



California State Board of Pharmacy
 2720 Gateway Oaks Drive, Suite 100
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 www.pharmacy.ca.gov

Business, Consumer Services and Housing Agency
 Department of Consumer Affairs
 Gavin Newsom, Governor



APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACIST / INTERN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES:

Name of Licensee: <i>STEVEN N. SEIDMAN</i>	Case No. <i>7152</i>
Address of Record: <i>81602 Camino Fuerte, Indio, Ca 92203</i>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. 7152, I hereby request to surrender my license, License No. 25419. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

Upon the acceptance of the surrender, I shall relinquish my pocket and/or wall license to the Board within ten (10) days of notification by the Board that the surrender is accepted. I understand that I may not reapply for any license, permit, or registration from the board for three (3) years from the effective date of the surrender. I further understand that I 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.

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

Steven N. Seidman
Applicant's Signature

3/19/23
Date

STEVEN N. Seidman
Applicant's Printed Name

25419
Applicant's License Number

Executive Officer's Approval

Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as Incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 518-3100, 2720 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

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

In the Matter of the Accusation Against:

STEVEN NORMAN SEIDMAN, Respondent

Pharmacist License No. RPH 25419

Agency Case No. 7152

OAH No. 2022080285

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge 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 April 5, 2023.

It is so ORDERED on March 6, 2023.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.
Board President

**BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
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In the Matter of the Accusation Against:

STEVEN NORMAN SEIDMAN, Respondent.

Agency Case No. 7152

OAH No. 2022080285

PROPOSED DECISION

Administrative Law Judge Traci C. Belmore, Office of Administrative Hearings, State of California, heard this matter on January 10, 2023, by videoconference.

Deputy Attorney General Alvaro Mejia appeared on behalf of complainant Anne Sodergren, Executive Officer, Board of Pharmacy, Department of Consumer Affairs.

Respondent Steven Norman Seidman represented himself.

The record was closed, and the matter was submitted for decision on January 10, 2023.

FACTUAL FINDINGS

1. On February 27, 1968, the Board of Pharmacy (board) issued Pharmacist License Number RPH 25419 to respondent Steven Norman Seidman. The license was in full force and effect at all times relevant to these issues and will expire on December 31, 2023, unless renewed.

2. On January 22, 2021, the board issued citation number CI 2019 85349 to respondent for dispensing medication to a person who “self-prescribed” the medication. The citation contained an order of abatement that required respondent to complete continuing education (CE) and/or pay a fine. Respondent complied with the order of abatement.

3. On March 24, 2022, complainant Anne Sodergren, in her official capacity as Executive Officer of the board, filed an accusation seeking to impose discipline upon respondent’s license for unprofessional conduct; acts involving moral turpitude, dishonesty, fraud or deceit; unlawful furnishing of a controlled substance; unlawful possession of a controlled substance; and obtaining controlled substances by fraud, deceit, or subterfuge. Respondent filed a timely notice of defense, and this hearing ensued.

Attempted Theft of Controlled Substance

4. Respondent was employed at La Botica Pharmacy (La Botica) and Heritage Pharmacy (Heritage), both of which were owned by Chandra Patel. Respondent had not worked at either pharmacy since March of 2020 due to the COVID-19 pandemic. However, respondent would go to the pharmacies to say hello to the staff because he was well liked.

5. On February 15, 2021, respondent visited La Botica. He entered the pharmacy and greeted staff. Respondent walked behind the RxSafe where medications were stored. A pharmacy technician saw respondent appear to take a bottle of medicine and place it into his pants pocket. The pharmacy technician notified the pharmacist in charge, Michael Garispe. Garispe confronted respondent, and respondent produced a bottle of buprenorphine/naloxone 8/2 mg, which is generic for Suboxone.¹ Respondent apologized and left shortly after the confrontation.

6. Later that day, Patel was notified of the incident. Respondent called Patel, apologized, and admitted that he had taken Suboxone from both of the pharmacies. An audit was conducted at both stores.

7. On February 22, 2021, respondent texted Patel volunteering to pay for the medications he had stolen and stating that there was "no excuse for what I did."

8. On February 23, 2021, the board received a DEA-106 Report of Theft or Loss of Controlled Substances form from Patel for both La Botica and Heritage. The forms reported the loss of varying amounts and dosages of generic Suboxone tablets and films (sublingual strips) among other controlled substances. Inspector Brandon Mutrux was assigned to investigate the theft.

9. Mutrux interviewed parties, reviewed documents, obtained and reviewed surveillance video from La Botica, and obtained written statements from the staff at La

¹ Buprenorphine, an opioid, is a Schedule V controlled substance pursuant to Health and Safety Code section 11058, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

Botica during his investigation. Mutrux sent a questionnaire to respondent and interviewed him telephonically. In respondent's written response to the questionnaire, he admitted that he had taken one box containing 30 tablets of buprenorphine/naloxone without payment and another box that he paid for while entering it as a miscellaneous prescription. Respondent admitted that he had taken films of buprenorphine/naloxone from Heritage. Respondent stated that he had taken five boxes in total from the two pharmacies.

10. Mutrux determined that respondent had a valid prescription for Zubsolv 2.9/0.71 mg, a different brand name of buprenorphine/naloxone. Respondent was participating in a pain management clinic, which is where he obtained his legitimate prescription. Respondent wrote that he was prescribed his medication twice a day for pain, but that he was using it three times a day and therefore was running out of medication every month. He stated he did not know why he did not speak with this pain management treatment team. Respondent wrote that he had been in Narcotics Anonymous (NA) for years and that he was embarrassed and ashamed of his behavior.

11. La Botica reported that in addition to the buprenorphine/naloxone it could not account for significant amounts of other controlled substances, including carisoprodol, lorazepam, zolpidem, acetaminophen/codeine 300/30mg, depo-testosterone, promethazine with codeine, and temazepam. Respondent denies taking any medication other than buprenorphine/naloxone.

12. Respondent's written statement to the board can be summarized as follows. It was a "stupid move" to steal the medication. He has been in recovery for many years, and he was not honest with his sponsor while he was stealing medication. Respondent was working with his pain management team to find the correct medication and dosage to address his pain.

13. Mutrux testified that respondent was very candid and honest in his communications.

Respondent's Evidence

14. Respondent did not dispute any of the factual allegations contained in the accusation. He admitted that he had a prior substance abuse problem. Respondent has been involved in NA and Alcoholics Anonymous (AA) for 38 years. Respondent had retired after working a number of years in Sonoma County. He moved to southern California for retirement. Financial issues forced him back to work part-time. Respondent originally worked two days per week between the two pharmacies. As business increased, so did his schedule. Prior to taking leave due to the COVID-19 pandemic, he was working three days per week. Occasionally, respondent would work as many as four days in a week.

15. Respondent was prescribed Suboxone for back, arm, and leg pain. The medication and dosage were sufficient when respondent was working only two days per week. The increase to three days per week was more physically taxing than respondent had anticipated. Respondent understood that he could, and should have talked with his treating physician about increasing the dosage of his medication. Instead, he made what he characterized as the "stupidest mistake" he's ever made and began stealing medication. When he began stealing medication, he disengaged from his sponsor. Respondent stated his substance use "kind of got away" from him. Respondent took full responsibility for his wrongdoing.

16. Respondent currently has two sponsors for NA/AA. He attends three meetings per week. He immediately spoke with both his sponsors after being caught attempting to steal medication. He is engaged in therapy and is currently subject to

testing through his pain management physician. Respondent is currently working at Cornerstone Pharmacy two to three days per month. He believes they would be willing to supervise him if he were to be placed on probation. Respondent is willing to do anything the board requests to maintain his license. Respondent provided documentation of his income and expenses which demonstrates that paying the total amount of costs would be a financial hardship.

17. Respondent testified in an open and forthright manner consistent with one who is being truthful.

18. Respondent provided a letter of support from David Kraus, RPh. Kraus wrote that respondent has faced some challenges due to his opiate use disorder, but that respondent is taking his recovery seriously. Kraus wrote that respondent is an "admirable and responsible person who values his work as a registered pharmacist." Kraus does not foresee another relapse in respondent's future based on how he has addressed this relapse.

19. Respondent desires to retain his license because he loves being a pharmacist and wants to help people. He is willing to comply with any term or condition of probation imposed by the board as a requirement for keeping his license.

Costs

20. In connection with the investigation and enforcement of this accusation, complainant requests an award of costs in the total amount of \$22,749.25. These costs reflect \$10,493.75 in legal services and \$12,255.50 in investigative services. The request is supported by declarations that comply with the requirements of California Code of Regulations, title 1, section 1042. These costs are reasonable.

LEGAL CONCLUSIONS

1. Complainant is required to prove cause for discipline of a professional license or registration by "clear and convincing proof to a reasonable certainty." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856; see Bus. & Prof. Code, § 23.7.) Respondent must prove rehabilitation by a preponderance of the evidence. (Evid. Code, §§ 115, 500.)

First Cause for Discipline

2. Business and Professions Code² section 4301 authorizes the board to impose discipline upon a license for unprofessional conduct. Based on the matters set forth in the Factual Findings above, cause exists to impose discipline upon respondent's license.

Second Cause for Discipline

3. Section 4301, subdivision (f) defines unprofessional conduct as committing an act that involves moral turpitude, dishonesty, fraud, or deceit. Based on the matters set forth in the Factual Findings above, cause exists to impose discipline upon respondent's license pursuant to this section.

Third Cause for Discipline

4. Section 4059, subdivision (a), prohibits furnishing a controlled substance without a prescription from a physician. Health and Safety Code section 11170

² All further statutory references are to the Business and Professions Code unless otherwise stated.

prohibits an individual from prescribing, administering, or furnishing a drug for themselves. Based on the matters set forth in the Factual Findings above, cause exists to impose discipline upon respondent's license.

Fourth Cause for Discipline

5. Section 4060, subdivision (a), prohibits possession of a controlled substance without a valid prescription. Based on the matters set forth in the Factual Findings above, cause exists to impose discipline upon respondent's license.

Fifth Cause for Discipline

6. Section 4301, subdivision (j), defines unprofessional conduct as violating any statute regulating controlled substances or dangerous drugs. Health and Safety Code section 11173, subdivision (a), prohibits obtaining a controlled substance by fraud, deceit, or subterfuge. Based on the matters set forth in the Factual Findings above, cause exists to impose discipline upon respondent's license.

Determination of Discipline

7. Cause for discipline having been established, the remaining issue is what level of discipline is required to protect the public. Protection of the public "shall be paramount." (§ 4001.1.) For the violations proven here, the board's disciplinary guidelines recommend a maximum discipline of revocation, and a minimum discipline of revocation, stayed; a three- to five-year term of probation, with standard and optional conditions of probation, as appropriate. (Disciplinary Guidelines, A Manual of Disciplinary Guidelines and Model Disciplinary Orders (Feb. 2017 Rev.) (Disciplinary Guidelines).) In determining whether the minimum, maximum, or an intermediate penalty is to be imposed in a given case, the relevant factors include: nature and

severity of the acts; actual or potential harm to the public; actual or potential harm to any consumer; time passed since the act(s); aggravating and mitigating evidence; and rehabilitation evidence. (Disciplinary Guidelines at p. 4.)

8. Respondent committed serious misconduct by stealing medications. However, there is no evidence that he placed the public safety at risk. As set forth in the Factual Findings above, respondent has provided evidence of rehabilitation. Respondent was immediately forthcoming when caught. He has admitted his issues with narcotics and taken steps to address them. Respondent is engaged in therapy, is undergoing biological fluid testing through his pain management treatment, is attending NA/AA meetings three times per week, and has reengaged with his NA/AA sponsors. While it is troubling that respondent took medication that was not prescribed to him, he has addressed his medication limits with his pain management treatment team.

Respondent's prior history of discipline consists of a single citation over his 50 years as a licensed pharmacist. Respondent cooperated with the board's investigation of this matter.

Upon consideration of the entirety of the record, it is determined that protection of the public would be served by allowing respondent to retain his license on a probationary basis over a five-year period with terms and conditions including substance abuse conditions, as well as a 90-day suspension of his license.

Costs

9. Business and Professions Code section 125.3 authorizes the Board to recover reasonable costs of its investigation and enforcement in disciplinary proceedings. Complainant has reasonably incurred \$22,749.25 in costs in this action.

10. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45, the California Supreme Court established standards for determining whether costs should be assessed in the particular circumstances of each case, to ensure that licensees are not deterred from exercising their right to an administrative hearing. Among those standards are whether or not the licensee was successful at hearing in getting the charges reduced or outright dismissed; the licensee's good faith belief in the merits of her position; whether the licensee has raised a colorable challenge to the proposed discipline; the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate to the alleged misconduct.

In this case, respondent provided evidence that formed a basis for determining that outright revocation was unnecessary, and that a stayed revocation with probation should be imposed. Respondent also provided evidence of his financial inability to pay the total costs. In consideration of this factor, it is determined that it is appropriate to reduce the board's cost recovery to \$7,500.

ORDER

Pharmacist License Number RPH 25419 issued to respondent Steven Norman Seidman is revoked. However, the revocation is stayed, and respondent is placed on probation for five years upon the following terms and conditions.

1. Obey all Laws

Respondent shall obey all state and federal laws and regulations. Respondent shall report any of the following occurrences to the board, in writing, within 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 law, a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment, a conviction of any crime, the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

2. Report to the Board

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

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

3. Interview with the Board

Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the board or its designee, at such intervals and locations as are

determined by the board or its designee. Failure to appear for any scheduled interview without prior notification to board staff, or failure to appear for two or more scheduled interviews with the board or its designee during the period of probation, shall be considered a violation of probation.

4. Cooperate with Board Staff

Respondent shall timely cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of its 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.

5. Continuing Education

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

6. Reporting of Employment and Notice to Employers

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

Within 30 days of the effective date of this decision, and within 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 his employer(s), and the name(s) and telephone number(s) of all of his 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 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment, respondent shall cause (a) his direct supervisor, (b) his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of his employer, to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in this case, 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 15 days of the change acknowledging that he or she has read the decision in this case, 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 this case, 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 30 days of the effective date of this decision, and within 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 this case, 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 [insert license type], or any position for which a [insert license type] license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor, or volunteer.

7. Notification of Change in Name, Address, or Phone Number

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

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

8. 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.

9. 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 \$7,500. 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 year prior to the end date of probation.

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.

10. 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.

11. 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 pharmacy permit shall be considered a violation of probation.

If respondent 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 pharmacy permit shall be subject to all terms and conditions of this probation not previously satisfied.

12. License Surrender While on Probation/Suspension

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 his 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 his pocket and/or wall license, including any indicia of licensure not previously provided to the

board within 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 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.

13. Practice Requirement – Extension of Probation

Except during periods of suspension, respondent shall, at all times while on probation, operate as a pharmacy in California for a minimum of 16 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 operation, 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 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 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 probation to be extended pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding 36 months. The board or its designee may post a notice of the extended probation period on its website.

14. 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.

15. Completion of Probation

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

16. Suspension

Respondent is suspended from practice as a pharmacist for 90 days beginning the effective date of this suspension. During suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained.

Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices or controlled substances.

During suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs and/or dangerous devices or controlled substances.

Failure to comply with this suspension shall be considered a violation of probation.

17. Pharmacists Recovery Program

By no later than 10 days after the effective date of this decision, respondent shall have completed all of the following: contacted the Pharmacists Recovery Program (PRP) for evaluation; enrolled in the PRP; completed, signed, and returned the

treatment contract as well as any addendums required or suggested by the PRP; successfully completed registration for any drug or alcohol testing mandated by the treatment contract and/or by enrollment in the PRP; and begun compliance with the drug or alcohol testing protocol(s). Respondent shall successfully participate in the PRP and complete the treatment contract any addendums required or suggested by the PRP. The costs for PRP participation shall be borne by the respondent.

If respondent is currently enrolled in the PRP, said participation is now mandatory and as of the effective date of this decision is no longer considered a self-referral under Business and Professions Code section 4362 (a)(2). Respondent shall successfully participate in and complete his or her current contract and any subsequent addendums with the PRP.

Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not timely paid to the PRP shall constitute a violation of probation. The board will collect unpaid administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

Any of the following shall result in the automatic suspension of practice by respondent and shall be considered a violation of probation:

- Failure to contact, complete enrollment, and execute and return the treatment contract with the PRP, including any addendum(s), within ten (10) days of the effective date of the decision as directed by the PRP;
- Failure to complete registration for any drug or alcohol testing mandated by the treatment contract and/or by the PRP, and begin compliance with the testing protocol(s), within ten (10) days of the effective date of the decision as directed by the PRP;

- Failure to comply with testing protocols regarding daily check-in and/or failure to complete a mandated test as directed by the PRP;
- Any report from the PRP of material non-compliance with the terms and conditions of the treatment contract and/or any addendum(s); or
- Termination by the PRP for non-compliance, failure to derive benefit, or as a public risk.

Respondent may not resume the practice of pharmacy until notified by the board in writing.

Probation shall be automatically extended until respondent successfully completes the PRP. The board will provide notice of any such suspension or extension of probation.

During any suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not practice as a pharmacist nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices or controlled substances.

During any suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist. Respondent shall not

direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs and/or dangerous devices or controlled substances.

Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

18. Drug and Alcohol Testing

Respondent, at his own expense, shall participate in testing as directed by the board or its designee for the detection of alcohol, controlled substances, and dangerous drugs and/or dangerous devices. Testing protocols may include biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other testing protocols as directed by the board or its designee. All testing must be pursuant to an observed testing protocol unless respondent is informed otherwise in writing by the board or its designee. Respondent may be required to participate in testing for the entire probation period and frequency of testing will be determined by the board or its designee.

By no later than 30 days after the effective date of this decision, respondent shall have completed all of the following tasks: enrolled and registered with an approved drug and alcohol testing vendor; provided that vendor with any documentation, and any information necessary for payment by respondent; commenced testing protocols, including all required contacts with the testing vendor to determine testing date(s); and begun testing. At all times, respondent shall fully cooperate with the testing vendor, and with the board or its designee, with regard to enrollment, registration, and payment for, and compliance with, testing. Any failure to cooperate timely shall be considered a violation of probation.

Respondent may be required to test on any day, including weekends and holidays. Respondent is required to make daily contact with the testing vendor to determine if a test is required, and if a test is required must submit to testing on the same day.

Prior to any vacation or other period of absence from the area where the approved testing vendor provides services, respondent shall seek and receive approval from the board or its designee to use an alternate testing vendor to ensure testing can occur. Upon approval, respondent shall enroll and register with the approved alternate drug testing vendor, provide to that alternate vendor any documentation required by the vendor, including any necessary payment by respondent. During the period of absence of the area, respondent shall commence testing protocols with the alternate vendor, including required daily contacts with the testing vendor to determine if testing is required, and required testing. Any failure to timely seek or receive approval from the board or its designee, or to timely enroll and register with, timely commence testing protocols with, or timely undergo testing with, the alternate testing vendor, shall be considered a violation of probation.

Upon detection of an illicit drug, controlled substance or dangerous drug, the board or its designee may require respondent to timely provide documentation from a licensed practitioner authorized to prescribe the detected substance demonstrating that the substance was administered or ingested pursuant to a legitimate prescription issued as a necessary part of treatment. All such documentation shall be provided by respondent within 10 days of being requested.

Any of the following shall be considered a violation of probation and shall result in respondent being immediately suspended from practice as a pharmacist until notified by the board in writing that he may resume practice: failure to timely

complete all of the steps required for enrollment/registration with the drug testing vendor, including making arrangements for payment; failure to timely commence drug testing protocols; failure to contact the drug testing vendor as required to determine testing date(s); failure to test as required; failure to timely supply documentation demonstrating that a detected substance was taken pursuant to a legitimate prescription issued as a necessary part of treatment; and/or detection through testing of alcohol, or of an illicit drug, or of a controlled substance or dangerous drug absent documentation that the detected substance was taken pursuant to a legitimate prescription and a necessary treatment. In the event of a suspension ordered after detection through testing of alcohol, an illicit drug, or of a controlled substance or dangerous drug absent documentation that the detected substance was taken pursuant to a legitimate prescription and a necessary treatment, the board or its designee shall inform respondent of the suspension and inform him to immediately leave work, and shall notify respondent's employer(s) and work site monitor(s) of the suspension.

During any such suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third party-logistics provider, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices and controlled substances.

During any such suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a [insert license type]. Respondent shall not direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs and/or dangerous devices.

Failure to comply with any such suspension shall be considered a violation of probation. Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

19. Abstain from Drugs and Alcohol

Respondent shall completely abstain from the possession or use of alcohol, controlled substances, illicit drugs, dangerous drugs and/or dangerous devices, or their associated paraphernalia, except when possessed or used pursuant to a legitimate prescription issued as a necessary part of treatment. Respondent shall ensure that [he/she] is not in the same physical location as individuals who are using illicit substances even if respondent is not personally ingesting the drugs. Any possession or use of alcohol, dangerous drugs and/or dangerous devices or controlled substances, or their associated paraphernalia for which a legitimate prescription has not been issued as a necessary part of treatment, or any physical proximity to persons using illicit substances, shall be considered a violation of probation.

20. Prescription Coordination and Monitoring of Prescription Use

Within 30 days of the effective date of this decision, respondent shall submit to the board, for its prior approval, the name and qualifications of a single physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's history [with the use of alcohol, illicit drugs, controlled

substances, and/or dangerous drugs, and/or of mental illness, and/or of gambling addiction] and who will coordinate and monitor any prescriptions for respondent for dangerous drugs and/or dangerous devices, controlled substances or mood-altering drugs. The approved practitioner shall be provided with a copy of the board's [accusation, petition to revoke probation, or other pleading] and decision. A record of this notification must be provided to the board or its designee upon request.

Respondent shall sign a release authorizing the practitioner to communicate with the board or its designee about respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding respondent's compliance with this condition. If any substances considered addictive have been prescribed, the report shall identify a program for the time limited use of any such substances. The board or its designee may require that the single coordinating physician, nurse practitioner, physician assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive medicine. Should respondent, for any reason, cease supervision by the approved practitioner, respondent shall notify the board or its designee immediately and, within thirty (30) days of ceasing supervision, submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist of respondent's choice to the board or its designee for its prior approval. Failure to timely submit the selected practitioner or replacement practitioner to the board or its designee for approval, or to ensure the required quarterly reporting thereby, shall be considered a violation of probation.

If at any time an approved practitioner determines that respondent is unable to practice safely or independently as a pharmacist, the practitioner shall notify the board or its designee immediately by telephone and follow up by written letter within three

working days. Upon notification from the board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice as pharmacist until notified by the board or its designee that practice may be resumed.

During any suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices and controlled substances. Respondent shall not resume practice until notified by the board.

During any suspension, respondent shall not engage in any activity that requires the professional judgment and/or licensure as a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs and/or dangerous devices or controlled substances.

Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

21. Facilitated Group Recovery and/or Support Meetings

Within 30 days of the effective date of this decision, respondent shall begin regular attendance at a group recovery and/or support meeting that is run by a

trained facilitator approved in advance by the board or its designee. The required frequency of group meeting attendance shall be determined by the board or its designee. Respondent shall continue regular attendance as directed at an approved facilitated group meeting until the board or its designee advises the respondent in writing that [he/she] may cease regular attendance.

Respondent shall provide signed and dated documentation of attendance as required with each quarterly report. Failure to attend as required or to submit documentation of attendance shall be considered a violation of probation.

If respondent is required to participate in the PRP, compliance with this term can be demonstrated through that program. Where respondent is enrolled in the PRP, participation as required in a facilitated group meeting approved by the PRP shall be sufficient for satisfaction of this requirement. Any deviation from participation requirements for the PRP-approved group shall be considered a violation of probation.

22. Attend Substance Abuse Recovery Relapse Prevention and Support Groups

Within 30 days of the effective date of this decision, respondent shall begin regular attendance at a recognized and established substance abuse recovery support group in California (e.g., Alcoholics Anonymous, Narcotics Anonymous, etc.) which has been approved by the board or its designee. Respondent must attend the number of group meetings per week or month directed by the board or its designee, which shall typically be at least one per week.

Respondent shall continue regular attendance and submit signed and dated documentation confirming attendance with each quarterly report for the duration of

probation. Failure to attend or submit documentation thereof shall be considered a violation of probation.

Where respondent is enrolled in the PRP, participation as required in a recovery group meeting approved by the PRP shall be sufficient for satisfaction of this requirement. Any deviation from participation requirements for the PRP-approved group shall be considered a violation of probation.

23. Work Site Monitor

It is a condition of respondent's enrollment in the Pharmacists Recovery Program (PRP) that he is required to have a work site monitor approved by the PRP who shall be responsible for supervising respondent during working hours. Respondent shall be responsible for ensuring that the work site monitor reports in writing to the PRP monthly or on another schedule as directed by the PRP. Should the designated work site monitor suspect at any time during the probationary period that respondent has abused alcohol or drugs, he or she shall notify the PRP immediately. The initial notification shall be made orally within one business day of the occurrence, which shall be followed by written notification within two business days of the occurrence. If, for any reason, including change of employment, respondent is no longer able to be monitored by the approved work site monitor, within 10 days of commencing new employment for prior approval by the PRP. Failure to identify an acceptable initial or replacement work site monitor, or to ensure monthly reports are submitted to the PRP by the work site monitor, shall be considered a violation of probation.

Within 30 days of being approved by the PRP, the work site monitor shall sign an affirmation that he or she has reviewed the terms and conditions of respondent's

disciplinary order and agrees to monitor respondent. The work site monitor shall at least:

1) Have regular face-to-face contact with respondent in the work environment, at least once per week or with greater frequency if required by the board or its designee;

2) Interview other staff in the office regarding respondent's behavior, if applicable; and

3) Review respondent's work attendance.

The written reports submitted to the PRP by the work site monitor shall include at least the following information: respondent's name and license number; the monitor's name, license number (if applicable) and work site location; the date(s) the monitor had face-to-face contact with respondent; the staff interviewed, if applicable; an attendance report; notes on any changes in respondent's behavior or personal habits; notes on any indicators that may lead to substance abuse; and the work site monitor's signature.

Respondent shall complete the required consent forms and sign an agreement with the work site monitor and the board to allow the board to communicate with the work site monitor.

DATE: January 27, 2023



TRACI C. BELMORE

Administrative Law Judge

Office of Administrative Hearings

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

13 In the Matter of the Accusation Against:

Case No. 7152

14 **STEVEN NORMAN SEIDMAN**
15 **81602 Camino Fuerte**
Indio, CA 92203

ACCUSATION

16 **Pharmacist License Number RPH 25419**

17 Respondent.

18
19 **PARTIES**

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

22 2. On February 27, 1968, the Board issued Pharmacist License Number RPH 25419 to
23 Steven Norman Seidman (Respondent). The Pharmacist License was in full force and effect at all
24 times relevant to the charges brought herein and will expire on December 31, 2023, unless
25 renewed.

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28 ///

JURISDICTION

1
2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Code section 4011 states, in pertinent part, that the Board shall administer and
6 enforce both the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled
7 Substances Act [Health & Safety Code, § 11000 et seq.].

8 5. Code section 4300 states, in pertinent part:

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

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

12 (1) Suspending judgment.

13 (2) Placing him or her upon probation.

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

15 (4) Revoking his or her license.

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

18 ...

19 (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
20 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
21 superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

22 6. Code section 4300.1 states:

23 The expiration, cancellation, forfeiture, or suspension of a board-issued license
24 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
25 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
26 a decision suspending or revoking the license.

26 ///

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28 ///

STATUTORY PROVISIONS

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

...

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

...

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

...

8. Section 4021 of the Code states:

“Controlled substance” means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.”

9. Section 4022 of the Code states, in pertinent part:

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.

...

(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.

10. Code section 4059 states, in pertinent part:

A person may not furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

11. Section 4060 of the Code states, in pertinent part:

No person shall possess any controlled substance, except that furnished upon a valid prescription/drug order.

///

///

1 12. Health and Safety Code section 11170 states, in pertinent part:

2 No person shall prescribe, administer, or furnish a controlled substance for himself.

3 13. Health and Safety Code section 11173, subdivision (a) states:

4 No person shall obtain or attempt to obtain controlled substances, or procure or
5 attempt to procure the administration of controlled substances, (a) by fraud, deceit,
6 misrepresentation, or subterfuge; or (2) by concealment of a material fact.

6 **REGULATORY PROVISIONS**

7 14. California Code of Regulations, title 16, section 1770, states:

8 For the purpose of denial, suspension, or revocation of a personal or facility
9 license pursuant to Division 1.5 (commencing with Section 475) of the Business and
10 Professions Code, a crime or act shall be considered substantially related to the
11 qualifications, functions or duties of a licensee or registrant if to a substantial degree
12 it evidences present or potential unfitness of a licensee or registrant to perform the
13 functions authorized by his license or registration in a manner consistent with the
14 public health, safety, or welfare.

12 **COST RECOVERY**

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

17 **DRUGS**

18 16. Suboxone, a brand name for buprenorphine and naloxone, is a Schedule V controlled
19 substance as designated by Section 4021 and Health and Safety Code section 11058(d). It is also
20 a dangerous drug pursuant to Section 4022 and is prescribed primarily to treat opiate addiction.

21 17. Subutex, a brand name for buprenorphine, is a Schedule V controlled substance as
22 designated by Section 4021 and Health and Safety Code section 11058(d). It is also a dangerous
23 drug pursuant to Section 4022 and is prescribed primarily to treat pain and opiate addiction.

24 **FACTUAL ALLEGATIONS**

25 18. On or about February 23, 2021, the Board received *DEA-106 Report of Theft or Loss*
26 *of Controlled Substances* forms from Registered Pharmacist (RPH) C.P., owner of C&S
27 Pharmacy, doing business as La Botica Pharmacy (La Botica) and Divya RX Services, doing
28 business as Heritage Pharmacy (Heritage). The DEA-106 forms reported, in part, the loss of

1 varying amounts of buprenorphine/naloxone tablets and films due to employee theft. The
2 pharmacies' own investigation revealed that Respondent had diverted medications from La Botica
3 and Heritage, where Respondent was a per diem employee. The description of the theft indicated
4 that Respondent was caught attempting to take buprenorphine/naloxone on February 15, 2021
5 from Heritage. At the time of the incident, Respondent had not worked at Heritage or La Botica
6 since March 2020. Before March 2020, Respondent covered shifts approximately one day per
7 week, and was on payroll at both La Botica and Heritage. The subsequent Board investigation
8 substantiated the information from Heritage and La Botica, and determined that violations of
9 pharmacy law occurred.

10 19. Specifically, on February 15, 2021, Respondent entered Heritage to say hello to staff,
11 which he did occasionally while he was on leave due to the COVID-19 pandemic. At some point
12 during his visit, Respondent told Pharmacy Technician (Technician) B.M. that he thought he left
13 his sunglasses in the pharmacy and went to the controlled substances section to look for them.
14 Respondent also asked Technician R.L. to go to the front of the section to help him look for his
15 glasses. While observing Respondent, Technician B.M. saw him place something in the front of
16 his pants, so she informed RPH M.G., who was present. At the same time, Technician R.L.
17 witnessed Respondent enter the controlled substances section and when he came out, Respondent
18 was fixing and tucking something into his pants. Technician R.L. signaled to RPH M.G. that
19 Respondent had tucked something into his pants. RPH M.G. confronted Respondent and asked
20 him to give the bottle back. Respondent then pulled an open bottle of buprenorphine/naloxone
21 8/2mg tablets from his pants. RPH M.G. told Respondent that "he could not be doing this to us."
22 Respondent apologized to RPH M.G.. Later that day, RPH M.G. notified the owner of Heritage,
23 RPH C.P., about the incident. Respondent later called RPH C.P. and admitted to taking
24 medications from both La Botica and Heritage pharmacies.

25 20. At the time in question, video surveillance of the incident shows Respondent enter
26 Heritage and greet staff. At approximately 9:15am, Respondent is seen walking behind the
27 RxSafe (a controlled substances apparatus) with Technicians R.L. and B.M. watching.
28 Technician B.M. is later seen approaching RPH M.G. and pull him aside at approximately

1 9:15.50. At approximately 9:17.45, RPH M.G. is seen patting his own pockets while appearing to
2 talk to Respondent. Respondent is then seen going partially behind the RxSafe and emerges
3 producing a bottle from his pants and handing it to RPH M.G.. Respondent is then seen spending
4 some time talking to RPH M.G. prior to leaving the pharmacy. As a result of the thefts,
5 Respondent was terminated from Heritage and La Botica.

6 21. As part of the its investigation, Board investigators conducted interviews with
7 Heritage staff, which were consistent with the previously provided written statements, confirming
8 that Respondent visited Heritage on February 15, 2021, when he was not scheduled to work, and
9 that staff witnessed Respondent attempting to steal a bottle of buprenorphine/naloxone 8/2mg.
10 Board investigators also reviewed Respondent's patient profile, CURES PAR record, and
11 associated prescriptions, which revealed that he had been receiving medical treatment with
12 buprenorphine/naloxone. Respondent had a current prescription for Zubsolv 2.9/0.71mg, a brand
13 name version of buprenorphine/naloxone. However, at the time of the incident, Respondent did
14 not have a valid prescription for buprenorphine/naloxone 8/2mg.

15 22. During the Board's investigation, Respondent admitted taking at least five (5) boxes
16 of buprenorphine/naloxone controlled substances from La Botica and Heritage pharmacies.
17 Respondent expressed regret, remorse, and embarrassment about the thefts. Respondent offered
18 to pay RPH C.P. for the controlled substances he took from La Botica and Heritage pharmacies,
19 but RPH C.P. declined. In addition to admitting to taking the generic Suboxone from Heritage,
20 Respondent explained to a Board investigator that he was taking his prescription version more
21 frequently than it was indicated for his pain. He stated that he only took buprenorphine products
22 from La Botica and Heritage pharmacies.

23 **FIRST CAUSE FOR DISCIPLINE**

24 **(Unprofessional Conduct)**

25 23. Respondent's Pharmacist License is subject to disciplinary action under Code section
26 4301 in that he engaged in unprofessional conduct. The facts are more fully set forth in
27 paragraphs 18 through 22 above and incorporated herein as though set forth in full.

28 ///

1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: Acts Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)**

3 24. Respondent's Pharmacist License is subject to disciplinary action under Code section
4 4301, subdivision (f) in that he committed acts involving moral turpitude, dishonesty, fraud, or
5 deceit. The facts are more fully set forth in paragraphs 18 through 22 above and incorporated
6 herein as though set forth in full.

7 **THIRD CAUSE FOR DISCIPLINE**

8 **(Unlawful Furnishing of a Controlled Substance)**

9 25. Respondent's Pharmacist License is subject to disciplinary action under Code
10 sections 4059, subdivision (a) and Health and Safety Code section 11170, in that he unlawfully
11 furnished himself with controlled substances and dangerous drugs without a prescription. The
12 facts are more fully set forth in paragraphs 18 through 22 above and incorporated herein as
13 though set forth in full.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Unlawful Possession of a Controlled Substance)**

16 26. Respondent's Pharmacist License is subject to disciplinary action under Code section
17 4060, in that he unlawfully possessed controlled substances and dangerous drugs without a
18 prescription. The facts are more fully set forth in paragraphs 18 through 22 above and
19 incorporated herein as though set forth in full.

20 **FIFTH CAUSE FOR DISCIPLINE**

21 **(Obtaining Controlled Substances by Fraud, Deceit or Subterfuge)**

22 27. Respondent's Pharmacist License is subject to disciplinary action under Code section
23 4301, subdivision (j) in conjunction with Health and Safety Code section 11173, subdivision (a),
24 in that he obtained controlled substances and dangerous drugs by fraud, deceit or subterfuge, or
25 concealment of a material fact when he stole those drugs from his employer. The facts are more
26 fully set forth in paragraphs 18 through 22 above and incorporated herein as though set forth in
27 full.

28 ///

1 **DISCIPLINARY CONSIDERATION**

2 28. To determine the degree of discipline, if any, to be imposed on Respondent,
3 Complainant alleges:

4 29. On January 22, 2020, the Board issued Modified Citation and Fine and Order of
5 Abatement Number CI 2019 85349 against Respondent for violating Health and Safety Code
6 section 11170, for dispensing a “self-prescribed” controlled substance medication. Specifically,
7 on April 18, 2017, Respondent, while working at Creekside Pharmacy, performed the final
8 verification for Doctor D.M.’s telephone prescription for 50 tablets of eszopiclone 2mg, a
9 Schedule IV controlled substance medication, that was dispensed to Doctor D.M. based on the
10 self-prescribed telephone prescription. Modified Citation Number CI 2019 85349 is now final
11 and is incorporated by reference as if fully set forth.

12 **PRAYER**

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

- 15 1. Revoking or suspending Pharmacist License Number RPH 25419 issued to Steven
16 Norman Seidman;
- 17 2. Ordering Steven Norman Seidman to pay the Board the reasonable costs of the
18 investigation and enforcement of this case, pursuant to Code section 125.3; and,
- 19 3. Taking such other and further action as deemed necessary and proper.

20
21 DATED: 3/24/2022

Signature on File

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

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27 DOJ Matter ID: SD2021302589
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