

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

In the Matter of the Accusation Against:

**KENNETH RX INC. DBA KENNETH VILLAGE PHARMACY, ARMEN
AYVAZYAN CEO/PRES/TRES**

Pharmacy Permit No. PHY 55414,

and

ROBERT S. LIPP

Registered Pharmacist License No. RPH 32284

Respondents.

Agency Case No. 7159

OAH No. 2022040692

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 February 8, 2023.

It is so ORDERED on January 9, 2023.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is written in a cursive style with a large initial "S" and "O".

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
4 State Bar No. 244817
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6292
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

13 **KENNETH RX INC. DBA KENNETH**
14 **VILLAGE PHARMACY, ARMEN**
15 **AYVAZYAN CEO/PRES/TRES**
16 **1400 W. Kenneth Road**
17 **Glendale, CA 91201**

18 **Pharmacy Permit No. PHY 55414,**

19 **and**

20 **ROBERT S. LIPP**
21 **9332 Crystal View Drive**
22 **Tujunga, CA 91042**

23 **Registered Pharmacist License No. RPH**
24 **32284**

25 Respondents.

Case No. 7159

OAH No. 2022040692

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

(As to Robert S. Lipp)

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

28 **PARTIES**

1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy (Board). She brought this action solely in her official capacity and is represented in this matter by

1 Rob Bonta, Attorney General of the State of California, by William D. Gardner, Deputy Attorney
2 General.

3 2. Respondent Robert S. Lipp (Respondent) is representing himself in this proceeding
4 and has chosen not to exercise his right to be represented by counsel.

5 3. On or about August 9, 1978, the Board of Pharmacy issued Registered Pharmacist
6 License Number RPH 32284 to Respondent. The Registered Pharmacist License was in full force
7 and effect at all times relevant to the charges brought herein and will expire on April 30, 2024,
8 unless renewed.

9 **JURISDICTION**

10 4. Accusation No. 7159 was filed before the Board, and is currently pending against
11 Respondent. The Accusation and all other statutorily required documents were properly served
12 on Respondent on November 19, 2021. Respondent timely filed his Notice of Defense contesting
13 the Accusation.

14 5. A copy of Accusation No. 7159 is attached as Exhibit A and incorporated herein by
15 reference.

16 **ADVISEMENT AND WAIVERS**

17 6. Respondent has carefully read, and understands the charges and allegations in
18 Accusation No. 7159. Respondent has also carefully read, and understands the effects of this
19 Stipulated Settlement and Disciplinary Order.

20 7. Respondent is fully aware of his legal rights in this matter, including the right to a
21 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
22 his own expense; the right to confront and cross-examine the witnesses against him; the right to
23 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
24 the attendance of witnesses and the production of documents; the right to reconsideration and
25 court review of an adverse decision; and all other rights accorded by the California
26 Administrative Procedure Act and other applicable laws.

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

1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 7159, if proven at a hearing, constitute cause for imposing discipline upon his Registered
4 Pharmacist License.

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

9 11. Respondent agrees that his Registered Pharmacist License is subject to discipline and
10 they agree to be bound by the Board's probationary terms as set forth in the Disciplinary Order
11 below.

12 **CONTINGENCY**

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

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

25 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
28 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

3 15. In consideration of the foregoing admissions and stipulations, the parties agree that
4 the Board may, without further notice or formal proceeding, issue and enter the following
5 Disciplinary Order:

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Registered Pharmacist License Number RPH 32284 issued
8 to Respondent Robert S. Lipp is revoked. However, the revocation is stayed and Respondent is
9 placed on probation for four (4) years on the following terms and conditions:

10 1. **Obey All Laws**

11 Respondent shall obey all state and federal laws and regulations.

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

- 14 • an arrest or issuance of a criminal complaint for violation of any provision of the
15 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
16 substances laws
- 17 • a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal
18 criminal proceeding to any criminal complaint, information or indictment
- 19 • a conviction of any crime
- 20 • the filing of a disciplinary pleading, issuance of a citation, or initiation of another
21 administrative action filed by any state or federal agency which involves
22 respondent's license or which is related to the practice of pharmacy or the
23 manufacturing, obtaining, handling, distributing, billing, or charging for any drug,
24 device or controlled substance.

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

26 2. **Report to the Board**

27 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
28 designee. The report shall be made either in person or in writing, as directed. Among other

1 requirements, respondent shall state in each report under penalty of perjury whether there has
2 been compliance with all the terms and conditions of probation.

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

8 **3. Interview with the Board**

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

14 **4. Cooperate with Board Staff**

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

21 **5. Continuing Education**

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

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

25 During the period of probation, respondent shall notify all present and prospective
26 employers of the decision in case number 7159 and the terms, conditions and restrictions imposed
27 on respondent by the decision, as follows:

28 ///

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

13 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
14 respondent undertaking any new employment, respondent shall cause (a) Respondent's direct
15 supervisor, (b) Respondent's pharmacist-in-charge, designated representative-in-charge,
16 responsible manager, or other compliance supervisor, and (c) the owner or owner representative
17 of Respondent's employer, to report to the board in writing acknowledging that the listed
18 individual(s) has/have read the decision in case number 7159, and terms and conditions imposed
19 thereby. If one person serves in more than one role described in (a), (b), or (c), the
20 acknowledgment shall so state. It shall be the respondent's responsibility to ensure that these
21 acknowledgment(s) are timely submitted to the board. In the event of a change in the person(s)
22 serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause
23 the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days of
24 the change acknowledging that he or she has read the decision in case number 7159, and the
25 terms and conditions imposed thereby.

26 If respondent works for or is employed by or through an employment service, respondent
27 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
28 of the decision in case number 7159, and the terms and conditions imposed thereby in advance of

1 respondent commencing work at such licensed entity. A record of this notification must be
2 provided to the board upon request.

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

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

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

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

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

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

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

22 Respondent shall be prohibited from supervising any intern pharmacist, being the
23 pharmacist-in-charge, designated representative-in-charge, responsible manager or other
24 compliance supervisor of any entity licensed by the Board, and from serving as a consultant.
25 Assumption of any such unauthorized supervision responsibilities shall be considered a violation
26 of probation and a cause for discipline.

27 ///

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

9. 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.

10. Status of License

Respondent shall, at all times while on probation, maintain an active, current Pharmacy Permit 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's Pharmacy Permit 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.

11. 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 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

1 of the date the application for that license is submitted to the board, including any outstanding
2 costs.

3 **12. Practice Requirement – Extension of Probation**

4 Except during periods of suspension, respondent shall, at all times while on probation, be
5 employed as a registered pharmacist in California for a minimum of 80 hours per calendar month.
6 Any month during which this minimum is not met shall extend the period of probation by one
7 month. During any such period of insufficient employment, respondent must nonetheless comply
8 with all terms and conditions of probation, unless respondent receives a waiver in writing from
9 the board or its designee. The Board or its designee may, at its discretion, agree to reduce the
10 minimum hours that Respondent must be employed during the probation period.

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

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

24 **13. Violation of Probation**

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

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

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

10 **14. Completion of Probation**

11 Upon written notice by the board or its designee indicating successful completion of
12 probation, respondent's license will be fully restored with the exception of the permanent
13 prohibitions set forth in paragraphs 8 and 17 of this Order.

14 **15. Remedial Education**

15 Before the end of each full year of the probation period, Respondent shall submit to the
16 Board, for prior approval, an appropriate program for four (4) hours of remedial education related
17 to pharmacy law and the role of pharmacist-in-charge, which shall be completed prior to the
18 conclusion of each probation year (beginning from the effective date of decision) and at
19 Respondent's own expense. At least 50% of the program of remedial education shall consist of
20 in-person or live webinar courses. All remedial education shall be in addition to, and shall not be
21 credited toward, continuing education (CE) courses used for license renewal purposes.

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

26 Following the completion of each course, the Board or its designee may require the
27 respondent, at her own expense, to take an approved examination to test the respondent's
28 knowledge of the course. If the respondent does not achieve a passing score on the examination

1 that course shall not count towards satisfaction of this term. Respondent shall take another course
2 approved by the board in the same subject area.

3 **16. Ethics Course**

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

12 **17. No Ownership or Management of Licensed Premises**

13 Respondent shall be prohibited from owning, having any legal or beneficial interest in, or
14 serving as a manager, administrator, member, officer, director, trustee, associate, or partner of any
15 business, firm, partnership, or corporation currently or hereinafter licensed by the Board.
16 Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the
17 Board within ninety (90) days following the effective date of this decision and shall immediately
18 thereafter provide written proof thereof to the board. Failure to timely divest any legal or
19 beneficial interest(s) or provide documentation thereof shall be considered a violation of
20 probation.

21 **ACCEPTANCE**

22 I have carefully read the above Stipulated Settlement and Disciplinary Order. I understand the
23 stipulation and the effect it will have on my Registered Pharmacist License. I enter into this
24 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
25 to be bound by the Decision and Order of the Board of Pharmacy.

26
27 DATED: _____

28 ROBERT S. LIPP
Respondent

1 that course shall not count towards satisfaction of this term. Respondent shall take another course
2 approved by the board in the same subject area.

3 **16. Ethics Course**

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

12 **17. No Ownership or Management of Licensed Premises**

13 Respondent shall be prohibited from owning, having any legal or beneficial interest in, or
14 serving as a manager, administrator, member, officer, director, trustee, associate, or partner of any
15 business, firm, partnership, or corporation currently or hereinafter licensed by the Board.
16 Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the
17 Board within ninety (90) days following the effective date of this decision and shall immediately
18 thereafter provide written proof thereof to the board. Failure to timely divest any legal or
19 beneficial interest(s) or provide documentation thereof shall be considered a violation of
20 probation.

21 **ACCEPTANCE**

22 I have carefully read the above Stipulated Settlement and Disciplinary Order. I understand the
23 stipulation and the effect it will have on my Registered Pharmacist License. I enter into this
24 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
25 to be bound by the Decision and Order of the Board of Pharmacy.

26
27 DATED: 11/15/2022 
28 **ROBERT S. LIPP**
Respondent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

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

DATED: _____

Respectfully submitted,
ROB BONTA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General

WILLIAM D. GARDNER
Deputy Attorney General
Attorneys for Complainant

LA2021602506
65564492.docx


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

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

DATED: 11/15/2022

Respectfully submitted,
ROB BONTA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General


WILLIAM D. GARDNER
Deputy Attorney General
Attorneys for Complainant

LA2021602506
65564492.docx

Exhibit A

Accusation No. 7159

1 ROB BONTA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
4 State Bar No. 244817
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6292
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 7159

13 **KENNETH RX INC. DBA KENNETH**
14 **VILLAGE PHARMACY, ARMEN**
15 **AYVAZYAN CEO/PRES/TRES**
16 **1400 W. Kenneth Road**
17 **Glendale, CA 91201**

ACCUSATION

18 **Pharmacy Permit No. PHY 55414,**

19 **and**

20 **ROBERT S. LIPP**
21 **9332 Crystal View Drive**
22 **Tujunga, CA 91042**

23 **Registered Pharmacist License No. RPH**
24 **32284**

25 Respondents.

26 **PARTIES**

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

2. On or about March 21, 2017, the Board of Pharmacy issued Pharmacy Permit
Number PHY 55414 to Kenneth Rx Inc. dba Kenneth Village Pharmacy; Armen Ayvazyan

1 CEO/PRES/TRES (Respondent Pharmacy). The Pharmacy Permit was in full force and effect at
2 all times relevant to the charges brought herein and will expire on March 1, 2022, unless renewed.

3 3. On or about August 9, 1978, the Board of Pharmacy issued Registered Pharmacist
4 License Number RPH 32284 to Robert S. Lipp (Respondent Lipp). The Registered Pharmacist
5 License was in full force and effect at all times relevant to the charges brought herein and will
6 expire on April 30, 2022, unless renewed.

7 **JURISDICTION**

8 4. This Accusation is brought before the Board of Pharmacy (Board), Department of
9 Consumer Affairs, under the authority of the following laws.

10 5. Section 4011 of the Business and Professions Code (BPC) states that the Board shall
11 administer and enforce the California Pharmacy Law (Division 2 of the BPC, commencing with
12 Section 4000) and the Uniform Controlled Substances Act (Division 10 of the Health and Safety
13 code, commencing with Section 11000).

14 6. Section 4300, subdivision (a), of the BPC provides that “[e]very license issued may
15 be suspended or revoked.”

16 7. Section 4300.1 of the BPC states:

17 “The expiration, cancellation, forfeiture, or suspension of a board-issued license by
18 operation of law or by order or decision of the board or a court of law, the placement of a license
19 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
20 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
21 proceeding against, the licensee or to render a decision suspending or revoking the license.”

22 **PERTINENT CALIFORNIA PHARMACY LAW STATUTES**

23 8. Section 4113, subdivision (c), of the BPC states that “[t]he pharmacist-in-charge
24 shall be responsible for a pharmacy's compliance with all state and federal laws and regulations
25 pertaining to the practice of pharmacy.”

26 ///

27 ///

28 ///

1 9. Section 4301 of the BPC states:

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

5 . . .

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

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

12 10. Section 4302 provides that “[t]he board may deny, suspend, or revoke any license
13 of a corporation where conditions exist in relation to any person holding 10 percent or more of the
14 corporate stock of the corporation, or where conditions exist in relation to any officer or director
15 of the corporation that would constitute grounds for disciplinary action against a licensee.”

16 . . .

17 11. Section 4307, subdivision (a), of the BPC states:

18 Any person who has been denied a license or whose license has been revoked or is
19 under suspension, or who has failed to renew his or her license while it was under suspension, or
20 who has been a manager, administrator, owner member, officer, director, associate, or partner of
21 any partnership, corporation, firm, or association whose application for a license has been denied
22 or revoked, is under suspension or has been placed on probation, and while acting as the manger,
23 administrator, owner, member, officer, director, associate, or partner had knowledge or
24 knowingly participated in any conduct for which the license was denied, revoked, suspended, or
25 placed on probation, shall be prohibited from serving as a manger, administrator, owner, member,
26 officer, director, associate, or partner of a licensee as follows:

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

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

3 12. Section 4081 of the Code states:

4 "(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs
5 or dangerous devices shall be at all times during business hours open to inspection by authorized
6 officers of the law, and shall be preserved for at least three years from the date of making. A
7 current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary
8 food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital,
9 institution, or establishment holding a currently valid and unrevoked certificate, license, permit,
10 registration, or exemption under Division 2 (commencing with Section 1200) of the Health and
11 Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and
12 Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

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

16 13. Section 4105 of the Code states, in pertinent part:

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

20 . . .

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

23

24 **PERTINENT CALIFORNIA PHARMACY LAW REGULATIONS**

25 14. California Code of Regulations ("CCR"), title 16, section 1761, states in pertinent
26 part:

27 (a) No pharmacist shall compound or dispense any prescription which contains any
28 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any

1 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
2 validate the prescription.

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

6 **UNIFORM CONTROLLED SUBSTANCES ACT**

7 15. Health and Safety Code (HSC) section 11205 provides:

8 “The owner of a pharmacy or any person who purchases a controlled substance upon
9 federal order forms as required pursuant to the provisions of the Federal “Comprehensive Drug
10 Abuse Prevention and Control Act of 1970,” (P.L. 91-513, 84 Stat. 1236), relating to the
11 importation, exportation, manufacture, production, compounding, distribution, dispensing, and
12 control of controlled substances, and who sells controlled substances obtained upon such federal
13 order forms in response to prescriptions shall maintain and file such prescriptions in a separate
14 file apart from noncontrolled substances prescriptions. Such files shall be preserved for a period
15 of three years.”

16 16. Section 11208 of the HSC provides:

17 “In a prosecution under this division, proof that a defendant received or has had in his
18 possession at any time a greater amount of controlled substances than is accounted for by any
19 record required by law or that the amount of controlled substances possessed by the defendant is a
20 lesser amount than is accounted for by any record required by law is prima facie evidence of
21 guilt.”

22 **COST RECOVERY**

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

27 ///

28 ///

FACTUAL BACKGROUND

1
2 18. On October 29, 2019, the Board received a complaint from a pharmacist employed by
3 Respondent Pharmacy regarding the possible diversion of promethazine with codeine syrup
4 (promethazine/codeine).

5 19. Promethazine/codeine is prescribed for use as an antihistamine, sedative, and cough
6 suppressant. It is a Schedule V controlled substance and is classified as a dangerous drug under
7 BPC section 4022. Promethazine/codeine is a widely abused narcotic that has a substantial street
8 value. It is prescribed for short-term use, and its boxed warning cautions providers that it should
9 be refilled only after medical reevaluation of the patient due to its propensity for abuse.

10 20. In conducting an investigation into the complaint, a Board inspector obtained and
11 analyzed pertinent records and information from Respondent Pharmacy and its wholesalers in
12 order to perform an audit related to the pharmacy's acquisition and dispensing of promethazine/
13 codeine from March 21, 2017 to December 30, 2019.

14 21. The audit revealed that approximately 40 bottles (more than 18,000 ml) of certain
15 promethazine/codeine stock were missing from Respondent Pharmacy's inventory.

16 22. In addition, the audit revealed that Respondent Pharmacy had inexplicably dispensed
17 certain other promethazine/codeine stock in excess of the total amount that had been acquired for
18 its inventory. Specifically, the audit showed that Respondent Pharmacy had dispensed a total of
19 3,342 ml of promethazine/codeine 10mg-6.25mg/5ml syrup (NDC 60432060616) despite the fact
20 that it had only acquired a total of 3,311 ml of that particular product.

21 23. The inspector also obtained and analyzed prescription and dispensing records to
22 identify which of Respondent Pharmacy's patients had received the most promethazine/codeine
23 during the relevant time period. Those records indicated that the patients who had been dispensed
24 the most promethazine/codeine were relatives of Respondent Pharmacy's owner and that all of
25 those prescriptions had been written by the same physician.

26 24. In total, Respondent Pharmacy dispensed approximately 55½ bottles to members of
27 the pharmacy owner's family, including approximately 36½ bottles to three relatives, all of whom
28 lived at the same address, and 19 bottles to two family members who both lived at the pharmacy

1 owner's address. A review of the prescriptions associated with the family members of
2 Respondent Pharmacy's owner revealed that, abnormally, almost every prescription purported to
3 authorize multiple refills. Respondent Pharmacy repeatedly refilled each of these irregular
4 prescriptions without ever verifying their authenticity with the prescribing physician.

5 25. During the investigation, the prescribing physician authenticated the prescriptions at
6 issue but stated that he rarely, if ever, would have authorized refills for promethazine/codeine.

7 26. In reviewing the prescriptions, the Board inspector was able to determine that at least
8 three of the prescriptions (RX 653684, RX 654190 and RX 657356) had been altered to indicate
9 authorization for five (5) refills when, in fact, the prescribing physician had not authorized any
10 refills.

11 27. Finally, the Board's investigation revealed that two members of the pharmacy
12 manager's family, both of whom resided at the same address, were also dispensed an inordinate
13 amount of promethazine/codeine (9 bottles combined) during the relevant time period.

14 **FIRST CAUSE FOR DISCIPLINE**

15 **(Violation of Pharmacy Law: Disposition Records)**

16 28. Respondent Pharmacy and Respondent Lipp are subject to disciplinary action under
17 BPC section 4301, subdivision (o), in conjunction with BPC sections 4113, subdivision (c), 4081
18 and 4105, in that Respondents failed to maintain dispensing records related to dozens of bottles of
19 promethazine/codeine. Complainant refers to, and by this reference incorporates, the allegations
20 set forth above in paragraphs 18 through 27, inclusive, as though set forth fully herein.

21 **SECOND CAUSE FOR DISCIPLINE**

22 **(Violation of Law Regulating Controlled Substances)**

23 29. Respondent Pharmacy and Respondent Cortez are subject to disciplinary action under
24 section 4301, subdivision (j), in conjunction with BPC section 4113 and HSC section 11205, in
25 that Respondents failed to maintain prescription records related to dozens of bottles of
26 promethazine/codeine. Complainant refers to, and by this reference incorporates, the allegations
27 set forth above in paragraphs 18 through 27, inclusive, as though set forth fully herein.

28 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THIRD CAUSE FOR DISCIPLINE

(Violation of Pharmacy Law: Filling Irregular/Altered Prescription)

30. Respondent Pharmacy and Respondent Lipp are subject to disciplinary action under section BPC 4301, subdivision (o), in conjunction with BPC section 4113 and 16 CCR section 1761, in that Respondent Pharmacy dispensed prescriptions that contained irregularities and/or alterations. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 18 through 27, inclusive, as though set forth fully herein.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

31. Respondent Pharmacy and Respondent Lipp are subject to disciplinary action under BPC section 4301 in conjunction with BPC section 4113, subdivision (c), in that Respondents engaged in unprofessional conduct with regard to their operation and management of Respondent Pharmacy. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 18 through 27, inclusive, as though set forth fully herein.

DISCIPLINARY CONSIDERATIONS

32. For purposes of determining the appropriate level of discipline to be imposed, Complainant alleges that Respondent Lipp sustained prior disciplinary action in Case No. 5377 (OAH No. 2015051030), *In the Matter of the Accusation Against Kenneth Road Pharmacy, Inc. et al.* In addition, administrative action was also previously taken against Respondent Lip in the form of Citation No. CI 2016 72832, which was issued on November 21, 2016.

OTHER MATTERS

33. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 55414, Kenneth Rx Inc. 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 19454 is placed on probation or until Pharmacy Permit Number PHY 19454 is reinstated if it is revoked.

34. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 55414, Armen Ayvazyan shall be prohibited from serving as a manager,

1 administrator, owner, member, officer, director, associate, or partner of a licensee for five years
2 if Permit Number PHY 55414 is placed on probation or until Permit Number PHY 55414 is
3 reinstated if it is revoked if, while acting as an owner, officer and/or director of Kenneth Rx Inc.,
4 Armen Ayvazyan had knowledge or knowingly participated in any conduct for which Permit
5 Number PHY 55414 is disciplined.

6 35. Pursuant to Code section 4307, if discipline is imposed on Registered Pharmacist
7 License Number RPH 32284, issued to Robert S. Lipp, Robert S. Lipp shall be prohibited from
8 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
9 licensee for five years if Registered Pharmacist License Number RPH 32284 is placed on
10 probation or until Pharmacist License Number RPH 32284 is reinstated if it is revoked.

11 **PRAYER**

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

14 1. Revoking or suspending Pharmacy Permit Number PHY 55414, issued to Kenneth Rx
15 Inc., Armen Ayvazyan, CEO, president and treasurer;

16 2. Revoking or suspending Registered Pharmacist License Number RPH 32284, issued
17 to Robert S. Lipp;

18 3. Pursuant to Business and Professions Code section 4307, prohibiting Kenneth Rx Inc.
19 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
20 of any other licensee for five years if Pharmacy Permit Number PHY 55414 is placed on
21 probation or until Pharmacy Permit Number PHY 55414 is reinstated if Pharmacy Permit Number
22 PHY 55414 is revoked;

23 4. Pursuant to Business and Professions Code section 4307, Armen Ayvazyan from
24 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
25 licensee for five years if Pharmacy Permit Number PHY 55414 is placed on probation or until
26 Pharmacy Permit Number PHY 55414 is reinstated if Pharmacy Permit Number PHY 55414
27 issued is revoked;

28 ///

1 5. Pursuant to Business and Professions Code section 4307, prohibiting Robert S. Lipp
2 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
3 of a licensee for five years if Registered Pharmacist License Number RPH 32284 is placed on
4 probation or until Pharmacist License Number RPH 32284 is reinstated if it is revoked;

5 6. Ordering Kenneth Rx Inc. and Robert S. Lipp to pay the Board of Pharmacy the
6 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
7 Professions Code section 125.3; and

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

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: 11/11/2021 _____

Signature on File

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

LA2021602506
64637191.docx