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

In the Matter of the Accusation Against:

SAL PHARMACY INC., DBA SAL PHARMACY, SALVIA ASKARIFAR, CEO, 100% SHAREHOLDER, SECRETARY, DIRECTOR, AND TREASURER,

Pharmacy Permit No. PHY 54465,

SALVIA ASKARIFAR,

Pharmacist License No. RPH 59903,

and

TALIA TABAROKI,

Pharmacist License No. RPH 71444,

Respondents.

Agency Case No. 7090

OAH No. 2021080753

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on May 25, 2022.

It is so ORDERED on April 25, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

Seung W. Oh, Pharm.D.
Board President

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PROPOSED DECISION

Irina Tentser, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter by videoconference on February 15, 16, and 17, 2022.

Kevin J. Rigley, Deputy Attorney General, appeared on behalf of Anne Sodergren (Complainant), Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Herbert L. Weinberg, Attorney, appeared on behalf of Sal Pharmacy Inc., doing business as Sal Pharmacy, (Respondent Sal Pharmacy), Salvia Askarifar (Respondent Askarifar), and Talia Tabaroki (Respondent Tabaroki), (collectively, Respondents), who were present throughout hearing.

Testimonial and documentary evidence was received. Exhibits 7 through 24 and C, F, H, K, and O, contained customers' medical information. As it would be impractical to redact the medical information from these exhibits, Exhibits 7 through 24 and C, F, H, K, and O were ordered sealed to protect consumers' privacy and to prevent their medical information from inappropriate disclosure. This sealing order governs the release of documents to the public. A reviewing court, parties to this matter, their attorneys, and a government agency decision maker or designee under Government code section 11517 may review the documents subject to this order, provided the documents are protected from release to the public.

The record was closed, and the matter was submitted for decision on February 17, 2022.

FACTUAL FINDINGS

Jurisdictional Matters

1. Complainant filed the Accusation in her official capacity.

2. Respondents filed notices of defense and this hearing took place.

RESPONDENT SAL PHARMACY

3. On June 23, 2016, the Board issued pharmacy permit No. PHY 54465 to Respondent Sal Pharmacy. The pharmacy permit was in full force and effect at all times relevant to the Accusation's charges and was scheduled to expire on June 1, 2021. Respondent Sal Pharmacy was doing business as of the date of hearing. The pharmacy permit renewal and expiration dates were not submitted into evidence by the parties. Respondent Askarifar has been Respondent Sal Pharmacy's PIC since June 23, 2016.

There is no history of any prior discipline having been sought against Respondent Sal Pharmacy.

4. Respondent Sal Pharmacy's business address is 8614 West 3Rd St., Los Angeles, California 90048. The pharmacy is an open-door retail pharmacy located in a busy commercial area and is in close proximity to a number of various medical offices and to Cedars-Sinai Medical Center. The pharmacy primarily dispenses medications for walk-ins and a general patient population, dispensing approximately 30 prescriptions per day. It provides no mail order, special services, or compounding. At times relevant to the Accusation, Respondent Sal Pharmacy's pharmaceutical staff consisted of Respondents Askarifar (PIC) and Tabaroki, as well as Zadkiel Entsuah and Jealan Mohamed.

RESPONDENT ASKARIFAR

5. On August 14, 2017, the Board issued Pharmacist License No. RPH 59903 to Respondent Askarifar. As well as acting as Respondent Sal Pharmacy's PIC since 2016, Respondent Askarifar is the pharmacy's owner. Respondent Askarifar's Pharmacist License was in full force and effect at all times relevant to the charges brought in the Accusation and is scheduled to expire on September 30, 2022.

There is no history of any prior discipline having been sought against Respondent Askarifar.

RESPONDENT TABAROKI

6. On September 16, 2014, the Board issued Pharmacist License No. RPH 71444 to Respondent Tabaroki. The Pharmacist License was in full force and effect at all times relevant to the charges brought in the Accusation and is scheduled to expire on August 31, 2022.

The Parties' Contentions

7. The Accusation alleged that: Respondent Sal Pharmacy failed to comply with corresponding responsibility requirements to verify prescriptions (corresponding responsibility) (first cause for discipline); Respondent Sal Pharmacy failed to report controlled substance prescriptions to CURES (Controlled Substance Utilization Review and Evaluation System) (second cause for discipline); Respondent Askarifar failed to comply with corresponding responsibility requirements (third cause for discipline); Respondent Askarifar failed to report controlled substance prescriptions to CURES as Pharmacist-in-Charge (PIC) of Respondent Sal Pharmacy between April 20, 2017 and April 29, 2020 (fourth cause for discipline); and Respondent Tabaroki failed to comply

with corresponding responsibility requirements (fifth cause for discipline). Complainant sought revocation of Respondent Sal Pharmacy's permit and Respondents Askarifar and Tabaroki's licenses.

8. Respondents denied all allegations that they failed to comply with corresponding responsibility requirements and asserted the filled prescriptions at issue were based on legitimate medical purposes. Respondents asserted factual and legal defenses that they had met their corresponding responsibility requirements. Respondents Sal Pharmacy and Askarifar, as PIC, admitted that they failed to report controlled substance prescriptions to CURES between April 20, 2017 and April 29, 2020, but asserted they had made a good faith effort to comply with CURES requirements and any responsibility for the failure to report to CURES was based on deficiencies in the pharmacy's software program. Respondents argued that if discipline was imposed, it should be minimal based on Respondents' evidence in mitigation and rehabilitation.

Drug Classifications

9. Roxicodone, sold under the generic name oxycodone, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M) and a dangerous drug pursuant to Business and Professions Code section 4022.

10. Phenergan with codeine syrup, sold under the generic name promethazine with codeine syrup, is a Schedule V controlled substance pursuant to Health and Safety Code section 11058, subdivision (c)(1), and a dangerous drug pursuant to Business and Professions Code section 4022.

11. Xanax, sold under the generic name alprazolam, is a Schedule IV controlled substance under Health and Safety code section 11057, subdivision (d)(1), and a dangerous drug under Business and Professions Code section 4022.

12. Hydrocodone-Acetaminophen (brand name – "Norco") is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(1)(ii), and a dangerous drug pursuant to Business and Professions code section 4022.

13. Soma, sold under the generic name carisoprodol, is a Schedule IV controlled substance pursuant to Title 21, code of Federal Regulations, section 1308.14, subdivision (c)(7), and a dangerous drug pursuant to Business and Professions Code section 4022.

CURES

14. In 1997, the Controlled Substance Utilization Review and Evaluation System program was initiated and required mandatory monthly pharmacy reporting of dispensed schedule II controlled substances. In January 2005, the program was amended to require mandatory weekly reporting of schedule II through IV medications. The data is collected statewide and its primary purpose is to improve healthcare providers' ability to combat prescription drug abuse.

15. The Prescription Drug Monitoring Program (PDMP) is the component of CURES which is accessible to pharmacists and prescribers. As of July 2016, all practitioners licensed to prescribe or dispense scheduled medications were required by law to sign up with PDMP. Healthcare professionals, such as pharmacists, use the data to aid in determining whether patients are utilizing their controlled substances safely and appropriately, ensuring they are not obtaining medical care from multiple

prescribers, frequenting multiple pharmacies, obtaining early refills of controlled substances, travelling far distances to prescribers or pharmacies, consistently paying cash for their controlled substance prescriptions or attempting to fill high does opioids or benzodiazepines when they are naïve to either medication. Based on established statutory and regulatory guidelines, the Board expects pharmacists to not only consult CURES but also utilize their education and training to appropriately review CURES reports.

Opioid Tolerance

16. Opioids are drugs which are most often utilized to treat pain. (Exhibit 5.) The side effects of opioids may include euphoria, sedation, and respiratory depression. Continuous use will result in tolerance and dependance, which can require increasing doses and withdrawal syndrome if abruptly discontinued. They are highly controlled substances because of their use can lead to addiction and fatal overdose.

OPIOID TOLERANT

17. The US Food and Drug Administration (FDA) definitions of opioid naïve and opioid tolerant are clinically accepted and widely used in pain management. (Exhibit 5.) Opioid tolerant is commonly defined as patients who are taking, for one week or longer, at least: 60 mg oral morphine/day; 30 mg oral oxycodone/day; 8 mg oral hydromorphone/day; 25 mcg/hr transdermal fentanyl/day; 25 mcg/hr transdermal fentanyl; or an equianalgesic dose of any other opioid. Opioid tolerance causes patients to be less susceptible to the effects of opioids, including both pain relief and adverse effects. (*Ibid.*)

OPIOID NAIVE

18. At the time of the Board's investigation, opioid naïve was defined as patients who did not meet the above definition of opioid tolerant and who had not taken opioid doses provided in the definition of opioid tolerant for one week or longer. (Exhibit 5.) For purposes of the Board's investigation in this matter, the Board inspector used a conservative definition of opioid naïve, considering a patient opioid naïve if they had not filled an opioid for over two months.

19. Respondents' argument that the Board's definition of opioid naïve for purposes of the investigation findings was incorrect and excessively conservative is unpersuasive. Respondents provided no convincing evidence to support their self-serving argument challenging the Board's definition of opioid naïve as used in its investigation.

20. An opioid naïve patient is at greater risk for developing complications from opioid use, including sedation and respiratory depression. For a patient who is opioid naïve, opioid treatment should be initiated slowly with dose escalation and patient response more closely monitored.

Prescription Information

21. Based on Lexicomp, a commonly utilized on-line database which provides drug and clinical information to pharmacists, oxycodone is available in 5, 10, 15, 20, and 30 mg immediate release tablets. (Exhibit 5.) Oxycodone therapy is to be started at 5 to 15 mg every four to six hours as needed for pain. The usual dosage for chronic pain is 5 to 20 mg every four hours. In cases of severe chronic pain, oxycodone is to be administered on a regular scheduled basis, the lowest dosage level that will achieve adequate relief. The risk associated with use, especially fatal respiratory

depression increases with higher opioid dosage. Oxycodone therapy, accordingly, should be initiated at the lowest effective dosage. (*Ibid.*)

22. Alprazolam is available in 0.25, 0.5, 1 and 2 mg. tablets. (Exhibit 5.) The recommendation for alprazolam is that it be initiated at 0.25 mg, three to four times daily. The dose may increase based on response and tolerability in increments of less than 1 mg per day at intervals greater than greater than three days up to a usual dose of 2 to 6 mg per day in three to four divided doses. (*Ibid.*)

23. Diazepam is available in 2, 5 and 10 mg tablets. (Exhibit 5.) To treat anxiety disorder, diazepam is to be initiated at 2 to 5 mg once or twice daily. The dose may increase gradually based on response and tolerability to up to 40 mg per day in two to four divided doses. For muscle spasms, the recommendation is that diazepam be initiated at 2 mg twice daily or 5 mg at bedtime. The dosage is to be increased gradually based on response and tolerability, up to 40 to 60 mg per day in three to four divided doses. (*Ibid.*)

24. Promethazine/codeine (prometh/cod) is used to temporarily relieve cough and upper respiratory symptoms associated with allergy or the common cold at a dosage of 5mL every four to six hours with a maximum of 30 mL per day. (Exhibit 5.)

25. At times relevant to this matter, the FDA required that its most rigorous "black box" warning be placed on the packaging of oxycodone, alprazolam, and diazepam to alert to the drugs' serious or life-threatening risks as follows:

> Concomittant use of opioids with benzodiazepines or other CNS depressants, including alcohol, may result in profound sedation, respiratory depression, coma, and death. Reserve concomitant prescribing of oxycodone and

> benzodiazepines or other CNS depressants for use in patients for whom alternative treatment options are inadequate. Limit dosage and durations to the minimum required. Follow patients for signs and symptoms of respiratory depression and sedation.

(Exhibit 5, p. 9.)

26. Prometh/cod contained the following FDA black box warning:

> Concomitant use of opioids with benzodiazepines or other CNS depressants, including alcohol, may result in profound sedation, respiratory depression, coma, and death. Avoid use of opioid cough medications in patients taking benzodiazepines, other CNS depressants, or alcohol.

(Exhibit 5, p. 9.)

Board Investigation and Findings

BACKGROUND

27. In August 2020, the United States Department of Justice issued a press release titled, *Doctor Among 10 Facing Federal Drug Trafficking Charges Related to Distributions of Opioids Through Bogus Pain Clinics Across SoCal*. The release identified Dr. John Michael Korzelius of Camarillo, who worked at a Santa Ana pain management clinic, as one of four defendants charged with two federal jury indictments alleging a narcotics trafficking ring that sold illegal opioid prescriptions for cash through a series of sham medical clinics in Southern California.

28. A Board investigation of another pharmacy found that Dr. Korzelius' Physician's Assistant, Jennifer Edwards (PA Edwards), failed to act in the usual course of her professional practice and prescribed controlled substances to patients for illegitimate medical purposes. As a part of the Board's investigation of PA Edwards, a review of CURES records by the Board discovered Respondent Sal Pharmacy also dispensed controlled substance prescriptions written under the prescribing authority of PA Edwards. As a result, an internal complaint was filed and the Board initiated an investigation of the pharmacy.

INVESTIGATION AND FINDINGS

29. Inspector Irina Top is a California licensed pharmacist who has worked as a Board inspector since December 2014. She has performed over 200 complaint investigations and inspections of hospitals and of community and compounding pharmacies to ensure compliance with pharmacy laws and regulations. From October 2009 through December 2014, Inspector Top was employed as a pharmacist for Kentfield Hospital. In 2009, she was awarded a Doctor of Pharmacy degree with an emphasis in Pharmaceutical Health Police and Management from the University of California, San Francisco. In 2000, she was awarded a Bachelor of Science degree in Molecular, Cell and Developmental Biology. (Exhibit 4.)

30. Inspector Top conducted an investigation on behalf of the Board and prepared an investigative report of her findings. (Exhibit 5.) Inspector Top credibly testified at hearing regarding her findings consistent with her investigative report. (Exhibit 5.) Because of the Cornovirus pandemic and shelter-in-place order throughout the Bay Area, Inspector Top was unable to perform a physical inspection of Respondent Sal Pharmacy. On May 5, 2020, Inspector Top sent an e-mail to the pharmacy requesting: original prescription documents written under the prescribing

authority of PA Edwards and several other prescribers; Respondent Sal Pharmacy's electronic dispensing records for the three-year period from April 29, 2017 through April 29, 2020 (Inspection Period); and any notes pertaining to the requested prescription or patients.

31. Respondent Sal Pharmacy complied with Inspector Top's request. On May 26, 2020, Inspector Top received, by e-mail, the pharmacy's electronic dispensing records for the Inspection Period, including notes relating to patients and prescriptions. On June 11, 2020, Inspector Top received the pharmacy's original prescriptions and other documentation (CURES reports, chart notes, etc.) by mail.

ANALYSIS OF RESPONDENT SAL PHARMACY'S RECORDS

32. Inspector Top described the factors that the Board have been determined to be red flags that put the pharmacy and pharmacist on notice of a potential problem with prescriptions for drugs of common abuse, such as oxycodone, and invoke the licensee's duty of inquiry. These include: irregularities on the face of the prescription itself; nervous patient demeanor; age or presentation of patient (e.g., youthful patients seeking chronic pain medications); multiple patients at the same address; cash payments; requests for early refills of prescriptions; prescriptions written for an unusually large quantity of drugs; prescriptions written for potentially duplicative drugs; the same combinations of drugs prescribed for multiple patients; initial prescriptions written for strong opiates (e.g., oxycodone 30 mg); long distances traveled from the patient's home, to the prescriber's office or pharmacy; irregularities in the prescriber's qualifications in relation to the medication(s) prescribed; prescriptions that are written outside of the prescriber's medical specialty; and prescriptions for medications with no logical connection to diagnosis or treatment.

33. Inspector Top's analysis of the Inspection Period records revealed the following pharmacy dispensing trends. Respondent Sal Pharmacy dispensed a total of 37,806 prescriptions with non-controlled medications consisting of 30,715 prescriptions (81 percent) and controlled medications consisting of 7,091 prescriptions (19 percent). Because the number of non-controlled medications that are commercially available was greater than controlled medications, Inspector Top determined that these percentages were not unusual for a retail pharmacy.

34. The payment methods for all medications, controlled and non-controlled dispensed during the Inspection Period was approximately 15 percent cash and 85 percent insurance. Eleven percent of the non-controlled medications were paid for with cash. Thirty-three percent of controlled medications were paid for with cash.

35. Based on the data, the percentage of cash payments for controlled medications was approximately three times that of non-controlled substances. Inspector Top noted that patients typically do not desire to pay high out-of-pocket costs for medications and therefore to use insurance. As a result, Inspector Top determined the high percentage of cash payments for controlled medications was irregular or a "red flag" for a retail pharmacy.

36. During the Inspection Period, the number one drug dispensed by Respondent Sal Pharmacy was the highly abused schedule II controlled substance, oxycodone 30 mg. Based on the data, Inspector Top determined red flags included 1) a schedule II controlled substance to be the top drug dispensed by the pharmacy and 2) that one drug, oxycodone 30 mg, accounted for 31 percent (1,218 of the total 3,949) of the schedule II controlled substances dispensed by Respondent Sal Pharmacy.

37. In analyzing the data for all immediate-release oxycodone products dispensed by Respondent Sal Pharmacy, Inspector Top found that 75 percent (1,218 of the total 1,167) of the oxycodone prescriptions dispensed by the pharmacy were for the highest strength, 30 mg. The high dose and percentage of prescriptions were irregular for a pharmacy. Respondent Sal Pharmacy's practice of dispensing the highest strength oxycodone and such a high frequency was determined to be a red flag because oxycodone therapy should be initiated at the lowest effective dosage due to the risks associated with use, especially fatal respiratory depression, increases with higher dosages. Respondent Sal Pharmacy's practice was also a red flag because of the variability which exists between patients such as age, weight, drug allergies, medical histories, tolerance to narcotic medication, and preferences regarding their drug therapy plan. Due to the interpatient variability, a prescriber would more often prescribe different strengths of the same medication to treat their patients rather than one does, i.e., 30 mg of oxycodone.

38. A further analysis by Inspector Top of Respondent Sal Pharmacy's records for the Inspection Period demonstrated that the pharmacy dispensed: high dose oxycodone (30 mg) to opioid naïve patients; high dose alprazolam to benzodiazepine naïve patients; and high dose benzodiazepines to patients on high dose opioids, which was commonly known to be ill advised as the combination may result in profound sedation, respiratory depression, coma and death.

39. Inspector Top acknowledged that Respondents went "above and beyond" in contacting prescribers regarding the prescriptions that they filled for patients. However, she testified that they missed the "lowest hanging fruit" by ignoring glaring red flags and failing to resolve those red flags before filling prescriptions for patients.

40. At the conclusion of the Board's investigation, Inspector Top determined that Respondents Sal Pharmacy, Askarifar, and Tabaroki dispensed controlled substances for 17 patients in the presence of multiple red flags that suggested these prescriptions were not written for legitimate medical purposes.

41. Based on the evidence presented at hearing, Complainant through clear and convincing evidence that Respondents Sal Pharmacy, Askarifar, and Tabaroki failed to exercise their education, training, appropriate clinical and professional judgment, and experience to ensure these controlled substance prescriptions were issued for legitimate medical purposes, in violation of their corresponding responsibility requirements under Pharmacy Law for the following 15 patients, as set forth in Factual Findings 42 through 113, below. Initials are used to protect the patients' privacy.

Patient JMG

42. On March 26, 2016, Respondents Sal Pharmacy and Askarifar dispensed a controlled substance (oxycodone 30 mg) to JMG (Rx #108920) in the presence of numerous red flags, detailed below, suggesting this prescription was not written for legitimate medical purposes.

Prior Respondents Sal Pharmacy and Askarifar filling the prescription for the highest strength oxycodone, 30 mg, on March 26, 2018, the patient had never filled a prescription at Respondent Sal Pharmacy. The pharmacy also dispensed another highly abused controlled substance to JMG on the same day, prometh/cod, which Respondent Sal Pharmcy and Askarifar reasonably should have known to be a red flag because the ingestion of two CNS depressants may result in profound sedation, respiratory depression, coma and death.

The CURES report (printed after the prescription was dispensed, on March 29, 2018) showed a negative result from September 29, 2017, through March 29, 2018, indicating JMG never filled oxycodone at a lower strength or any other opioid pain reliever at another pharmacy during that time period.

Respondent Sal Pharmacy also dispensed a total daily dose of 120 mg oxycodone, which is over 3.5 times the recommended safe dose, to JMG, an opioid naïve patient.

Respondent Sal Pharmacy charged JMG an inflated amount for 120 tablets of oxycodone 30 mg, $750, and JMG paid cash for all his prescriptions.

Finally, the prescription showed that it was written on January 26, 2018, but it was dispensed by Respondent Sal Pharmacy two month later, on March 26, 2018. This was contrary to the reasonable expectation that a patient with pain intense enough to require treatment with the highest strength of oxycodone would not wait two months to obtain the medication.

43. Respondents Sal Pharmacy and Askarifar did take steps to confirm the prescription was legitimate, contacting the prescriber's office on March 22, 2018 to request diagnosis code(s) and verification, which were received. Diagnosis codes are utilized for billing purposes for prescribers.

44. However, even after conferring with the prescriber, Respondents Askarifar should have appropriately exercised her education, training and experience as a pharmacist and realized that objective reason existed, based on the number of red flags, to know the prescription was not issued for a legitimate medical purpose. As Inspector Top described, a pharmacist would be reasonably aware that rarely, if ever, would a medical condition or diagnosis require an opioid naïve patient to be initially

treated with the highest strength oxycodone due to the risk for respiratory depression, overdose, and death.

45. Respondents Sal Pharmacy and Askarifar assert that they satisfied their corresponding responsibility requirements as to Rx 108920 by verifying the prescription with the doctor's office by phone and fax. In addition, they highlighted the fact that both the prescriber's medical office and patient's address were in reasonably proximity to Respondent Sal Pharmacy. Respondents' arguments fail to adequately address their failure to resolve the established red flags of the prescription.

Patient OM

46. On April 18, 2018, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to OM (Rx #109521) in the presence of numerous red flags, detailed below, suggesting this prescription was not written for legitimate medical purposes.

Prior to filling OM's prescription for the highest strength oxycodone, 30 mg, on April 18, 2018, Respondent Sal Pharmacy had never dispensed oxycodone at a lower strength or any other opioid pain reliever to OM. The pharmacy also dispensed prometh/cod to OM on March 26, 2018 and again on April 24, 2018, which was reasonably known for pharmacist to be a red flag in that the ingestion of two CNS depressants may result in profound sedation, respiratory depression, coma and death.

The CURES report showed, from October 18, 2017, through April 18, 2018, the patient had never filled oxycodone at a lower strength or any other opioid pain reliever at another pharmacy prior to April 18, 2018. Respondent Sal Pharmacy also dispensed a total daily dose of 120 mg oxycodone, which is over 3.5 times the recommended safe dose, to OM, an opioid naïve patient. Respondent Sal Pharmacy

charged OM an excessive amount for 120 tablets of oxycodone 30 mg, $750.78, and OM paid cash for all his prescriptions.

Finally, the prescription showed that it was written on January 26, 2018, but was dispensed by Respondent Sal Pharmacy almost three months later, on April 18, 2018. This is contrary to the reasonable expectation that a patient with pain intense enough to require treatment with the highest strength of oxycodone would not wait two months to obtain the medication.

47. According to Inspector Top, there were no notes on the prescription document or in the electronic pharmacy records.

48. Respondent Tabaroki argued that she satisfied her corresponding responsibility requirements because the prescription looked legitimate and had all the security features intact and she checked CURES prior to filling the prescription. Further, Respondent Tabaroki asserted that the prescription was verified a month prior to it being filled with the prescriber on March 23, 2018, when OM's other prescriptions were verified, attributing the delay between the March 23, 2018 verification and the April 18, 2018 filling of the prescription date to the fact that it "was too soon to fill so left it on hold." (Exhibit 31, p. 16.) In addition, she asserted that both the prescriber's medical office and patient's address were in reasonably proximity to Respondent Sal Pharmacy, at 10 miles and 8.6 miles, respectively, were indicators of the prescription's validity. Respondent Tabaroki's arguments fail to adequately address her failure to resolve the established red flags of the prescription.

Patient CED

49. On April 8, 2019, Respondents Sal Pharmacy and Tabaroki dispensed prometh/cod and alprazolam 2 mg prescriptions to CED (RXs 118683 and 118684) in

the presence of numerous red flags, detailed below, suggesting this prescription was not written for legitimate medical purposes.

Prior to filling a prescription for two highly abused controlled substances (and CNS depressants), prometh/cod and alprazolam 2 mg on April 8, 2019, the patient had never filled a prescription at Respondent Sal Pharmacy. The pharmacy therefore dispensed the highest strength alprazolam, 2 mg, to a benzodiazepine naïve patient.

The CURES report showed that from April 8, 2018 through April 8, 2019, the patient had only filled prometh/cod at Payless Pharmacy III and had never filled a lower strength of alprazolam or any other benzodiazepine at another pharmacy.

The prescriber's medical practice was located in West Hills, which was approximately 26 miles from the pharmacy. It was therefore a red flag that patient CED travelled a great distance between the prescriber's office and the pharmacy to fill his controlled substance prescriptions. Further, though the patient resided close to the pharmacy, he travelled approximately 29 miles to obtain medical care from the prescriber, which was a factor of irregularity.

50. Respondent Tabaroki indicated on the prescription document that she verified the prescription with an individual at the prescriber's office named Morgan and checked CURES, which was "ok." (Exhibit 5, p. 17.) She also typed the following note into the pharmacy's computer system, "pt has straight medical and knows we don't take his ins tt verified script per morgan and checked cures, md part of govnt program to treat drug and alcohol abuse called Stay Free ADP Counseling. Looked up website is legit tt checked cures 4/8/19. Pt lives in close proximity to our pharmacy." (*Id.*)

51. Respondent Tabaroki asserted at hearing that her actions were sufficient to satisfy her corresponding responsibility requirements. However, she ignored the obvious red flag that it would be an irregularity for a patient who is receiving low-income assistance (i.e. Medi-Cal, which serves low-income individual 19 to 64 years of age and whose family income is at or below 138 percent of the Federal Poverty Level) to pay a high case out-of-pocket total of $357.90 for both prescriptions.

52. Respondent Tabaroki failed to address the obvious fact that it would not be customary for a physician treating an individual with substance abuse issues to prescribe two highly addictive and abused controlled substances, especially since prometh/cod is not indicated for the treatment of substance abuse. Respondent Tabaroki should have been reasonably aware that alprazolam could be prescribed to assist in the treatment of anxiety resulting from withdrawal. However, it is normally initiated at the lowest effective dose to prevent replacing one addiction with another.

53. Respondent Tabaroki's characterization of the CURES report as "ok" was invalid as the report showed patient CED had not filled a benzodiazepine during the year prior to the April 8, 2019 date the prescription for alprazolam 2 mg was dispensed.

Patient MLA

54. On April 9, 2019, Respondents Sal Pharmacy and Tabaroki dispensed prometh/cod and alprazolam 2 mg prescriptions to MLA (RXs 118716 and 118717) (from the same prescriber as for patient CED) in the presence of numerous red flags, detailed below, suggesting this prescription was not written for legitimate medical purposes.

Prior to filling a prescription for two highly abused controlled substances (and CNS depressants), prometh/cod and alprazolam 2 mg on April 9, 2019, MLA had never filled a prescription at Respondent Sal Pharmacy.

The CURES report found no records for MLA for a 12-month search prior to April 9, 2019. MLA had never filled a lower strength of alprazolam or any other benzodiazepine at another pharmacy and was therefore a benzodiazepine naïve patient.

Respondent Sal Pharmcy charged MLA an excessive amount for the prescription, $357.90, and MLA paid cash for both prescriptions.

The prescriber's medical practice was located in West Hills, which was approximately 26 miles from the pharmacy. It was therefore a red flag that patient MLA travelled an excessive distance, 38 miles to receive medical care from the prescriber and 13 miles to fill her controlled substance prescriptions at Respondent Sal Pharmacy.

55. Similar to patient CED, Respondent Tabaroki indicated on the prescription document that she verified the prescription with an individual at the prescriber's office named Morgan and checked CURES, which was "ok." (Exhibit 5, p. 18.) She also typed the following note into the pharmacy's computer system, "per morgan (see Xanax scriptnotes for both rx) pt under care of md in govnt funded pain mngt/opioid detox/alcohol&drug abuse treatment program called Stay Free ADP Counseling run by terry walker. Checked cures and looked up program online website exists and is legit tt." (*Id.*)

56. Respondent Tabaroki asserted at hearing that her actions were sufficient to satisfy her corresponding responsibility requirements. However, as with patient CED,

she ignored obvious red flags including that it would not be customary for a physician treating an individual with substance abuse issues to prescribe two highly addictive and abused controlled substances. Respondent Tabaroki should also have been reasonably aware, as with patient CED, that alprazolam could be prescribed to assist in the treatment of anxiety resulting from withdrawal. However, it is normally initiated at the lowest effective dose to prevent replacing one addiction with another.

57. Again, Respondent Tabaroki's characterization of the CURES report as "ok" was invalid as the report showed patient MLA had not filled a benzodiazepine during the year prior to the April 9, 2019 date the prescription for alprazolam 2 mg was dispensed.

58. Respondent Tabaroki credibly testified at hearing that after a third patient came in to fill a prescription from the same prescriber for the same addiction program as patients CED and MLA she refused to fill additional prescriptions from that prescriber.

Patient LN

59. On July 11, 2018, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to LN (Rx #111618) in the presence of numerous red flags, described below, suggesting this prescription was not written for legitimate medical purposes.

Prior to filling a prescription for the highest strength oxycodone, 30 mg, on July 11, 2018, Respondent Sal Pharmacy had never dispensed oxycodone at a lower strength or any other opioid pain reliever to LN.

The CURES report found no record for a six-month search period prior to June 11, 2018. Respondent Sal Pharmacy therefore dispensed a total daily dose of 90 mg oxycodone, which is over 2.5 times the recommended safe dose, to LN, an opioid naïve patient.

Respondent Sal Pharmacy charged LN an excessive amount for the prescription for 90 tablets of oxycodone 30 mg, $558, and LN cash for all his prescriptions. Further, the prescription showed that it was written on June 26, 2018. However, it was dispensed by Respondent Sal Pharmacy 15 days later on July 11, 2018. In addition, the prescriber's medical practice was located approximately 12 miles from Respondent Sal Pharmacy.

60. Respondent Tabaroki took steps to verify the prescription. Her notes on the front of the prescription state, "verified per Norma" and "DX: M51.36, M51.34." The medical diagnoses related to the codes are not listed. (Exhibit 5, p. 19.) Respondent Tabaroki's notes on the back of the prescription state, "checked CURES ->(attached) No record" and "verified script w/Norma in MD office." (*Id.*) Respondent Sal Pharmacy's computer system also reiterates who the prescription was verified with and the diagnosis codes, and notes that patient LN was referred to the pharmacy by his daughter who is a nurse at Cedar-Sinai, across the street from the pharmacy.

61. Respondent Tabaroki argued that her actions in attempting to verify the prescriptions legitimacy satisfy her corresponding responsibility requirements. However, Respondent Tabaroki fails to adequately address her failure to resolve the established red flags of the prescription, including the fact that the prescription was filled despite the fact that there was no record for patient LN for CURES. Respondent Tabaroki therefore either ignored or failed to properly address the CURES report by filling the prescription.

Patient KM

62. On July 12, 2018, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to KM (Rx #111626) in the presence of numerous red flags, described below, suggesting this prescription was not written for legitimate medical purposes.

Prior to filling a prescription for the highest strength oxycodone, 30 mg, on July 12, 2018, Respondent Sal Pharmacy had never dispensed oxycodone at a lower strength or any other opioid pain reliever to KM.

The CURES report showed that KM filled tramadol 50 mg at another pharmacy on September 21, 2017. Respondent Sal Pharmacy therefore dispensed a total daily dose of 90 mg oxycodone, which is over 2.5 times the recommended safe dose, to KM, an opioid naïve patient.

Respondent Sal Pharmacy charged KM an excessive amount for the prescription for 90 tablets of oxycodone 30 mg, $558, and KM paid cash for all his prescriptions. Further, the prescription showed that it was written on June 28, 2018. However, it was dispensed by Respondent Sal Pharmacy 14 days later on July 12, 2018. In addition, the prescriber's medical practice was located approximately 12 miles from Respondent Sal Pharmacy.

63. Respondent Tabaroki took steps to verify the prescription. Her notes on the front of the prescription state, "verified per Katie" and "DX: M51.26, M51.34, M51.36." The medical diagnoses related to the codes are not listed. (Exhibit 5, p. 20.) Respondent Sal Pharmacy's computer system also reiterates who the prescription was verified with and the diagnosis codes.

64. Respondent Tabaroki argued that her actions in attempting to verify the prescriptions legitimacy satisfy her corresponding responsibility requirements. She checked CURES and printed and stapled the report to the prescription document. Nevertheless, Respondent Tabaroki's actions do not address her failure to resolve the established red flags of the prescription; KM, an opioid naïve patient was prescribed the highest strength oxycodone and at unsafe doses.

Patient KMH

65. On July 26, 2018, Respondents Sal Pharmacy and Askarifar dispensed a controlled substance (oxycodone 30 mg) to KMH (Rx #112031) in the presence of numerous red flags, described below, suggesting this prescription was not written for legitimate medical purposes.

Prior to filling a prescription for the highest strength oxycodone, 30 mg, on July 26, 2018, Respondent Sal Pharmacy had never dispensed oxycodone at a lower strength or any other opioid pain reliever to KMH.

The CURES report found no records for JMH for the six-month search period prior to January 26, 2018. Respondent Sal Pharmacy therefore dispensed a total daily dose of 90 mg oxycodone, which is over 2.5 times the recommended safe dose, to KMH, an opioid naïve patient.

Respondent Sal Pharmcy charged KMH an excessive amount for the prescription for 90 tablets of oxycodone 30 mg, $784, and KMH paid cash for all her prescriptions. In addition, the prescriber's medical practice was located approximately 12 miles from Respondent Sal Pharmacy and KMH resided in Long Beach, approximately 28 miles from the pharmacy.

66. Respondent Askarifar took steps to verify the prescription. The prescription document was taped to a white sheet of computer paper with several notes written by Respondent Askarifar, including "Cures checked pt is ok."; "MRI done per MD breast Implant too big hurting back. Pt will have surgery soon."; "verified per Katie verbal."; "ICD #Degenerative disc disease of lumbar due Degenerative disc disease of thoracic."; and included diagnosis codes "M51.36" and "M51.34." (Exhibit 5, p. 21.)

67. Respondent Askarifar argued that her actions in attempting to verify the prescriptions legitimacy satisfy her corresponding responsibility requirements. Respondent Askarifar believes her actions in filling the prescription were warranted because of the patient's demonstrated pain when she presented her prescription to Respondent Askarifar. However, she fails to adequately address her failure to resolve the established red flags of the prescription, including the fact that the prescription was filled despite the fact that there was no CURES record for patient KMH for the prior six months prior the prescription being filled. Respondent Askarifar therefore either ignored or failed to properly address the CURES report when filling the prescription at the highest dose of oxycodone to an opioid naïve patient.

Patient DAN

68. On August 2, 2018, Respondents Sal Pharmacy and Askarifar dispensed a controlled substance (oxycodone 30 mg) to DAN (Rx #112209) in the presence of numerous red flags, described below, suggesting this prescription was not written for legitimate medical purposes.

Prior to filling a prescription for the highest strength oxycodone, 30 mg, on August 2, 2018, Respondent Sal Pharmacy had never dispensed oxycodone at a lower strength or any other opioid pain reliever to DAN.

The CURES report found no records for DAN for the six-month search period prior to August 2, 2018. Respondent Sal Pharmacy therefore dispensed a total daily dose of 90 mg oxycodone, which is over 2.5 times the recommended safe dose, to DAN, an opioid naïve patient.

Respondent Sal Pharmacy charged KMH an excessive amount for the prescription for 90 tablets of oxycodone 30 mg, $749, and KMH paid cash for all his prescriptions while on Medi-Cal (a program serving low-income individuals). In addition, the prescriber's medical practice was located approximately 12 miles from Respondent Sal Pharmacy and DAN resided in Gardena, approximately 15 miles from the pharmacy.

69. Respondent Askarifar took steps to verify the prescription. The front of the prescription document stated the prescription was verified by "Norma," CURES was checked, and the diagnosis codes listed were "M51.36" and "M51.34." (Exhibit 5, p. 22.) The back of the prescription document stated, "degenerative disc disease of lumbar spine," "degenerative disc disease of thorasic" and "HA, neck pain, shoulder, pain." (*Id.*) The pharmacy's electronic record reiterated the information written on the prescription, stating: "Patient has Medical we're not contracted (moratorium still in effect)"; "MD has MRI and will fax us a copy"; "MD is pain management checks cures on all patients." (*Ibid.*)

70. Respondent Askarifar argues that her actions in attempting to verify the prescriptions legitimacy satisfy her corresponding responsibility. However, she fails to

adequately address her failure to resolve the established red flags of the prescription, including the fact that the prescription was filled despite the fact that there was no record for patient DAN for CURES for the prior six months prior the prescription being filled. Respondent Askarifar therefore either ignored or failed to properly address the CURES report by filling the prescription at the highest dose of oxycodone to an opioid naïve patient. Further, obtaining an MRI report from a prescriber would not justify the dispensing of oxycodone 30 mg to an opioid naïve patient.

Patient DLB

71. On March 19, 2018, September 20, 2018, March 11, 2019, and May 13, 2019, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to DLB on multiple occasions (Rx #108761, 113479, 117923, and 119615) in the presence of numerous red flags suggesting these prescriptions were not written for legitimate medical purposes. DLB resides approximately 15 miles from the prescriber's office and 16 miles from Respondent Sal Pharmacy. Respondent Sal Pharmacy charged DLB an excessive amount for the prescriptions, $870, and DLB paid in cash for all but two of seven prescriptions she filled at the pharmacy.

72. For Rx 108761, dispensed on March 19, 2018, prior to filling a prescription for the highest strength oxycodone, 30 mg, on March 19, 2018, the patient had not filled any medications at Respondent Sal Pharmacy. The CURES report showed patient DLB last filled oxycodone 30 mg approximately three months prior on December 21, 2017, at Vernbro Pharmacy. Respondent Sal Pharmacy therefore dispensed a total daily dose of 120 mg oxycodone, which is over 3.5 times the recommended safe dose, to DLB, an opioid naïve patient.

73. Respondent Tabaroki took steps to verify the prescription. The front of the prescription document has notes stating the pharmacy "verified script per MD." (Exhibit 5, p. 25.) The pharmacy's electronic record stated: "pt has medical===not contracted (moratorium still in affect)"; "checked cures 8/21/18 and 9/4/18"; "9/20/18 per MD verified diagnosis M54.16 lumbar reticulopathy.tt"; "9/27/18 Dr gilbert faxed us her chart notes, it is uploaded in her documents tab. Dx: lumbar and cervical radiculopathy, bilateral knee pain, hip/knee ankle feet pain.tt". (Exhibit C, p. R-094.)

74. Respondent Tabaroki believed that the prescription was legitimate, because she verified the diagnosis, lumbar radiculopathy (ICD 10 code M54.16), cervical radiculopathy, bilateral knee pain, hip pain, and foot and ankle pain with the physician. In addition, the physician sent the chart notes with his explanation as to why this medication is prescribed for a legitimate purpose. Another factor that contributed to her belief in the legitimacy of the prescription(s) related to this patient was that the prescriber's medical office is located within four miles of Respondent Sal Pharmacy.

75. For Rx 113479, filled on September 20, 2018, approximately six months after the initial March 19, 2018 prescription, the prescription was written over two months prior, on July 11, 2018. The CURES report showed patient DLB last filled oxycodone 30 mg approximately five months prior, on April 30, 2018, at Vernbro Pharmacy. Respondent Sal Pharmacy therefore dispensed a total daily dose of 120 mg oxycodone, which is over 3.5 times the recommended safe dose, to DLB, who was once again considered an opioid naïve patient.

76. Respondent Tabaroki again took steps to verify the prescription. The front of the prescription document has notes stating the pharmacy "verified script per MD." (Exhibit 5, p. 26.) As previously noted, chart notes attached to the prescription

document from April 30, 2018, and July 11, 2018, indicated DLB suffered from right cervical and lumbar radiculopathy and bilateral knee pain.

77. For Rx 117923, filled on March 11, 2019, a little less than six months after the September 20, 2018 prior fill date, Respondent Sal Pharmacy and Tabaroki dispensed another prescription of oxycodone 30 mg to DLB with instructions to take one tablet every six hours as needed. The CURES report showed patient DLB last filled oxycodone 30 mg approximately six months prior on September 20, 2018 at Respondent Sal Pharmacy. The pharmacy therefore dispensed a total daily dose of 120 mg oxycodone, which is over 3.5 times the recommended safe dose, to DLB, who was once again considered an opioid naïve patient. Respondent Sal Pharmacy charged DLB an excessive amount for the prescription for 120 tablets of oxycodone 30 mg, $870, and DLB paid cash for the prescription.

78. Respondent Tabaroki again took steps to verify the prescription. The front of the prescription document has notes stating, "verified script per Frank and scanned in progress notes +MRI" and listed a diagnosis code of "M54.16." (Exhibit 5, p. 26.)

79. For Rx 119615, filled on May 13, 2019, Respondent Sal Pharmacy and Tabaroki dispensed another prescription of oxycodone 30 mg to DLB. The CURES report showed patient DLB last filled oxycodone 30 mg approximately two months prior on March 11, 2019 at Respondent Sal Pharmacy. The pharmacy therefore dispensed a total daily dose of 120 mg oxycodone, which is over 3.5 times the recommended safe dose, to DLB, who was once again considered an opioid naïve patient. Respondent Sal Pharmacy charged DLB an excessive amount for the prescription for 120 tablets of oxycodone 30 mg, $870, and DLB paid cash for the prescription.

80. Respondent Tabaroki again took steps to verify the prescription. The front of the prescription document has notes stating "checked cures and verified per MD." (Exhibit 5, p. 25.) The pharmacy's electronic record stated: "pt has medical===not contracted (moratorium still in affect)"; "checked cures 8/21/18 and 9/4/18"; "9/20/18 per MD verified diagnosis M54.16 lumbar reticulopathy.tt"; "9/27/18 Dr gilbert faxed us her chart notes, it is uploaded in her documents tab. Dx: lumbar and cervical radiculopathy, bilateral knee pain, hip/knee ankle feet pain.tt". (Exhibit C, p. R-094.)

81. Respondents Sal Pharmacy and Tabaroki failed to adequately address the failure to resolve the established red flags of the prescriptions and presented insufficient mitigating circumstances to establish that corresponding responsibility requirements were satisfied for the prescriptions filled on March 19, 2018 (RX 108761), September 20, 2018 (RX 113479), March 11, 2019 (RX 117923), May 13, 2019 (RX 119615). Respondent Tabaroki therefore either ignored or failed to properly address the CURES report when filling the prescription at the highest dose of oxycodone to an opioid naïve patient. Further, obtaining an MRI report from a prescriber would not justify the dispensing of oxycodone 30 mg to an opioid naïve patient.

82. On March 19, 2020, Respondent Sal Pharmacy and Pharmacist Zadkiel Entsuah dispensed a controlled substance (oxycodone 30 mg) to DLB (Rx #128094) in the presence of red flags suggesting this prescription was not written for legitimate medical reasons. On February 18, 2021, the Board issued Pharmacist Ensuah a citation in part for dispensing this prescription for the highest strength oxycodone to DLB, an opioid naïve patient at a total daily dose that exceeded the recommended safe dose and failing to either appropriately scrutinize or simply ignore the CURES report. (Exhibit I.) The citation is now final.

83. Pharmacist Ensuah testified at hearing. After the Board's investigation in this matter, on September 28, 2020, DLB returned to Respondent Sal Pharmacy with a prescription for oxycodone 30 mg. He refused to fill the prescription because the patient appeared "slightly nervous in demeanor." (Exhibit 31, p. 23.)

84. Respondent Sal Pharmacy failed to adequately address the following red flags in the March 19, 2020 prescription: the CURES report showed DLB last filled oxycodone 30 mg over six months ago on August 27, 2019, at Respondent Sal Pharmacy. Therefore, Respondent Sal Pharmacy once more dispensed a total daily dose of 120 mg of oxycodone to an opioid naïve patient. DLB was also receiving lorazepam and zolpidem (both CNS depressants) prescriptions from five different prescribers and filling them at three different pharmacies. Except for one prescription for prednisone 10 mg, DLB's medication profile consisted only of oxycodone 30 mg. In addition, Respondent Sal Pharmacy charged DLB an excessive amount for this prescription for 120 tablets of oxycodone 30 mg, $870, and DLB paid cash for the prescription.

85. Respondent Sal Pharmacy's argument that corresponding responsibility requirements were satisfied as to Rx 129094 is unpersuasive. The pharmacy failed to satisfy its corresponding responsibility requirements based on the red flags present in this prescription.

Patient AMB

86. On November 5, 2019, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to this AMB (Rx #124203) in the presence of numerous red flags, as described below, suggesting this prescription was not written for legitimate medical purposes.

Prior to filling a prescription for the highest strength oxycodone, 30 mg, on November 5, 2019, AMB had not filled oxycodone 30 mg at the pharmacy for approximately four months, since June 27, 2019. The CURES report showed that the last time AMB filled oxycodone 30 mg or any other opioid was at Respondent Sal Pharmacy on June 27, 2019. Respondent Sal Pharmacy and Tabaroki therefore dispensed a total daily dose of 60 mg oxycodone, which is over 1.5 times the recommended safe dose, to AMB, an opioid naïve patient.

87. Approximately four months later, on February 27, 2020, Respondents Sal Pharmacy and Tabaroki again dispensed a prescription for oxycodone 30 mg (RX 127523) to AMB, with the same directions for use. The CURES report showed AMB had not filled oxycodone 30 mg or any other opioid since November 5, 2019 at Respondent Sal Pharmacy, making AMB again opioid naïve. Nevertheless, Respondents Sal Pharmacy and Tabaroki again dispensed oxycodone 30 mg to AMB.

88. Respondent Sal Pharmacy charged AMB an excessive amount for the prescription for 60 tablets of oxycodone 30 mg, $558, and AMB paid cash for all her prescriptions. In addition, the prescriber's medical practice was located approximately 18 miles from Respondent Sal Pharmacy and 31 miles from AMB's residence. The prescribing physician only prescribed and Respondent Sal Pharmacy only dispensed oxycodone 30 mg to AMB.

89. Respondent Tabaroki testified she took steps to verify the prescription. Respondent Sal Pharmacy's computer system regarding the prescription indicates AMB had Medi-Cal, her medical diagnoses and codes, and that CURES was checked for early fills and pharmacy shopping. A computer note indicated the patient stayed with both her sister and aunt, whose address distances from Respondent Sal Pharmacy were 16 and 19 miles, respectively.

90. Respondent Tabaroki argued that her actions in attempting to verify the prescriptions legitimacy satisfy her corresponding responsibility. However, Respondent Tabaroki failed to adequately address her failure to resolve the established red flags of the prescription.

Patient HTW

91. On January 2, 2019, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to this HTW (Rx #116009) in the presence of numerous red flags, as described below, suggesting this prescription was not written for legitimate medical purposes.

The prescription for the highest strength oxycodone, 30 mg, was dispensed to HTW with instructions to take one tablet three times daily as needed for pain. However, prior to January 2, 2019, on September 17, 2018, Respondent Sal Pharmacy had dispensed a lower dose of oxycodone, 15 mg to HTW. The CURES report showed the last opioid filled by HTW was oxycodone 15 mg at Respondent Sal Pharmacy on September 17, 2018. Respondent Sal Pharmacy and Tabaroki therefore dispensed a total daily dose of 90 mg oxycodone, which is over 2.5 times the recommended safe dose, to HTW, an opioid naïve patient.

92. The office location for the prescriber marked on the prescription as PA Edwards' medical practice, was located in Fontana, was approximately 62 miles away from Respondent Sal Pharmacy, and approximately 55 miles away from HTW, who resided in Rancho Cucamonga.

93. Respondent Sal Pharmacy and Tabaroki took steps to verify the prescription. No notes were on the prescription document. However, the electronic pharmacy notes included: "verified diagnosis: M25.562 per madelin 7/20/18 checked

cures-ok (attached to rx). Hx of liver cancer and has active hepatitis c,"; "MD Blakhane primary across street referred pt to pain management specialist Jennifer Edwards." (Exhibit C, p. R-131.)

94. In mitigation, Respondents Tabaroki asserted that she had satisfied corresponding responsibility requirements. She believed the higher oxycodone 30 mg prescription was legitimate based on the prescriber's representations that she had been weaning the patient off of pain medication, but had increased the oxycodone dose because the patient had breakthrough pain. She asserted that because the prescriber was a pain management specialist the prescription seemed valid. Further, she argued, unconvincingly, that because the patient had been taking oxycodone 30 mg for many months prior per the CURES report, she was opioid tolerant and the fill was a continuation of therapy. Finally, Respondent Tabaroki noted that the explanation for why the patient filled the prescriptions so far from their residence was reasonable in that the patient's primary physician was located across the street from the pharmacy at Cedars Sinai Medical Center.

95. Respondent Tabaroki's arguments fail to adequately address her failure to resolve the established red flags of the prescription. The CURES information about the oxycodone 30 mg dispensing history of the patient was inappropriately scrutinized.

Patient TWW

96. On January 15, 2019, Respondents Sal Pharmacy and Askarifar (not Respondent Tabaroki as alleged in the Accusation) dispensed a controlled substance (alprazolam 2 mg) to TWW (RX #116410) in the presence of numerous red flags,

described below, suggesting this prescription was not written for legitimate medical purposes.

The prescription was dispensed for the highest strength of alprazolam, 2 mg, and TWW was instructed to take the medication twice daily as needed for anxiety. However, prior to January 15, 2019, TWW had never filled a lower dose of alprazolam or any other benzodiazepine at Respondent Sal Pharmacy.

The prescription was written by a new prescriber, PA Edwards, who concomitantly prescribed the highest strength of oxycodone 30 mg to TWW when the patient had not filled oxycodone 30 mg at Sal Pharmacy since November 16, 2018, one day under two months prior. TWW was also taking carisoprodol 350 mg, which should have been recognized as a red flag by Respondents Sal Pharmacy and Askarifar as the combination of oxycodone, carisoprodol and alprazolam is referred to as the "holy trinity." (Exhibit 5, p. 33.) As a pharmacist should reasonably be aware, when combined, these drugs are synergistic and cause respiratory depression and could result in death.

97. In addition, the CURES report showed that from January 15, 2018, through January 15, 2019, TWW did not fill a lower strength of alprazolam or any other benzodiazepine at another pharmacy. As a result, Respondents Sal Pharmacy and Askarifar dispensed the highest strength alprazolam, 2 mg, to a benzodiazepine naïve patient. Finally, the distances between PA Edwards' other location's medical practice in Huntington Park from Respondent Sal Pharmacy, 14 miles, and between TWW, who resided in Carson, and Respondent Sal Pharmacy, 21 miles, were additional red flags.

98. Respondent Askarifar testified she took steps to verify the prescription. There were no notes on the prescription document. However, pertinent notes in Respondent Sal Pharmacy's electronic record state: "3/27/19 consulted pt on

dangerous medication cocktail of soma, oxy, and Xanax, also spoke to his prescriber Jennifer Edwards about it and pt is aware that he needs to cut down and said he will try cutting back on xanax. tt." (Exhibit 5, p. 33.) Notably, the foregoing note is dated two months after RX 116410 was dispensed to TWW.

99. Respondent Askarifar's argument that her actions in attempting to verify the prescription's legitimacy satisfied her corresponding responsibility requirements is unpersuasive. She was aware of the dangerous combination of carisoprodol, oxycodone and alprazolam but did not contact PA Edwards and dispensed the prescription for the highest strength of the benzodiazepine to TWW. She therefore failed to adequately address her failure to resolve the established red flags of the prescription.

Patient MW

100. On March 5, 2019, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to MW (Rx #117765) in the presence of numerous red flags, described below, suggesting this prescription was not written for legitimate medical purposes.

The prescription for the highest strength oxycodone, 30 mg, was dispensed to MW with instructions to take one tablet three times daily as needed for pain. However, prior to March 5, 2019, Respondent Sal Pharmacy had never dispensed oxycodone at a lower strength or any other opioid pain reliever to him. In addition, MW was concomitantly prescribed prometh/cod. The CURES report showed there were "no records found" during a 12-month search period. (Exhibit 5, p. 34.) Respondent Sal Pharmacy and Tabaroki therefore dispensed a total daily dose of 90 mg oxycodone, which is over 2.5 times the recommended safe dose, to MW, an opioid naïve patient.

101. In addition, the office location that was marked on the prescription indicated that the prescription was issued from PA Edwards' medical practice located in Redondo Beach, which was approximately 15 miles away from Respondent Sal Pharmacy. Finally, Respondent Sal Pharmacy charged MW, a Medi-Cal patient, an excessive amount, $652.95, for the prescription for 90 tablets of oxycodone 30 mg.

102. Respondent Sal Pharmacy and Tabaroki took steps to verify the prescription. A copy of the prescription was faxed to PA Edwards' medical office with the request that she verify the prescription and provide MRI results and chart notes. PA Edwards wrote back, "yes, patient seen by me. Will provide MRI results/notes. Not entire chart available MRI report to follow with PCP notes." (*Id.*)

103. The chart notes provided by PA Edwards indicate MW saw the prescriber for a follow up for pain management. However, there was no indication that controlled substance pain relieving medications had been filled at any pharmacy prior to March 5, 2019. The notes in Respondent Sal Pharmacy's electronic records state: "3/5/19 tt: verified oxy script per PA Jennifer Edwards, who also faxed us pt's MRI results and chart notes (scanned into documents section of pt profile). Also checked cures and looks ok, stappled to original rx. DX ICD-10 CODES: M48.00, M54.17, M54.18, G90.09" and "pt has straight Medical we're not contracted." (Exhibit 5, p. 34.)

104. In mitigation, Respondents Tabaroki asserted that she had satisfied corresponding responsibility requirements. She believed the higher oxycodone 30 mg prescription was legitimate based on the information provided by the prescriber's representations and the patient's medical records.

105. Respondent Tabaroki's arguments fail to adequately address her failure to resolve the established red flags of the prescription. The CURES information about

the oxycodone 30 mg dispensing history of the patient was inappropriately scrutinized.

Patient DY

106. On April 24, 2019, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to DY (Rx #119057) in the presence of numerous red flags suggesting this prescription was not written for legitimate medical purposes. The red flags included: the prescription for the highest strength oxycodone, 30 mg, was dispensed to DY with instructions to take one tablet twice daily as needed for pain. However, prior to April 24, 2019, Respondent Sal Pharmacy had never dispensed oxycodone at a lower strength or any other opioid pain reliever to him. In addition, DY was concomitantly prescribed prometh/cod. The CURES report showed there were no records found during a 12-month search period. Respondent Sal Pharmacy and Tabaroki therefore dispensed a total daily dose of 60 mg oxycodone, which is over 1.5 times the recommended safe dose, to DY, an opioid naïve patient. Respondent Sal Pharmacy also dispensed 120 tablets to DY, amounting to a 60-day supply.

107. In addition, the prescription document showed that the prescription was issued from PA Edwards' medical office location in Huntington Park, which was approximately 15 miles from Respondent Sal Pharmacy and DY's residence. Finally, Respondent Sal Pharmacy charged DY an excessive amount, $870, for the prescription for 120 tablets of oxycodone 30 mg. and DY paid cash for the prescription.

108. Respondent Sal Pharmacy and Tabaroki took steps to verify the prescription. Notes on the prescription document indicate the pharmacy "verified script and DX per P.A. and checked cures (looks ok)." The notes in Respondent Sal

Pharmacy's electronic records stated: "4/22/19 checked cures and there is no file for him, printed it and stappled [*sic*] it to original rx. Also verified script and diagnosis with PA Edwards and is written on script.pt was in motor vehicle accident and fractured pelvis, had pelvis surgery. M25.55, m54.17, m54.5, m54.18 tt." (Exhibit 5, p. 35.) It was also noted that the patient lived within three miles of Respondent Sal Pharmacy. (Exhibit C, p. R-183.)

109. In mitigation, Respondents Tabaroki asserted that she had satisfied corresponding responsibility. She believed the higher oxycodone 30 mg prescription was legitimate based on the information provided by the prescriber's representations and the patient's medical records.

110. Respondent Tabaroki's arguments fail to adequately address her failure to resolve the established red flags of the prescription. The CURES information about the oxycodone 30 mg dispensing history of the patient was inappropriately scrutinized.

Patient BHP

111. On August 2, 2018, Respondents Sal Pharmacy and Askarifar dispensed a controlled substance (oxycodone 30 mg) to BHP (RX #111873) in the presence of numerous red flags, described below, suggesting this prescription was not written for legitimate medical purposes.

The prescription for the highest strength oxycodone, 30 mg, was dispensed to BHP with instructions to take one tablet four times daily as needed for pain. However, prior to that day, Respondent Sal Pharmacy had dispensed hydrocodone/ acetaminophen (H/APAP) 10/325 mg approximately three months prior on May 9, 2018, which was written by another prescriber. BHP was also concomitantly

taking prometh/cod which increased her risk of profound sedation, respiratory depression, coma and death.

The CURES report showed that from February 2, 2018, through August 2, 2018, BHP filled the H/APAP 10/325 mg prescription on February 13, 2018 at Walgreens #12913. Respondents Sal Pharmacy and Askarifar therefore dispensed a total daily dose of 120 mg oxycodone, which is over 3.5 times the recommended safe dose, to BHP, an opioid naïve patient.

112. Respondent Sal Pharmacy and Askarifar argued that they took steps to verify the prescription. The pertinent notes in the electronic record state: "checked cures 8/2/18 norco on 7/11 walgreens pt will not fill norco and will only see one doctor otherwise we won't fill for her" (Exhibit C, p. R-070.)

113. Respondent Askarifar's arguments fail to adequately address her failure to resolve the established red flags of the prescription. She acknowledged the red flags and filled the prescription knowingly in violation of her corresponding responsibility requirements.

VIOLATION OF CORRESPONDING RESPONSIBILITY REQUIREMENTS NOT ESTABLISHED FOR PATIENTS SJH AND MEW

114. Based on the evidence presented by Respondents in mitigation, Complainant failed to establish through clear and convincing evidence that Respondents violated their corresponding responsibility requirements for Patients SJH and MEW as set forth in Factual Findings 114 through 126 below.

Patient SJH

115. On February 13, 2018, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to SJH (Rx #107936) in the presence of some red flags, described below, suggesting this prescription was not written for legitimate medical purposes.

Prior to filling a prescription for the highest strength oxycodone, 30 mg, on February 13, 2018, Respondent Sal Pharmacy had never dispensed oxycodone at a lower strength or any other opioid pain reliever to SJH.

The CURES report showed that SJH last filled oxycodone 30 mg over two months ago on December 6, 2017, at Vernbro Medical Pharmacy, Inc. Respondent Sal Pharmacy therefore dispensed a total daily dose of 120 mg oxycodone, which is over 3.5 times the recommended safe dose, to SJH, an opioid naïve patient.

In addition, Respondent Sal Pharmacy charged SJH an excessive amount for the prescription for 120 tablets of oxycodone 30 mg, $748.95, and SJH paid cash for all his prescriptions. Further, though the prescription was written on January 16, 2018, it was not dispensed by Respondent Sal Pharmacy until one month later on February 13, 2018.

116. After February 13, 2018, SJH only filled oxycodone 30 mg at Respondent Sal Pharmacy approximately every six weeks through April 29, 2020, paying up to $870 in cash per each prescription of 120 tablets of oxycodone 30 mg.

117. Respondent Tabaroki took steps to verify the prescription. Her notes on the front of the prescription state, "verified per Gerardo" and noted "ICD10 code diagnosis: M75.22 bicipital tendinitis." (Exhibit 5, p. 23.) Respondent Sal Pharmacy's

electronic pharmacy notes reiterate the written notes stating: "checked cures 6/22/2018 not early"; "9/14/18 checked cures attached to script-ok"; "Verified per Gerardo. Dx code M75.22"; "per md Randall Gilvert diagnosis code icd 10 m54.16 lumbar radiculopathy verbal 1/31/2019 02:15pm sal" (Exhibit C, p. R-052.)

118. Respondent Tabaroki argued that her actions in attempting to verify the prescription's legitimacy satisfy her corresponding responsibility requirements. She argued that the patient was opioid tolerant not naïve because he filled oxycodone 30 mg prescriptions for three consecutive fills prior and the prescription was filled as part of the patient's continuation of therapy. She asserted that she had asked the patient why he was filling oxycodone 30 mg every two months and was told by the patient that he sees the doctor every two months because he takes the medication as needed, which was consistent with the prescription's notation of "prn." (Exhibit 31, p. 19.)

119. Respondent Tabaroki noted that the prescription appeared valid because the patient lived a reasonable distance to the pharmacy, 8.6 miles, and the prescriber's medical office is located in close proximity to the pharmacy, within 4 miles. Respondent Tabaroki adequately addressed her failure to resolve the established red flags of the prescription, including the fact that, contrary to her argument, the patient was opioid naïve.

120. Based on the convincing evidence in mitigation presented by Respondents Sal Pharmacy and Tabaroki to confirm the legitimacy of the prescription, Complainant has not established through clear and convincing evidence that Respondents Sal Pharmacy and Tabaroki violated their corresponding responsibility in filling the prescription for SJH.

Patient MEW

121. On March 1, 2018, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to MEW (Rx #108333) in the presence of some red flags, described below, suggesting this prescription was not written for legitimate medical purposes.

Prior to filling a prescription for the highest strength oxycodone, 30 mg, on March 1, 2018, Respondent Sal Pharmacy had never dispensed oxycodone at a lower strength or any other opioid pain reliever to MEW.

The CURES report showed that MEW last filled oxycodone 30 mg approximately four months prior on November 8, 2017, at Vernbro Medical Pharmacy, Inc. Respondent Sal Pharmacy therefore dispensed a total daily dose of 120 mg oxycodone, which is over 3.5 times the recommended safe dose, to MEW, an opioid naïve patient. Further, though the prescription was written on January 15, 2018, but it was not dispensed by Respondent Sal Pharmacy until one month later on February 13, 2018.

122. After February 13, 2018, MEW filled oxycodone 30 mg at Respondent Sal Pharmacy approximately every five to seven weeks through December 18, 2018.

123. Respondent Tabaroki took steps to verify the prescription. Her notes on the front of the prescription state, "verified per Gerardo" and noted "ICD10 code diagnosis: M75.22 bicipital tendinitis." (Exhibit 5, p. 25.) Respondent Sal Pharmacy's electronic pharmacy notes reiterate the written notes stating: "11-1/18 checked cures ok and verified script per md"; "11/2/18 per md gilbert diagnosis: lumbar radiculopathy icd10: M54.16 verbal salvia." (Exhibit C, p. R-057.)

124. Respondent Tabaroki argued that her actions in attempting to verify the prescriptions legitimacy satisfy her corresponding responsibility requirements. She argued that the patient was opioid tolerant not naïve based on the history of the patient's usage of the medication on the CURES report and the prescription was filled as part of the patient's continuation of therapy. She asserted that she spoke directly to the physician and when he verified the prescription, he asked that she confirm what color the ink was and verified that it was a legitimate prescription that he wrote himself. Based on the diagnosis of lumbar radiculopathy (M54.16), Respondent Tabaroki believed that the prescription was written for a legitimate purpose. The patient did not pay cash for the prescription.

125. Respondent Tabaroki asserted that the prescription also appeared valid because the patient lived what she believed to be a reasonable distance to the pharmacy, 9.1 miles, and the prescriber's medical office is located in close proximity to the pharmacy, 4 miles. Respondent Tabaroki adequately addressed her failure to resolve the established red flags of the prescription, including the fact that, contrary to her incorrect belief to the contrary, the patient was opioid naïve.

126. Based on the convincing evidence in mitigation presented by Respondents Sal Pharmacy and Tabaroki to confirm the legitimacy of the prescription, Complainant has not established through clear and convincing evidence that they violated their corresponding responsibility requirements in filling the prescription for MEW.

CURES VIOLATIONS

127. It is undisputed that between April 29, 2017, and April 29, 2020, Respondents Sal Pharmacy and Askarifar (as the PIC), failed to report at least 248

schedule II through IV controlled substance prescriptions to the Department of Justice, in violation of Pharmacy Law.

128. At hearing, through admitting the CURES violation, PIC Askarifar deflected responsibility for Respondent Sal Pharmacy's failure to report to CURES to deficiencies in the pharmacy's software vendor, characterizing the failure as a "computer glitch." According to PIC Askarifar, immediately after receiving notice of the CURES reporting violations from the Board, she launched an internal investigation for the possible cause of the deficiency. She contacted the pharmacy's software vendor, PioneerRx, to request analysis of the issue and immediate correction. Based on the information received, it appears that the prescriptions listed as unreported were transmitted to Atlantic Associates, the data processing intermediary for CURES database. However, the records were rejected because of missing or incorrectly formatted prescriber's Drug Enforcement Administration (DEA) number(s).

129. PIC Askarifar testified at hearing that she did not know the pharmacy's system was not properly configured by the software vendor resulting in the failure to report to CURES by the pharmacy. According to PIC Askarifar once she was aware of the issue, she ensured that the error was promptly corrected by the software vendor and all affected records were corrected and retransmitted to Atlantic Association by Respondent Sal Pharmacy. The missing records have subsequently been successfully uploaded to CURES.

130. The evidence in mitigation explains but does not justify Respondent Sal Pharmacy's three-year-long failure to report controlled substance prescriptions to CURES. Respondent Sal Pharmacy and PIC Askarifar had a statutory duty to ensure the prescriptions were being reported to CURES in a timely manner. Further, Respondent PIC Askarifar was notified of the ongoing failure to report to CURES because the

pharmacy software generates rejection emails when data is not successfully uploaded to CURES. Respondent PIC Askarifar acknowledged receipt of the rejection emails but testified that she did not review them because they were sent to her spam folder and was, therefore, unaware of the ongoing failure to report to CURES by Respondent Sal Pharmacy.

Respondents' Evidence in Rehabilitation

131. At hearing, Respondents continued to dispute that they violated their corresponding responsibilities requirements, asserting that they had acted properly with respect to the relevant prescriptions. Nevertheless, it is evident from their subsequent rehabilitative efforts that Respondents have learned from their past errors and are unlikely to violate their duties of corresponding responsibility requirements and fail to report to CURES in the future. Specifically, Respondents have reassessed their decision-making process and made significant changes to their respective practices to ensure that their current practices conform to the expectations of the Board. Respondents conceded that, in retrospect, they would not have filled most of the relevant prescriptions again in the presence of the same red flags.

RESPONDENT SAL PHARMACY

132. As a result of the Board investigation and findings, PIC Askarifar reviewed Respondent Sal Pharmacy's existing policy and procedure and, in consultation with pharmacists Respondent Tabaroki and Entsuah, amended the policy to implement the following changes: emphasize in-depth inquiry into legitimacy of each prescription in presence of potential factors of irregularity; improve documentation of resolution of all red flags prior to dispensing; documentation of rejections; emphasize efforts to work with prescribers on adherence to currently accepted clinical guidelines for utilization of

opioids and other controlled substances; reduce service area for controlled substances for five miles; and daily monitoring of CURES submission and prompt correction of any rejections. (Exhibits E and 31.)

133. Pharmacist Entsuah testified at hearing and corroborated the policy and procedure changes that were enacted after the Board's investigation and findings at Respondent Sal Pharmacy by PIC Askarifar. He testified that the change in policy has resulted in an increase of rejected prescriptions that do not meet the exacting professional standards.

134. In addition, after the Board's initial inquiry into the prescribing patterns of selected prescribers, Respondents stopped dispensing controlled prescriptions for these prescribers and implemented a comprehensive strategy to reduce the overall volume of controlled substances dispensed by Respondent Sal Pharmacy.

135. According to Respondent Sal Pharmacy, the implementation of the new policies and procedures have resulted in a substantial reduction of the number of prescriptions for Schedule II controlled substances of approximately 40 percent. (Exhibit 31, p. 3.) At hearing, PIC Askarifar testified that the pharmacy had stopped filing any oxycodone 30 mg prescriptions as of May 21, 2020.

RESPONDENT ASKARIFAR

136. Respondent Askarifar credibly testified at hearing. She has been a member of the pharmacy profession since approximately 2005 when she started as an extern at Walgreens and has been a practicing pharmacist since approximately 2008. Respondent Askarifar testified regarding her good faith efforts to satisfy her duty of corresponding responsibility requirements with regards to the prescriptions at issue. She believes that, as corroborated by Inspector Top, Respondents went above and

beyond in attempting to ensure that the prescriptions were legitimate by contacting the prescribers and obtaining medical records.

137. Respondent Askarifar believes that pharmacists do not receive sufficient training and education in pharmacy school regarding the practicalities of corresponding responsibility requirements and are not adequately prepared to address the red flags, erroneously believing that communication with prescribers and medical patient records are sufficient to resolve prescription issues. Respondent Askarifar is committed to ensuring her future compliance with all Board regulations and procedures related to corresponding responsibility. Subsequent to the Board investigation and findings, she now understands that certain red flags require a rejection of a prescription and cannot simply be resolved by obtaining additional information from prescribers and the patients' medical records.

138. Respondent Askarifar is committed to staying educationally current in the profession of pharmacy as it relates to opioids and their dispensing. In corroboration, she submitted number of certificates of completion of and registrations in of opioid related educational courses. (Exhibit M.)

139. To corroborate her positive personal and professional reputation, Respondent Askarifar submitted character reference letters from past pharmacy employers, volunteer position supervisor(s), Respondent Sal Pharmacy's commercial properly location managers, her congregation's rabbi, and Respondent Sal Pharmacy patients. All the letters attested to Respondent Askarifar's integrity, professionalism, and altruistic natures. (Exhibit N.)

140. Respondent Askarifar is a mother of two young children, ages three and one-and-a-half. She loves being a pharmacist and serving the community.

RESPONDENT TABAROKI

141. Respondent Tabaroki is an hourly paid pharmacist at Respondent Sal Pharmacy. She testified credibly at hearing. Respondent Tabaroki was licensed at the end of 2014 and had little prior pharmacy experience before she was employed at Respondent Sal Pharmacy. She believes that she followed the pharmacy's guidelines and satisfied her corresponding responsibility requirements as to the prescriptions at issue.

142. Based on the understanding she has obtained through the Board investigation and findings, Respondent Tabaroki would not fill the prescriptions at issue. She now has a better understanding of the red flags that necessitate the rejection of prescriptions even after obtaining information from prescribers and patient medical records indicate the prescription is legitimate.

143. Respondent Tabaroki stringently follows the post Board investigation enacted policies and procedures at Respondent Sal Pharmacy and rejects prescriptions regularly that have red flags.

144. Like Respondent Askarifar, Respondent Tabaroki is committed to staying educationally current in the profession of pharmacy as it relates to opioids and their dispensing. In corroboration, she submitted a number of certificates of completion of, and registrations in, opioid related educational courses. (Exhibit L.)

145. Respondent Tabaroki submitted character reference letters in support of her continued licensure. The letters included: a Respondent Sal Pharmacy patient she informed regarding the negative long-term effects of a medication that had been prescribed to him by his prescriber; her congregation's rabbi; her internship pharmacy supervisor; a former pharmacy employer; current colleague Pharmacist Entsuah; and a

past pharmacy colleague. (Exhibit N.) All the letters attested to Respondent Tabaroki's caring nature, honesty, commitment to the pharmacy profession, and positive nature. (Exhibit N.)

146. Respondent Tabaroki is passionate about her pharmacy career and is committed to helping patients.

Costs

147. Complainant submitted a certification of costs which stated that 130 hours were expended in the investigation of this matter, and that investigative costs were $121 per hour for 123.50 hours for Inspector Top and $127 per hour for 6.5 hours by the supervising inspector. The investigation was extensive and was well documented. It was not established that the time spent in the investigation, or the hourly rate charged for investigation was unreasonable. The Board's costs of investigation totaled $15,769.

148. The deputy who prosecuted this matter submitted a declaration to which a billing statement was attached. The billing statement detailed the legal services provided by the Attorney General's Office in the prosecution of this matter. Through February 9, 2022, the Office of the Attorney General billed the Board $13,911.25 for legal services.

149. The total costs of investigation and enforcement of $29,680.25 are reasonable.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. The burden and standard of proof requires a regulatory board or agency seeking to suspend or revoke a professional license to prove all the allegations of an accusation by clear and convincing evidence. (*Owens v. Sands* (2009) 176 Cal.App.4th 985, 991-992.) Clear and convincing evidence requires a finding of high probability so that the evidence must be so clear as to leave no substantial doubt and sufficiently strong to cause assent of every reasonable mind.

2. A party has the burden of proof to each fact the existence or nonexistence of which is central to the claim for relief or defense they are asserting except as otherwise provided by law. To meet their burden, the party bearing the burden of proof must present clear and convincing evidence to establish the facts alleged. In this matter, Complainant bears and met the burden to establish the allegations as to 15 of the 17 patients in the Accusation by clear and convincing evidence.

Pharmacy Regulation

3. The Board is mandated to prioritize the protection of the public against any other inconsistent interests. (Bus. & Prof. Code, § 4001.1.) Pharmacies must be licensed by the Board. Every pharmacy must have a PIC, an individual licensed by the Board who is responsible for a pharmacy's compliance with all state and federal laws.

Purpose of Administrative Disciplinary Proceedings

4. A license revocation proceeding is civil in nature. The purpose of a license revocation proceeding is not to punish the licensee but to provide protection to the public based upon the principle that public respect and confidence is upheld by eliminating dishonest, incompetent, immoral, or disreputable practitioners. (*Fahmy v. Medical Bd. Of California* (1995) 38 Cal.App.4th 810, 817.)

Corresponding Responsibility Law

5. The first, third, and fifth causes for discipline in this matter are based on allegations that Respondents Sal Pharmacy, Askarifar, and Tabaroki violated the corresponding responsibility law requirements. The corresponding responsibility law is a duty recognized by statute and regulations and interpreted by the courts.

6. Health and Safety Code section 11153, subdivision (a), provides the corresponding responsibility requirements:

> A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and

> authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

7. The "corresponding responsibility" law requires a pharmacist to be alert, to make reasonable inquiry when circumstances require, and to refuse to fill a questionable prescription for a controlled substance when, after engaging in due diligence, nothing establishes that the prescription at issue was issued for a legitimate medical purpose. Pharmacists, as reasonable professional persons, should obey the law, and they must refuse to dispense drugs when their suspicions are aroused by unexplained ambiguities in the prescriptions or by the sheer volume of controlled substances prescribed by a single practitioner for a small number of persons. (*Vermont & 100th Medical Arts Pharmacy v. Board of Pharmacy* (1981) 125 Cal.App.3d 19, 25.)

8. As related to corresponding responsibility based on erroneous or uncertain prescriptions, California Code of Regulations, section 1761 provides:

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

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

9. Respondents argued that Complainant failed to meet its burden of proof. They asserted that they took sufficient steps to satisfy their corresponding responsibility requirements by contacting prescribers to ensure that the controlled substance dispensed were based on prescriptions based on legitimate medical purposes prior to dispensing the controlled substances. Respondents asserted that the prescriptions at issue were valid on their face and that Respondents had a duty to dispense these prescriptions under Business and Professions Code section 733. Respondents argued that the "red flags" described by Inspector Top, as well as the statistical data, were irrelevant or excused by innocent explanations. They argued Complainant's prosecution was excessive and Inspector Top either ignored exculpatory evidence or erred in reaching her conclusions regarding Respondents' corresponding responsibility violations.

10. Business and Professions Code section 733 provides, in relevant part:

> (a) No licentiate shall obstruct a patient in obtaining a prescription drug . . . that has been legally prescribed or ordered for that patient. A violation of this section constitutes unprofessional conduct by the licentiate and shall subject the licentiate to disciplinary or administrative action by his or her licensing agency.

11. Respondents' arguments are unconvincing. To establish a violation of the corresponding responsibility requirements, Complainant was not required to establish that a prescription for a controlled substance was written by a prescriber for an illegitimate purpose; rather to establish a violation of the statute, Complainant was simply required to establish that circumstances were present that would cause a reasonable and prudent pharmacist to question whether a prescription for a controlled substance was issued for a legitimate medical purpose, even after conferring with the prescriber. Refusing to dispense a controlled substance prescription where the pharmacist knows or has objective reason to know that said prescription was not issued for a legitimate purpose does not violate Business and Professions Code section 733. But, when a pharmacist dispenses controlled substances prescriptions in the presence of multiple factors of irregularity or red flags, even after conferring with a prescriber, as was the case in this matter, the pharmacist engages in unprofessional conduct, and violates the corresponding responsibility law.

Unprofessional Conduct

12. Business and Professions Code section 4301 states, in pertinent part:

> The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license had been 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, 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.

13. Business and Professions Code section 4306.5 defines what acts or omissions constitute unprofessional conduct as follows:

(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 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.

14. Business and Professions Code section 4022 defines dangerous drugs or dangerous devices and provides:

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

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

(b) Any device that bears the statement: "Caution: federal law restricts this 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 or order use of the device.

(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.

Reporting Controlled Substances Prescriptions to CURES

15. Health and Safety Code section 11165, subdivision (d), establishes a statutory duty to report controlled substance prescriptions to CURES by the dispensing pharmacy, and states:

> (d) For each prescription of a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, and respectively, or Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the Department of Justice as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed, in a format specified by the Department of Justice:
>
> (1) Full name, address, and, if available, telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.
>
> (2) The prescriber's category of licensure, license number, national provider identifier (NPI) number, the federal controlled substance registration number, and the state medical license number of any prescriber using the federal

controlled substance registration number of a government-exempt facility, if provided.

(3) Pharmacy prescription number, license number, NPI number, and federal controlled substance registration number.

(4) National Drug Code (NDC) number of the controlled substance dispensed.

(5) Quantity of the controlled substance dispensed.

(6) International Statistical Classification of Diseases, 9th revision (ICD-9) or 10th revision (ICD-10) Code, if available.

(7) Number of refills ordered.

(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

(9) Date of origin of the prescription.

(10) Date of dispensing of the prescription.

(11) The serial number for the corresponding prescription form, if applicable.

16. Health and Safety Code section 11165.2 states, in relevant part:

(a) The Department of Justice may conduct audits of the CURES Prescription Drug Monitoring Program system and its users. [¶] . . . [¶]

(g) Nothing in this section shall be deemed to prevent the department from serving and prosecuting an accusation to suspend or revoke a subscriber if grounds for that suspension or revocation exist.

17. Health and Safety Code section 11165.6 states "[A] prescriber shall be allowed to access the CURES database for a list of patients for whom that prescriber is listed as a prescriber in the CURES database.

Other Relevant Statutes and Regulation

18. Business and Professions Code section 118, subdivision (b) provides that the suspension, expiration, surrender, cancellation of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the period withing which the license may be renewed, restored, reissued or reinstated.

19. Business and Professions Code section 4300 states, in relevant part:

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

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

(1) Medical or psychiatric evaluation.

(2) Continuing medical or psychiatric treatment.

(3) Restriction of type or circumstances of practice.

(4) Continuing participation in a board-approved rehabilitation program.

(5) Abstention from the use of alcohol or drugs.

(6) Random fluid testing for alcohol or drugs.

(7) Compliance with laws and regulations governing the practice of pharmacy.

(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

(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.

20. Business and Professions Code section 4300.1 provides:

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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21. Business and Professions Code section 4307 provides:

(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 manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control had knowledge of 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, partner, or in any other position with management or control of a licensee as follows:

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

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

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

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

22. California Code of Regulations, title 16, section 1709.1 provides in part:

(a) The pharmacist-in-charge of a pharmacy shall be employed at that location and shall have responsibility for the daily operation of the pharmacy.

(b) The pharmacy owner shall vest the pharmacist-in-charge with adequate authority to assure compliance with the laws governing the operation of a pharmacy.

Cause Exists to Impose Discipline Against Respondent Sal Pharmacy's Permit

FIRST CAUSE FOR DISCIPLINE – VIOLATION OF CORRESPONDING RESPONSIBILITY

23. The clear and convincing evidence established that Respondent Sal Pharmacy's permit is subject to discipline under Health and Safety Code section 11153, subdivision (a), in conjunction with California Code of Regulations, title 16, section 1761, subdivisions (a) and (b). Respondent Sal Pharmacy failed to comply with the corresponding responsibility requirements when it filled 15 prescriptions as set forth in Factual Findings 41 through 113.

SECOND CAUSE FOR DISCIPLINE – FAILURE TO REPORT TO CURES

24. The clear and convincing evidence established that Respondent Sal Pharmacy's permit is subject to discipline under Business and Professions Code section 4301, subdivisions (j) and (o), in conjunction with Health and Safety Code section 11165, subdivision (d). Respondent Sal Pharmacy failed to report controlled substances prescriptions to CURES from April 29, 2017, through April 29, 2020, as set forth in Factual Finding 127.

Cause Exists to Impose Discipline Against Respondent Askarifar

THIRD CAUSE FOR DISCIPLINE

25. The clear and convincing evidence established that Respondent Askarifar's license is subject to discipline under Business and Professions Code section 4301, subdivisions (j) and (o), and Health and Safety Code section 11153, subdivision

(a), in conjunction with California Code of Regulations, title 16, section 1761, subdivisions (a) and (b). Respondent Askarifar failed to comply with the corresponding responsibility requirements when she filled prescriptions for five patients as set forth in Factual Findings 41 through 45, 65 through 70, 96 through 99, and 111 through 113.

FOURTH CAUSE FOR DISCIPLINE

26. The clear and convincing evidence established that Respondent Askarifar's license is subject to discipline under Business and Professions Code section 4301, subdivisions (j) and (o) and Health and Safety Code section 11165, subdivision (d). Respondent Askarifar failed to report controlled substance prescriptions to CURES as PIC of Respondent Sal Pharmacy between April 29, 2017 and April 29, 2020.

Cause Exists to Impose Discipline Against Respondent Tabaroki

FIFTH CAUSE FOR DISCIPLINE

27. The clear and convincing evidence established that Respondent Tabaroki's license is subject to discipline under Business and Professions Code section 4301, subdivisions (j) and (o), and Health and Safety Code section 11153, subdivision (a), in conjunction with California Code of Regulations, title 16, section 1761, subdivisions (a) and (b). Respondent Tabaroki failed to comply with the corresponding responsibility requirements when she filled prescriptions for 10 patients as set forth in Factual Findings 46 through 64, 71 through 81, 86 through 90, and 100 through 105.

Appropriate Discipline

28. All matters in rehabilitation and mitigation have been considered. Based on the Board's Disciplinary Guidelines (Rev. 2/2017), outright revocation is unduly punitive in this matter. (Cal. Code of Regs., tit. 16, § 1760.)

29. The relevant factors to be considered in determining the appropriate level of discipline include: actual or potential harm to the public; actual or potential harm to any consumer; prior disciplinary record, including level of compliance with disciplinary order(s); prior warning(s), including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s); number or variety of current violations; nature and severity of the act(s), offense(s), or crime(s) under consideration; aggravating evidence; mitigating evidence; rehabilitation evidence; time passed since the acts or offenses; whether the conduct was intentional or negligent, or demonstrated incompetence; and financial benefit to the respondent from the misconduct. (Bus. & Prof. Code, § 4300.)

30. In this case, it is significant mitigating evidence that Respondents made good faith efforts to satisfy their corresponding responsibility duties by, among other steps, contacting prescribers and obtaining patients medical records prior to filling the prescriptions. However, based on their negligent understanding of corresponding responsibility duties as it relates to red flags, Respondents ignored glaring red flags for 15 of the 17 prescriptions at issue and violated their corresponding responsibility requirements by filling the prescriptions. There was a clear financial benefit to Respondents Sal Pharmacy and Askarifar and from filling the prescriptions in that the patients paid excessive amounts for the prescriptions. Respondent Tabaroki did not have an ownership stake in the pharmacy and, in mitigation, was following the then policies and procedures at Respondent Sal Pharmacy when filling the prescriptions she should have rejected.

31. For two out of the seventeen prescriptions at issue, Respondents established sufficient mitigating evidence that they satisfied their corresponding responsibility duties. Subsequent to the Board's investigation and findings,

Respondents have taken concrete steps to correct their practices and ensure that their corresponding responsibility will not be violated in the future. It is unlikely based on the Respondents current knowledge and practice that corresponding responsibility will be violated in the future when Respondents are presented with similar red flags.

32. The failure to report to CURES over a three-year period was a serious ongoing violation and little convincing evidence was presented to mitigate Respondents' Sal Pharmacy and PIC Askarifar's failure to report the controlled substances for the extensive three-year time period. While the error was acknowledged and quickly corrected by Respondents Sal Pharmacy and Askarifar, the deflection of responsibility for the duty to report at hearing to a software glitch is concerning. The fact that PIC Askarifar allowed such an egregious error to go unnoticed despite emails being generated by the software putting her on notice of the ongoing issue indicates she does not currently possess the requisite competence to act as Respondent Sal Pharmacy's PIC.

33. The goal of public protection is tantamount. Punishment is not the goal of Board discipline. Accordingly, a three-year term of probation under appropriate terms and conditions is warranted based on the extensive good faith efforts of Respondent Tabaroki to satisfy her duty of corresponding responsibility while employed at Respondent Sal Pharmacy.

34. Notwithstanding that red flags were either ignored on incorrectly analyzed, the evidence in mitigation presented by Respondents Sal Pharmacy and Askarifar at hearing clearly showed the extensive efforts the parties took to satisfy their duties of corresponding responsibility; prescribers were contacted, medical records were retrieved, and patients were counseled regarding their controlled substance prescriptions. Further, the rehabilitation demonstrated by the parties makes

recurrence of the misconduct, including the failure to report controlled substances to CURES, unlikely in the future. A five-year period of probation under appropriate terms and conditions is therefore warranted to ensure public protection for Respondents Sal Pharmacy and Askarifar in this matter.

No Additional Ownership or Management of Licensed Premises

35. Based on the discipline imposed on Respondents Sal Pharmacy's Pharmacy Permit and Respondents Askarifar and Tabaroki's Pharmacist Permits, cause exists pursuant to Business and Professions Code section 4307, to include probationary terms and conditions for each respondent prohibiting Respondents from acquiring any additional ownership, legal or beneficial interest in, nor serving as a manager, administrator, member, officer, director, associate, partner or any business, firm, partnership, or corporation currently or hereinafter licensed by the Board except as approved by the Board.

Costs

36. Business and Professions Code section 125.3 states, in relevant part:

> (a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary proceeding before any board within the department or before the Osteopathic Medical Board, upon request of the entity bringing the proceeding, the administrative law judge may direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) In the case of a disciplined licensee that is a corporation or a partnership, the order may be made against the licensed corporate entity or licensed partnership.

37. The Board must exercise its discretion to reduce or eliminate cost awards in a manner that will ensure the award does not deter licensees with potentially meritorious claims or defenses from exercising their right to a hearing. (*Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.App.4th 32, 45.)

38. It was not established that any of the *Zukerman* criteria applied in this matter.

39. The Board of Pharmacy's reasonable costs of investigation and enforcement total $29,680.25. The repayment of the costs is apportioned between Respondents as follows: Respondents Sal Pharmacy and Askarifar are jointly and severally liable for repayment of two-thirds of the total costs in the sum of $19,786.83. Respondent Tabaroki shall repay the remaining third of the costs in the sum of $9,893.42.

ORDER

Respondent Sal Pharmacy

Permit number PHY 54465, issued to Respondent Sal Pharmacy is revoked; however, the revocation is stayed, and respondent is placed on probation for five years on the following terms and conditions:

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1. Definition: Respondent

For the purposes of these terms and conditions, "respondent" shall refer to Sal Pharmcy Inc. doing business as Sal Pharmacy, Salvia Askarifar, CEO, 100 percent Shareholder, Secretary, Director, and Treasurer. 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 license 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.

3. Report to the Board

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

4. Interview with the Board

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

5. Cooperate with Board Staff

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

6. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, respondent is jointly and severally liable with Respondent Salvia Askarifar to pay to the board its costs of investigation and prosecution in the amount of $19,786.83. Respondent shall make said payments as follows: on a payment plan approved by the board. There shall be no deviation from the payment plan schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

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

7. Probation Monitoring Costs

Respondent shall pay any costs associated with probation monitoring as determined by the board each and every year of probation. Such costs shall be payable to the

board on a schedule as directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall be considered a violation of probation.

8. Status of License

Respondent shall, at all times while on probation, maintain current pharmacy permit with the board. Failure to maintain current licensure shall be considered a violation of probation.

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

9. License Surrender While on Probation

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

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

Respondent further stipulates that it shall reimburse the board for its costs of investigation and prosecution prior to the acceptance of the surrender.

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

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

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

Respondent further stipulates that it shall reimburse the board for its costs of investigation and prosecution prior to the acceptance of the surrender.

10. Sale or Discontinuance of Business

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

11. Notice to Employees

Respondent shall, upon or before the effective date of this decision, ensure that all employees involved in permit operations are made aware of all the terms and conditions of probation, either by posting a notice of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout the probation period. Respondent shall ensure that any employees hired or used after the effective date of this decision are made aware of the terms and conditions of probation by posting a notice, circulating a notice, or both. Additionally, respondent shall submit written notification to the board, within fifteen (15) days of the effective date of this decision, that this term has been satisfied. Failure to timely provide such notification to employees, or to timely submit such notification to the board shall be considered a violation of probation.

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

12. Owners and Officers: Knowledge of the Law

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

13. Premises Open for Business

Respondent shall remain open and engaged in its ordinary business as a pharmacy in California for a minimum of hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during with this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation, unless respondent is informed otherwise in writing by the board or its designee. If respondent is not open and engaged in its ordinary business as a pharmacy for a minimum of hours in any calendar month, for any reason (including vacation), respondent shall notify the board in writing within ten (10) days of the conclusion of that calendar month. This notification shall include at minimum all of the following: the date(s) and hours respondent was open; the reason(s) for the interruption or why business was not conducted; and the anticipated

date(s) on which respondent will resume business as required. Respondent shall further notify the board in writing with ten (10) days following the next calendar month during which respondent is open and engaged in its ordinary business as a pharmacy in California for a minimum of hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

14. Posted Notice of Probation

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

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

15. Violation of Probation

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

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed against respondent during probation, the board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

16. Completion of Probation

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

17. Separate File of Controlled Substances Records

Respondent shall maintain and make available for inspection a separate file of all records pertaining to the acquisition or disposition of all controlled substances. Failure to maintain such file or make it available for inspection shall be considered a violation of probation.

18. Report of Controlled Substances

Respondent shall submit reports to the board detailing the total acquisition and disposition of such controlled substances as the board or its designee may direct. Respondent shall specify the manner of disposition (e.g., by prescription, due to burglary, etc.) or acquisition (e.g., from a manufacturer, from another retailer, etc.) of such controlled substances. Respondent shall report on a quarterly basis or as directed by the board or its designee. The report shall be delivered or mailed to the board no later than ten (10) days following the end of the reporting period as determined by the

board or its designee. Failure to timely prepare or submit such reports shall be considered a violation of probation.

19. No Additional Ownership or Management of Licensed Premises

For a period of five years, respondent shall not acquire any additional ownership, legal or beneficial interest in, nor serve as a manager, administrator, member, officer, director, associate, partner or any business, firm, partnership, or corporation currently or hereinafter licensed by the board except as approved by the board. Violations of this restriction shall be considered a violation of probation.

Respondent Askarifar

Pharmacist License No. RPH 59903, issued to Respondent Askarifar is revoked; however, the revocation is stayed and respondent is placed on probation for five years on the following terms and conditions:

1. Definition: Respondent

For the purposes of these terms and conditions, "respondent" shall refer to Salvia Askarifar.

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

▪ the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

3. REPORT TO THE BOARD

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

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

4. Interview with the Board

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

5. Cooperate with Board Staff

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

6. Continuing Education

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

7. Reporting of Employment and Notice to Employers

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

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

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

acknowledging that he or she has read the decision in this matter, and the terms and conditions imposed thereby.

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

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

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

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

8. Notification of Change(s) in Name, Address(es), or Phone Number(s)

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

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

9. Restrictions on Supervision and Oversight of Licensed Facilities

During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge, designated representative-in-charge, responsible manager or other compliance supervisor of any entity licensed by the board, nor serve as a consultant.

Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

During the period of probation, respondent shall not supervise any ancillary personnel, including, but not limited to, pharmacy technicians, designated representatives, designated representative-3PL in any entity licensed by the board. Assumption of any such unauthorized ancillary personnel supervision responsibilities shall be considered a violation of probation.

10. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, respondent is jointly and severally liable with Respondent Sal Pharmacy to pay to the board its costs of

investigation and prosecution in the amount of $19,786.83. Respondent shall make said payments on a payment plan approved by the board.

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

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

11. Probation Monitoring Costs

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

12. Status of License

Respondent shall, at all times while on probation, maintain an active, current pharmacist license with the board, including any period during which suspension or probation is tolled.

Failure to maintain an active, current pharmacist license shall be considered a violation of probation.

If respondent's pharmacist license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof

due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

13. License Surrender While on Probation

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may relinquish her license, including any indicia of licensure issued by the board, along with a request to surrender the license. The board or its designee shall have the discretion whether to accept the surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish her pocket and/or wall license, including any indicia of licensure not previously provided to the board within ten (10) days of notification by the board that the surrender is accepted if not already provided.

Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

14. Practice Requirement – Extension of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a 20-hour minimum of hours per

calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the board or its designee.

If respondent does not practice as a pharmacist in California for the minimum number of hours in any calendar month, for any reason (including vacation), respondent shall notify the board in writing within ten (10) days of the conclusion of that calendar month. This notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the interruption or reduction in practice; and the anticipated date(s) on which respondent will resume practice at the required level. Respondent shall further notify the board in writing within ten (10) days following the next calendar month during which respondent practices as a pharmacist in California for the minimum of hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

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

15. VIOLATION OF PROBATION

If respondent has not complied with any term or condition of probation, the board shall have continuing jurisdiction over respondent, and the board shall provide notice to respondent that probation shall automatically be extended, until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate

probation, and to impose the penalty that was stayed. The board or its designee may post a notice of the extended probation period on its website.

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed against respondent during probation, or the preparation of an accusation or petition to revoke probation is requested from the Office of the Attorney General, the board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

16. Completion of Probation

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

17. Remedial Education

Within 90 days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, an appropriate program of remedial education related to corresponding responsibility. The program of remedial education shall consist of at least 20 hours, which shall be completed within one year at respondent's own expense. All remedial education shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes for pharmacists.

Failure to timely submit for approval or complete the approved remedial education shall be considered a violation of probation. The period of probation will be

automatically extended until such remedial education is successfully completed and written proof, in a form acceptable to the board, is provided to the board or its designee.

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

18. Ethics Course

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

19. No Additional Ownership or Management of Licensed Premises

For a period of five years respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. If respondent currently owns or has any legal or

beneficial interest in, or serves as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective date of this decision. Violation of this restriction shall be considered a violation of probation.

Respondent Tabaroki

Pharmacist License No. RPH 71444, issued to Respondent Tabaroki is revoked; however, the revocation is stayed, and respondent is placed on probation for three years on the following terms and conditions:

1. DEFINITION: RESPONDENT

For the purposes of these terms and conditions, "respondent" shall refer to Talia Tabaroki.

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

▪ the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

3. REPORT TO THE BOARD

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

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

4. INTERVIEW WITH THE BOARD

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

scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

5. Cooperate with Board Staff

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

6. Continuing Education

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

7. Reporting of Employment and Notice to Employers

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

Within thirty (30) days of the effective date of this decision, and within ten (10) days of undertaking any new employment, respondent shall report to the board in writing the name, physical address, and mailing address of each of her employer(s), and the name(s) and telephone number(s) of all of her direct supervisor(s), as well as any pharmacist(s)-in- charge, designated representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work schedule, if known. Respondent shall

also include the reason(s) for leaving the prior employment. Respondent shall sign and return to the board a written consent authorizing the board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the board or its designee, concerning respondent's work status, performance, and monitoring. Failure to comply with the requirements or deadlines of this condition shall be considered a violation of probation.

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

If respondent works for or is employed by or through an employment service, respondent must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board of the decision in case number , and the terms and conditions

imposed thereby in advance of respondent commencing work at such licensed entity. A record of this notification must be provided to the board upon request.

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

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

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

8. Notification of Change(s) in Name, Address(es), or Phone Number(s)

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

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

9. Restrictions on Supervision and Oversight of Licensed Facilities

During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge, designated representative-in-charge, responsible manager or other compliance supervisor of any entity licensed by the board, nor serve as a consultant.

Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

During the period of probation, respondent shall not supervise any ancillary personnel, including, but not limited to, pharmacy technicians, designated representatives, designated representative-3PL in any entity licensed by the board. Assumption of any such unauthorized ancillary personnel supervision responsibilities shall be considered a violation of probation.

10. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, respondent shall pay to the board its costs of investigation and prosecution in the amount of $9,893.42. Respondent shall make said payments on a payment plan approved by the board.

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

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

11. Probation Monitoring Costs

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

12. Status of License

Respondent shall, at all times while on probation, maintain an active, current pharmacist license with the board, including any period during which suspension or probation is tolled.

Failure to maintain an active, current pharmacist license shall be considered a violation of probation.

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

13. License Surrender While on Probation

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may relinquish her license, including any indicia of licensure issued by the board, along with a request to surrender the license. The board or its designee shall have the discretion whether to accept the surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of

probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

Upon acceptance of the surrender, respondent shall relinquish her pocket and/or wall license, including any indicia of licensure not previously provided to the board within ten (10) days of notification by the board that the surrender is accepted if not already provided.

Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

14. PRACTICE REQUIREMENT – EXTENSION OF PROBATION

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

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

month during which respondent practices as a pharmacist in California for the minimum of hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

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

15. VIOLATION OF PROBATION

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

If respondent violates probation in any respect, the board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed against respondent during probation, or the preparation of an accusation or petition to revoke probation is requested from the Office of the Attorney General, the board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

16. Completion of Probation

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

17. Remedial Education

Within 90 days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, an appropriate program of remedial education related to corresponding responsibility. The program of remedial education shall consist of at least 20 hours, which shall be completed within one year at respondent's own expense. All remedial education shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes for pharmacists.

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

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

18. ETHICS COURSE

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

19. NO ADDITIONAL OWNERSHIP OR MANAGEMENT OF LICENSED PREMISES

For a period of three years respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the board. Violation of this restriction shall be considered a violation of probation.

DATE: 03/22/2022

Irina Tentser

IRINA TENTSER

Administrative Law Judge

Office of Administrative Hearings

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

In the Matter of the Accusation Against**:** **SAL PHARMACY INC. DBA SAL PHARMACY, SALVIA ASKARIFAR, CEO, 100% SHAREHOLDER, SECRETARY, DIRECTOR, AND TREASURER** 8614 W. Third Street Los Angeles, CA 90048 Pharmacy Permit No. PHY 54465, **and** **SALVIA ASKARIFAR** 9190 W. Olympic Blvd., #402 Beverly Hills, CA 90212 Pharmacist License No. RPH 59903 **and** **TALIA TABAROKI** P.O. Box 6396 Beverly Hills, CA 90212 Pharmacist License No. RPH 71444 Respondents.	Case No. 7090 **ACCUSATION**

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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 June 23, 2016, the Board of Pharmacy issued Pharmacy Permit Number PHY 54465 to Sal Pharmacy Inc., doing business as Sal Pharmacy, with Salvia Askarifar as CEO, 100% Shareholder, Secretary, Director, and Treasurer (Respondent Sal Pharmacy). The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on June 1, 2021, unless renewed.

Salvia Askarifar (Pharmacist-in-Charge from June 23, 2016 – present)

3. On or about August 14, 2007, the Board of Pharmacy issued Pharmacist License Number RPH 59903 to Salvia Askarifar (Respondent Askarifar). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2022, unless renewed.

Talia Tabaroki

4. On or about September 16, 2014, the Board of Pharmacy issued Pharmacist License Number RPH 71444 to Talia Tabaroki (Respondent Tabaroki). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2022, unless renewed.

JURISDICTION AND STATUTORY PROVISIONS

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

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

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6. Section 4300 of the Code states, in pertinent part:

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

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

(1) Medical or psychiatric evaluation.

(2) Continuing medical or psychiatric treatment.

(3) Restriction of type or circumstances of practice.

(4) Continuing participation in a board-approved rehabilitation program.

(5) Abstention from the use of alcohol or drugs.

(6) Random fluid testing for alcohol or drugs.

(7) Compliance with laws and regulations governing the practice of pharmacy.

(d) The board may initiate disciplinary proceedings to revoke or suspend any probationary certificate of licensure for any violation of the terms and conditions of probation. Upon satisfactory completion of probation, the board shall convert the probationary certificate to a regular certificate, free of conditions.

(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.

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7. 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.

8. Section 4307 of the Code states:

(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 manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control had knowledge of 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, partner, or in any other position with management or control of a licensee as follows:

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

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

(b) "Manager, administrator, owner, member, officer, director, associate, or partner," as used in this section and Section 4308, may refer to a pharmacist or to any other person who serves in that capacity in or for a licensee.

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

STATUTORY AUTHORITY

9. Section 4301 of the Code states, in pertinent 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:

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. . . .

(b) Incompetence.

(c) Gross negligence.

(d) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153 of the Health and Safety Code.

(e) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be considered in determining whether the furnishing of controlled substances is clearly excessive shall include, but not be limited to, the amount of controlled substances furnished, the previous ordering pattern of the customer (including size and frequency of orders), the type and size of the customer, and where and to whom the customer distributes its product.

(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.

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

. . . .

(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.

(p) Actions or conduct that would have warranted denial of a license.

10. 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.

11. 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:

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

(b) Any device that bears the statement: "Caution: federal law restricts this 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 or order use of the device.

(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.

12. Health and Safety Code section 11153 states:

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

(b) Any person who knowingly violates this section shall be punished by imprisonment in the state prison or in the county jail not exceeding one year, or by a fine not exceeding twenty thousand dollars ($20,000), or by both a fine and imprisonment.

(c) No provision of the amendments to this section enacted during the second year of the 1981-82 Regular Session shall be construed as expanding the scope of practice of a pharmacist.

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13. Health and Safety Code section 11165 states, in pertinent part:

. . . .

"(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, and respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the Department of Justice as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed, in a format specified by the Department of Justice:

"(1) Full name, address, and, if available, telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

"(2) The prescriber's category of licensure, license number, national provider identifier (NPI) number, the federal controlled substance registration number, and the state medical license number of any prescriber using the federal controlled substance registration number of a government-exempt facility, if provided.

"(3) Pharmacy prescription number, license number, NPI number, and federal controlled substance registration number.

"(4) National Drug Code (NDC) number of the controlled substance dispensed.

"(5) Quantity of the controlled substance dispensed.

"(6) International Statistical Classification of Diseases, 9th revision (ICD-9) or 10th revision (ICD-10) Code, if available.

"(7) Number of refills ordered.

"(8) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

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"(9) Date of origin of the prescription.

"(10) Date of dispensing of the prescription.

"(11) The serial number for the corresponding prescription form, if applicable."

14. Health and Safety Code section 11165.2 states, in pertinent part:

(a) The Department of Justice may conduct audits of the CURES Prescription Drug Monitoring Program system and its users.

. . . .

(g) Nothing in this section shall be deemed to prevent the department from serving and prosecuting an accusation to suspend or revoke a subscriber if grounds for that suspension or revocation exist.

15. Health and Safety Code section 11165.6 states:

A prescriber shall be allowed to access the CURES database for a list of patients for whom that prescriber is listed as a prescriber in the CURES database.

REGULATORY PROVISIONS

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

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

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

COST RECOVERY

17. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

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DRUG CLASSIFICATIONS

18. **Roxicodone**, sold under the generic name **oxycodone**, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M) and a dangerous drug pursuant to Business and Professions Code section 4022.

19. **Phenergan with codeine syrup**, sold under the generic name **promethazine with codeine syrup**, is a Schedule V controlled substance pursuant to Health and Safety Code section 11058, subdivision (c)(1), and a dangerous drug pursuant to Business and Professions Code section 4022.

20. **Xanax**, sold under the generic name **alprazolam**, is a Schedule IV controlled substance under Health and Safety Code section 11057, subdivision (d)(1), and a dangerous drug under Business and Professions Code Section 4022.

21. **Hydrocodone-Acetaminophen** (brand name – **"Norco"**) is a Schedule II controlled is substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(l)(ii), and a dangerous drug pursuant to Business and Professions Code section 4022.

22. **Soma**, sold under the generic name **carisoprodol**, is a Schedule IV controlled substance pursuant to Title 21, Code of Federal Regulations, section 1308.14, subdivision (c)(7), and a dangerous drug pursuant to Business and Professions Code section 4022.

BOARD INVESTIGATION REPORT DATED NOVEMBER 17, 2020

23. The following factors are some that have been determined to constitute red flags that should give a pharmacy and pharmacist inquiry notice of a potential problem with prescriptions for drugs of common abuse and invoke in them a duty of inquiry:

- Irregularities on the face of the prescription itself
- Nervous patient demeanor
- Age or presentation of patient (e.g. youthful patients seeking chronic pain medications)
- Multiple patients at the same address
- Cash payments
- Requests for early refills of prescriptions

- Prescriptions written for an unusually large quantity of drugs
- Prescriptions written for potentially duplicative drugs
- The same combinations of drugs prescribed for multiple patients
- Initial prescriptions written for strong opiates (e.g. OxyContin 80mg)
- Long distances traveled from the patient's home, to the prescriber's office or pharmacy
- Irregularities in the prescriber's qualifications in relation to the medication(s) prescribed
- Prescriptions that are written outside of the prescriber's medical specialty
- Prescriptions for medications with no logical connection to diagnosis or treatment

24. The Controlled Substance Utilization Review and Evaluation System (CURES) program was initiated in 1997 and required mandatory monthly pharmacy reporting of dispensed schedule II controlled substances. The program was amended in January 2005 to include mandatory weekly reporting of schedule II-N medications. The data is collected statewide and its main goal is to improve healthcare providers' ability to combat prescription drug abuse.

25. The component of CURES which is accessible to pharmacists and prescribers is called the Prescription Drug Monitoring Program (PDMP). Registration for access to the PDMP has been available since February 2009; however, all practitioners licensed to prescribe or dispense scheduled medications were required by law to sign up by July 1, 2016. The data has been utilized by healthcare professionals such as prescribers and pharmacists to aid in determining whether patients are utilizing their controlled substances safely and appropriately, ensuring they are not obtaining medical care from multiple prescribers, frequenting multiple pharmacies, obtaining early refills of controlled substances, travelling far distances to prescribers or pharmacies, consistently paying cash for their controlled substance prescriptions or attempting to fill high dose opioids or benzodiazepines when they are naive to either medication.

26. According to Health and Safety Code Section 11165.4(a)(l)(A)(i), which became effective on 10/02/2018, a health care practitioner authorized to prescribe, order, administer, or furnish a controlled substance shall consult the CURES database to review a patient's controlled

substance history before prescribing a Schedule II, Schedule III, or Schedule IV controlled substance to the patient for the first time and at least once every four months thereafter if the substance remains part of the treatment of the patient. It is imperative pharmacists not only consult CURES but that they also utilize their education and training to appropriately scrutinize the reports.

27. A Board investigation at another pharmacy determined that Dr. K's Physician's Assistant, JE (PA JE), failed to act in the usual course of her professional practice by prescribing controlled substances to patients for illegitimate medical purposes. A review of CURES records by the Board discovered that Respondent Sal Pharmacy also dispensed controlled substance prescriptions written under the prescribing authority of PA JE. Accordingly, an internal Board complaint was filed and an investigation of Respondent Sal Pharmacy was initiated to evaluate the legitimacy and appropriateness of Respondent Sal Pharmacy's dispensing of controlled substances and/or dangerous drugs.

28. The Board Inspector assigned to this case was unable to perform an in-person inspection at Respondent Sal Pharmacy due to the Covid-19 pandemic. Therefore, on May 5, 2020, the Board Inspector sent an e-mail to Respondent Sal Pharmacy requesting the following:

- Original prescription documents written under the prescribing authority of PA JE and several other prescribers.
- The pharmacy's electronic dispensing records from 04/29/2017 - 04/29/2020.
- Any and all notes pertaining to the requested prescriptions or patients.

29. On May 26, 2020, the Board Inspector received an e-mail from Respondent Sal Pharmacy with its electronic dispensing records from April 29, 2017- April 29, 2020 attached (including notes relating to patients/prescriptions), and on June 11, 2020, the original prescriptions and other documentation (CURES reports, chart notes, etc.) by First Class Mail.

30. From April 29, 2017 through April 29, 2020, the following general pharmacy dispensing trends were elucidated by the Board Inspector: Respondent Sal Pharmacy dispensed 37,806 prescriptions. 30,715 (81%) of these prescriptions were non-controlled medications; 7,091 (19%) of them were controlled medications. The number of non-controlled medications

that are commercially available is greater than controlled medications, therefore, these percentages were not unusual for a retail pharmacy. Payment method for all medications (controlled and non-controlled) dispensed during the query period was approximately 15% cash and 85% insurance. 11% of non-controlled medications were paid for with cash; 33% of controlled medications were paid for with cash. The percentage of cash payment for controlled medications was approximately three times that of non-controlled substances. Typically, patients do not desire to pay high out-of-pocket costs for medications and therefore prefer the assistance of insurance. The high percentage of cash payment for controlled medications was irregular for a retail pharmacy.

31. The number-one drug (in terms of volume) dispensed by Respondent Sal Pharmacy was the highly abused schedule II controlled substance, oxycodone 30 mg. As stated above, 81% of the drugs dispensed by Respondent Sal Pharmacy were not controlled substances. Schedule II controlled substances only accounted for 11% (3,949 out of 30,715) of the drugs dispensed by Respondent Sal Pharmacy. Therefore, it was a factor of irregularity or red flag for a schedule II controlled substance to be the top drug dispensed (in volume) by Respondent Sal Pharmacy. It was also a factor of irregularity for one particular drug, oxycodone 30 mg, to account for 31% (l,218 out of 3,949) of the schedule II controlled substances dispensed by Respondent Sal Pharmacy.

32. In addition, 75% (l,218 out of 1,617) of the oxycodone prescriptions dispensed by Respondent Sal Pharmacy were for the highest strength, 30 mg. This was a factor of irregularity or red flag for the following reasons:

- Given oxycodone therapy should be initiated at the lowest effective dosage as the risk associated with use, especially fatal respiratory depression, increases with higher dosages, one would expect to find lower doses dispensed by the pharmacy at much greater frequencies.
- Additionally, a great variability exists between patients such as age, weight, drug allergies, medical histories, tolerance to narcotic medications, and preferences regarding their drug therapy plan. Due to this interpatient variability, a prescriber would often choose different strengths of the same medication to treat their patients.

33. Further analysis of the pharmacy records provided by Respondent Sal Pharmacy showed the following:

- Respondent Sal Pharmacy dispensed high dose oxycodone to opioid naive patients. For the purposes of this investigation, the board Inspector considered a patient opioid naive if they had not filled an opioid for over two months, which is a conservative period given the various factors applicable to the corresponding responsibility of pharmacies and pharmacists.
- Respondent Sal Pharmacy dispensed high dose alprazolam to benzodiazepine naïve patients.
- Respondent Sal Pharmacy dispensed high dose benzodiazepines to patients on high dose opioids, which was ill advised as the combination may result in profound sedation, respiratory depression, coma and death.

34. At the conclusion of the Board's investigation in this matter, the Board Inspector determined that Respondents Sal Pharmacy, Askarifar, and Tabaroki dispensed controlled substances to the following patients in the presence of multiple factors of irregularity or red flags that suggested these prescriptions were not written for legitimate medical purposes. In the instances set forth below, Respondents Sal Pharmacy, Askarifar, and Tabaroki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure these controlled substance prescriptions were issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law:

Patient JMG

35. The Board investigation determined that on March 26, 2018, Respondents Sal Pharmacy and Askarifar dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #108920) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Askarifar failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

Patient OM

36. The Board investigation determined that on April 18, 2018, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #109521) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Taboraki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

Patient BHP

37. The Board investigation determined that on August 2, 2018, Respondents Sal Pharmacy and Askarifar dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #111873) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes, in violation of their corresponding responsibilities under Pharmacy Law. In this instance, Respondents Sal Pharmacy and Askarifar failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

Patient CED

38. The Board investigation determined that on April 8, 2019, Respondents Sal Pharmacy and Tabaroki concomitantly dispensed controlled substances (promethazine with codeine syrup and alprazolam 2 mg) to this patient (Rx #118683 and Rx #118684) in the presence of numerous factors of irregularity or red flags suggesting these prescriptions were not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Taboraki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure these controlled substance prescriptions were issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

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Patient MLA

39. The Board investigation determined that on April 9, 2019, Respondents Sal Pharmacy and Tabaroki concomitantly dispensed controlled substances (alprazolam 2 mg and promethazine with codeine syrup) to this patient (Rx #118716 and Rx #118717) in the presence of numerous factors of irregularity or red flags suggesting these prescriptions were not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Taboraki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure these controlled substance prescriptions were issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

Patient LN

40. The Board investigation determined that on July 11, 2018, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #111618) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Tabaroki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

Patient KM

41. The Board investigation determined that on July 12, 2018, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #111626) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Tabaroki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

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Patient KMH

42. The Board investigation determined that on July 26, 2018, Respondents Sal Pharmacy and Askarifar dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #112031) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Askarifar failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

Patient DAN

43. The Board investigation determined that on August 2, 2018, Respondents Sal Pharmacy and Askarifar dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #112209) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Askarifar failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

Patient SJH

44. The Board investigation determined that on February 13, 2018, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #107936) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Tabaroki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

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Patient MEW

45. The Board investigation determined that on March 1, 2018, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #108333) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Tabaroki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

Patient DLB

46. The Board investigation determined that on March 19, 2018, September 20, 2018, March 11, 2019, and May 13, 2019, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to this patient on multiple occasions (Rx #108761, 113479, 117923, and 119615) in the presence of numerous factors of irregularity or red flags suggesting these prescriptions were not written for legitimate medical purposes. In each of these instances, Respondents Sal Pharmacy and Tabaroki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure these controlled substance prescriptions were issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

47. The Board investigation also determined that on March 19, 2020, Respondent Sal Pharmacy and Pharmacist Z.E. dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #128094) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes. In this instance, Respondent Sal Pharmacy failed to exercise its education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of its corresponding responsibility under Pharmacy Law.

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Patient AMB

48. The Board investigation determined that on November 5, 2019 and February 27, 2020, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #124203 and 127523) in the presence of numerous factors of irregularity or red flags suggesting these prescriptions were not written for legitimate medical purposes. In both of these instances, Respondents Sal Pharmacy and Tabaroki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure these controlled substance prescriptions were issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

Patient HTW

49. The Board investigation determined that on January 2, 2019, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #116009) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Tabaroki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

Patient TWW

50. The Board investigation determined that on January 15, 2019, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (alprazolam 2 mg) to this patient (Rx #116410) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Tabaroki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

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Patient MW

51. The Board investigation also determined that on March 5, 2019, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #117765) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Tabaroki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

Patient DY

52. The Board investigation also determined that on April 24, 2019, Respondents Sal Pharmacy and Tabaroki dispensed a controlled substance (oxycodone 30 mg) to this patient (Rx #119057) in the presence of numerous factors of irregularity or red flags suggesting this prescription was not written for legitimate medical purposes. In this instance, Respondents Sal Pharmacy and Tabaroki failed to exercise their education, training, appropriate clinical/professional judgment, and experience to ensure this controlled substance prescription was issued for legitimate medical purposes, in violation of their corresponding responsibility under Pharmacy Law.

CURES Violations

53. The Board investigation further determined that between April 29, 2017 and April 29, 2020, Respondents Sal Pharmacy and Askarifar (as the PIC), failed to report at least 248 schedule II through IV controlled substance prescriptions (17,205 units) to the Department of Justice, in violation of Pharmacy Law.

FIRST CAUSE FOR DISCIPLINE

(Violation of Corresponding Responsibility to Verify Prescriptions)

54. Respondent Sal Pharmacy is subject to disciplinary action under Health and Safety Code section 11153, subdivision (a), and California Code of Regulations, title 16, section 1761,

subdivisions (a) and (b). Complainant hereby incorporates paragraphs 23-52 above as though set forth in full herein.

SECOND CAUSE FOR DISCIPLINE

(Reporting Controlled Substance Prescriptions to CURES)

55. Respondent Sal Pharmacy is subject to disciplinary action under Code section 4301, subdivisions (j) and (o), for violating Health and Safety Code section 11165, subdivision (d), in that between April 29, 2017 and April 29, 2020, it failed to report at least 248 schedule II through IV controlled substance prescriptions (17,205 units) to the Department of Justice. Complainant hereby incorporates paragraphs 23-34, and 53 above as though set forth in full herein.

THIRD CAUSE FOR DISCIPLINE

(Violation of Corresponding Responsibility to Verify Prescriptions)

56. Respondent Askarifar is subject to disciplinary action under Code section 4301, subdivisions (j) and (o), for violating Health and Safety Code section 11153 subdivision (a), and California Code of Regulations, title 16, section 1761, subdivisions (a) and (b). Complainant hereby incorporates paragraphs 23-52 above as though set forth in full herein.

FOURTH CAUSE FOR DISCIPLINE

(Reporting Controlled Substance Prescriptions to CURES)

57. Respondent Askarifar is subject to disciplinary action under Code section 4301, subdivisions (j) and (o), for violating Health and Safety Code section 11165, subdivision (d), in that between April 29, 2017 and April 29, 2020, as PIC of Respondent Sal Pharmacy, she failed to report at least 248 schedule II through IV controlled substance prescriptions (17,205 units) to the Department of Justice. Complainant hereby incorporates paragraphs 23-34, and 53 above as though set forth in full herein.

FIFTH CAUSE FOR DISCIPLINE

(Violation of Corresponding Responsibility to Verify Prescriptions)

58. Respondent Tabaroki is subject to disciplinary action under Code section 4301, subdivisions (j) and (o), for violating Health and Safety Code section 11153 subdivision (a), and California Code of Regulations, title 16, section 1761, subdivisions (a) and (b). Complainant

hereby incorporates paragraphs 23-34, 36, 38-41, 44-46, and 48-52 above as though set forth in full herein.

OTHER MATTERS

59. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 54465 issued to Sal Pharmacy Inc., doing business as Sal Pharmacy, with Salvia Askarifar as CEO, 100% Shareholder, Secretary, Director, and Treasurer, then Sal Pharmacy Inc., doing business as Sal Pharmacy, with Salvia Askarifar as CEO, 100% Shareholder, Secretary, Director, and Treasurer shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 54465 is placed on probation or until Pharmacy Permit Number PHY 54465 is reinstated if it is revoked.

60. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 54465 issued to Sal Pharmacy Inc., doing business as Sal Pharmacy, with Salvia Askarifar as CEO, 100% Shareholder, Secretary, Director, and Treasurer while Salvia Askarifar was serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control, and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, Salvia Askarifar shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 54465 is placed on probation or until Pharmacy Permit Number PHY 54465 is reinstated if it is revoked, or until surrendered.

61. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License Number RPH No. 59903 issued to Salvia Askarifar, Salvia Askarifar shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 59903 is placed on probation or until Pharmacist License Number RPH 59903 is reinstated if it is revoked.

62. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 54465 issued to Sal Pharmacy Inc., doing business as Sal Pharmacy, with Salvia Askarifar as CEO, 100% Shareholder, Secretary, Director, and Treasurer while Talia Tabaroki was serving

as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control, and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, Talia Tabaroki shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 54465 is placed on probation or until Pharmacy Permit Number PHY 54465 is reinstated if it is revoked, or until surrendered.

63. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License Number RPH No. 71444 issued to Talia Tabaroki, Talia Tabaroki shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 71444 is placed on probation or until Pharmacist License Number RPH 71444 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 Pharmacy Permit Number PHY 54465, issued to Sal Pharmacy Inc., doing business as Sal Pharmacy, with Salvia Askarifar as CEO, 100% Shareholder, Secretary, Director, and Treasurer;

2. Prohibiting Sal Pharmacy Inc., doing business as Sal Pharmacy, with Salvia Askarifar as CEO, 100% Shareholder, Secretary, Director, and Treasurer from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 54465, issued to Sal Pharmacy Inc., doing business as Sal Pharmacy, with Salvia Askarifar as CEO, 100% Shareholder, Secretary, Director, and Treasurer, is placed on probation or revoked;

3. Revoking or suspending Pharmacist License Number 59903 issued to Salvia Askarifar;

4. Prohibiting Salvia Askarifar from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 54465, issued to Sal Pharmacy Inc., doing business as Sal Pharmacy, with Salvia

Askarifar as CEO, 100% Shareholder, Secretary, Director, and Treasurer, is placed on probation or revoked;

5. Prohibiting Salvia Askarifar from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 59903 issued to Salvia Askarifar is placed on probation or revoked;

6. Revoking or suspending Pharmacist License Number RPH 71444 to Talia Tabaroki;

7. Prohibiting Talia Tabaroki from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 54465, issued to Sal Pharmacy Inc., doing business as Sal Pharmacy, with Salvia Askarifar as CEO, 100% Shareholder, Secretary, Director, and Treasurer, is placed on probation or revoked;

8. Prohibiting Talia Tabaroki from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 71444 issued to Talia Tabaroki is placed on probation or revoked;

9. Ordering Respondents Sal Pharmacy, Salvia Askarifar, and Talia Tabaroki to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 6/7/2021

Signature on File

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