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

In the Matter of the Accusation Against:

PL RX PHARMACY, INC. dba
PREMIER LIFE PHARMACY,
Pharmacy Permit No. PHY 55533;

and

KEVIN T. VU,
Pharmacist License No. RPH 52934,

Respondents.

Agency Case No. 7164

OAH No. 2021090664

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 August 24, 2022.

It is so ORDERED on July 25, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

Seung W. Oh, Pharm.D.
Board President

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PROPOSED DECISION

Adam L. Berg, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter by videoconference on May 16 and 17, 2022.

Nicole R. Trama, Deputy Attorney General, Department of Justice, State of California, represented complainant, Anne Sodergren, Executive Officer, Board of Pharmacy (board), Department of Consumer Affairs, State of California.

Alan Sedley Attorney at Law, Fenton Law Group, represented respondents PL Rx Pharmacy Inc., dba Premier Life Pharmacy, and Kevin Vu.

Oral and documentary evidence was received, and the matter submitted for decision on May 17, 2022.

FACTUAL FINDINGS

Background

1. On September 10, 2001, the board issued Pharmacist License No. RPH 52934 to respondent Kevin Trong Vu.[1] There is no history of discipline imposed against the license.

2. On May 29, 2017, the board issued Original Pharmacy Permit No. PHY 55533 to respondent PL Rx Pharmacy, Inc., doing business as Premier Life Pharmacy (Premier Life), located in Fountain Valley, California. Respondent, a 70 percent shareholder, was the Pharmacist-in Charge (PIC) and the president and treasurer. The

[1] All future references to "respondent" are to Kevin Vu.

permit was cancelled on July 26, 2021, due to discontinuance of the business on January 27, 2021.[2] There is no history of discipline imposed against the permit.[3]

3. On August 7, 2021, complainant signed the accusation alleging three causes for discipline against both respondents for: 1) failing to comply with corresponding responsibility for controlled substance prescriptions; 2) dispensing prescriptions with errors or irregularities; and 3) dispensing controlled substance prescriptions written on unauthorized forms. Complainant seeks to revoke Premier Life's permit and respondent's license; to prohibit respondent from serving in a managerial/ownership capacity; and to recover investigation and enforcement costs.

4. Respondents timely filed a notice of defense; this hearing followed.

Complainant's Evidence

5. Noelle Randall, Pharm.D., is a board inspector who testified at hearing and prepared an investigation report dated June 1, 2021. Dr. Randall obtained her undergraduate degree in 2004 and a Doctor of Pharmacy from the University of Iowa in 2008. She worked at a national-chain retail pharmacy for six years, with over three years as PIC. The board hired her as an inspector in 2014. During her initial training with the board, she completed national certified investigator and inspector basic

[2] The cancellation of a permit does not deprive the board from taking disciplinary action against the permit. (Bus. & Prof. Code, § 4300.1.)

[3] Although not included in the accusation or license certification, respondent testified that he is the sole owner of Maria Pharmacy. Official notice is taken that the board issued l Pharmacy Permit No. 57806 to Maria Pharmacy on July 7, 2020.

training. She is assigned to the Prescription Drug Abuse team. In that capacity, she is responsible for investigations related to diversion of controlled substances and "corresponding responsibility."

6. Dr. Randall discussed in general the legal responsibility of pharmacists in combatting prescription drug abuse. Health and Safety Code section 11153 requires that a prescription for a controlled substance shall only be issued for a legitimate medical purpose; while the responsibility for the proper prescribing and dispensing of controlled substances rests on the prescriber, a corresponding responsibility rests with the pharmacist filling the prescriptions. On August 9, 2013, the board made precedential the decision in *In re Pacifica Pharmacy; Thang Tran* (2013) Precedential Decision No. 2013-01 (*Pacifica*). The *Pacifica* decision identified a series of "red flags" surrounding prescriptions for controlled substances and held that a pharmacist must make reasonable inquiries when he or she believes that a prescription is not written for a legitimate medical purpose. Furthermore, a pharmacist must not fill a prescription when the results of a reasonable inquiry do not overcome the pharmacist's concern. In the Spring of 2014, the board published in its newsletter, the "Script," a summary of the *Pacifica* decision and the red flags that should place a pharmacist on notice that there is a potential problem with the prescription so as to require further inquiry. In subsequent versions of the newsletter, the board reviewed principles relating to corresponding responsibility. In addition, the Drug Enforcement Administration provides information on its website addressing frequently abused drugs.

7. The following are controlled substances at issue in this case:

Oxycodone (brand name Roxicodone) is an opioid analgesic; oxymorphone (brand name Opana) is an extended-release opioid; hydrocodone/acetaminophen (APAP) (brand name Norco/Vicodin) and oxycodone/APAP (brand name Percocet) are

combination analgesics that are all Schedule II controlled substances. (Health & Saf. Code, § 11055, subd. (b).)

Amphetamine salts/dextroamphetamine (brand name Adderall) is a stimulant used to treat attention deficit hyperactivity disorder (ADHD) and is a Schedule II controlled substance. (*Id.* at subd. (d)(1).)

Alprazolam (brand name Xanax) is a benzodiazepine and is a Schedule IV controlled substance. (Health & Saf. Code, § 11057, subd. (d)(1).)

Promethazine with codeine (brand name Phenergan with codeine), is a cough syrup containing an antihistamine and opioid and is a Schedule V controlled substance. (Health & Saf, Code, § 11058, subd. (c)(1).)

Carisoprodol (brand name Soma) is a muscle relaxant, and while not scheduled in California, is a Schedule IV controlled substance pursuant to 21 Code of Federal Regulations section 1308.14(c)(6).

All of the above are dangerous drugs within the meaning of Business and Professions Code section 4022.

8. All of the above are common drugs of abuse and are frequently found on the black market. The "holy trinity" refers to a combination of muscle relaxants, benzodiazepines, and opioids that have a very high abuse potential. The concurrent use of an opioid and benzodiazepine, or opioid and muscle relaxant, can suppress the central nervous system and may result in profound sedation, respiratory depression, and lead to death. The concurrent prescribing of these medications is irregular and warrants caution. "Black box" warnings (warnings the Food and Drug Administration (FDA) require for medications with serious health safety risks) for these medications

caution against combining these medications due to the risks of addiction, sedation, and central nervous system depression.

9. The board initiated an investigation into Premier Life's dispensing practices of controlled substances based on a review of the Controlled Substance Utilization Review and Evaluation System (CURES). At the time relevant to these proceedings, Health and Safety Code section 11165, subdivision (d), required all pharmacies in California to report to CURES all filled prescriptions for Schedule II through IV controlled substances within seven days of being dispensed. Certain information contained in the CURES database is accessible to pharmacists and includes information about the drug dispensed, drug quantity and strength, patient name and address, prescriber name, and prescriber authorization numbers. Based on a review of CURES reports for Premier Life, the board determined a need to further review the pharmacy's dispensing practices of controlled substances prescribed by Physician Assistant (PA) Jennifer Edwards, who became known to the board due to her prescribing practices.

10. On June 11, 2020, Dr. Randall conducted a remote inspection of Premier Life. She contacted respondent and requested he complete a self-assessment, provide a record of all prescriptions dispensed from June 11, 2017, to June 11, 2020, and provide the original prescription documents for 81 prescriptions she identified in her CURES review prescribed by PA Edwards and Richard Hill, M.D. Respondent was fully cooperative and provided the requested information. Dr. Randall subsequently requested additional prescription documents for prescriptions issued under the authority of PA Edwards, Andrew Thio, M.D., and Christopher Chisholm, M.D. Dr. Randall asked respondent if he had any records of communicating with the prescribers

of the prescriptions other than what was written on or attached to the prescription documents. Respondent said he did not.

11. Based on Premier Life's dispensing records for August 7, 2017, to June 11, 2020, Dr. Randall extracted the following information: During this period, Premier Life dispensed a total of 57,376 prescriptions, which Dr. Randall calculated was an average of 77 prescriptions per day. Approximately 87.5 percent of the prescriptions filled were billed to prescription insurance. This percentage was consistent with a retail pharmacy. Of the 20 most commonly dispensed medications, three were controlled substances: hydrocodone/APAP 10-325 mg, promethazine/codeine syrup, and carisoprodol 350 mg.

PRESCRIPTIONS FROM PA EDWARDS

12. Premier Life dispensed 1,424 prescriptions from PA Edwards from between February 1, 2019, and June 10, 2020. Dr. Randall noted the following about the prescriptions written by PA Edwards:

13. PA Edwards's eight most commonly prescribed medications at Premier Life were controlled substances, with the top six being commonly abused medications. The commonly abused medications accounted for 49.3 percent of her total prescribing and controlled substances accounted for 59.76 percent. It is irregular for these controlled substances to represent such a large proportion of the total number of prescriptions she was issuing.

14. PA Edwards's most common prescription was for promethazine/codeine syrup, which has a high abuse potential, and accounted for 11.87 percent of her prescribing. Her next most commonly prescribed medications were: carisoprodol 350 mg (8.5 percent of total prescriptions), alprazolam 2 mg (8.43 percent of total),

oxycodone 30 mg (8.22 percent of total), hydrocodone/APAP 10/325 mg (6.60 percent of total) and Adderall 30 mg (5.69 percent of total). It is unusual that these commonly abused drugs would compose such a high percentage of her prescribing. The medications used to treat muscle spasms, pain, anxiety, and ADHD would typically not be prescribed together in the course of a legitimate practice.

15. PA Edwards wrote 120 prescriptions for alprazolam 2 mg, the highest dosage available. She wrote no prescriptions for any lower dosage, which is unusual, because it is normal for a prescriber to start at the lowest effective dose. Similarly, she wrote 117 prescriptions for oxycodone 30 mg and 52 prescriptions for oxycodone 15 mg, but no prescriptions for the lower strengths (5 and 10 mg). She wrote 94 prescriptions for the highest dose of hydrocodone/acetaminophen (10 mg) and no prescriptions for the lower dosages (2.5, 5, and 7.5 mg). Finally, she wrote 29 prescriptions for oxymorphone 40 mg and no prescriptions at lower dosages (gradations beginning at 5 mg). While the hard copies of PA Edwards's prescription documents indicated her specialty was pain management, and pain management specialists typically prescribe a higher percentage of narcotics, it is unusual that her prescribing profile does not contain more non-narcotic pain medications or topical numbing agents, which are frequently prescribed in pain management. Additionally, Dr. Randall would expect to see a variety of dosages. It is unusual for almost all her prescriptions to be at the highest dosages.

16. PA Edwards wrote 81 prescriptions for Adderall 30 mg, the highest dose. She wrote no prescriptions for any lower dose (which begins at 5 mg). Adderall, which is a commonly abused stimulant, is used for the treatment of ADHD. It is unusual that a provider identifying herself as a pain management specialist would have the highest dose of Adderall included in her top-six most prescribed medications. Similarly, it is

unusual that promethazine/codeine would be the top-prescribed medication. PA Edwards's prescribing profile is not reflective of a pain management specialist.

17. Of all her prescriptions, 85.7 percent were purchased with cash. Patients typically use insurance to pay for legitimate mediation. Patients obtaining controlled substances for non-legitimate purposes typically pay cash. This pattern was the opposite of Premier Life's billing pattern, where 87 percent of prescriptions were billed to insurance.

18. The prescribing record showed multiple patients who were prescribed the frequently abused "trinity" combination of an opioid, alprazolam, and carisoprodol. There were numerous instances where patients received a combination of an opioid and alprazolam, or an opioid and promethazine/codeine. Of the prescriptions reviewed, Dr. Randall identified 13 patients to whom Premier Life dispensed the trinity combination of drugs. Although only one of the patients received all three medications the same day, many of the patients received the medications within a several-day period. Dr. Randall believed that by the time the third prescription was entered into the pharmacy's system, respondent should have recognized this pattern. As previously noted, the concurrent use of an opioid and benzodiazepine is irregular and requires extreme caution.

19. Premier Life dispensed multiple similar prescriptions by PA Edwards for different patients on the same day, many with consecutive prescription numbers. This provided respondent the opportunity to observe PA Edwards's irregular prescribing pattern. It would be irregular for multiple patients of PA Edwards to present prescriptions to Premier Life for the same medications at the same time.

20. The Centers for Disease Control and Prevention (CDC) issued guidelines regarding the prescription of opioids for chronic pain management. The dosage of an opioid is converted to morphine milligram equivalents (MME) as a uniform measurement. Dosages of 50 MME per day increase the risk of overdose by twice compared to less than 20 MME per day. Dr. Randall would be cautious in prescribing more than 50 MME per day to a patient. The CDC recommends avoiding or closely monitoring patients receiving more than 90 MME per day, even in patients with opioid tolerance. The FDA defines opioid tolerance as taking at least 60 MME per day for one week or longer. A patient who has not taken this dosage of an opioid for at least one week is considered opioid naïve. Patients who are not opioid tolerant who receive higher dosages of opioids are at greater risk for complications, including respiratory depression. The prescribing record contained multiple instances where PA Edwards's patients initiated opioid therapy at 30 mg, the highest dose. With any medication, it is standard practice to initiate therapy at a lower dose and increase the dose as necessary.

21. Dr. Randall reviewed the CURES dispensing history at Premier Life for 11 patients who PA Edwards prescribed oxycodone 30 mg (the highest dose), equivalent to a daily MME between 135 and 180. Dr. Randall believed that all the patients were opioid naïve as none had recently received prescriptions for an opioid according to CURES reports. For example, four patients had no history of ever receiving an opioid in CURES, yet Premier Life dispensed the medication. Three patients had only had promethazine/codeine (dispensed by Premier Life weeks earlier). The remaining patients had a history of receiving oxycodone, but from between 6 to 14 months before Premier Life dispensed the prescription. These patients would still be classified as opioid naïve and at risk for the high dose of oxycodone prescribed. As previously noted, because opioids are central nervous system depressants, there is the potential

for serious and life-threatening reaction if an opioid naïve patient were to take the dose as prescribed.

22. Only on three of the prescription documents reviewed, did respondent notate that he accessed CURES. Dr. Randall believed that a prudent pharmacist would have accessed a CURES history to evaluate the prescription for a high dose opioid for a patient with no opioid history at his pharmacy. Even if respondent did check CURES as he claimed, the CURES report for these patients would have shown that they had no recent (if any) history of receiving an opioid. Yet these patients were prescribed at least a 135 MME dose of oxycodone, far in excess of the recommended dosage for an opioid tolerant, let alone, naïve, patient.

23. Of the 75 prescription documents issued by PA Edwards that Dr. Randall collected, 25 of the documents, containing 48 controlled substances prescriptions, lacked the following security features required under Health and Safety Code section 11162.1: a watermark on the back stating "California Security Prescription" (the forms instead contained a watermark on the back stating "Security Doc" or "Security Prescription"); the forms also lacked a lot number, batch number, and identifying number assigned to a an approved security printer. In addition to being illegal to dispense a controlled substance from a non-complying prescription, Dr. Randall believed that this also constituted a red flag under *Pacifica* as an irregularity on the face of the prescription itself. Randall testified that when a pharmacist encounters a prescription lacking required security features, the pharmacist can work with the provider to obtain the prescription electronically, or for non-Schedule II prescriptions, can take a verbal prescription. However, the pharmacist is still obligated to ensure that the prescription is legitimate.

24. On October 13, 2020, the Physician Assistant Board filed an accusation and petition for interim suspension against PA Edwards based on inappropriate prescribing of controlled substances. On July 22, 2021, PA Edwards stipulated to an interim suspension order.

25. On June 7, 2021, in the United States District Court for the Central District of California, PA Edwards pled guilty to conspiracy to distribute and to possess with intent to distribute oxycodone. The information alleged that PA Edwards, known as the "Juice Lady," conspired with others to distribute oxycodone by writing sham prescriptions for oxycodone.

PRESCRIPTIONS IN THE NAME OF DR. CHISHOLM

26. Dr. Randall reviewed Premier Life's dispensing record for prescriptions issued under the authority of Dr. Chisholm. Premier Life dispensed 88 prescriptions for 29 patients from December 5, 2019, through May 14, 2020. Of these prescriptions, 99.45 percent were for controlled substances, which is highly irregular. All the prescriptions were paid in cash, also an irregularity. All 29 patients who received prescriptions received at least two prescriptions for controlled substances. Of these, 25 patients received interacting combinations including an opioid, alprazolam 2 mg, and carisoprodol. As previously discussed, it is an irregularity for a patient to receive concurrent treatment of an opioid and benzodiazepine or muscle relaxant.

27. Dr. Chisholm's address on the prescription documents was in La Jolla, approximately 78 miles from Premier Life. It is an irregularity that 29 patients would travel to La Jolla to obtain controlled substances from Dr. Chisholm and then fill those prescriptions at Premier Life.

28. All of the 42 prescription documents Dr. Randall reviewed purportedly issued by Dr. Chisholm lacked some required security features. Of the prescriptions, all lacked a latent repetitive "void" pattern, visible when photocopied. All of the prescriptions lacked a "California Security Printer" watermark and instead had a "Docuguard" watermark. Several of the prescriptions bore identical batch and lot numbers but were printed on forms of different sizes. Dr. Randall acknowledged that the duplicate numbers would not have been apparent to a pharmacist filling the prescription.

29. All of Dr. Chisholm's prescriptions listed a diagnosis code. It is not unusual for a prescriber to list a diagnosis code to aid the pharmacist in determining the reason for the prescription. Of the prescriptions, 37 prescriptions indicated that the patient was being treated for back pain. On other prescriptions, the diagnosis code was inconsistent with the prescription. For example, several prescriptions containing an opioid and amphetamine did not contain a diagnosis requiring treatment with a stimulant. Other prescriptions for an opioid and sedative did not have a diagnosis code indicating treatment with a sedative.

30. On six prescription documents, the drug name Percocet was misspelled as "Percocett." This is an irregularity as physicians typically are familiar enough with the medications they prescribe to spell them correctly.

31. Three of the prescription documents contained a handwritten note by someone at Premier Life indicating that the CURES database was checked. One prescription indicated that the doctor was contacted about irregular directions to take a sedative. None of the remaining prescriptions contained any notes or other documentation to indicate respondent contacted Dr. Chisholm to discuss any irregularities. Unless a pharmacist is making a change to the prescription, a pharmacist

is not legally required to document conversations with a physician about a prescription. However, in Dr. Randall's experience as a pharmacist and inspector, if there is a conversation that would resolve issues that would otherwise prevent the pharmacist from filling the prescription, the standard of practice would be to document the conversation.

32. Dr. Randall sent a letter to Dr. Chisholm at his address of record maintained by the Medical Board of California (Medical Board) providing him a list of prescriptions dispensed by Premier Life under his authority. Dr. Chisholm responded to the letter and indicated that the prescriptions were not prescribed by him, he was never contacted by Premier Life about any patient, he does not practice in Orange County, none of the patients were evaluated by him, and he left the practice address in La Jolla in May 2007.

33. Dr. Chisholm testified at hearing. He is board certified in anesthesiology and pain management. After completing his fellowship in 2005, he joined an interventional pain management practice in La Jolla, at the address listed on the prescriptions dispensed at Premier Life. In 2007, he started his own practice at the same location but different suite number. In 2013 he opened an office in Poway, and five or six years ago, moved to Rancho Bernardo, a neighborhood in San Diego. His La Jolla office closed in 2019.

34. Dr. Chisholm has never practiced in Orange County and has never heard of Premier Life or respondent. He does not recognize the prescription documents that were filled under his name and license number. He does not recognize the telephone number on the prescription documents. He does not prescribe the combination of medications that were filled by Premier Life. For example, he does not prescribe carisoprodol or alprazolam in combination with an opioid. He does not routinely

prescribe oxycodone at the strengths dispensed by Premier Life. He has never prescribed promethazine/codeine. In 2017, he began using only electronic scripts.

PRESCRIPTIONS IN THE NAME OF DR. THIO

35. Dr. Randall reviewed Premier Life's dispensing record for prescriptions issued under the authority of Dr. Thio. Premier Life dispensed 22 prescriptions for patients from February 6, 2020, through May 22, 2020. All the 12 prescription documents were for controlled substances and were purchased with cash. Almost all the patients received concomitant prescriptions for an opioid and alprazolam 2 mg and an opioid and carisoprodol. As previously discussed, it is an irregularity for a patient to receive concurrent treatment of an opioid and benzodiazepine or other central nervous system depressants.

36. All of the 12 prescription documents Dr. Randall reviewed issued under the authority of Dr. Thio lacked a "California Security Printer" watermark and instead had a "Secure Rx" watermark, with "California Security Printer" printed on the back. Dr. Randall noted that 12 of the forms contained duplicate lot numbers, batch numbers, and serial numbers. Again, Dr. Randall agreed that the duplicate numbers would not have been evident to respondent at the time he filled the prescriptions.

37. Dr. Randall noted that two of the prescription documents contained a handwritten note that someone at Premier Life had checked CURES prior to dispensing the prescription. None of the prescriptions contained any notes or other documentation to indicate respondent contacted Dr. Thio to discuss any irregularities Dr. Randall did not believe that respondent would have reasonably noticed any irregular pattern with Dr. Thio's prescribing based on the relatively few prescriptions filled, however there were still red flags that respondent would have been expected to

resolve, including cash payments and the irregular combination of the drugs prescribed.

38. Dr. Randall sent a letter to Dr. Thio at his address of record maintained by the Medical Board providing him a list of prescriptions dispensed by Premier Life under his authority. Dr. Thio responded to the letter and indicated that the prescriptions were not issued by him, he did not recognize the prescription documents, he did not practice at the address in Garden Grove on the document, and he was never contacted by Premier Life.

39. Dr. Thio testified at the hearing. He is a board-certified anesthesiologist who has been practicing pain management since 1995. Since 2007, he has practiced in Murrieta and has two satellite offices in Riverside County. He has never practiced in Orange County. For the past five years, his practice has solely been procedure based and he rarely writes prescriptions. He does not recognize the prescription documents, the signature on the documents, or the patient names. He has never been contacted by anyone from Premier Life about a prescription.

PRESCRIPTIONS IN THE NAME OF DR. HILL

40. Dr. Randall reviewed Premier Life's dispensing record for prescriptions issued under the authority of Dr. Hill. Premier Life dispensed 23 prescriptions for patients from April 2 to 19, 2019. All but two of the prescriptions were for controlled substances and were purchased with cash. Seven of the patients received multiple controlled substances including concomitant prescriptions for an opioid and alprazolam 2 mg and an opioid and carisoprodol.

41. One patient, A.C., received the trinity combination as follows: Oxycodone 15 mg (quantity 90) and carisoprodol 350 mg (quantity 90) on April 2, 2019;

promethazine/codeine and amoxycillin on April 5, 2019; and oxycodone 30 mg (quantity 100), alprazolam 2 mg (quantity 90) and carisoprodol 350 (quantity 90) on April 9, 2019.

42. Another patient, T.I., received a daily dose of oxycodone 30 mg (270 MME) when Premier Life had never dispensed an opioid for this patient. CURES indicated that the patient had received Vicodin 15 months before. Dispensing this quantity of the highest dose of oxycodone to an opioid naïve patient would be a significant red flag.

43. Of the nine prescription documents for controlled substances issued under the authority of Dr. Hill, all lacked a "California Security Prescription" watermark and instead had a "Security Docs" watermark, with "California Security Prescription" printed on the back.

44. Three of the prescription documents contained a handwritten note that someone at Premier Life had checked CURES prior to dispensing the prescription. None of the prescriptions contained any notes or other documentation to indicate respondent contacted Dr. Hill to discuss any irregularities. Dr. Randall did not believe that respondent would have reasonably noticed any irregular patterns with Dr. Hill's prescribing based on the relatively few prescriptions filled; however there were still red flags that respondent would have been expected to resolve, including cash payments and the irregular combination of the drugs prescribed.

45. Dr. Randall sent a letter to Dr. Hill at his address of record maintained by the Medical Board providing him a list of prescriptions dispensed by Premier Life under his authority to inquire whether he wrote the prescriptions. Dr. Randall received

no response from Dr. Hill. Dr. Randall did not make any further attempts at contacting Dr. Hill.

PATIENT DISPENSING RECORDS

46. California Code of Regulations, title 16, (Regulation) section 1707.3 requires a pharmacist to review a patient's drug therapy and medication record before each prescription drug is delivered. Regulation 1761 prohibits a pharmacist from dispensing a prescription containing a "significant error, omission, irregularity, uncertainty. Ambiguity, or alteration," and requires the pharmacist to contact the prescriber to obtain additional information to validate the prescription. Even after conferring with the prescriber, a pharmacist must not dispense a prescription for a controlled substance where the pharmacist has an objective reason to believe the prescriptions is not for a legitimate medical purpose.

In her report, Dr. Randall discussed the prescribing pattern for 30 of Premier Life's patients in great detail. Dr. Randall reviewed the dispensing records for patients of the above prescribers. Dr. Randall believed that a pharmacist, considering the totality of the circumstances would have identified multiple factors of irregularity suggesting that the prescriptions were not legitimately prescribed. Several examples are as follows:

47. On April 16, 2019, respondents dispensed 90 tablets of oxycodone 30 mg to patient J.L., with directions to take 90 mg (135 MME) per day. According to the patient's dispensing record at the pharmacy and CURES report, the only prescription J.L. had previously received for an opioid was promethazine/codeine on March 22, 2019. The amount of codeine in the cough syrup if taken as directed was 6 MME, meaning the patient was not opioid tolerant. The dispensing of the oxycodone was a

significant irregularity and risk to patient safety. The prescription document contained a notation indicating respondent checked CURES and should have been aware the patient did not appear opioid tolerant. Additionally, the same date respondent dispensed the oxycodone, he dispensed to the patient carisoprodol 90 mg. This dosage combined with the oxycodone posed a significant risk. Moreover, a review of the pharmacy's dispensing record would have also shown respondent dispensed alprazolam 2 mg to the patient 14 days before (from a different provider). As previously discussed, a patient receiving the trinity combination was a significant red flag and posed a significant risk to the patient. Over the next year, respondents continued to dispense prescriptions by PA Edwards for promethazine/codeine, oxycodone, hydrocodone/APAP, and carisoprodol. On April 13, 2020, respondents dispensed a prescription written by Dr. Chisholm for hydrocodone/APAP and alprazolam. As previously noted, it was an irregularity that a patient, whose address was in Anaheim, would travel approximately 84 miles to the address of Dr. Chisholm's office listed on the prescription document. Finally, all the prescriptions were paid in cash, another irregularity, as noted above.

48. On March 9, 2020, respondents dispensed to patient C.O. 90 tablets of oxycodone 30 mg written by PA Edwards with directions to take 120 mg per day (180 MME). Four days before, respondents dispensed to C.O. 90 tablets of alprazolam 2 mg. On April 3, 2020, respondents dispensed another 90 tablets of alprazolam 2 mg, followed again on May 5, 2020. On this date, respondents dispensed oxymorphone 40 mg (quantity 60) and oxycodone 30 mg (quantity 90). On June 3, 2020, respondents again dispensed the same combination of oxymorphone and oxycodone (quantity 90), followed by alprazolam several days later. As previously noted, the combination and dosages were highly irregular and potentially dangerous to the patient, who had no

history in CURES of having previously received an opioid. All prescriptions were paid in cash.

49. The remaining examples of patients cited in Dr. Randall's report were consistent with the above two examples. All the patients paid in cash. All received an initial prescription for oxycodone with the highest available strength with no indication that the patient was opioid tolerant. All of the patients received some combination of opioids and benzodiazepine or opioids and carisoprodol, with many receiving all three. Many patients received promethazine/codeine over a long period of time (inconsistent with the treatment of acute cough) or were prescribed Adderall by PA Edwards. In sum, for each patient identified, Dr. Randall noted significant irregularities that would have prompted a reasonably prudent pharmacist to take further steps to verify the legitimacy of the prescription or refused to have filled the prescription.

50. On April 19, 2021, Dr. Randall served respondents with notice of violations of pharmacy law and regulations relating to the above findings. As requested, respondent responded to the notice by letter, which is summarized as follows:

Before dispensing any controlled substance, respondent checked CURES to ensure the patient was not using multiple doctors or obtaining the medication too early from other pharmacies. He does not fill medications if the patient is using multiple doctors, multiple pharmacies, or obtaining medications too early. All Schedule II prescriptions are required to have a diagnosis code on the original prescription. In addition, an office visit note/progress note is requested from the provider if "[I] feel [it] necessary." Regarding the prescriptions by Dr. Chisholm, Dr. Thio, and Dr. Hill, "they all reached out to me personally asking for my assistance to help their patients locating the medications they had a hard time finding." Dr. Chisholm used to practice in Santa

Ana only a few miles from Premier Life. He moved his office to La Jolla but was still seeing some of his old patients. Regarding PA Edwards, her prescriptions indicated she practiced in pain management, such that it was more common to receive prescriptions for higher strength controlled substances. Sometimes, multiple patients of PA Edwards would come to the pharmacy after their office visits on the same day. Regarding the cash payments, most of the insurance plans do not cover the medications or only for a short time. Thus, the patients elected to pay cash. Finally, respondent thanked Dr. Randall for bringing to his attention the non-compliant prescription documents. He said the forms changed from time to time, and he did not keep up with the changes. He concluded that they would only fill controlled substance prescriptions on a selective basis, from prescribers in the local area, who were personally known to him, and whose specialty was consistent with the prescribed drugs.

51. Respondent submitted several patient records to Dr. Randall to support his claim that he was reviewing patient records. For example, he submitted an office visit record from PA Edwards for Patient J.H. on July 5, 2020, and a patient record from Neil Soni, M.D., from December 3, 2019. As evidence at this hearing, he submitted progress notes for six of PA Edwards's patients, all electronically signed on June 23, 2020, or after. He also submitted a record from Dr. Soni signed on December 10, 2019.

52. Dr. Randall noted several problematic areas with respondent's explanation. In her experience, the drugs at issue are commonly stocked by pharmacies, and it was rare for a prescriber to reach out to a pharmacy asking if they could fill patients' prescriptions. As previously discussed, PA Edwards's prescribing pattern was not consistent with a pain management specialist. Moreover, that some of her patients were filling prescriptions at Premier Life at the same time is a red flag identified in *Pacifica* and should have given respondent the opportunity to observe her

prescribing pattern. The fact that he processed their prescriptions together is concerning. Finally, the progress notes were all signed by PA Edwards after Dr. Randall's inspection. As for Dr. Soni, his prescribing practices were not at issue.

53. Dr. Randall agreed that checking CURES is an important step a pharmacist can take in exercising his or her corresponding responsibility. However, in this case, Dr. Randall did not see any documentation of communication that would have resolved outstanding irregularities. Respondent did not submit to Dr. Randall any copies of the CURES reports that he claimed to have printed. However, she did observe staple marks on some of the original prescription documents she collected.

54. On cross-examination, Dr. Randall acknowledged that some of the prescribing trends by the prescribers in question would not have been readily apparent to respondent at the time he was filling one of their prescriptions. However, the missing security features on the sample of prescriptions she reviewed should have warranted further action, including looking at other prescription irregularities. Dr. Randall did not believe that respondent was charging excessive amounts for the cash prescriptions or that there was any evidence that he was in collusion with any of the fraudulent prescribers.

55. Business and Professions Code section 733 prohibits the obstruction of a patient from receiving a legally prescribed prescript drug, and a pharmacist must dispense a lawful prescription unless: based on professional training and judgment, dispensing the prescription is contrary to law or would cause a harmful drug interaction or adversely affect the patient's condition. Dr. Randall does not believe this statute is in conflict with the corresponding responsibility laws as it provides an exception to filling a prescription that is not legitimate or would be harmful to the patient. In this case, there were many instances where respondent dispensed

medications that he reasonably should have identified as being potentially illegitimate or harmful to the patient. Once an irregularity is identified, it is the pharmacist's obligation to speak to the prescriber directly (not the front office), especially when there was a concern about a high initial dose. The standard of care would be to document any such conversations. Dr. Randall received no evidence from respondent that any such conversations with the providers in question ever occurred. Even if a pharmacist, based on experience with filling a prescriber's prescriptions, believes that a prescription is legitimate, the pharmacist always has the obligation to ensure that the medication being prescribed and dispensed is safe.

Respondent's Testimony

56. Respondent's relevant testimony is summarized as follows: Respondent graduated from the Massachusetts College of Pharmacy and obtained his pharmacy license in California in 2001. He worked at several national chain pharmacies, including two Sam's Club locations for approximately 12 years, where he also was the PIC.

57. Respondent did not have much experience filling controlled substances while working at the chain locations. They accounted roughly for two to three percent of the total prescriptions. In his experience, patients have difficulty filling controlled substance prescriptions. Most retail pharmacies do not want to bother filling the prescription and will tell the patient that the medication is not in stock, even if this is not the case. When he opened Premier Life, he typically had more contact with doctors than when he was working at a chain pharmacy. Doctors would frequently call to ask whether he stocked a particular medication that they prescribed with regularity. He had pain management doctors call to see whether he would fill controlled substances for their patients.

58. Respondent believed it was common for patients to pay cash for narcotic pain medication because insurance companies typically will only cover a short supply (seven days) before requiring prior authorization. Many of these patients are in so much pain that they elect to pay cash so as not to deal with the insurance company.

59. Respondent has experience dispensing for patients under the care of a pain management specialist. Pain management specialists are trained to treat patients with severe pain that require higher dosages of narcotics than what a typical primary care physician prescribes. In Fountain Valley, respondent worked closely with Dr. Soni, a pain management specialist. Dr. Soni's patients had difficulty filling prescriptions at chain pharmacies, and he referred his patients to Premier Life. Respondent built a relationship of trust with Dr. Soni and did not question his judgment. Once the relationship was established, respondent tended to defer to Dr. Soni's judgment and respondent gave Dr. Soni the benefit of the doubt when it came to his prescribing.

60. At Premier Life, respondent filled roughly 85 to 90 prescriptions per day. Respondent's pattern and practice when receiving a controlled substance prescription was to have the patient present picture identification and ask for their insurance card. He then checked CURES prior to filling any controlled substance prescription to look for whether the patient was doctor or pharmacy shopping. For every Schedule II prescription, he printed out the CURES report and stapled it to the prescription document. For the other schedules, he would check CURES and make a notation of such on the prescription document. He would not make a notation for Schedule IIs because he would attach a copy of the CURES report to the prescription. If the prescription came from a doctor who respondent was unfamiliar with, he would call the doctor's office to verify the prescription. Otherwise, he would not routinely contact the doctor.

61. Respondent closed Premier Life in January 2021 due to a fall-out with his business partner. He sold his pharmacy records to CVS. He no longer has access to any of the prescription documents or CURES reports he printed for the Schedule II prescriptions. When asked why he did not provide a copy of the CURES reports to Dr. Randall when she requested additional information, he said that he detached the reports from the prescription documents because she had only requested the original prescriptions. When she asked him for any additional documentation, he did not think that she was referring to the CURES reports. He assumed Dr. Randall would have seen the two holes on the prescription showing that something was stapled.

62. Respondent is aware of the requirements of Business and Professions Code section 733 to not obstruct a patient's access to a prescription. The greater the trust in the relationship with the doctor, the more comfortable he is filling a prescription. He initially spoke to PA Edwards several times. For the other doctors at issue in this case, he spoke to individuals he believed were Dr. Chisholm and Dr. Thio. All the prescribers identified themselves as pain management specialists. Respondent had no reason to suspect that any individual he spoke to was involved in illegal activity. In hindsight, it is easy to see that this was not the case. However, at the time, he believed they were legitimate prescribers who reached out to him as an independent pharmacy because chain pharmacies would not fill their patients' pain medications.

63. It is not illegal to dispense the trinity combination of drugs, and they are not contraindicated. Respondent now realizes that prescriptions for this combination of drugs is a red flag and admits he made a mistake in relying on the professional judgment of the prescriber. He could have done a better job at verifying and double-checking the concurrent use of these three drugs. Respondent maintained that he

spoke to PA Edwards about her concurrent prescriptions for potentially interacting medications. PA Edwards always told respondent the patient had been on those medications before. Respondent initially verified when he first encountered this combination. However, as he built trust with these prescribers, he would not check every single prescription. He admits he could have "done a lot better." On cross-examination, he admitted he only called the prescriber for "a few new patients" in the beginning. He believes he would have documented these conversations. He did not call the prescriber for every single patient receiving interacting combinations of drugs (e.g., opioids and benzodiazepines).

64. When asked if he reviewed CURES to determine whether a patient was opioid naïve after receiving an initial prescription for oxycodone 30 mg, respondent said he could have done a better job and did not notice this when he checked CURES. In the beginning, he called the prescriber to verify that the patient had been on an opioid in the past in addition to asking the patient. He admitted to giving too much trust to the prescriber. For example, he believes he called PA Edwards "the first couple times" in the beginning. He believed he documented these conversations, although there is no record of such. He added that Dr. Randall did not request all the hard copy prescriptions from PA Edwards, so there could have been notes on prescriptions that she did not request. He admitted that he did not verify every prescription and only did so "in the beginning."

65. Respondent admits he should have paid more attention to the initial dose of oxycodone and whether the patient was opioid naïve. He understands the dangers in prescribing a high initial dose of an opioid without any indication that the patient was opioid tolerant. Again, he mistakenly relied on PA Edwards's professional judgement and should have "done a better job."

66. Since 2020, respondent has been the sole owner of Maria Pharmacy. He only works as a pharmacist in an emergency. He had previously been working as a pharmacist six days per week but wanted to spend more time with his children. He handles the pharmacy's business operations, but not the day-to-day pharmacy operations, which are handled by the pharmacy's PIC, Jenny Vu. Respondent does not have any desire to be a PIC.

67. Respondent testified he has written policies and procedures at Maria Pharmacy for controlled substances but did not seek to introduce these at hearing because he was not told he needed to. He did not think that the policies at Maria Pharmacy related to this case. His PIC is "definitely aware" of her corresponding responsibility, and respondent ensures she follows the pharmacy's policies.

68. On cross-examination, respondent was questioned about his claim that he reviewed CURES reports to determine whether a patient was doctor or pharmacy shopping. For example, on February 14, 2020, respondent first dispensed to patient P.C. oxycodone 30 mg and alprazolam 2 mg written by PA Edwards. The CURES report for the patient showed the patient received 30 tablets of hydrocodone/APAP 10/325 mg on January 28, February 3, and February 9, 2020, from a different prescriber and APAP/codeine on January 28, 2020, from a third prescriber and filled at a third pharmacy. Respondent testified he did not know why he missed that this patient was doctor and pharmacy shopping.

69. Respondent was asked to recall the first time he had contact with PA Edwards. He believes one of her patients had a prescription filled at Premier Life, and approximately a week later, she called to say her patients were having difficulty getting controlled substance prescriptions filled and asked if respondent could help. There was nothing unusual or strange about the conversations, as other doctors had called in the

past to see if respondent stocked a medication. Respondent is not sure how he obtained the office visit notes from PA Edwards that he submitted to Dr. Randall and as evidence. He could not recall when, or why, he requested the notes. Respondent reiterated that there were a lot of things he could have done better, and in hindsight, he could have done more to recognize the many red flags.

70. When asked what about PA Edwards's prescribing practices led respondent to trust her, respondent said he trusted her because she worked in a pain management practice, and he assumed she had a pretty good understanding of pain management and a lot of experience. When asked about a pain management specialist writing prescriptions for Adderall, respondent said PA Edwards also worked in internal medicine. Similarly, because she worked in internal medicine, he did not find it unusual for her to prescribe promethazine/codeine for cough, which was generally concurrent with a prescription for antibiotics. When it was noted that respondent also filled multiple prescriptions for promethazine/codeine written under the authority of Dr. Chisholm, respondent noted that sometimes patients seeing a pain management doctor do not have a primary care doctor. If the patient had a cough, the pain management doctor might prescribe cough medication or antibiotics during the visit.

71. Respondent did not conduct any independent research about any of the prescribers discussed above. Respondent believes he spoke to someone claiming to be Dr. Thio. Respondent never spoke to Dr. Hill, but spoke to a nurse at his office who initiated the call. Regarding Dr. Chisholm, respondent recalled that a person who identified himself as Dr. Chisholm called the pharmacy and told respondent he had a practice in La Jolla but that he had previously worked in Orange County. Many of his patients who lived in Orange County continued to see him, and the person asked respondent if he could take care of these patients. In the beginning, respondent would

call the phone number on the prescription to verify it. But once he developed a relationship with the person he believed to be Dr. Chisholm, he "overlooked some things." In hindsight, he would have searched the internet to research the doctor. Again, respondent relied too much on the doctor and the doctor's "professional judgment." When asked how much clinical judgment respondent actually exercised at the time, respondent said he does not practice like that anymore. He said he now understands much more about his role in filling controlled substance prescriptions – much more than he did in 2019 and 2020.

72. Respondent understands why the board would be concerned about him. He articulated his current understanding of corresponding responsibility. In addition to the policies he implemented at Maria Pharmacy, the pharmacy does not fill controlled substances except for patients who are well known and written by doctors who are also well-known and practicing within a five-mile radius. His practice is completely different than what it once was.

73. When asked if he believed his conduct contributed to the opioid epidemic, respondent said it probably did. He feels very bad about what happened but has learned a lot from the experience. He did not increase the prices of these medications and filled the prescriptions because he wanted to take care of his patients. Respondent wants to maintain his pharmacy license because he loves the profession.

TESTIMONY OF MARLENE SILVA

74. Marlene Silva is a licensed pharmacy technician who worked as a pharmacy technician at Premier Life. Respondent was the only pharmacist at the pharmacy, and she had the opportunity to observe his practices. For controlled

substance prescriptions respondent would check the patient's identification. He would also check CURES and would not fill a prescription if it was too soon for a refill. She saw him refuse to fill prescriptions for some patients if something about the prescription document did not look right. On occasion, she overheard him on the phone with a doctor if respondent had a question about a prescription, such as if the dosage was wrong. Ms. Silva now works at Maria Pharmacy. She said respondent only manages the business side of the operation. Ms. Silva described respondent as truthful and who follows the rules. She said he was always friendly and helpful to his patients.

ADDITIONAL EVIDENCE

75. Respondent submitted a character reference letter from Denise Joseph-Brown, M.D., who has known respondent for over five years. She wrote that he always gives his customers the best service. She wrote that she was aware of the allegations against him, but she has never observed any unethical or unprofessional behavior in their interactions.

76. Respondent submitted a character reference letter from Duc L. Mai, Pharm.D. Dr. Mai met respondent when Dr. Mai was a pharmacy technician who worked with respondent. Because of respondent's mentorship, Dr. Mai pursued becoming a pharmacist. Dr. Mai praised respondent's commitment to his patients and the practice of pharmacy. Dr. Mai indicated he was aware of the allegations against respondent.

77. Respondent submitted a character reference letter from Tamara Maher, D.O. Dr. Maher, a family practice physician, has referred her patients to Premier Life and has used the pharmacy herself since the pharmacy opened. She was aware of the allegations against him, and indicated that they were out of character from her

experience with him. She has always known respondent to be highly ethical, hardworking, concerned about patient safety, and committed to serving the needs of his patients.

78. Respondent submitted a character reference letter from Vicky Bich Dang, a licensed pharmacist, who met respondent in pharmacy school. They both worked at the same chain pharmacy together (at different locations), and respondent assisted her when she became a PIC. Respondent enjoyed an excellent reputation for providing patient care. She cited several examples in support of her belief that respondent is a highly competent pharmacist.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. The standard of proof in an administrative action seeking to suspend or revoke a professional license is "clear and convincing evidence." (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) Clear and convincing evidence requires a finding of high probability, or evidence so clear as to leave no substantial doubt; it requires sufficiently strong evidence to command the unhesitating assent of every reasonable mind. (*Katie V. v. Sup. Ct.* (2005) 130 Cal.App.4th 586, 594.) The burden of proof is on complainant.

Purpose of License Discipline

2. The business of compounding prescriptions and selling drugs is intimately connected with and has a vital relationship to the health, safety, and welfare of the public. Public safety must be regarded as superior to private rights. (*Brodsky v.*

California State Board of Pharmacy (1959) 173 Cal.App.2d 680, 688-689.) Protection of the public is the board's highest priority in exercising its disciplinary functions; whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public is paramount. (Bus. & Prof. Code, § 4001.1.) The main purpose of license discipline is protection of the public through the prevention of future harm and the improvement and rehabilitation of the licensee. It is far more desirable to impose discipline before a licensee harms any patient than after harm has occurred. (*Griffiths v. Sup. Ct.* (2002) 96 Cal.App.4th 757, 772.)

Relevant Statutory Authority

3. Business and Professions Code section 4301 authorizes the board to take action against any holder of a license for unprofessional conduct. Unprofessional conduct includes, but is not limited to, the following:

> (j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.
>
> [¶] . . . [¶]
>
> (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency. . . .

4. Under Business and Professions Code section 4113, subdivision (c), the PIC is responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

5. Business and Professions Code section 4306.5 provides that unprofessional conduct for a pharmacist includes:

> (a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.
>
> (b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement his or her best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services.
>
> (c) Acts or omissions that involve, in whole or in part, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function. . . .

6. Health and Safety Code section 11153, subdivision (a), provides in part:

> A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment . . . .[4]

7. Health and Safety Code section 11164, subdivision (a), prohibits filling or dispensing a prescription for a controlled substance unless it complies with certain requirements, including that the prescription must be made on a controlled substance prescription form as specified in Section 11162.1.

8. Health and Safety Code section 11162.1, as amended in Stats. 2018 Ch. 479, (AB1753), lists the security features that must be contained on prescription forms for controlled substances, and include: a latent, repetitive "void" pattern printed across the entire front of the prescription blank (subd. (a)(1)), a watermark printed on the backside of the prescription consisting of the words "California Security Prescription," (subd. (a)(2)), an identifying number assigned to the approved security printer by the

[4] This language is substantially mirrored in Title 21 Code of Federal Regulations (CFR) section 1306.04(a).

Department of Justice (subd. (a)(13)); and a printed lot number for each batch (subd. (b)).

9. California Code of Regulations, title 16, section 1761 provides:

> (a) No pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.
>
> (b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense a controlled substance prescription where the pharmacist knows or has objective reason to know that said prescription was not issued for a legitimate medical purpose.

Evaluation

FIRST CAUSE FOR DISCIPLINE – CORRESPONDING RESPONSIBILITY

10. Health and Safety Code section 11153 provides that a prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. While the responsibility for the proper prescribing of controlled substances is upon the prescribing practitioner, a corresponding responsibility rests with the pharmacist who fills the prescription. Furthermore, an order purporting to be a prescription which is not issued in the usual course of professional treatment is not a legal prescription.

11. As discussed above, the board's precedential decision in *Pacifica* clarified the role pharmacists have regarding their corresponding responsibility to determine the legitimate medical purpose before dispensing controlled substance prescriptions. "The pharmacist's burden is to be alert, to make reasonable inquiry when circumstances require, and to refuse to fill a questionable prescription for a controlled substance when nothing establishes that the prescription at issue was issued for a legitimate medical purpose after engaging in due diligence." (*Pacifica, supra,* at p. 27.)

> The corresponding responsibility law is both a standard of care and a duty imposed by statute. In both cases, pharmacists and pharmacies must determine whether a prescription for a controlled substance was issued for a legitimate medical purpose whenever the surrounding circumstances require such an inquiry.

(*Id.* at p. 30.)

Moreover, to establish a violation of the corresponding responsibility standard, complainant is not required to establish that a prescription for a controlled substance was in fact written by a prescriber for an illegitimate purpose; rather, complainant need only establish that "circumstances were present that would cause a reasonable and prudent pharmacist to question whether a prescription for a controlled substance was issued for a legitimate medical purpose and to show that the pharmacist failed to make the required inquiry." (*Id.* at p. 31.) "But, when a pharmacist does nothing in the face of circumstances that require that some positive action be taken, the pharmacist is guilty of negligence, unprofessional conduct, and violates the corresponding responsibility law." (*Ibid.*)

12. To establish that respondent failed to abide by his responsibilities under Section 11153, complainant must prove: 1) that circumstances were present that would cause a reasonable and prudent pharmacist to question whether a prescription for a controlled substance was issued for a legitimate medical purpose, and 2) that respondent failed to make reasonable inquiry, i.e., that respondent failed to use professional judgment or reasonable care to determine how to further proceed. (*Id.* at p. 31.)

13. It was conclusively established that the prescriptions dispensed under the authority of Dr. Chisholm and Dr. Thio were fraudulent, were not written by those two doctors, and were not for a legitimate medical purpose. Similarly, in light of PA Edwards's criminal conviction and her overall prescribing history, clear and convincing evidence established all of the controlled substance prescriptions identified by Dr. Randall that were issued by PA Edwards were not for a legitimate medical purpose.

14. Although respondent did not explicitly concede that cause to discipline exists, he did not claim that he complied with his corresponding responsibility duties. He repeatedly testified that he should have done a better job in assessing the numerous controlled substance prescriptions he dispensed that were clearly not issued for a legitimate medical purpose.

15. In *Pacifica*, the board identified several red flags or irregularities to aid pharmacists with identifying potential problems with a prescription. However, the red flags identified in *Pacifica* are not exhaustive criteria for determining whether a prescription is for an illegitimate medical purpose; it is within the pharmacist's professional judgment to make that determination. In other words, while the red flags serve as tools to guide a pharmacist, the absence of an irregularity from the *Pacifica* list does not render its existence unimportant.

The red flags identified in *Pacifica* can be grouped into three categories: 1) irregularities within the four corners of the prescription document, 2) irregularities regarding an individual prescription and patient, and 3) cumulative or aggregate irregularities related to the prescriber and multiple patients/prescriptions. The significance of any particular red flag must be evaluated in the context of the totality of the circumstances. Some red flags can be more significant when occurring in conjunction with other red flags.

16. *Pacifica* cites irregularities on the face of the prescription itself as a red flag. In this case, respondent did not appreciate that all prescriptions were missing the required watermark or other required security features. Because it is a statutory violation to dispense a controlled substance from a nonconforming prescription, it is a per se duty and standard of care for a pharmacist to recognize a nonconforming prescription and proceed accordingly (either by rejecting the prescription or seeking to "legalize" the prescription through alternative means, such as a phone order for Schedule II through V). Moreover, part of a pharmacist's corresponding responsibility is to treat a prescription lacking required security features as potentially illegitimate for the obvious reason that a counterfeit prescription might lack any number of these features, the recognition of which would prompt a reasonable pharmacist to make further inquiry. Thus, the absence of statutorily required security features is a red flag, the significance of which is determined by the type of security features that are absent.

17. The next group of red flags relate to individual patients and the medications prescribed to each. Included in the *Pacifica* list of red flags are: nervous patient demeanor, age or presentation of the patient; cash payments; requests for early refills; unusually large quantity of drugs; prescriptions for potentially duplicative drugs; initial prescriptions written for stronger opiates (or opioids); long distance

travelled from patient's home to prescriber and/or pharmacy; irregularities with the prescriber's qualifications in relation to medication prescribed; and medications with no logical connection to diagnosis or treatment. In this case, there were multiple red flags that were applicable:

Cash Payments. All of the prescriptions at issue were paid in cash. While there might be reasonable explanations for this, it is still a possible red flag a reasonable pharmacist should consider in evaluating the legitimacy of a controlled substance prescription.

Prescriptions for multiple controlled substances of high abuse potential. All of the patients identified received combinations containing the highest dosages of opioid and alprazolam or an opioid and carisoprodol. Many of the patients received all three. Even if respondent had not checked CURES, this should have been apparent to him had he checked the pharmacy's dispensing history. These combinations should have raised concern requiring further inquiry because they are common drugs of abuse and diversion and pose the potential for life-threatening interactions if taken together.

Distance from Prescriber to Patient. A reasonable distance from the prescriber to the patient's home is not fixed and is patient and circumstance specific. However, a reasonably prudent pharmacy should recognize that long distance or travel time warrants further inquiry. That multiple patients would travel from Orange County to San Diego or Riverside to see Dr. Chisholm or Dr. Thio is a red flag that required further inquiry.

Initial High Dose Opioids. Almost all the prescriptions in this case were written for the highest dose of oxycodone available. None of the patients identified showed a

history of having received an opioid immediately prior to the initial prescription for oxycodone 30 mg. This constitutes a red flag that required further inquiry.

Unusually Large Quantities. Whether a quantity of drug is unusually large is a clinical question that is circumstance specific. In this case, the high quantity dispensed equivalent to at least 130 MME per day for each of the patients, who were all apparently opioid naïve, warranted additional scrutiny.

Irregularities with Prescriber Qualifications. While all of the prescribers at issue had pain management listed on the prescription documents, and thus it would be expected for them to write prescriptions for narcotic pain medication, it was an irregularity for them to also write a large number of prescriptions for promethazine/codeine, Adderall, or alprazolam.

18. In conclusion, there were multiple red flags in this case that a reasonably prudent pharmacist in respondent's situation would have recognized and further investigated. Having identified that multiple prescriptions warranted further inquiry, the next step is to determine whether respondent made reasonable inquiry, in other words, whether he exercised professional judgment and reasonable care in concluding the prescriptions were for a legitimate medical purpose. While *Pacifica* articulated red flags to assist pharmacists with questioning the validity of a controlled substance prescription, because the pharmacist in that case "did nothing in the face of circumstances that require that some positive action be taken," the board provided little guidance on the steps a reasonably prudent pharmacist should take when suspecting an illegitimate prescription. (*Id.* at p. 31.) Similarly, earlier caselaw provides little guidance except that a pharmacist is required to use "common sense and professional judgment." (*Vermont & 110th Medical Arts Pharmacy v. Board of Pharmacy* (1981) 125 Cal.App.3d 19, 25.)

19. In this case, respondent did almost nothing to verify the legitimacy of the prescriptions except for checking the patient's identification and checking CURES. Even if respondent's testimony that he checked CURES for each controlled substance prescriptions is fully credited, he only assessed whether the patient was pharmacy or doctor shopping or whether a refill was too early. He failed to observe whether a patient was opioid tolerant or had otherwise suspicious prescribing history. There was no documentation that respondent had ever contacted the prescribers to ensure that the prescription was for a legitimate purpose. Although he claimed to have initially conferred with the prescriber – which he produced no documentation of – respondent admitted this only occurred when he initially began receiving prescriptions from each provider. His rationale was that the more prescriptions he saw, the more he trusted their judgment, and the less he felt a need to question the prescription. Of course, since the prescriptions from the beginning were fraudulent, his reliance on continued prescriptions as justifying his lack of further follow-up is particularly ironic.

20. Clear and convincing evidence established that circumstances were present that would cause a reasonable and prudent pharmacist to question whether a prescription for a controlled substance was issued for a legitimate medical purpose, and respondent failed to make reasonable inquiry to ensure he was dispensing prescriptions for a legitimate medical purpose. Indeed, respondent failed in his corresponding responsibility duty, and cause exists to discipline respondent's license and Premier Life's permit pursuant to Business and Professions Code section 4301, subdivision (j), based on a violation of Health and Safety Code section 11153 and Regulation 1306.04(a).

SECOND CAUSE FOR DISCIPLINE- ERRONEOUS OR UNCERTAIN PRESCRIPTIONS

21. Cause exists to discipline respondent's license and Premier permit pursuant to Business and Professions Code section 4301, subdivision (o). Clear and convincing evidence established that respondents violated California Code of Regulations, title 16, section 1761, by dispensing prescriptions containing any significant "error, omission, irregularity, uncertainty, ambiguity or alteration," or which respondent should have reasonably known was not issued for a legitimate medical purpose.

THIRD CAUSE FOR DISCIPLINE – DISPENSING NON-COMPLIANT CONTROLLED SUBSTANCE PRESCRIPTION

22. Cause exists to discipline respondent's license and Modern Drug's permit pursuant to Business and Professions Code section 4301, subdivisions (j) and (o). Clear and convincing evidence established that respondents violated Health and Safety Code section 11164 for filling and dispensing controlled substances from forms that did not comply with the requirements of Section 11162.1.

Appropriate Discipline

23. California Code of Regulations, title 16, section 1760, provides that in reaching a decision in a disciplinary action under the Administrative Procedure Act, the board must consider its "Disciplinary Guidelines" (Rev. 2/2017).

The factors relevant to this matter that were considered in reaching a decision in this matter are: actual or potential harm to the public; actual or potential harm to any consumer; prior disciplinary record (including citations); number and/or variety of current violations; nature and severity of the acts under consideration; aggravating

evidence; mitigating evidence; rehabilitation evidence; time passed since the acts; whether the conduct was intentional or negligent, demonstrated incompetence, or, if respondent is being held to account for conduct committed by another, respondent had knowledge of or knowingly participated in such conduct; and financial benefit to respondent from the misconduct.

The Guidelines identify four categories of violations and provide recommended minimum and maximum discipline. For each violation category, the board has given offense descriptions and examples where violations would typically merit the recommended range of minimum to maximum penalties for that category. These descriptions and examples are representative, and they are not intended to be comprehensive or exclusive. Violation of corresponding responsibility is listed as a Category III violation. The minimum recommended discipline is a stayed revocation with three to five years' probation with a 90-day actual suspension. The maximum discipline is revocation.

24. Rehabilitation is a "state of mind" and the law looks with favor upon rewarding with the opportunity to serve one who has achieved "reformation and regeneration." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041, 1058.) Acknowledgement of the wrongfulness of one's actions is an essential step toward rehabilitation. (*Seide v. Committee of Bar Examiners* (1989) 49 Cal.3d 933.) While a candid admission of misconduct and full acknowledgment of wrongdoing is a necessary step in the rehabilitation process, it is only a first step; a truer indication of rehabilitation is presented if an individual demonstrates by sustained conduct over an extended period of time that he or she is rehabilitated. (*In re Trebilcock* (1981) 30 Cal.3d 312, 315-316.) Administrative proceedings to impose discipline on a licensee are noncriminal and

nonpenal; they are not intended to punish the licensee, but to protect the public. (*Sulla v. Bd. of Registered Nursing* (2012) 205 Cal.App.4th 1195, 1206.)

25. That there is an epidemic of prescription opioid abuse across the state and nation is evident and needs no further discussion. A pharmacist is the last line of defense from preventing controlled substances from being obtained and used unlawfully. In addition to the societal harm associated with illegal opioid use, respondent likely aided multiple individuals' addictions to opioids for the unlawful prescriptions he dispensed. The potential consequences of an overdose go without saying, and he put the public and his patients at risk.

26. Respondent and the pharmacy wholly failed in their responsibility to prevent the unlawful dispensing of controlled substances. This violation was serious and warrants an accordingly strong measure of discipline consistent with the guidelines. In *Pacifica,* which dealt with a factually similar issue regarding a pharmacist's failure to exercise his corresponding responsibility to ensure that controlled substance prescriptions were dispensed for a legitimate medical purpose, the board revoked the pharmacist's license and pharmacy's permit. Although the circumstances surrounding the misconduct in this case are similar to those in *Pacifica*, in that case, the pharmacist/owner failed to acknowledge wrongdoing, offered no evidence in mitigation, and provided little evidence of rehabilitation. In contrast, respondent fully cooperated with the board's investigation, admitted he failed to exercise his corresponding responsibility, expressed remorse, and claimed to have changed his practices. Respondent's testimony was sincere, and although he failed in his duty to ensure the legitimacy of prescriptions he was dispensing, it was not established that respondent was corrupt, dishonest, or acted out of greed.

27. While respondent no longer routinely works as a pharmacist, he is the sole owner of a new pharmacy. Although he claims to have implemented policies addressing how that pharmacy deals with controlled substances, without reviewing these policies, there is no way of determining what the pharmacy is doing to ensure compliance with the law. Under the totality of the circumstances, the public will be sufficiently protected by placing respondent's license on probation for a period of five years. Additional conditions of probation will include a 30-day actual suspension and completion of course work, including an ethics course. Finally, pursuant to Business and Professions Code section 4307, respondent is prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years. As such, respondent will be required to divest his ownership interest in Maria Pharmacy during the period of probation.

28. As for Premier Life's pharmacy permit, the pharmacy is no longer in operation and the permit has been cancelled. Revocation of the permit is therefore appropriate.

Cost Recovery

29. Complainant requests cost recovery under Business and Professions Code section 125.3. A certification by complainant and declarations by Dr. Randall and her supervisor outlined the board's investigation costs in the amount of $23,201. A declaration by the deputy attorney general contained information related to services provided by the Office of the Attorney General and included costs of prosecution in the amount of $11,150. The certifications of cost satisfied the requirements of California Code of Regulations, title 1, section 1042, subdivision (b).

30. The California Supreme Court in *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, held that a regulation imposing costs for investigation and enforcement under California Code of Regulations, title 16, section 317.5, which is similar to Business and Professions Code section 125.3, did not violate due process. But it was incumbent on the board in that case to exercise discretion to reduce or eliminate cost awards in a manner such that costs imposed did not "deter [licensees] with potentially meritorious claims or defenses from exercising their right to a hearing." (*Ibid.*)

The Supreme Court set forth five factors to consider in deciding whether to reduce or eliminate costs: whether the licensee used the hearing process to obtain dismissal of other charges or a reduction in the severity of the discipline imposed; whether the licensee had a "subjective" good faith belief in the merits of his or her position; whether the licensee raised a "colorable challenge" to the proposed discipline; whether the licensee had the financial ability to make payments; and whether the scope of the investigation was appropriate in light of the alleged misconduct. The reasoning of *Zuckerman* must be applied to Business and Professions Code section 125.3 since the language in the cost recovery regulation at issue in *Zuckerman* and section 125.3 are substantially the same.

Applying the *Zuckerman* criteria: the scope of the investigation was appropriate in light of the alleged misconduct, respondent had a subjective good faith belief in the merits of their position, and respondent raised a colorable challenge to the proposed discipline. Respondents did not address ability to pay costs. Respondents are jointly and severally ordered to pay cost recovery in the amount of $15,000.

ORDER

1. Pharmacy Permit No. PHY 55533 issued to respondent PL Rx Pharmacy, Inc., doing business as Premier Life Pharmacy, is revoked.

2. Pharmacy License No. RPH 52934 to respondent Kevin Trong Vu 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 seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws;
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment;
- a conviction of any crime;
- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's pharmacist 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 (2) 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 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 his 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 thirty (30) days of the effective date of this decision, and within ten (10) days of undertaking any new employment, respondent shall report to the board in writing the name, physical address, and mailing address of each of his employer(s), and the name(s) and telephone number(s) of all of her direct supervisor(s), as well as any pharmacist(s)-in- charge, designated representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work schedule, if known. Respondent shall also include the reason(s) for leaving the prior employment. Respondent shall sign and return to the board a written consent authorizing the board or its designee to communicate with all of respondent's employer(s) and supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the board or its designee, concerning respondent's work status, performance, and monitoring.

Failure to comply with the requirements or deadlines of this condition shall be considered a violation of probation.

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

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through an employment service, respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service to report to the board in writing acknowledging

that he or she has read this decision, 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 pharmacist, or any position for which a pharmacist license is a requirement or criterion for employment, whether the respondent is an employee, independent contractor or volunteer.

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

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

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

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 $15,000. Respondent shall be permitted to pay these costs in a payment plan approved by the board or its designee, so long as full payment is completed no later than one (1) year prior to the end date of probation.

There shall be no deviation from the installment payment schedule set forth by the board 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 pharmacist license shall be considered a violation of probation.

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

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

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 ten (10) days of notification by the board that the surrender is accepted if not already provided. Respondent may not reapply for any license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board, including any outstanding costs.

13. Practice Requirement - Extension of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 100 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment,

respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the board or its designee.

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

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

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

As part of probation, respondent is suspended from practice as a pharmacist for 30 days beginning the effective date of this decision.

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 that 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 this 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. Remedial Education

Within 30 days of the effective date of this decision, respondent shall submit to the board or its designee, for prior approval, an appropriate program of remedial education related to corresponding responsibility, controlled substance dispensing, o any related topic approved by the board. The program of remedial education shall consist of at least eight hours per year of probation which shall be completed within one year at respondent's own expense. All remedial education shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes for pharmacists.

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

Following the completion of each course, the board or its designee may require the respondent, at his own expense, to take an approved examination to test the respondent's knowledge of the course. If the respondent does not achieve a passing

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

18. Ethics Course

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

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19. Ownership or Management of Licensed Premises

Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

DATE: June 16, 2022

Adam Berg (Jun 16, 2022 10:02 PDT)

ADAM L. BERG

Administrative Law Judge

Office of Administrative Hearings

ROB BONTA
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General
NICOLE R. TRAMA
Deputy Attorney General
State Bar No. 263607
600 West Broadway, Suite 1800
San Diego, CA 92101
P.O. Box 85266
San Diego, CA 92186-5266
Telephone: (619) 738-9441
Facsimile: (619) 645-2061
Attorneys for Complainant

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

In the Matter of the Accusation Against**:** **PL RX PHARMACY INC.,** **DBA PREMIER LIFE PHARMACY;** **KEVIN TRONG VU,** **PRES/TREASUER/CFO;** **RYAN LINH LE, VICE-** **PRES/SECRETARY** **9430 Warner Ave., Suite G** **Fountain Valley, CA 92708** **Original Permit No. PHY 55533,** **and** **KEVIN T. VU** **9430 Warner Ave., Suite G** **Fountain Valley, CA 92708** **Pharmacist License No. RPH 52934** Respondents.	Case No. 7164 **ACCUSATION**

PARTIES

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

2. On or about May 29, 2017, the Board of Pharmacy issued Original Permit Number PHY 55533 to PL Rx Pharmacy Inc. dba Premier Life Pharmacy (Respondent Pharmacy) with Kevin Trong Vu as President, Treasurer/Chief Financial Officer and Ryan Linh Le as Vice-President and Secretary. The Original Permit Number was cancelled on July 26, 2021 due to a discontinuance of business effective January 27, 2021.

3. On or about September 10, 2001, the Board of Pharmacy issued Pharmacist License Number RPH 52934 to Kevin T. Vu (Respondent Vu). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2022, unless renewed.

JURISDICTION

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

5. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law (Bus. & Prof. Code, § 4000 *et seq*.) and the Uniform Controlled Substances Act (Health & Safety Code, § 11000 *et seq*.).

6. Code section 4300, subdivision (a) provides that every license issued by the Board may be suspended or revoked.

7. Code section 4300.1 states:

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

STATUTORY PROVISIONS

8. Code section 4022 states:

> "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use in humans or animals, and includes the following:
>
> (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without prescription," "Rx only," or words of similar import.

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

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

9. Code section 4113, subdivision (c) states:

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

10. 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 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

…

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

…

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

…

11. Code section 4307, subdivision (a) states:

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

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

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

12. Health and Safety Code section 11153, subdivision (a), states:

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

13. Health and Safety Code section 11162.1 states in part:

(a) The prescription forms for controlled substances shall be printed with the following features:

(1) A latent, repetitive 'void' pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words "California Security Prescription."

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermochromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form so that the prescriber may indicate the quantity by checking the applicable box where the following quantities shall appear:

1-24

25-49

50-74

75-100

101-150

151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(8) Prescription blanks shall contain a statement printed on the bottom of the prescription blank that the "Prescription is void if the number of drugs prescribed is not noted."

(9) The preprinted name, category of licensure, license number, federal controlled substance registration number, and address of the prescribing practitioner.

(10) Check boxes shall be printed on the form so that the prescriber may indicate the number of refills ordered.

(11) The date of origin of the prescription.

(12) A check box indicating the prescriber's order not to substitute.

(13) An identifying number assigned to the approved security printer by the Department of Justice.

(14) (A) A check box by the name of each prescriber when a prescription form lists multiple prescribers.

(B) Each prescriber who signs the prescription form shall identify himself or herself as the prescriber by checking the box by his or her name.

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

(15) A uniquely serialized number, in a manner prescribed by the Department of Justice in accordance with Section 11162.2.

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

. . . .

14. Health and Safety Code section 11164 states in part:

Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance, unless it complies with the requirements of this section.

(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 and shall meet the following requirements:

(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the prescriber's address and telephone number; the name of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services; refill information, such as the number of refills ordered and whether the prescription is a

first-time request or a refill; and the name, quantity, strength, and directions for use of the controlled substance prescribed.

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

….

REGULATORY PROVISIONS

15. Code of Federal Regulations, Title 21, section 1306.04, subdivision (a), states:

A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law relating to controlled substances.

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

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

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

COST RECOVERY

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

DRUGS

18. Adderall is the brand name for mixed amphetamine salts, a Schedule II controlled substance pursuant to Health and Safety Code section 11055(d)(1) and is a dangerous drug as defined by Business and Professions Code section 4022.

19. Norco is the brand name for hydrocodone/acetaminophen, a Schedule II controlled substance pursuant to Health and Safety Code section 11055(b)(l)(ii) and 21 C.F.R. 1308.12(b)(1)(vi) and is a dangerous drug as defined by Business and Professions Code section 4022.

20. Opana is the brand name for oxymorphone 40 mg extended release, a Schedule II controlled substance pursuant to Health and Safety Code section 111055, and is a dangerous drug as defined by Business and Professions Code section 4022.

21. Percocet is the brand name for oxycodone/acetaminophen 10/325 mg, a Schedule II controlled substance pursuant to Health and Safety Code section 111055, and is a dangerous drug as defined by Business and Professions Code section 4022.

22. Phenergan with Codeine is the brand name for promethazine with codeine, a Schedule V controlled substance pursuant to Health and Safety Code section 11058, subdivision (c)(1), and is a dangerous drug as defined by Business and Professions Code section 4022.

23. Roxicodone is the brand name for oxycodone, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M) and a dangerous drug as defined by Business and Professions Code section 4022.

24. Soma is the brand name for carisoprodol and is a Schedule IV controlled substance pursuant to 21 CFR 1308.14(c)(7) and a dangerous drug as defined by Business and Professions Code section 4022.

25. Xanax is the brand name for alprazolam, a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(d)(1) and a dangerous drug as defined by Business and Professions Code section 4022.

FACTUAL ALLEGATIONS

26. At all times mentioned herein, Respondent Vu has been the Pharmacist-in-Charge (PIC) at Respondent Pharmacy, located in Fountain Valley, California.

27. Between April 23, 2019 and May 22, 2020, and while Respondent Vu was PIC, Respondents dispensed approximately 171 controlled substance prescriptions under the prescribing authority of four prescribers, written on 88 prescription forms which lacked one or more required security features as follows:

a. Respondents dispensed approximately 50 controlled substance prescriptions under the prescribing authority of PA E. off forms that lacked a lot number, a batch number, and an identifying number assigned to the approved security printer. In addition, 4 of the 50 prescriptions were dispensed off forms that also lacked a "California Security Prescription" watermark.

b. For Dr. C, Respondents dispensed 84 controlled substance prescriptions written on 42 forms that lacked required security features. Five forms (containing 10 Rxs) lacked only the latent, repetitive "VOID" pattern. 37 forms (containing 74 Rxs) lacked the latent, repetitive "VOID" pattern and an identifying number assigned to the security printer.

c. Respondents dispensed approximately 24 controlled substance prescriptions under the prescribing authority of Dr. T. off forms that lacked the proper "California Security Prescription" watermark, and that contained serialized numbers and lot/batch number combinations that were not unique.

d. Respondents dispensed approximately 18 controlled substance prescriptions under the prescribing authority of Dr. H. off forms that lacked the proper "California Security Prescription" watermark.

28. Between August 4, 2017 and June 11, 2020, Respondents dispensed a total of 1,558 prescriptions[1] under the prescribing authority of four prescribers (PA E., Dr. C., Dr. T., and Dr. H.) despite the presence of significant factors irregularity and red flags for prescription drug abuse including the following:

[1] These included 145 prescriptions for a total of 12,750 alprazolam 2 mg tablets, 126 prescriptions for a total of 13,130 oxycodone 30 mg tablets, and 112 prescriptions for a total of 11,310 hydrocodone/acetaminophen 10/325 mg tablets.

a. The prescribing profiles of the four prescribers were unusually limited, with commonly abused controlled substances representing a significant percent of each prescriber's prescriptions. For example, PA E.'s eight most commonly prescribed medications at Respondent Pharmacy were all controlled substances and the top six medications were very commonly abused medications. These commonly abused controlled substances accounted for 49.3% of PA E.'s total prescribing and controlled substances generally accounted for 59.76% of her prescribing. PA E.'s most common prescription was for promethazine/codeine syrup with represented 11.87% of her total prescribing. In another example, 95.45% of Dr. C.'s prescriptions (all but four prescriptions) were written for controlled substances. Respondents only filled controlled substance prescriptions from Dr. T. And all but two of Dr. H.'s prescriptions were for controlled substances.

b. One of the prescribers (PA E.) commonly prescribed controlled substances in the highest available strength. For example, PA E.'s prescribing record contained 120 prescriptions for alprazolam 2 mg, 81 prescriptions for amphetamine salts 30 mg, 94 prescriptions for hydrocodone/acetaminophen 10/325 mg, and 29 prescriptions for oxymorphone ER 40 mg, and no prescriptions for any lower strength of any of these medications.

c. The prescriptions from all four prescribers were frequently purchased in cash, without the aid of prescription insurance. For example, 85.87% of PA E.'s prescriptions, and all of Drs. C., T., and H.'s prescriptions were purchased in cash.

d. PA E. prescribed the commonly abused "trinity" combination of an opioid, alprazolam, and carisoprodol. Additionally, all four prescribers' profiles contained concurrent prescriptions for interacting medications including opioids and alprazolam, opioids and carisoprodol, and opioids and promethazine/codeine.

e. The prescribing record contained many instances when Respondents dispensed multiple similar prescriptions from PA E. on the same day. Sometimes, these prescriptions were assigned consecutive or nearly consecutive prescription numbers and were processed within minutes of each other.

f. The prescribing record contained 12 instances when patients of PA E. initiated opioid therapy at Respondent Pharmacy with very high doses (at least 135 morphine milligram equivalents per day), despite Respondents and CURES records suggesting that the patients were opioid naïve.

g. At least 171 controlled substance prescriptions written on 88 prescription forms from all four prescribers did not conform to the requirements of the law.

h. Dr. C.'s address on the prescription documents and in Respondent's dispensing software was in La Jolla, CA, which was 78.3 miles from Respondent Pharmacy.

29. Despite these factors of irregularity, there was not documentation to indicate that Respondents conferred with the prescribers to address the irregularities prior to dispensing the prescriptions in question. Indeed, Drs. C. and T. claimed that they did not prescribe the medications which were dispensed at Respondent Pharmacy.

FIRST CAUSE FOR DISCIPLINE

(Failing to Comply with Corresponding Responsibility for Controlled Substance Prescriptions)

30. Respondents are subject to disciplinary action under Code sections 4301, subdivisions (j) and (o), for violating Health and Safety Code section 11153, subdivision (a), and Code of Federal Regulations, Title 21, section 1306.04, subdivision (a), for failing to comply with corresponding responsibility to ensure that controlled substances were dispensed for a legitimate medical purpose. As described above, Respondents repeatedly furnished prescriptions for controlled substances even though obvious and systemic "red flags" were present to indicate those prescriptions were not issued for a legitimate medical purpose.

SECOND CAUSE FOR DISCIPLINE

(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions, Irregularities, Uncertainties, Ambiguities or Alterations)

31. Respondents are subject to disciplinary action under Code section 4301, subdivision (o), for violating title 16, California Code of Regulations, sections 1761, subdivisions (a) and (b) because Respondents dispensed controlled substances based on prescriptions which contained

significant errors, omissions, irregularities, uncertainties, ambiguities or alterations, as described above.

THIRD CAUSE FOR DISCIPLINE

(Dispensing Controlled Substance Prescriptions Written on Unauthorized Forms)

32. Respondent are subject to disciplinary action under Code sections 4301, subdivisions (j) and (o), for violating Health and Safety Code section 11164, subdivision (a), because Respondents filled and dispensed controlled substances from prescription forms that did not comply with the requirements of Health and Safety Code section 11162.1, as described above.

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OTHER MATTERS

33. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 55533, issued to PL Rx Pharmacy Inc. dba Premier Life Pharmacy, Respondent PL Rx Pharmacy Inc. dba Premier Life Pharmacy Pharmacy 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 55533, issued to PL Rx Pharmacy Inc. dba Premier Life Pharmacy is reinstated if it is revoked.

34. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 55533, issued to PL Rx Pharmacy Inc. dba Premier Life Pharmacy, while Respondent Vu has been an officer and owner and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, Respondent Vu 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 55533, issued PL Rx Pharmacy Inc. dba Premier Life Pharmacy is reinstated if it is revoked.

35. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License Number RPH 52934, issued to Kevin T. Vu, Respondent Vu shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for

five years if Pharmacist License Number RPH 52934 is placed on probation or until Pharmacist License Number RPH 52934 is reinstated if it is revoked.

PRAYER

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

1. Revoking or suspending Original Permit Number PHY 55533, issued to PL Rx Pharmacy Inc. dba Premier Life Pharmacy;

2. Revoking or suspending Pharmacist License Number RPH 52934, issued to Kevin T. Vu;

3. Prohibiting PL Rx Pharmacy Inc. dba Premier Life Pharmacy from servicing as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 55533 is placed on probation or until Pharmacy Permit Number PHY 55533 is reinstated if Pharmacy Permit Number PHY 55533 issued to PL Rx Pharmacy Inc. dba Premier Life Pharmacy is revoked;

4. Prohibiting Kevin T. Vu from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 55533 is placed on probation or until Pharmacy Permit Number PHY 55533 is reinstated if Pharmacy Permit Number PHY 55533 issued to PL Rx Pharmacy Inc. dba Premier Life Pharmacy, is revoked;

5. Prohibiting Kevin T. Vu from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 52934 is placed on probation or until Pharmacist License Number RPH 52934 is reinstated if Pharmacist License Number RPH 52934 issued to Kevin T. Vu is revoked;

3. Ordering dba Premier Life Pharmacy and Kevin T. Vu to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 8/7/2021

Signature on File

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

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