, trustees, associates, or partners thereof. For purposes of compliance with any term or condition, any report, submission, filing, payment, or appearance required to be made by Respondent to or before the Board or its designee shall be made by an owner or executive officer with authority to act on behalf of and legally bind the licensed entity.

2. 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; or
- discipline, citation, or other administrative action filed by any state or federal agency which involves Respondent's Pharmacy Permit No. PHY 52078 or which is related to the practice of pharmacy or the manufacturing, obtaining, handling or distributing, billing, or charging for any dangerous drug, and/or dangerous device or controlled substance.

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

1 **3. Report to the Board**

2 Respondent shall report to the Board quarterly, on a schedule as directed by the Board or its
3 designee. The report shall be made either in person or in writing, as directed. Among other
4 requirements, Respondent shall state in each report under penalty of perjury whether there has
5 been compliance with all the terms and conditions of probation. Failure to submit timely reports
6 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in
7 submission of reports as directed may be added to the total period of probation. Moreover, if the
8 final probation report is not made as directed, probation shall be automatically extended until
9 such time as the final report is made and accepted by the Board.

10 **4. Interview with the Board**

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

16 **5. Cooperate with Board Staff**

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

23 **6. Reimbursement of Board Costs**

24 As a condition precedent to successful completion of probation, Respondent shall pay to the
25 Board its costs of investigation and prosecution in the amount of \$15,000.00. Respondent shall
26 make said payments monthly to commence within thirty (30) days of the effective date of this
27 Decision pursuant to the following terms:
28

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

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

7 **7. Probation Monitoring Costs**

8 Respondent shall pay any costs associated with probation monitoring as determined by the
9 Board each and every year of probation. Such costs shall be payable to the Board on a schedule as
10 directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed shall
11 be considered a violation of probation.

12 **8. Status of License**

13 Respondent shall, at all times while on probation, maintain current Pharmacy Permit with
14 the Board. Failure to maintain current licensure shall be considered a violation of probation.

15 If Respondent's Pharmacy Permit expires or is cancelled by operation of law or otherwise
16 at any time during the period of probation, including any extensions thereof or otherwise, upon
17 renewal or reapplication Respondent's Pharmacy Permit shall be subject to all terms and
18 conditions of this probation not previously satisfied.

19 **9. License Surrender While on Probation/Suspension**

20 Following the effective date of this decision, should Respondent wish to discontinue
21 business, Respondent may tender the premises license to the Board for surrender. The Board or its
22 designee shall have the discretion whether to grant the request for surrender or take any other
23 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
24 license, Respondent will no longer be subject to the terms and conditions of probation.

25 Respondent may not apply for any new license from the Board for three (3) years from the
26 effective date of the surrender. Respondent shall meet all requirements applicable to the license
27 sought as of the date the application for that license is submitted to the Board.

28 Respondent further stipulates that it shall reimburse the Board for its costs of investigation

1 and prosecution prior to the acceptance of the surrender.

2 Upon acceptance of the surrender, Respondent shall relinquish the premises wall and
3 renewal license to the Board within ten (10) days of notification by the Board that the surrender is
4 accepted. Respondent shall further submit a completed Discontinuance of Business form
5 according to Board guidelines and shall notify the Board of the records inventory transfer within
6 five (5) days. Respondent shall further arrange for the transfer of all records of acquisition and
7 disposition of dangerous drugs and/or devices to premises licensed and approved by the Board.

8 Respondent shall also, by the effective date of this decision, arrange for the continuation of
9 care for ongoing patients of the pharmacy by, at minimum, providing a written notice to ongoing
10 patients that specifies the anticipated closing date of the pharmacy and that identifies one or more
11 area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary
12 in the transfer of records or prescriptions for ongoing patients. Within five (5) days of its
13 provision to the pharmacy's ongoing patients, Respondent shall provide a copy of the written
14 notice to the Board. For the purposes of this provision, "ongoing patients" means those patients
15 for whom the pharmacy has on file a prescription with one or more refills outstanding, or for
16 whom the pharmacy has filled a prescription within the preceding sixty (60) days.

17 **10. Sale or Discontinuance of Business**

18 During the period of probation, should Respondent sell, trade or transfer all or part of the
19 ownership of the licensed entity, discontinue doing business under the license issued to
20 Respondent, or should practice at that location be assumed by another full or partial owner,
21 person, firm, business, or entity, under the same or a different premises license number, the Board
22 or its designee shall have the sole discretion to determine whether to exercise continuing
23 jurisdiction over the licensed location, under the current or new premises license number, and/or
24 carry the remaining period of probation forward to be applicable to the current or new premises
25 license number of the new owner.

26 **11. Notice to Employees**

27 Respondent shall, upon or before the effective date of this decision, ensure that all
28 employees involved in permit operations are made aware of all the terms and conditions of

1 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.
2 If the notice required by this provision is posted, it shall be posted in a prominent place and shall
3 remain posted throughout the probation period. Respondent shall ensure that any employees hired
4 or used after the effective date of this decision are made aware of the terms and conditions of
5 probation by posting a notice, circulating a notice, or both. Additionally, Respondent shall submit
6 written notification to the Board, within fifteen (15) days of the effective date of this decision,
7 that this term has been satisfied. Failure to timely provide such notification to employees, or to
8 timely submit such notification to the Board shall be considered a violation of probation.

9 “Employees” as used in this provision includes all full-time, part-time,
10 volunteer, temporary, relief employees, and independent contractors employed or
11 hired at any time during probation.

12 **12. Owners and Officers: Knowledge of the Law**

13 Respondent shall provide, within thirty (30) days after the effective date of this decision,
14 signed and dated statements from its owners, including any owner or holder of ten percent (10%)
15 or more of the interest in Respondent or Respondent’s stock, and all of its officer, stating under
16 penalty of perjury that said individuals have read and are familiar with state and federal laws and
17 regulations governing the practice of pharmacy. The failure to timely provide said statements
18 under penalty of perjury shall be considered a violation of probation.

19 **13. Premises Open for Business**

20 Respondent shall remain open and engaged in its ordinary business as a Pharmacy in
21 California for a minimum of 120 hours per calendar month. Any month during which this
22 minimum is not met shall toll the period of probation, i.e., the period of probation shall be
23 extended by one month for each month during which this minimum is not met. During any such
24 period of tolling of probation, Respondent must nonetheless comply with all terms and conditions
25 of probation, unless Respondent is informed otherwise in writing by the Board or its designee. If
26 Respondent is not open and engaged in its ordinary business as a Pharmacy for a minimum of 120
27 hours in any calendar month, for any reason (including vacation), Respondent shall notify the
28 Board in writing within ten (10) days of the conclusion of that calendar month. This notification

1 shall include at minimum all of the following: the date(s) and hours Respondent was open; the
2 reason(s) for the interruption or why business was not conducted; and the anticipated date(s) on
3 which Respondent will resume business as required. Respondent shall further notify the Board in
4 writing with ten (10) days following the next calendar month during which Respondent is open
5 and engaged in its ordinary business as a Pharmacy in California for a minimum of 120 hours.
6 Any failure to timely provide such notification(s) shall be considered a violation of probation.

7 **14. Posted Notice of Probation**

8 Respondent shall prominently post a probation notice provided by the Board or its designee
9 in a place conspicuous to and readable by the public within two (2) days of receipt thereof from
10 the Board or its designee. Failure to timely post such notice, or to maintain the posting during the
11 entire period of probation, shall be considered a violation of probation.

12 Respondent shall not, directly or indirectly, engage in any conduct or make any statement
13 which is intended to mislead or is likely to have the effect of misleading any patient, customer,
14 member of the public, or other person(s) as to the nature of and reason for the probation of the
15 licensed entity.

16 **15. Violation of Probation**

17 If a Respondent has not complied with any term or condition of probation, the Board shall
18 have continuing jurisdiction over Respondent, and probation shall be automatically extended,
19 until all terms and conditions have been satisfied or the Board has taken other action as deemed
20 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
21 to impose the penalty that was stayed.

22 If Respondent violates probation in any respect, the Board, after giving Respondent notice
23 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
24 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
25 probation, the Board shall have continuing jurisdiction and the period of probation shall be
26 automatically extended until the petition to revoke probation or accusation is heard and decided,
27 and the charges and allegations in Accusation No. 7053 shall be deemed true and correct.

28 //

1 **16. Completion of Probation**

2 Upon written notice by the Board or its designee indicating successful completion of
3 probation, Respondent's Pharmacy Permit will be fully restored.

4 **17. No Additional Ownership or Management of Licensed Premises**

5 Respondent shall not acquire any additional ownership, legal or beneficial interest in, nor
6 serve as a manager, administrator, member, officer, director, associate, partner or any business,
7 firm, partnership, or corporation currently or hereinafter licensed by the Board except as approved
8 by the Board or its designee. Violations of this restriction shall be considered a violation of
9 probation.

10 **18. Ethics Course**

11 Within sixty (60) calendar days of the effective date of this decision, Thomas Chan and
12 Gregory Tom shall enroll in a course in ethics, at respondent's expense, approved in advance by
13 the board or its designee that complies with Title 16 California Code of Regulations section
14 1773.5. Respondent shall provide proof of enrollment upon request. Within five (5) days of
15 completion, respondent shall submit a copy of the certificate of completion to the board or its
16 designee. Failure to timely enroll in an approved ethics course, to initiate the course during the
17 first year of probation, to successfully complete it before the end of the second year of probation,
18 or to timely submit proof of completion to the board or its designee, shall be considered a
19 violation of probation.

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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Nicholas D. Jurkowitz. I understand the stipulation and the effect it will have on my Permit. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

WECARE HEALTH, INC. DBA MOLINA'S
PHARMACY, PHILIP CHIANG, THOMAS CHAN,
GREGORY TOM
Respondent

I have read and fully discussed with Respondent Wecare Health, Inc. dba Molina's Pharmacy, Philip Chiang, Thomas Chan, Gregory Tom the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

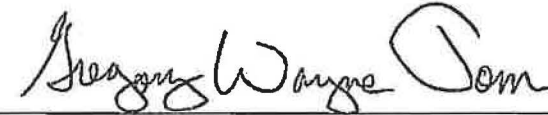
DATED: _____

NICHOLAS D. JURKOWITZ
Attorney for Respondent

1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Nicholas D. Jurkowitz. I understand the stipulation and the effect
4 it will have on my Permit. I enter into this Stipulated Settlement and Disciplinary Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 Board of Pharmacy.

7
8 DATED: 05-19-2022



9 WECARE HEALTH, INC. DBA MOLINA'S
10 PHARMACY, PHILIP CHIANG, THOMAS CHAN,
11 GREGORY TOM
12 *Respondent*

13 I have read and fully discussed with Respondent Wecare Health, Inc. dba Molina's
14 Pharmacy, Philip Chiang, Thomas Chan, Gregory Tom the terms and conditions and other
15 matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form
16 and content.

17 DATED: 5/24/22



18 NICHOLAS D. JURKOWITZ
19 *Attorney for Respondent*
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ENDORSEMENT

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

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
DAVID E. BRICE
Supervising Deputy Attorney General

STEVE J. PYUN
Deputy Attorney General
Attorneys for Complainant

LA2020603575
We care Stipulated Settlement (Rev 5.17.22).docx

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ENDORSEMENT

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

DATED: May 24, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
DAVID E. BRICE
Supervising Deputy Attorney General

Steve Pyun

STEVE J. PYUN
Deputy Attorney General
Attorneys for Complainant

LA2020603575
Wecare Stipulated Settlement (Rev 5.17.22).docx

Exhibit A

Accusation No. 7053

MATTHEW RODRIQUEZ
Acting Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General
STEVE J. PYUN
Deputy Attorney General
State Bar No. 253563
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
Telephone: (213) 269-6305
Facsimile: (916) 731-2126
E-mail: Steve.Pyun@doj.ca.gov
Attorneys for Complainant

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

In the Matter of the Accusation Against:

Case No. 7053

**WECARE HEALTH, INC. dba MOLINA'S
PHARMACY, PHILIP CHIANG,
THOMAS CHAN, GREGORY TOM
3746 Whittier Blvd
Los Angeles, CA 90023**

ACCUSATION

Permit No. PHY 46603

Respondent.

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 January 7, 2004, the Board of Pharmacy issued Permit Number PHY 46603 to Wecare Health, Inc. dba Molina's Pharmacy, Philip Chiang, Thomas Chan, Gregory Tom (Respondent or Molina's Pharmacy). The Permit was in full force and effect at all times relevant to the charges brought herein and will expire on January 1, 2022, unless renewed.

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JURISDICTION

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

4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Code sections 4000 *et seq.*] and the Uniform Controlled Substances Act [Health & Safety Code sections 11000 *et seq.*].

5. Section 4300 of the Code states, in pertinent part, that “[e]very license issued may be suspended or revoked.”

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.

7. Section 4302 states:

The board may deny, suspend, or revoke any license of a corporation where conditions exist in relation to any person holding 10 percent or more of the corporate stock of the corporation, or where conditions exist in relation to any officer or director of the corporation that would constitute grounds for disciplinary action against a licensee.

STATUTORY PROVISIONS

8. Section 4081 of the Code states:

(a) All records of manufacture and of sale, acquisition, 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, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, 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 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

(b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or representative-in-charge, for maintaining the records and inventory described in this section.

(c) The pharmacist-in-charge or representative-in-charge shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge or representative-in-charge had no knowledge, or in which he or she did not knowingly participate.

9. 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 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

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

...

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

...

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

10. Section 4307 of the Code provides as follows:

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

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

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

(b) Manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control of a license as used in this section and Section 4308, may refer to a pharmacist or to any other person who

1 serves in such capacity in or for a licensee.

2 11. Section 4332 of the Code states:

3 Any person who fails, neglects, or refuses to maintain the records required by
4 Section 4081 or who, when called upon by an authorized officer or a member of the
5 board, fails, neglects or refuses to produce or provide the records within a reasonable
6 time, or who willfully produces or furnishes records that are false, is guilty of a
7 misdemeanor.

8 **REGULATORY PROVISIONS**

9 12. California Code of Regulations, title 16, section 1709 states, in relevant part:

10 (a) Each permit to operate a pharmacy shall show the name and address of the pharmacy,
11 the form of ownership (individual, partnership or corporation) and the pharmacist-in-charge. Each
12 pharmacy shall, in its initial application on the annual renewal form, report the name of the
13 pharmacist-in-charge, the names of all owners and the names of the corporate officers (if a
14 corporation). Any changes in the pharmacist-in-charge, or the owners, or corporate officers shall
15 be reported to the Board within 30 days.

16 13. California Code of Regulations, title 16, section 1714 states, in relevant part:

17 (b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and
18 equipment so that drugs are safely and properly prepared, maintained, secured and distributed.
19 The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice
20 of pharmacy.

21 14. California Code of Regulations, title 16, section 1718 states:

22 “Current Inventory” as used in Sections 4081 and 4332 of the Business and Professions
23 Code shall be considered to include complete accountability for all dangerous drugs handled by
24 every licensee enumerated in Sections 4081 and 4332.

25 The controlled substances inventories required by Title 21, CFR, Section 1304 shall be
26 available for inspection upon request for at least 3 years after the date of the inventory.

27 **DEFINITIONS**

28 15. Section 4022 of the Code states

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

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

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

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

6
7 16. Lyrica is a schedule V controlled substance as designated by Health and Safety Code
8 section 11058, and is categorized as a dangerous drug pursuant to Business and Professions Code
9 section 4022.

10 17. Ranexa is categorized as a dangerous drug pursuant to Business and Professions Code
11 section 4022. It is used to treat chest pain.

12 18. Amitiza is categorized as a dangerous drug pursuant to Business and Professions
13 Code section 4022. It is used to treat constipation and irritable bowel syndrome.

14 **COST RECOVERY**

15 19. Section 125.3 states, in pertinent part, that the Board may request the administrative
16 law judge to direct a licentiate found to have committed a violation or violations of the licensing
17 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
18 case.

19 **FACTUAL ALLEGATIONS**

20 20. In 2018, the Board was notified by CVS/Caremark that it had conducted a drug audit
21 of Respondent for the period of December 1, 2016 through December 31, 2017. CVS/Caremark
22 advised that the audit revealed significant discrepancies.

23 21. The Board conducted its own audit of Respondent, including a site inspection on May
24 21, 2019. The Board inspector conducted an audit of Lyrica 50 mg, Ranexa 500 mg, Ranexa
25 1000 mg, and Amitiza 24 mcg for the period of December 1, 2016 through December 31, 2017
26 (the same period as the CVS/Caremark audit). The Board inspector referenced disposition
27 records and acquisition data. Respondent failed to provide documentation of beginning or ending
28 on-hand inventory.

22. The Board's audit revealed significant negative variances indicating overages for each drug (i.e., more drugs were sold by Respondent than were purchased), as set forth below:

Drug	Beginning On-Hand Inventory (12/1/16)	Total Acquired	Total Dispensed	Ending On- Hand Inventory (12/31/17)	Variance
Lyrica 50 mg	Unknown	900	5,030	Unknown	-4,130
Ranexa 1000 mg	Unknown	0	2,400	Unknown	-2,400
Ranexa 500 mg	Unknown	480	3,870	Unknown	-3,390
Amitiza 24 mcg	Unknown	720	1,872	Unknown	-1,152

23. The audit revealed an overage of a total of 11,072 tablets. The Board determined that the purchase cost/value of the 11,072 tablets that were not accounted for totaled \$76,031.72.

24. During the course of the audit, the Board learned that Philip Chiang, who had been Chief Executive Officer and 34% shareholder of Molina's Pharmacy since 2004, had passed away in January 2019. Respondent failed to notify the Board of a change in ownership within 30 days of Mr. Chiang's death.

FIRST CAUSE FOR DISCIPLINE

(Operational Standards and Security)

25. Respondent Molina's Pharmacy is subject to disciplinary action under Code sections 4081, subdivision (a), 4300, 4301 subdivisions (j) and (o), 4332, in conjunction with California Code of Regulations, title 16, sections 1714, subdivision (b), 1718, in that an audit of Respondent for the period of December 1, 2016 through December 31, 2017 revealed a negative variance (more drugs sold than purchased) totaling 11,072 tablets of Lyrica 50 mg, Ranexa 500 mg and

1 1000 mg, and Amitiza 24 mcg. Respondent Molina's Pharmacy failed to maintain complete
2 accountability for those drugs. The allegations set forth above in paragraphs 20 through 23 are
3 incorporated by reference herein.

4 **SECOND CAUSE FOR DISCIPLINE**

5 **(Acts Involving Dishonesty, Fraud, or Deceit)**

6 26. Respondent Molina's Pharmacy is subject to disciplinary action under Code sections
7 4300, 4301, subdivision (f), in that Respondent committed acts involving moral turpitude,
8 dishonesty, fraud, deceit or corruption, by failing to maintain purchase records to support the
9 quantities of controlled substance Lyrica and dangerous drugs Ranexa and Amitiza dispensed by
10 Respondent. The allegations set forth above in paragraphs 20 through 23 are incorporated by
11 reference herein.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Change of Ownership)**

14 27. Respondent Molina's Pharmacy is subject to disciplinary action under Code sections
15 4300, 4301 subdivision (o), in conjunction with California Code of Regulations, title 16, section
16 1709, subdivision (a), in that Respondent failed to notify the Board of a change in ownership
17 within 30 days when 34% shareholder Philip Chiang passed away. The allegations set forth above
18 in paragraph 24 are incorporated herein by reference.

19 **OTHER MATTERS**

20 28. Pursuant to Section 4307 of the Code, if discipline is imposed on Pharmacy Permit
21 Number PHY 46603 issued to Wecare Health, Inc. dba Molina's Pharmacy, Philip Chiang,
22 Thomas Chan, Gregory Tom, while Thomas Chan has been an officer, director, or owner and had
23 knowledge of or knowingly participated in any conduct for which the licensee was disciplined,
24 Thomas Chan shall be prohibited from serving as a manager, administrator, owner, member,
25 officer, director, associate, partner, or in any other position with management or control of a
26 licensee for five years if Pharmacy Permit Number PHY 46603 is placed on probation or until
27 Pharmacy Permit Number PHY 46603 is reinstated if it is revoked.

28 //

29. Pursuant to Section 4307 of the Code, if discipline is imposed on Pharmacy Permit Number PHY 46603 issued to Wecare Health, Inc. dba Molina's Pharmacy, Philip Chiang, Thomas Chan, Gregory Tom, while Gregory Tom has been an officer, director, or owner and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, Gregory Tom shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control of a licensee for five years if Pharmacy Permit Number PHY 46603 is placed on probation or until Pharmacy Permit Number PHY 46603 is reinstated if it is revoked.

PRAYER

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

1. Revoking or suspending Permit Number PHY 46603, issued to Wecare Health, Inc. dba Molina's Pharmacy, Philip Chiang, Thomas Chan, Gregory Tom;

2. Prohibiting Thomas Chan from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee if, while acting as the manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control, he had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY 46603 is revoked or placed on probation, in which case the prohibition shall last for a period not to exceed five years if Pharmacy Permit Number PHY 46603 is placed on probation, or, if Pharmacy Permit Number PHY 46603 is revoked, the prohibition shall continue until reinstatement;

3. Prohibiting Gregory Tom from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee if, while acting as the manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control, he had knowledge of or knowingly participated in any conduct for which Pharmacy Permit Number PHY 46603 is revoked or placed on probation, in which case the prohibition shall last for a period not to exceed five years if Pharmacy Permit Number PHY 46603 is placed on probation, or, if Pharmacy Permit Number PHY 46603 is revoked, the prohibition shall continue

1 until reinstatement;

2 4. Ordering Wecare Health, Inc. dba Molina's Pharmacy, Philip Chiang, Thomas Chan,
3 Gregory Tom to pay the Board of Pharmacy the reasonable costs of the investigation and
4 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

5 5. Taking such other and further action as deemed necessary and proper.
6
7

8 DATED: 5/4/2021
9 _____

Signature on File

10 ANNE SODERGREN
11 Executive Officer
12 Board of Pharmacy
13 Department of Consumer Affairs
14 State of California
15 *Complainant*

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