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

**In the Matter of the Accusation Against:**

**VOLUME DRUG INC., DBA VOLUME DRUG-2, CRAIG S. RESNICK, PRESIDENT/SHAREHOLDER, DAVID CELNIK, SECRETARY/SHAREHOLDER**

**Pharmacy Permit No. PHY 22141,**

**and**

**DAVID CELNIK**

**Pharmacist License No. RPH 27778**

**Respondents.**

**Agency Case No. 7257**

# DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on January 4, 2023.

It is so ORDERED on December 5, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

Seung W. Oh, Pharm.D.
Board President

ROB BONTA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General
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*Attorneys for Complainant*

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

| | |
|---|---|
| In the Matter of the Accusation Against**:**<br><br>**VOLUME DRUG INC., DBA VOLUME DRUG-2, CRAIG S. RESNICK, PRESIDENT/SHAREHOLDER, DAVID CELNIK, SECRETARY/SHAREHOLDER**<br>**12925 Magnolia Blvd.**<br>**Sherman Oaks, CA 91423**<br><br>**Pharmacy Permit No. PHY 22141,**<br><br>**and**<br><br>**DAVID CELNIK**<br>**13151 Addison St.**<br>**Sherman Oaks, CA 91423**<br><br>**Pharmacist License No. RPH 27778**<br><br>Respondents. | Case No. 7257<br><br>**STIPULATED SURRENDER OF LICENSES AND ORDER** |

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

## PARTIES

1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy (Board). She brought this action solely in her official capacity and is represented in this matter by Rob Bonta, Attorney General of the State of California, by Brian Lee, Deputy Attorney General.

2. Volume Drug Inc., dba Volume Drug-2 ("Respondent Volume Drug") is representing itself in this proceeding and has chosen not to exercise its right to be represented by counsel.[1]

3. David Celnik ("Respondent Celnik") is representing himself in this proceeding and has chosen not to exercise its right to be represented by counsel.

4. On or about November 10, 1985, the Board issued Pharmacy Permit No. PHY 22141 to Respondent Volume Drug. The Pharmacy Permit was in full force and effect at all times relevant to the charges brought in Accusation No. 7257. The Pharmacy Permit expired on November 1, 2022 and has not yet been renewed.

5. On or about July 14, 1972, the Board issued Pharmacist License Number RPH 27778 to Respondent Celnik. The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2023, unless renewed.

## JURISDICTION

6. Accusation No. 7257 was filed before the Board, and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on June 6, 2022. Respondents timely filed their Notice of Defense contesting the Accusation. A copy of Accusation No. 7257 is attached as Exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

7. Respondents have carefully read, and understand the charges and allegations in Accusation No. 7257. Respondents also have carefully read, and understand the effects of this Stipulated Surrender of Licenses and Order.

8. Respondents are fully aware of their legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at their own expense; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration

[1] Respondent Celnik represented that he is the sole owner of Volume Drug Inc., dba Volume Drug-2 and has been since January 1, 1997 when he purchased Craig Resnick's shares in the corporation. Respondent Celnik admits that he failed to notify the Board of the change in ownership.

and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

9. Respondents voluntarily, knowingly, and intelligently waive and give up each and every right set forth above.

## CULPABILITY

10. Respondents understand that the charges and allegations in Accusation No. 7257, if proven at a hearing, constitute cause for imposing discipline upon Pharmacy Permit No. PHY 22141 and Pharmacist License No. RPH 27778.

11. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation and that those charges constitute cause for discipline. Respondents hereby give up their right to contest that cause for discipline exists based on those charges.

12. Respondents understand that by signing this stipulation it enables the Board to issue an order accepting the surrender of their Pharmacy Permit and Pharmacist License without further process.

## CONTINGENCY

13. This stipulation shall be subject to approval by the Board. Respondents understand and agree that counsel for Complainant and the staff of the Board may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondents. By signing the stipulation, Respondents understand and agree that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

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14. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Surrender of Licenses and Order, including PDF and facsimile signatures thereto, shall have the same force and effect as the originals.

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

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

**ORDER**

IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 22141, issued to Respondent Volume Drug Inc., dba Volume Drug-2, Craig S. Resnick, President/Shareholder, David Celnik, Secretary/Shareholder and Pharmacist License No. RPH 27778, issued to Respondent David Celnik, are surrendered and accepted by the Board.

1. The surrender of Respondent Volume Drug's Pharmacy Permit and Respondent Celnik Pharmacist License, and the acceptance of the surrendered licenses by the Board shall constitute the imposition of discipline against Respondents. Respondents understand and agree that for purposes of Business and Professions Code section 4307, the surrenders shall be construed the same as revocation. This stipulation constitutes a record of the discipline and shall become a part of Respondents' license history with the Board.

2. Respondents shall lose all rights and privileges as a Pharmacy and Pharmacist in California as of the effective date of the Board's Decision and Order.

3. Respondents shall cause to be delivered to the Board their pocket license and, if one was issued, their wall certificate on or before the effective date of the Decision and Order.

4. If Respondents ever apply for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondents must comply

with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 7257 shall be deemed to be true, correct and admitted by Respondents when the Board determines whether to grant or deny the application or petition. Respondents may not apply for any license, permit, or registration from the Board for three (3) years from the effective date of the decision.

5. Respondents shall pay the agency its costs of investigation and enforcement in the amount of $30,961.00 prior to issuance of a new or reinstated license.

6. If Respondents should ever apply or reapply for a new license or certification, or petition for reinstatement of a license, by any other health care licensing agency in the State of California, all of the charges and allegations contained in Accusation, No. 7257 shall be deemed to be true, correct, and admitted by Respondents for the purpose of any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

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## ACCEPTANCE

I have carefully read the Stipulated Surrender of Licenses and Order. I understand the stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated Surrender of Licenses and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

_____
DAVID CELNIK, SOLE OWNER
VOLUME DRUG INC., DBA VOLUME DRUG-2
*Respondent*

I have carefully read the Stipulated Surrender of Licenses and Order. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Surrender of Licenses and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: _____

_____
DAVID CELNIK
*Respondent*

## ACCEPTANCE

I have carefully read the Stipulated Surrender of Licenses and Order. I understand the stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated Surrender of Licenses and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 9-30-22

DAVID CELNIK, SOLE OWNER
VOLUME DRUG INC., DBA VOLUME DRUG-2
*Respondent*

I have carefully read the Stipulated Surrender of Licenses and Order. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Surrender of Licenses and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 9-30-22

DAVID CELNIK
*Respondent*

**ENDORSEMENT**

The foregoing Stipulated Surrender of Licenses and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General

BRIAN LEE
Deputy Attorney General
*Attorneys for Complainant*

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**ENDORSEMENT**

The foregoing Stipulated Surrender of Licenses and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: October 7, 2022

Respectfully submitted,

ROB BONTA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General

BRIAN LEE
Deputy Attorney General
*Attorneys for Complainant*

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# Exhibit A

**Accusation No. 7257**

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*Attorneys for Complainant*

**BEFORE THE**
**BOARD OF PHARMACY**
**DEPARTMENT OF CONSUMER AFFAIRS**
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| In the Matter of the Accusation Against**:**<br><br>**VOLUME DRUG INC., DBA VOLUME DRUG-2, CRAIG S. RESNICK, PRESIDENT/SHAREHOLDER, DAVID CELNIK, SECRETARY/SHAREHOLDER**<br>**12925 Magnolia Blvd.**<br>**Sherman Oaks, CA 91423**<br><br>**Pharmacy Permit No. PHY 22141,**<br><br>**and**<br><br>**DAVID CELNIK**<br>**13151 Addison St.**<br>**Sherman Oaks, CA 91423**<br><br>**Pharmacist License No. RPH 27778**<br><br>Respondents. | Case No. 7257<br><br>**ACCUSATION** |

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## PARTIES

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

2. On or about November 10, 1985, the Board of Pharmacy issued Pharmacy Permit Number PHY 22141 to Volume Drug Inc., dba Volume Drug-2, Craig S. Resnick, President/Shareholder, David Celnik, Secretary/Shareholder (Respondent Volume Drug). David Celnik has been the Pharmacist-In-Charge since November 12, 1985. The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on November 1, 2022, unless renewed.

3. On or about July 14, 1972, the Board of Pharmacy issued Pharmacist License Number RPH 27778 to David Celnik (Respondent Celnik). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on April 30, 2023, 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 [Code sections 4000 et seq.] and the Uniform Controlled Substances Act [Health & Safety Code sections 11000 et seq].

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

7. Section 4300.1 of the Code states:

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

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8. Section 4302 of the Code states:

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

## STATUTORY PROVISIONS

9. Section 4036.5 of the Code states:

"Pharmacist-in-charge" means a pharmacist proposed by a pharmacy and approved by the board as the supervisor or manager responsible for ensuring the pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

10. Section 4076, subdivision (a)(5), of the Code states

(a) A pharmacist shall not dispense a prescription except in a container that

following:

…

(5) The date of issue.

11. Section 4081, subdivision (a), of the Code states:

(a) All records of manufacture and of sale, acquisition, receipt, shipment, or

business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, third-party logistics provider, pharmacy, veterinary food-animal drug retailer, outsourcing facility, physician, dentist, podiatrist, veterinarian, laboratory, licensed correctional clinic, as defined in Section 4187, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

12. Section 4105 of the Code states, in pertinent part, the following:

(a) All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be

…

(c) The records required by this section shall be retained on the licensed

13. Section 4113, subdivision (c), of the Code states, in pertinent part, "[t]he 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."

14. Section 4301 of the Code states, in pertinent part:

> The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct includes, but is not limited to, any of the following:
>
> . . .
>
> (j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs.
>
> . . .
>
> (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

15. Section 4307 of the Code states:

> (a) Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control of any partnership, corporation, trust, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control had knowledge of or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control of a licensee as follows:
>
> (1) Where a probationary license is issued or where an existing license is placed on probation, this prohibition shall remain in effect for a period not to exceed five years.
>
> (2) Where the license is denied or revoked, the prohibition shall continue until the license is issued or reinstated.
>
> (b) "Manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control of a license" as used in this section and Section 4308, may refer to a pharmacist or to any other person who serves in such capacity in or for a licensee.
>
> (c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of

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

16. Health and Safety Code section 11162.1, subdivision (a)(2), states:

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

…

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

17. Health and Safety Code section 11164, subdivision (a)(1), states:

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

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….

18. Health and Safety Code section 11165, subdivision (d), states:

(d) For each prescription for a Schedule II, Schedule III, Schedule IV, or Schedule V controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, 1308.14, and 1308.15, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the department or contracted prescription data processing vendor as soon as reasonably possible, but not more than one working day after the date a controlled substance is released to the patient or patient's representative, in a format specified by the department:

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

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

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

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

(5) Quantity of the controlled substance dispensed.

(6) The International Statistical Classification of Diseases (ICD) Code contained in the most current ICD revision, or any revision deemed sufficient by the State Board of Pharmacy, if available.

(7) Number of refills ordered.

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

(9) Prescribing date of the prescription.

(10) Date of dispensing of the prescription.

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

19. Health and Safety Code section 111255 states: "Any drug or device is adulterated if it has been produced, prepared, packed, or held under conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health."

20. Health and Safety Code section 111285 states: "Any drug or device is adulterated if its strength differs from, or its purity or quality is below, that which it is represented to possess."

21. Health and Safety Code section 111295 states: "It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is adulterated."

**REGULATORY PROVISIONS**

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

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

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

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23. California Code of Regulations, title 16, section 1776 states:

> Pharmacies, hospitals/clinics with onsite pharmacies, distributors and reverse distributors licensed by the board may offer, under the requirements in this article, specified prescription drug take-back services through collection receptacles and/or mail back envelopes or packages to provide options for the public to discard unwanted, unused or outdated prescription drugs. Each entity must comply with regulations of the federal Drug Enforcement Administration (DEA) and this article.
>
> Only California-licensed pharmacies, hospitals/clinics with onsite pharmacies, and drug distributors (licensed wholesalers and third-party logistics providers) who are registered with the DEA as collectors and licensed in good standing with the board may host a pharmaceutical take-back receptacle as authorized under this article.

24. Code of Federal Regulations, title 21, section 211.137, subdivision (a), states: "To assure that a drug product meets applicable standards of identity, strength, quality, and purity at the time of use, it shall bear an expiration date determined by appropriate stability testing described in § 211.166."

**DANGEROUS DRUGS / CONTROLLED SUBSTANCES**

25. Section 4021 of the Code states, in pertinent part:

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

26. 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.

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27. Drug classifications for some of the controlled substances mentioned below are as follows:

| Brand Name | Generic Name | Dangerous Drug Per Code Section 4022 | Controlled Substance Per Health & Safety Code (HSC) | Indications for Use |
|---|---|---|---|---|
| Norco 10/325 mg | hydrocodone/ acetaminophen 10/325 mg | Yes | Yes – Schedule III per HSC 11056(e)(5) | Pain |
| Ambien | zolpidem | Yes | Yes – Schedule IV per HSC 11057(d)(32) | Insomnia |
| Valium | diazepam | Yes | Yes – Schedule IV per HSC 11057(d)(9) | Anxiety |
| Adderall | amphetamine salts | Yes | Yes – Schedule II per HSC 11055(d)(1) | Attention-deficit/hyperactivity disorder |
| Soma | carisoprodol | Yes | Yes – Schedule II per HSC 11057 | Muscle relaxant |

## COST RECOVERY

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

## FACTUAL ALLEGATIONS

29. On February 14, 2019, Board inspectors visited Volume Drug 2, located 12925 Magnolia Blvd, Sherman Oaks, Ca 91423, as part of an investigation into a complaint by a patient. Respondent Celnik was present and assisted the Board inspectors with their inspection. The inspectors were given permission to inspect the pharmacy, including but not limited to the pharmacy's drawers and shelves.

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**Holding of Adulterated (Expired) Drugs**

30. Respondent Celnik told inspectors that the pharmacy's reverse distributer serviced the pharmacy on or about January 31, 2019. Nevertheless, while inspecting the active drug shelves, Board inspectors found that there were numerous expired drugs, including ones that had expired in 2013. Respondent Celnik stated that he had planned on going through the shelves but that he did not have time. Moreover, Respondent Celnik stated he had pulled the expired medications off the shelves near the pharmacy entry. However, inspectors still found expired medications on the shelves near the pharmacy's entry. There were also schedule II controlled substances on the pharmacy counter and controlled substances cabinet. Expired medications were also found in the pharmacy's drawers.

31. The table below identifies some of the expired drugs found on the pharmacy's active drug shelves (41 total):

| Drug Name | National Drug Code | Expiration Date |
|---|---|---|
| Ambien CR 12.5 mg | 0024-5521-31 | 07/2013 |
| Amitriotvline tablets, USP 150mg | 0603-2217-21 | 12/2017 |
| Amitriptyline HCL Tablets, USP 50mg | 0603-2214-21 | 09/2017 |
| Atorvastatin calcium tablets 80mg | 59762-0158-1 | 12/2017 |
| Benzonatate Capsule, USP | 69452-144-20 | 12/2018 |
| Benzonatate Capsules, USP 100mg | 69387-119-01 | 10/2018 |
| Benzonatate Capsules, USP 200mg | 69452-144-20 | 12/2018 |
| Bupropion HCL Extended-release Tablets 150mg (XL) | 0115-6811-10 | 04/2018 |
| Bupropion HCL Extended-Release Tablets USP (SR) 100mg | 0185-0410-60 | 09/2017 |
| Bupropion HCL Extended-Release Tablets USP (SR) 100mg | 0185-0410-60 | 08/2018 |
| Carvedilol Tablets USP 3.125mg | 76385-110-01 | 07/2018 |
| Celecoxib capsules 200mg | 68180-598-01 | 04/2018 |
| Chlordiazeooxid hydrochloride capsule USP 5mg | 0555-0158-02 | 07/2017 |
| Citalopram Tablets, USP 20mg | 0378-6232-01 | 07/2018 |
| Clonazepam Tablets USP 2mg | 0185-0065-05 | 03/2018 |
| Clonazepam Tablets, USP 0.5mg | 0185-0063-01 | 12/2018 |
| Colchicine Capsules 0.6mg | 0143-3018-01 | 11/2017 |
| Coreg CR Extended-release Capsules 40mg | 0007-3372-13 | 10/2018 |
| Crestor 10mg | 0310-0751-90 | 08/2018 |

| Drug Name | National Drug Code | Expiration Date |
|---|---|---|
| Cyclobenzaprine Hydrochloride Tablets USP 10mg | 31722-283-01 | 12/2017 |
| Dextroamphetamine Saccharate, Amphetamine Aspartate Monohydrate, Dextroamphetamine Sulfate and Amphetamine Sulfate 30mg | 00185-0404-01 | 05/2017 |
| Dextroamphetamine Saccharate, Amphetamine Aspartate Monohydrate, Dextroamphetamine Sulfate and Amphetamine Sulfate 10mg | 0185-0111-01 | 06/2016 |
| Dextroamphetamine sulfate Extended Release Capsules 15mg | 0555-0956-02 | 07/2017 |
| Dextroamphetamine Saccharate Amphetamine Aspartate Dextroamphetamine Sulfate Amphetamine Sulfate Tablets (Mixed Salts of a Single Entity Amphetamine Product) 30mg | 0406-8894-01 | 10/2018 |
| Dicyclomine HCL Tablets USP 20mg | 0591-0795-01 | 03/2018 |
| Diltiazem Hydrochloride Extended-release Capsules USP 180mg | 0093-5117-98 | 08/2018 |
| Donepezil Hydrochloride Tablets 10mg | 0781-5275-31 | 02/2018 |
| Donepezil Hydrochloride Tablets USP 10mg | 33342-028-07 | 02/2018 |
| Doxazosin Tablets, USP 1 ml | 60505-0093-0 | 11/2016 |
| Ext Phenytoin Sodium 100mg (Rx#184888) | | 11/2016 |
| Extended Phenytoin Sodium Capsules, USP 100mg | 62756-402-03 | 05/2018 |
| Extended Phenytoin Sodium Capsules, USP 100mg | 62756-402-03 | 12/2016 |
| Lunesta 3mg | 63402-193-10 | 10/2016 |
| Methylphenidate Hydrochloride Extended Release Tablets 20mg | 0406-1473-10 | 07/2014 |
| Oxycodone Hydrochloride Extended-Release Tablets 40mg | 0591-2693-01 | 11/2017 |
| Phenytoin Sodium 100mg (Rx#186822) | | 10/2017 |
| Topiramate tablets 25mg | 68462-108-60 | 02/2018 |
| Topiramate tablets 25mg | 68462-108-60 | 02/2018 |
| Uloric 40mg | 64764-918-01 | 09/2013 |
| Vytorin 10/ 40 | | 10/2015 |
| Zetia 10mg | 66582-414-54 | 03/2018 |

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**Improper Take Back of Drugs without DEA Registration**

32. Inside the pharmacy's drawers, Board inspectors also found several prescription medications vials from different pharmacies. Respondent Celnik stated he had taken back these medications from patients to assist patients in destroying them. However, Respondent Celnik could not provide a clear response why he had kept the medications inside the pharmacy's drawers and why they were not sent out for destruction. Moreover, Board inspectors determined that Respondent Volume Drug was not registered with the DEA as a collector site. The following table illustrates some of the medications which were brought to Respondent Volume Drug (5 total):

| Prescription Number | Medication Name | Dispensing Pharmacy |
|---|---|---|
| 800 363 | Methylphenidate ER 27 mg | West-Val Pharmacy |
| 790 633 | Methylphenidate ER 27 mg | West-Val Pharmacy |
| 192118 | Nucynta 100 mg | Specialty Compounding Pharmacy |
| 189087301 | Metolazone 5 mg | OptumRx |
| 177501721 | Metolazone 5 mg | OptumRx |

33. Additionally, Board inspectors located within the pharmacy drawers several expired drug samples that were clearly labeled as not for sale. In a written response to the Board's questioning of these samples, Respondent Celnik stated that he took these samples from doctors that did not want to throw them in the trash and offered to dispose of them in a safe manner. Respondent also stated that he forgot he had these samples in the drawers. The following table illustrates some drug samples found in Respondent Volume Drug's drawers (29 total):

| Medication Name | Sample Label | Expiration |
|---|---|---|
| Avalide 300125mg | Physician Sample – Not for Sale | Apr-10 |
| Arthrotec 50 | Professional Sample – Not for Sale | |
| Arthrotec 75 | Professional Sample – Not for Sale | |
| Vytorin 10/40 | Sample – Not for Sale | Apr - 13 |
| Vytorin 10/40 | Sample – Not for Sale | Apr – 13 |
| Vytorin 10/40 | Sample – Not for Sale | Apr – 13 |
| Vytorin 10/40 | Sample – Not for Sale | Apr – 13 |
| Vytorin 10/40 | Sample – Not for Sale | Dec – 15 |

| Medication Name | Sample Label | Expiration |
|---|---|---|
| Vimovo 500mg/20mg | Professional Sample – Not for Sale | Feb – 12 |
| Vimovo 500mg/20mg | Professional Sample – Not for Sale | Feb -12 |
| Vimovo 500mg/20mg | Professional Sample – Not for Sale | Feb – 12 |
| Uloric 40mg | Professional Sample – Not for Sale | May - 14 |
| Uloric 40mg | Professional Sample – Not for Sale | |
| Uloric 40mg | Professional Sample – Not for Sale | |
| Uloric 40mg | Professional Sample – Not for Sale | Apr – 14 |
| Uloric 80mg | Professional Sample – Not for Sale | Mar – 16 |
| Uloric 80mg | Professional Sample – Not for Sale | May – 15 |
| Uloric 80mg | Professional Sample – Not for Sale | May – 15 |
| Zyprexa 15mg | Free Sample | |
| Nexium 40mg | Professional Sample – Not for Sale | Jun – 17 |
| Nexium 40mg | Professional Sample – Not for Sale | Jun - 17 |
| Nexium 40mg | Professional Sample – Not for Sale | Jun – 17 |
| Uroxatral 10mg | Sample Only | Jun - 09 |
| Ultram ER | Sample - Not to be sold | Apr - 08 |
| Zyflo 600mg | Sample - Not for resale | Jun - 06 |
| Pristiq 50mg | Sample – Not for Sale | |
| Pristiq 50 mg | Sample – Not for Sale | |
| Pristiq 50 mg | Sample – Not for Sale | |
| Toviaz 4mg | Professional Sample – Not for Sale | Dec - 13 |

**Failure to Report to CURES and Belated Reporting**

34. Following the site inspection, Respondent Celnik provided the Board inspectors with a Drug Utilization Record (DUR), which documented Respondent Volume Drug's dispensing records between 5/1/2017 through 8/19/2021. Respondent Celnik explained that the pharmacy has been manually transmitting to CURES on a daily basis since January 1, 2021 and on a weekly basis prior to that.

35. In comparing Respondent Volume Drug's DUR from May 1, 2017 to July 31, 2021 to documented prescriptions reported to CURES for the same time period, there were a total of 633 prescriptions for Schedules II, III, IV, or V controlled substances that were not reported to CURES at all. In response to the discrepancy, Respondent Celnik stated that there was a "glitch" in the transmission but that it was resolved.

36. Additionally, the CURES Compliance Report between May 1, 2017 and July 31, 2021 shows that the pharmacy repeatedly failed to report to the CURES program the controlled substances prescriptions within 7 days of being dispensed. The Board inspector counted a total of

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1,547 prescriptions that were dispensed for at least a month and were not reported to CURES within 7 days as shown in the table below:

| **Date Submitted To CURES/Date Dispensed (month and year)** | **Total Prescriptions** |
|---|---|
| **2/1/2018** | |
| 05 – MAY 2017 | 121 |
| 06 – JUNE 2017 | 112 |
| 07 – JULY 2017 | 121 |
| 08 – AUGUST 2017 | 122 |
| 09 – SEPTEMBER 2017 | 121 |
| 10 – OCTOBER 2017 | 120 |
| 11 – NOVEMBER 2017 | 121 |
| 12 – DECEMBER 2017 | 121 |
| **6/21/2018** | |
| 04 – APRIL 2018 | 75 |
| **8/2/2018** | |
| 06 – JUNE 2018 | 33 |
| **11/15/2018** | |
| 08 – AUGUST 2018 | 104 |
| 09 – SEPTEMBER 2018 | 106 |
| **1/15/2019** | |
| 11 – NOVEMBER 2018 | 51 |
| **1/31/2019** | |
| 11 – NOVEMBER 2018 | 1 |
| **3/12/2019** | |
| 01 – JANUARY 2019 | 5 |
| **12/5/2019** | |
| 10 – OCTOBER 2019 | 27 |
| **5/7/2020** | |
| 03 – MARCH 2020 | 3 |
| **7/22/2020** | |
| 05 – MAY 2020 | 54 |
| **10/29/2020** | |
| 07 – JULY 2020 | 15 |
| 08 – AUGUST 2020 | 94 |
| **12/1/2020** | |
| 10 – OCTOBER 2020 | 20 |
| **Total** | **1,547** |

**Current Inventory Discrepancy and Records of Acquisition and Disposition**

37. The Board inspectors also requested and received the pharmacy's wholesaler records (purchases/returns/credits) and disposition records for the period between May 1, 2017 and February 14, 2019. Using the pharmacy's wholesaler, disposition, Biennial Inventory (from May 1, 2017) records and the inventory received during the February 14, 2019 an audit was conducted

by the Board inspector. The audit indicated a positive variance, which meant the pharmacy purchased a greater amount of medication than it dispensed and had on hand as current inventory. As such, the following drugs were unaccounted for both physically and in any pharmacy records:

- 1,117 tablets of hydrocodone/acetaminophen 10/325 mg;
- 3,087 tablets of zolpidem 10 mg;
- 1,598 tablets of diazepam 10 mg;
- 62 tablets amphetamine salt combo 20 mg;
- 92 tablets amphetamine salt combo 10 mg; and
- 1,133 tablets carisoprodol 350 mg.

**Dispensing of Prescriptions with Incorrect Issuance Date**

38. The original controlled substance prescriptions, proof of pick up or delivery of the original prescriptions and documentation showing the name of the verifying pharmacists for 6 patients from December 1, 2015 to February 14, 2019 were also analyzed by Board inspectors. Using DURs from May 1, 2015 to February 14, 2019 and May 1, 2017 to August 19, 2021, along with the provided prescription records, the Board inspector confirmed there were 47 prescriptions that were dispensed and labeled with the incorrect date of issuance, or written date. Respondent Celnik stated that the pharmacy processed the date of issuance with the dates of when the prescriptions were instructed to be filled instead of the date the prescriber issued. The table below shows the prescriptions for controlled substances dispensed with the incorrect date of issuance, or written date:

| RX Number | Labeled Date Written | Actual Date Written | Medication | RPH Initial | Drug Schedule | Variance Between Dates |
|---|---|---|---|---|---|---|
| 189789 | 1/6/2017 | 1/5/2016 | Diazepam 10 mg Tab | DC | 4 | 367 |
| 189788 | 1/6/2017 | 1/5/2017 | Hydrocodone/APAP 10/325 mg Tab | DC | 2 | 1 |
| 189787 | 1/6/2017 | 1/5/2017 | Amphetamine Salt COM 20 mg Tab | DC | 2 | 1 |
| 190422 | 3/24/2017 | 3/17/2017 | Hydrocodone/APAP 5-325 mg Tab | DC | 2 | 7 |

| RX Number | Labeled Date Written | Actual Date Written | Medication | RPH Initial | Drug Schedule | Variance Between Dates |
|---|---|---|---|---|---|---|
| 190841 | 5/16/2017 | 4/19/2017 | Acetaminophen-COD #3 Tab | PP | 3 | 27 |
| 191356 | 7/28/2017 | 7/31/2017 | Amphetamine Salt COM 20 mg Tab | DC | 2 | 15 |
| 191444 | 8/10/2017 | 8/9/2017 | Carisoprodol 350 mg Tab | DC | 4 | 1 |
| 191445 | 8/10/2017 | 8/9/2017 | Hydrocodone/APAP 10-325 mg Tab | DC | 2 | 1 |
| 192056 | 11/10/2017 | 11/2/2017 | Amphetamine Salt COM 20 mg Tab | PP | 2 | 8 |
| 192243 | 12/1/2017 | 11/30/2017 | Hydrocodone/APAP 10-325 mg Tab | DC | 2 | 1 |
| 192244 | 12/1/2017 | 11/30/2017 | Carisoprodol 350 mg Tab | DC | 4 | 1 |
| 192336 | 12/14/2017 | 11/30/2017 | Amphetamine Salt COM 20 mg Tab | DC | 2 | 14 |
| 192417 | 12/28/2017 | 12/21/2017 | Carisoprodol 350 mg Tab | DC | 4 | 7 |
| 192418 | 12/28/17 | 12/21/2017 | Hydrocodone/APAP 10-325 mg Tab | DC | 2 | 7 |
| 192619 | 1/23/2018 | 1/18/2018 | Carisoprodol 350 mg Tab | PP | 4 | 5 |
| 192806 | 2/15/2018 | 11/8/2018 | Amphetamine Salt COM 20 mg tab | DC | 2 | -266 |
| 193389 | 5/5/2018 | 5/4/2018 | Endocet 5-325 mg Tab | DC | 2 | 1 |
| 194848 | 12/17/2018 | 12/19/2018 | Carisoprodol 350 mg Tab | PP | 4 | -2 |
| 194849 | 12/17/2018 | 12/19/2018 | Hydrocodone/APAP 10-325 mg Tab | PP | 2 | -2 |
| 194850 | 12/17/2018 | 12/19/2018 | Amphetamine Salt COM 20 mg tab | PP | 2 | -2 |
| 194847 | 12/17/2018 | 12/19/2018 | Suboxone 8-2 Film | DC | 3 | -2 |
| 193371 | 5/2/2018 | 2/26/2018 | Suboxone 8-2 Film | DC | 3 | 65 |
| 192901 | 2/28/2018 | 3/26/2018 | Suboxone 8-2 Film | PP | 3 | -26 |
| 191561 | 8/28/2017 | 8/16/2017 | Suboxone 8-2 Film | PP | 3 | 12 |
| 191016 | 6/12/2017 | 3/1/2017 | Suboxone 8-2 Film | PP | 3 | 103 |
| 190725 | 5/2/2017 | 4/1/2017 | Zolpidem Tartrate 10 mg Tab | PP | 4 | 31 |
| 190436 | 3/28/2017 | 3/1/2017 | Zolpidem Tartrate 10 mg Tab | PP | 4 | 27 |
| 190260 | 3/3/2017 | 3/1/2017 | Suboxone 8-2 Film | DC | 3 | 2 |
| 192640 | 1/24/2018 | 1/22/2018 | Suboxone 8-2 Film | PP | 3 | 2 |
| 192392 | 12/26/2017 | 12/21/2017 | Suboxone 8-2 Film | PP | 3 | 5 |

| RX Number | Labeled Date Written | Actual Date Written | Medication | RPH Initial | Drug Schedule | Variance Between Dates |
|---|---|---|---|---|---|---|
| 185637 | 8/3/2015 | 8/2/2015 | Hydrocodone/APAP 10-325 mg Tab | DC | 2 | 1 |
| 190366 | 3/17/2017 | 3/16/2017 | Suboxone 8-2 Film | DC | 3 | 1 |
| 190659 | 4/24/2017 | 4/25/2017 | Suboxone 8-2 Film | PP | 3 | -1 |
| 190979 | 6/2/2017 | 5/3/2017 | Suboxone 8-2 Film | DC | 3 | 30 |
| 191176 | 7/6/2017 | 7/5/2017 | Suboxone 8-2 Film | DC | 3 | 1 |
| 191399 | 8/3/2017 | 8/2/2017 | Suboxone 8-2 Film | DC | 3 | 1 |
| 192483 | 1/6/2018 | 1/4/2018 | Suboxone 8-2 Film | DC | 3 | 2 |
| 192701 | 2/1/2018 | 1/30/2018 | Suboxone 8-2 Film | DC | 3 | 2 |
| 193516 | 5/23/2018 | 5/22/2018 | Suboxone 8-2 Film | PP | 3 | 1 |
| 191403 | 8/4/2017 | 8/3/2017 | Diazepam 10 mg Tab | DC | 4 | 1 |
| 192535 | 1/11/2018 | 12/21/2017 | Amphetamine Salt COM 20 mg Tab | DC | 2 | 21 |
| 192620 | 1/23/2018 | 1/18/2018 | Hydrocodone/APAP 10-325 mg Tab | DC | 2 | 5 |
| 190838 | 5/16/2017 | 4/24/2017 | Amphetamine Salt COM 20 mg Tab | PP | 2 | 22 |
| 191401 | 8/4/2017 | 8/3/2017 | Hydrocodone/APAP 10/325 mg Tab | DC | 2 | 1 |
| 191654 | 9/11/2017 | 9/5/2017 | Hydrocodone/APAP 10/325 mg Tab | PP | 2 | 6 |
| 191985 | 10/27/2017 | 10/26/2017 | Amphetamine Salt COM 20 mg Tab | DC | 2 | 1 |
| 192026 | 11/2/2017 | 10/26/2017 | Hydrocodone/APAP 10/325 mg Tab | DC | 2 | 7 |

**Dispensing Controlled Substances Under Noncompliant Prescriptions**

39. Board inspectors also reviewed prescription forms that were issued under the prescriber authority of Dr. Irvin Benowitz, one of the physicians identified in the original complaint. Many of the prescription forms were determined to be counterfeit and noncompliant. The watermark printed on the backside of the prescription consist of the words "DocuGard" instead of "California Security Prescription". Also some of the prescription forms from Dr. Benowitz were not dated by the prescriber. The following table illustrates the non-compliant prescription forms processed by Respondent Volume Drug to dispense medications:

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| RX Number | Non-Compliance | Medication |
|---|---|---|
| 194117 | DocuGard | Buprenorphine 8 mg Tablet |
| 193947 | DocuGard | Amphetamine Salt Com 20 mg Tablet |
| 193948 | DocuGard | Hydrocodone/APAP 10-325 mg Tablet |
| 194112 | DocuGard | Carisoprodol 350 mg Tablet |
| 194113 | DocuGard | Hydrocodone/APAP 10-325 Tablet |
| 194114 | DocuGard | Amphetamine Salt Com 20 mg Tablet |
| 194294 | DocuGard | Carisoprodol 350 mg Tablet |
| 194296 | DocuGard | Amphetamine Salt Com 20 mg Tablet |
| 194295 | DocuGard | Hydrocodone/APAP 10-325 mg Tablet |
| 194379 | DocuGard | Suboxone 8-2 Film |
| 194014 | DocuGard | Suboxone 8-2 Film |
| 194959 | DocuGard | Suboxone 8-2 Film |
| 194644 | DocuGard | Suboxone 8-2 Film |
| 193856 | DocuGard | Suboxone 8-2 Film |
| 194209 | DocuGard | Suboxone 8-2 Film |
| 193918 | DocuGard | Suboxone 8-2 Film |
| 190428 | Not dated by prescriber | Hydrocodone/APAP 10-325 mg Tablet |
| 190429 | Not dated by prescriber | Carisoprodol 350 mg Tablet |
| 191055 | Not dated by prescriber | Hydrocodone/APAP 10-325 mg Tablet |
| 193045 | Not dated by prescriber | Suboxone 8-2 Film |
| 193211 | Not dated by prescriber | Hydrocodone/APAP 10-325 mg Tablet |

## FIRST CAUSE FOR DISCIPLINE

**(Holding of Adulterated Drugs)**

40. Respondent Volume Drug and Respondent Celnik are subject to disciplinary action under Code sections 4301, subdivisions (j) and (o), 4036.5, and 4113, subdivision (c), in conjunction with Health and Safety Code sections 111255, 111285 and 111295, in that Respondents were found to have been holding drugs that were adulterated. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29 through 39, as though set forth in full herein.

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**SECOND CAUSE FOR DISCIPLINE**

**(Improper Take Back of Drugs without DEA Registration)**

41. Respondent Volume Drug and Respondent Celnik are subject to disciplinary action under Code sections 4301, subdivisions (j) and (o), 4036.5, and 4113, subdivision (c), in conjunction with California Code of Regulations, title 16, section 1776, in that Respondents offered and took back drugs without having been registered with the DEA as a collector. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29 through 39, as though set forth in full herein.

**THIRD CAUSE FOR DISCIPLINE**

**(Failure to Report to CURES and Belated Reporting)**

42. Respondent Volume Drug and Respondent Celnik are subject to disciplinary action under Code sections 4301, subdivisions (j) and (o), 4036.5, and 4113, subdivision (c), in conjunction with Health and Safety Code section 11165, subdivision (d), in that Respondents failed to report the dispensing of 633 dangerous drug prescriptions to CURES. Moreover, Respondent belatedly reported 1,547 dangerous drug prescriptions over a month after dispensing them. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29 through 39, as though set forth in full herein.

**FOURTH CAUSE FOR DISCIPLINE**

**(Failure to Maintain Current Inventory and Records)**

43. Respondent Volume Drug and Respondent Celnik are subject to disciplinary action under Code sections 4301, subdivisions (j) and (o), 4036.5, 4113, subdivision (c), 4081, subdivision (a), and 4015, subdivision (a) and (c), in conjunction with California Code of Regulations, title 16, section 1718, in that Respondents failed to maintain current inventory for certain drugs and had insufficient records to explain the discrepancies. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29 through 39, as though set forth in full herein.

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**FIFTH CAUSE FOR DISCIPLINE**

**(Dispensing of Prescriptions with Incorrect Issuance Date)**

44. Respondent Volume Drug and Respondent Celnik are subject to disciplinary action under Code sections 4301, subdivisions (j) and (o), 4036.5, 4113, subdivision (c), and 4076, subdivision (a)(5), in that Respondents dispensed numerous medications with the incorrect issuance date. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29 through 39, as though set forth in full herein.

**SIXTH CAUSE FOR DISCIPLINE**

**(Dispensing Controlled Substances Under Noncompliant Prescriptions)**

45. Respondent Volume Drug and Respondent Celnik are subject to disciplinary action under Code sections 4301, subdivisions (j) and (o), 4036.5, and 4113, subdivision (c), in conjunction with Health and Safety Code sections 11162.1, subdivision (a)(2), and 11164, subdivision (a)(1), in that Respondents dispensed controlled substances under noncompliant prescriptions. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 29 through 39, as though set forth in full herein.

**OTHER MATTERS**

46. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 22141, issued to Volume Drug Inc., dba Volume Drug-2, Respondent Volume Drug 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 22141 is placed on probation or until Pharmacy Permit Number PHY 22141 is reinstated if it is revoked.

47. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 22141, issued to Volume Drug Inc., dba Volume Drug-2, while David Celnik has been an officer, director, and/or owner and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, Respondent Celnik shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for

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five years if Pharmacy Permit Number PHY 22141 is placed on probation or until Pharmacy Permit Number PHY 22141 is reinstated if it is revoked.

48. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License Number RPH 27778, issued to David Celnik, Respondent Celnik 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 27778 is placed on probation or until Pharmacist License Number RPH 27778 is reinstated if it is revoked.

**PRAYER**

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

1. Revoking or suspending Pharmacy Permit Number PHY 22141, issued to Volume Drug Inc., dba Volume Drug-2, Craig S. Resnick, President/Shareholder, David Celnik, Secretary/Shareholder;

2. Revoking or suspending Pharmacist License Number RPH 27778, issued to David Celnik;

3. Pursuant to Business and Professions Code section 4307, prohibiting Volume Drug Inc., dba Volume Drug-2 from serving as a manager, administrator, owner, member, officer, director, associate, or partner of any other licensee for five years if Pharmacy Permit Number PHY 22141 is placed on probation or until Pharmacy Permit Number PHY 22141 is reinstated if Pharmacy Permit Number PHY 22141 is revoked;

4. Pursuant to Business and Professions Code section 4307, prohibiting David Celnik from serving as a manager, administrator, owner, member, officer, director, associate, or partner of any other licensee for five years if Pharmacy Permit Number PHY 22141 is placed on probation or until Pharmacy Permit Number PHY 22141 is reinstated if Pharmacy Permit Number PHY 22141 is revoked;

5. Pursuant to Business and Professions Code section 4307, prohibiting David Celnik from serving as a manager, administrator, owner, member, officer, director, associate, or partner of any other licensee for five years if Pharmacist License Number RPH 27778 is placed on

probation or until Pharmacist License Number RPH 27778 is reinstated if Pharmacist License Number RPH 27778 is revoked;

6. Ordering Volume Drug Inc., dba Volume Drug-2 and David Celnik 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,

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

DATED: 5/19/2022

Signature on File

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

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