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

12 In the Matter of the Accusation Against:

Case No. 7333

13 **CASELLA CALIFORNIA INC.**
14 **DBA DESERT RX PHARMACY**
15 **VIRGINIA CASELLA, CEO/OWNER, *et al.***
16 **73-091 Country Club Drive, Ste. A4**
17 **Palm Desert, CA 92260**

DEFAULT DECISION AND ORDER AS
TO CASELLA CALIFORNIA INC. DBA
DESERT RX PHARMACY ONLY

[Gov. Code, § 11520]

18 **Pharmacy License No. PHY 56893**

19 Respondent.

20 **FINDINGS OF FACT**

21 1. On or about February 2, 2024, Complainant Anne Sodergren, in her official capacity
22 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs,
23 filed First Amended Accusation Number 7333 against Casella California Inc., dba Desert Rx
24 Pharmacy (Respondent), *et al.* (First Amended Accusation attached as Exhibit A.)

25 2. On or about October 15, 2018, the Board issued Pharmacy License Number PHY
26 56893 to Respondent. The Pharmacy License expired on June 1, 2021, and has not been
27 renewed.

28 3. On or about February 14, 2024, Respondent was served by Certified and First Class
Mail copies of the First Amended Accusation Number 7333, Statement to Respondents, Notice of
Defense and Request for Discovery, and Discovery Statutes (Government Code sections 11507.5,

1 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and
2 Professions Code section 4100, is required to be reported and maintained with the Board.
3 Respondent's address of record was and is: 73-091 Country Club Drive, Ste. A4, Palm Desert, CA
4 92260.

5 4. Service of the First Amended Accusation was effective as a matter of law under the
6 provisions of Government Code section 11505, subdivision (c), and/or Business and Professions
7 Code section 124.

8 5. Government Code section 11506, subdivision (c), states:

9 The respondent shall be entitled to a hearing on the merits if the respondent
10 files a notice of defense . . . and the notice shall be deemed a specific denial of all
11 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
12 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
13 discretion may nevertheless grant a hearing.

14 6. The Board takes official notice of its records and the fact that Respondent failed to
15 file a Notice of Defense within 15 days after service upon them of the First Amended Accusation,
16 and therefore waived its right to a hearing on the merits of First Amended Accusation Number
17 7333.

18 7. California Government Code section 11520, subdivision (a), states:

19 If the respondent either fails to file a notice of defense . . . or to appear at the
20 hearing, the agency may take action based upon the respondent's express admissions
21 or upon other evidence and affidavits may be used as evidence without any notice to
22 respondent

23 8. Pursuant to its authority under Government Code section 11520, the Board finds
24 Respondent is in default. The Board will take action without further hearing and, based on the
25 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
26 finds that the charges and allegations in First Amended Accusation Number 7333, are separately
27 and severally, found to be true and correct by clear and convincing evidence.

28 9. The Board finds that Respondent's proportional share of the actual costs for
Investigation and Enforcement are \$22,743.16 as of March 14, 2024.

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DETERMINATION OF ISSUES

1. Based on the foregoing findings of fact, Respondent Casella California Inc., dba Desert Rx Pharmacy has subjected its Pharmacy License No. PHY 56893 to discipline.

2. The agency has jurisdiction to adjudicate this case by default.

3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacy License based upon the following violations alleged in the First Amended Accusation, which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

a. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), for violating California Code of Regulations, title 16, section 1761, subdivision (a), and Code section 4040, subdivision (c), in that Respondent dispensed uncertain prescriptions.

b. Respondent is subject to disciplinary action under Code section 4301, subdivision (f), for the commission actions involving moral turpitude, dishonesty, fraud, deceit or corruption. From June 3, 2020, to December 1, 2020, Respondent filled six prescriptions that the patients did not request and without the patients' consent. In addition, on or about December 29, 2020, Respondent sent fraudulent prescription requests to a physician.

c. Respondent is subject to disciplinary action under Code section 4301, subdivision (o), for violating Code section 4059.5, subdivision (e), in that Respondent shipped dangerous drugs to patients in 26 states in violation of those states' laws.

4. Pursuant to Code section 4307, if Pharmacy Permit Number PHY 56893 issued to Respondent is suspended, revoked, or placed on probation, then Respondent shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee until pharmacy license is reinstated.

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ORDER

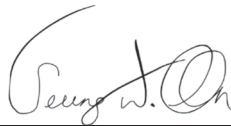
IT IS SO ORDERED that Pharmacy License No. PHY 56893, issued to Respondent Casella California Inc., dba Desert Rx Pharmacy, is revoked.

Pursuant to Code section 4307, Casella California Inc. shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on May 23, 2024.

It is so ORDERED on April 23, 2024.



Seung W. Oh, Pharm.D.
Board President
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

83989361.DOCX
SD2022801673

Attachment:
Exhibit A: First Amended Accusation Number 7333

Exhibit A

First Amended Accusation No. 7333

(CASELLA CALIFORNIA INC., DBA DESERT RX PHARMACY)

1 ROB BONTA
Attorney General of California
2 ERIN M. SUNSERI
Supervising Deputy Attorney General
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Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 7333

14 **CASELLA CALIFORNIA INC.,**
15 **DBA DESERT RX PHARMACY;**
16 **VIRGINIA CASELLA, CEO/OWNER**
17 **73-091 Country Club Drive, Ste. A4**
18 **Palm Desert, CA 92260**

FIRST AMENDED ACCUSATION

19 **Permit No. PHY 56893,**

20 **KIMBERLEIGH MARIE INGRAM**
21 **6252 Woodpine Avenue**
22 **San Bernardino, CA 92407**

23 **Registered Pharmacist License No. RPH 66393,**
24 **and**

25 **ROSANNA PAMELA HOLTZHAUSEN**
26 **1032 Jonabell Wy**
27 **Beaumont, CA 92223**

28 **Registered Pharmacist License No. RPH 55413**

Respondents.

1 **PARTIES**

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

5 2. On or about October 15, 2018, the Board issued Pharmacy Permit Number PHY
6 56893 to Casella California Inc., dba Desert Rx Pharmacy (Respondent Pharmacy). The
7 Pharmacy Permit expired on June 1, 2021, and has not been renewed. Virginia Casella
8 (Respondent Casella) was the Chief Executive Officer, 100% Shareholder, Director, and
9 President of Respondent Pharmacy from October 14, 2018 to June 1, 2021.

10 3. On or about October 21, 2011, the Board issued Registered Pharmacist License
11 Number RPH 66393 to Kimberleigh Marie Ingram (Respondent Ingram). The Registered
12 Pharmacist License was in full force and effect at all times relevant to the charges brought herein
13 and will expire on June 30, 2025, unless renewed. Respondent Ingram was the Pharmacist-in-
14 Charge (PIC) of Respondent Pharmacy from October 28, 2019 to February 11, 2021.

15 4. On or about June 22, 2004, the Board issued Registered Pharmacist License Number
16 55413 to Rosanna Pamela Holtzhausen (Respondent Holtzhausen). The Registered Pharmacist
17 License was in full force and effect at all times relevant to the charges brought herein and will
18 expire on July 31, 2024, unless renewed. Respondent Holtzhausen was the Pharmacist-in-Charge
19 (PIC) of Respondent Pharmacy from November 7, 2018 to June 4, 2019 and from February 11,
20 2021 to June 1, 2021.

21 **JURISDICTION**

22 5. This First Amended Accusation is brought before the Board under the authority of the
23 following laws. All section references are to the Business and Professions Code (Code) unless
24 otherwise indicated.

25 6. Section 4300 of the Code states:

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

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

- 1 (1) Suspending judgment.
- 2 (2) Placing him or her upon probation.
- 3 (3) Suspending his or her right to practice for a period not exceeding one year.
- 4 (4) Revoking his or her license.
- 5 (5) Taking any other action in relation to disciplining him or her as the board in
- 6 its discretion may deem proper.

7 ...

8 (e) The proceedings under this article shall be conducted in accordance with

9 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the

10 Government Code, and the board shall have all the powers granted therein. The

11 action shall be final, except that the propriety of the action is subject to review by the

12 superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

13 7. Section 4300.1 of the Code states:

14 The expiration, cancellation, forfeiture, or suspension of a board-issued license

15 by operation of law or by order or decision of the board or a court of law, the

16 placement of a license on a retired status, or the voluntary surrender of a license by a

17 licensee shall not deprive the board of jurisdiction to commence or proceed with any

18 investigation of, or action or disciplinary proceeding against, the licensee or to render

19 a decision suspending or revoking the license.

20 8. Section 4307 of the Code states:

21 (a) Any person who has been denied a license or whose license has been

22 revoked or is under suspension, or who has failed to renew his or her license while it

23 was under suspension, or who has been a manager, administrator, owner, member,

24 officer, director, associate, partner, or any other person with management or control

25 of any partnership, corporation, trust, firm, or association whose application for a

26 license has been denied or revoked, is under suspension or has been placed on

27 probation, and while acting as the manager, administrator, owner, member, officer,

28 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.

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

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

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

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

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

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

STATUTORY PROVISIONS

9. Section 4040 of the Code states:

(a) "Prescription" means an oral, written, or electronic transmission order that is
both of the following:

(1) Given individually for the person or persons for whom ordered that includes
all of the following:

(A) The name or names and address of the patient or patients.

(B) The name and quantity of the drug or device prescribed and the directions
for use.

(C) The date of issue.

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1 (D) Either rubber stamped, typed, or printed by hand or typeset, the name,
2 address, and telephone number of the prescriber, his or her license classification, and
his or her federal registry number, if a controlled substance is prescribed.

3 (E) A legible, clear notice of the condition or purpose for which the drug is
4 being prescribed, if requested by the patient or patients.

5 (F) If in writing, signed by the prescriber issuing the order, or the certified
6 nurse-midwife, nurse practitioner, physician assistant, or naturopathic doctor who
7 issues a drug order pursuant to Section 2746.51 , 2836.1 , 3502.1 , or 3640.5 ,
8 respectively, or the pharmacist who issues a drug order pursuant to Section 4052.1 ,
9 4052.2 , or 4052.6.

10 (2) Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or
11 naturopathic doctor pursuant to Section 3640.7 or, if a drug order is issued pursuant to
12 Section 2746.51 , 2836.1 , 3502.1 , or 3460.5, by a certified nurse-midwife, nurse
13 practitioner, physician assistant, or naturopathic doctor licensed in this state, or
14 pursuant to Section 4052.1 , 4052.2 , or 4052.6 by a pharmacist licensed in this state.

15 (b) Notwithstanding subdivision (a), a written order of the prescriber for a
16 dangerous drug, except for any Schedule II controlled substance, that contains at least
17 the name and signature of the prescriber, the name and address of the patient in a
18 manner consistent with paragraph (2) of subdivision (a) of Section 11164 of the
19 Health and Safety Code , the name and quantity of the drug prescribed, directions for
20 use, and the date of issue may be treated as a prescription by the dispensing
21 pharmacist as long as any additional information required by subdivision (a) is readily
22 retrievable in the pharmacy. In the event of a conflict between this subdivision and
23 Section 11164 of the Health and Safety Code , Section 11164 of the Health and
24 Safety Code shall prevail.

25 (c) "Electronic transmission prescription" includes both image and data
26 prescriptions. "Electronic image transmission prescription" means any prescription
27 order for which a facsimile of the order is received by a pharmacy from a licensed
28 prescriber. "Electronic data transmission prescription" means any prescription order,
other than an electronic image transmission prescription, that is electronically
transmitted from a licensed prescriber to a pharmacy.

(d) The use of commonly used abbreviations shall not invalidate an otherwise
valid prescription.

(e) Nothing in the amendments made to this section (formerly Section 4036) at
the 1969 Regular Session of the Legislature shall be construed as expanding or
limiting the right that a chiropractor, while acting within the scope of his or her
license, may have to prescribe a device.

10. Section 4059.5 of the Code provides, in pertinent part:

(e) A dangerous drug or dangerous device shall not be transferred, sold, or
delivered to a person outside this state, whether foreign or domestic, unless the
transferor, seller, or deliverer does so in compliance with the laws of this state and of
the United States and of the state or country to which the dangerous drugs or
dangerous devices are to be transferred, sold, or delivered. Compliance with the laws
of this state and the United States and of the state or country to which the dangerous
drugs or dangerous devices are to be delivered shall include, but not be limited to,

determining that the recipient of the dangerous drugs or dangerous devices is authorized by law to receive the dangerous drugs or dangerous devices.

11. Section 4113 of the Code states:

(a) Every pharmacy shall designate a pharmacist-in-charge and, within 30 days thereof, shall notify the board in writing of the identity and license number of that pharmacist and the date he or she was designated.

(b) The proposed pharmacist-in-charge shall be subject to approval by the board. The board shall not issue or renew a pharmacy license without identification of an approved pharmacist-in-charge for the pharmacy.

(c) 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.

....

12. Section 4156 of the Code states:

A pharmacy corporation shall not do, or fail to do, any act where doing or failing to do the act would constitute unprofessional conduct under any statute or regulation. In the conduct of its practice, a pharmacy corporation shall observe and be bound by the laws and regulations that apply to a person licensed under this chapter.

13. Section 4301 of the Code states:

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:

...

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

...

(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.

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1 **REGULATORY PROVISIONS**

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

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

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

11 **COST RECOVERY**

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

16 **DEFINITIONS**

17 16. Betamethasone dipropionate 0.05% cream is a dangerous drug pursuant to Code
18 section 4022, indicated for the treatment of dermatoses.

19 17. Calcipotriene 0.005% cream (brand name: Dovonex) is a dangerous drug pursuant to
20 Code section 4022, indicated for the treatment of psoriasis.

21 18. Desoximetasone 0.05% cream is a dangerous drug pursuant to Code section 4022,
22 indicated for the treatment of dermatoses and psoriasis.

23 19. Lidocaine 2.5% – prilocaine 2.5% cream is a dangerous drug pursuant to Code
24 section 4022, indicated for the treatment of pain.

25 20. Lidocaine ointment is a dangerous drug pursuant to Code section 4022, indicated for
26 the treatment of pain.

27 21. Fluocinonide cream is a dangerous drug pursuant to Code section 4022, indicated for
28 the treatment of dermatoses and psoriasis.

29 22. Omega-3 ethyl esters (brand name: Lovaza) is a dangerous drug pursuant to Code
30 section 4022, indicated for the treatment of high triglycerides.

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FACTUAL ALLEGATIONS

2019 Inspection

23. On or about November 8, 2019, Board Inspectors AB and ED performed an inspection of Respondent Pharmacy, which was located in a large shopping plaza in Palm Desert, California. Respondent Ingram, who had started as the PIC approximately two weeks earlier, was present and assisted with the inspection. Respondent Ingram was hired by “the corporate office” in Florida.

24. The majority of Respondent Pharmacy’s business in November 2019 came from mail order prescriptions for creams, diabetic supplies such as test trips, lancets, and alcohol pads, which were delivered via UPS to patients throughout California. Respondent Pharmacy received electronic prescriptions from the Florida corporate office. Staff members in Florida entered the prescriptions into the PioneerRx software system and electronically transmitted them to Respondent Pharmacy. Respondent Ingram then verified the prescriptions with MP3 recordings in WellNet (a healthcare website). If Respondent Ingram had questions about the prescriptions, she sent a message to the Florida corporate office for further verification.

25. On June 8, 2021, the Board issued Citation Number CI 2018 84335 to Respondent Pharmacy, Citation Number CI 2020 91375 to Respondent Ingram, and Citation Number CI 2020 91374 to Respondent Holtzhausen for unprofessional conduct and violation of Pharmacy law based on the above-described inspection. Specifically, Respondent Pharmacy processed prescriptions, including audio MP3 message files, for patients using WellNet staff located in Florida. Respondent Pharmacy allowed the WellNet staff members to perform tasks that would normally be completed within a licensed pharmacy outside of a licensed pharmacy in violation of Code section 4301, subdivision (o), California Code of Regulations, title 16, section 1717.1, subdivision (a), and California Code of Regulations, title 16, section 1793.3, subdivision (a).

Investigation of Medicaid Health Plan Complaint

26. On September 24, 2020, the Board received an online complaint from a pharmacist at the Medicaid Health Plan in San Mateo County (HPSM) stating that Respondent Pharmacy had

1 billed for large quantities of creams and alcohol pads based on prescriptions that were not
2 legitimate.

3 27. The Board opened an investigation and obtained claims data from HPSM, as well as
4 the corresponding prescription records and dispensing data from Respondent Pharmacy. The
5 Board inspector also contacted the providers identified in Respondent Pharmacy's records to
6 determine whether the prescriptions identified by HPSM were legitimate.

7 28. Based on the information developed during the investigation, the inspector
8 determined the following prescriptions were "uncertain," pursuant to Code section 4040,
9 subdivision (c), and California Code of Regulations, title 16, section 1761, subdivision (a):

Rx Number (Date Initially Dispensed)	Medication	Prescriber's Initials	Pharmacist for Initial Fill	Uncertain Prescription Analysis
51483 (11/15/18 ¹)	Calcipotriene 0.005% cream	NK	RH	The document was a fax prescription with no indication of the source of the prescription, and no indication the pharmacist verified the prescription with the prescriber.
51484 (11/15/18 ²)	Fluocinonide 0.1% cream	NK	RH	The document was a fax prescription with no indication of the source of the prescription, and no indication the pharmacist verified the prescription with the prescriber. Prescriber NK's signature looked different from a different (legitimate) prescription by NK.

26 ¹ Rx Number 51483 was refilled by Respondent Pharmacy on June 26, 2019, and
27 September 24, 2019.

28 ² Rx Number 51484 was refilled by Respondent Pharmacy on January 29, 2019; June 26,
2019; and September 24, 2019.

53574 (6/20/19 ³)	Calcipotriene 0.005% cream	HL	AH	The header on this fax prescription did not match the prescriber's fax number, and there was no indication the pharmacist verified the prescription with the prescriber.
62487 (6/26/19 ⁴)	Desoximetasone 0.05% cream	HL	AH	The header on this fax prescription did not match the prescriber's fax number, and there was no indication the pharmacist verified the prescription with the prescriber.
62489 (6/26/19 ⁵)	Lidocaine 2.5%/Prilocaine 2.5% cream	HL	AH	The header on this fax prescription did not match the prescriber's fax number, and there was no indication the pharmacist verified the prescription with the prescriber.
77282 (9/16/20 ⁶)	Lidocaine 2.5%/Prilocaine 2.5% cream	HL	AH	The header on this fax prescription did not match the prescriber's fax number, and there was no indication the pharmacist verified the prescription with the prescriber.
77284 (9/16/20 ⁷)	Desoximetasone 0.05% cream	HL	AH	The header on this fax prescription did not match the prescriber's fax number, and there was no indication the pharmacist verified the prescription with the prescriber.

³ Rx Number 53574 was refilled by Respondent Pharmacy on September 24, 2019; December 19, 2019; March 20, 2020; and June 16, 2020.

⁴ Rx Number 62487 was refilled by Respondent Pharmacy on September 24, 2019; December 19, 2019; March 20, 2020; and June 16, 2020.

⁵ Rx Number 62489 was refilled by Respondent Pharmacy on June 26, 2019; September 24, 2019; December 19, 2019; March 20, 2020; and June 16, 2020.

⁶ Rx Number 77282 was refilled by Respondent Pharmacy on December 14, 2020.

⁷ Rx Number 77284 was refilled by Respondent Pharmacy on December 14, 2020.

77285 ⁸ (9/16/20)	Calcipotriene 0.005% cream	HL	AH	The header on this fax prescription did not match the prescriber's fax number, and there was no indication the pharmacist verified the prescription with the prescriber.
62490 (6/26/19 ⁹)	Sterile alcohol prep pads 100/box	HL	AH	The header on this fax prescription did not match the prescriber's fax number, and there was no indication the pharmacist verified the prescription with the prescriber.
70773 (11/26/19 ¹⁰)	Lidocaine 2.5%/Prilocaine 2.5% cream	HL	Respondent Ingram	The header on this fax prescription did not match the prescriber's fax number, and there was no indication the pharmacist verified the prescription with the prescriber.
70774 (11/26/19 ¹¹)	Sterile alcohol prep pads 100/box	HL	Respondent Ingram	The header on this fax prescription did not match the prescriber's fax number, and there was no indication the pharmacist verified the prescription with the prescriber.
79726 (11/10/20)	Lidocaine 2.5%/Prilocaine 2.5% cream	HL	AH	The header on this fax prescription did not match the prescriber's fax number, and there was no indication the pharmacist verified the prescription with the prescriber.
79727 (11/10/20)	Sterile alcohol prep pads 100/box	HL	AH	The header on this fax prescription did not match the prescriber's fax number, and there was no indication the pharmacist verified the prescription with the prescriber.

⁸ Rx Number 77285 was refilled by Respondent Pharmacy on December 14, 2020.

⁹ Rx Number 62490 was refilled by Respondent Pharmacy on September 24, 2019; December 19, 2019; March 20, 2020; and June 16, 2020.

¹⁰ Rx Number 70773 was refilled by Respondent Pharmacy on February 18, 2020; May 18, 2020; and on August 12, 2020.

¹¹ Rx Number 70774 was refilled by Respondent Pharmacy on February 18, 2020; May 18, 2020; and on August 12, 2020.

73086 (6/18/20 ¹²)	Calcipotriene 0.005% cream	AS	Respondent Ingram	Prescription document did not have prescriber's fax header and did not have prescriber's signature. There was no indication the pharmacist verified the prescription with the prescriber.
73087 (6/5/20 ¹³)	Lidocaine 5% ointment	AS	Respondent Ingram	Prescription document did not have prescriber's fax header and did not have prescriber's signature. There was no indication the pharmacist verified the prescription with the prescriber.
69513 (10/23/19 ¹⁴)	Lidocaine 2.5%/Prilocaine 2.5% cream	AY	Respondent Ingram	The document was a fax prescription with no indication of the source of the prescription, and no indication the pharmacist verified the prescription with the prescriber.
69514 (10/23/19 ¹⁵)	Sterile alcohol prep pads 100/box	AY	Respondent Ingram	The document was a fax prescription with no indication of the source of the prescription, and no indication the pharmacist verified the prescription with the prescriber.
93225 (1/21/21)	Lidocaine 2.5%/Prilocaine 2.5% cream	AY	AH	The document was a fax prescription with no indication of the source of the prescription, and no indication the pharmacist verified the prescription with the prescriber.

¹² Rx 73086 was refilled by Respondent Pharmacy on September 25, 2020 and January 15, 2021.

¹³ Rx 73087 was refilled by Respondent Pharmacy on September 15, 2020 and December 14, 2020.

¹⁴ Rx 69513 was refilled by Respondent Pharmacy on January 13, 2020; April 13, 2020; July 13, 2020; and October 12, 2020.

¹⁵ Rx 69514 was refilled by Respondent Pharmacy on January 13, 2020, and April 13, 2020; July 13, 2020; and October 12, 2020.

72628 (2/24/20)	Calcipotriene 0.005% cream	AA	Respondent Ingram	The document was a fax prescription with no indication of the source of the prescription, and no indication the pharmacist verified the prescription with the prescriber.
72630 (2/24/20)	Lidocaine 2.5%/Prilocaine 2.5% cream	AA	Respondent Ingram	The document was a fax prescription with no indication of the source of the prescription, and no indication the pharmacist verified the prescription with the prescriber.
72629 (2/24/20)	Sterile alcohol prep pads 100/box	AA	Respondent Ingram	The document was a fax prescription with no indication of the source of the prescription, and no indication the pharmacist verified the prescription with the prescriber.
72814 (3/5/20 ¹⁶)	Omega 3 acid ethyl ester capsule 1g	AA	Respondent Ingram	This fax prescription was on letterhead for "MIHS, Inc." which entity does not exist according to the California Secretary of State business search. The fax number in the header did not match the prescriber's listed fax number.

29. The medications referenced above are highly reimbursable creams, ointments, and alcohol pads. According to the Board inspector's financial analysis, the total amount reimbursed by insurance for the initial fill of the uncertain prescriptions was \$8,844.71, and the total reimbursement amount based on the number of refills for the uncertain prescriptions was \$25,083.30.

Investigation of North Coast Family Medical Group Complaint

30. On January 4, 2021, the Board received an online complaint from LH at North Coast Family Medical Group (NCFMG) stating that NCFMG had received two requests for medications

¹⁶ Rx Number 72814 was refilled by Respondent Pharmacy on June 3, 2020 and September 24, 2020.

1 – on March 7, 2019 and December 29, 2020 – from Respondent Pharmacy that were purportedly
2 prescribed by Dr. JH to patient ETA. NCFMG had no record of the medications being prescribed
3 to patient ETA. In addition, Dr. JH retired in June 2020, before the second prescription request
4 was faxed. NCFMG contacted patient ETA, who confirmed that she did not use those
5 medications and had no knowledge of Respondent Pharmacy. NCFMG did not authorize the
6 prescriptions.

7 31. NCFMG provided the Board with a copy of the second prescription request from
8 Respondent Pharmacy. The request contained prescription forms for calcipotriene 0.005% cream
9 and betamethasone dipropionate 0.05% topical cream with the patient's information, medication
10 name, strength, directions, and prescriber's name pre-printed on them.

11 32. The pre-populated prescription forms sent to NCFMG for patient ETA appeared
12 similar to the pre-populated prescription forms sent to Dr. HL for Prescription Numbers 53574,
13 62487, 62489, 62490, 77282, 77284, 77285, 70773, 70774, 79726, and 79727; Dr. AY for
14 Prescription Numbers 69513, 69514, and 93225; and to Dr. AA for Prescription Numbers 72814,
15 72628, 72629, and 72630, referenced above.

16 33. On February 16, 2021, Respondent Ingram called Board Inspector AB and advised
17 that she was no longer the PIC for Respondent Pharmacy as of February 12, 2021. Respondent
18 Ingram was told that "there was another investigation" and she had "had enough." Respondent
19 Ingram said Respondent Pharmacy's business practice remained the same as it was during the
20 2019 inspection (described above) and that nothing had changed.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Dispensing Uncertain Prescriptions against Respondent Pharmacy and** 23 **Respondent Ingram)**

24 34. Respondent Pharmacy and Respondent Ingram are subject to disciplinary action
25 under Code section 4301, subdivision (o), for violating California Code of Regulations, title 16,
26 section 1761, subdivision (a), and Code section 4040, subdivision (c), in that Respondent
27 Pharmacy and Respondent Ingram dispensed uncertain prescriptions, as described in paragraphs
28

23 through 33 above, which are incorporated herein by reference. Respondent Pharmacy reimbursed for the uncertain prescriptions in the total sum of \$25,083.20.

SECOND CAUSE FOR DISCIPLINE

(Failure to Ensure Compliance with Pharmacy Law against Respondent Ingram)

35. Respondent Ingram is subject to disciplinary action under Code section 4113, subdivision (c), for failing to ensure Respondent Pharmacy's compliance with California Code of Regulations, title 16, section 1761, subdivision (a), and Code section 4040, subdivision (c). Specifically, while serving as pharmacist-in-charge at Respondent Pharmacy from October 28, 2019, to February 11, 2021, Respondent Pharmacy dispensed uncertain prescriptions, as described in paragraphs 23 through 33 above, which are incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

(Dishonesty, Fraud, Deceit against Respondent Pharmacy)

36. Respondent Pharmacy is subject to disciplinary action under Code section 4301, subdivision (f), for the commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption. The circumstances are described in paragraphs 23 through 33 above, which are incorporated here by reference, and as follows:

37. From June 23, 2020, to December 1, 2020, Respondent Pharmacy filled six prescriptions that the patients did not request and without the patients' consent.

38. On or about December 29, 2020, Respondent Pharmacy sent fraudulent prescription requests to Dr. JH for patient ETA.

FOURTH CAUSE FOR DISCIPLINE

(Failure to Ensure Compliance with Pharmacy Law against Respondent Ingram)

39. Respondent Ingram is subject to disciplinary action under Code section 4113, subdivision (c), for failing to ensure Respondent Pharmacy's compliance with the laws pertaining to the practice of pharmacy. During the time Respondent Ingram was PIC, Respondent Pharmacy violated Code section 4301, subdivision (f), when Respondent Pharmacy filled six prescriptions that the patients did not request and without the patients' consent, and Respondent Pharmacy sent

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1 fraudulent prescription requests to Dr. JH for patient ETA, as described in paragraphs 23 through
2 33 above, which are incorporated herein by reference.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Shipping to States Not Authorized to Receive Dangerous Drugs/Devices)**

5 40. Respondent Pharmacy, Respondent Ingram, and Respondent Holtzhausen are subject
6 to disciplinary action under Code section 4301, subdivision (o), for violating Code section
7 4059.5, subdivision (e), in that Respondent Pharmacy, Respondent Ingram, and Respondent
8 Holtzhausen shipped dangerous drugs to patients in states in violation of those states' laws. The
9 circumstances are described in paragraphs 23 through 33 above, which are incorporated here by
10 reference, and as follows:

11 41. Each of the following states requires an out-of-state/nonresident pharmacy shipping
12 prescription drugs to their state to be registered or licensed with, or hold a valid permit issued by,
13 their respective state agency charged with enforcing the laws governing pharmacy:

- 14 • Arkansas (Ark. Code Ann. § 17-92-401)
- 15 • Arizona (Ariz. Admin. Code R4-23-607)
- 16 • Colorado (Colo. Rev. Stat. Ann. § 12-280-133)
- 17 • Idaho (Idaho Code § 54-1729)
- 18 • Illinois (Ill. Admin. Code tit. 68, § 1330.550)
- 19 • Indiana (Ind. Code Ann. § 25-26-17-2)
- 20 • Kentucky (Ky. Rev. Stat. Ann. § 315.0351)
- 21 • Michigan (Mich. Comp. Laws Ann. § 333.17748)
- 22 • Missouri (Mo. Code Regs. tit. 20 § 2220-2.025)
- 23 • Minnesota (Minn. R. 6800.0300)
- 24 • Montana (Mont.Admin.R. 24.174.1001)
- 25 • North Carolina (21 N.C. Admin. Code 46.1607)
- 26 • New Hampshire (N.H. Rev. Stat. § 318:37)
- 27 • New Jersey (N.J. Admin. Code 13:39-4.20)
- 28 • Nevada (Nev. Rev. Stat. Ann. § 639.2328)

- New York (N.Y. Educ. Law § 6808-b)
- Ohio (Ohio Admin. Code 4729:5-8-01)
- Oklahoma (OK ADC 535:15-3-9¹⁷)
- Oregon (OAR 855-041-1060)
- Pennsylvania (63 Pa. Stat. Ann. § 390-4.1)
- Tennessee (Tenn. Comp. R. & Regs. 1140-01-.08(3))
- Texas (22 Tex. Admin. Code § 291.104)
- Virginia (Va. Code Ann. § 54.1-3434.1)
- Washington (Wash. Rev. Code Ann. § 18.64.360)
- Wisconsin (Wis. Stat. Ann. § 450.065)
- Wyoming (Wyo. Stat. Ann. § 33-24-152)

42. In 2018, Respondent Pharmacy shipped a total of 486 prescriptions to patients in Arkansas, Arizona, Idaho, Illinois, Indiana, Michigan, Missouri, Montana, Nevada, North Carolina, New Jersey, New York, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Virginia, Washington, Wisconsin, and Wyoming. At the time of the shipments, Respondent Pharmacy was not registered or licensed with, and did not hold a valid permit issued by, the states' boards of pharmacy.

43. In 2018, Respondent Holtzhausen was the verifying pharmacist for 214 prescriptions shipped by Respondent Pharmacy to patients in Arkansas, Arizona, Idaho, Michigan, Missouri, Montana, Nevada, New York, Oklahoma, Oregon, Tennessee, Virginia, Washington, and Wyoming.

44. In 2019, Respondent Pharmacy shipped a total of 105 prescriptions to patients in Colorado, Idaho, Indiana, Michigan, Missouri, Montana, North Carolina, Nevada, Ohio, Oklahoma, Oregon, Texas, Virginia, and Washington. At the time of the shipments, Respondent Pharmacy was not registered or licensed with, and did not hold a valid permit issued by, the states' boards of pharmacy.

¹⁷ Oklahoma Administrative Code section 535:15-3-9 was withdrawn effective May 5, 2023.

45. In 2019, Respondent Ingram was the verifying pharmacist for 2 prescriptions shipped by Respondent Pharmacy to patients in Idaho.

46. In 2019, Respondent Holtzhausen was the verifying pharmacist for 78 prescriptions shipped by Respondent Pharmacy to patients in Idaho, Indiana, Michigan, Missouri, Montana, North Carolina, Nevada, Ohio, Oklahoma, Oregon, Texas, Virginia, and Washington.

47. In 2020, Respondent Pharmacy shipped a total of 82 prescriptions to patients in Arkansas, Indiana, Kentucky, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Oregon, and Washington. At the time of the shipments, Respondent Pharmacy was not registered or licensed with, and did not hold a valid permit issued by, the states' boards of pharmacy.

48. In 2020, Respondent Ingram was the verifying pharmacist for 27 of prescriptions shipped by Respondent Pharmacy to patients in Indiana, Kentucky, New Hampshire, New York, and Washington.

49. In 2021, Respondent Pharmacy shipped a total of 6 prescriptions to patients in New York and Indiana. At the time of the shipments, Respondent Pharmacy was not registered or licensed with, and did not hold a valid permit issued by, the states' boards of pharmacy.

50. In 2021, Respondent Holtzhausen was the verifying pharmacist for 2 prescriptions shipped by Respondent Pharmacy to patients in Indiana.

OTHER MATTERS

51. Pursuant to Section 4307, if Pharmacy Permit Number PHY 56893 issued to Casella California Inc., dba Desert Rx Pharmacy is suspended, revoked or placed on probation, Respondent Pharmacy shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board for five years if Pharmacy Permit Number PHY 56893 is placed on probation, or until Pharmacy Permit Number PHY 56893 is reinstated if the permit is revoked.

52. Pursuant to Section 4307, if Registered Pharmacist License Number RPH 66393 issued to Kimberleigh Marie Ingram is suspended, revoked, or placed on probation, Respondent Ingram shall be prohibited from serving as a manager, administrator, owner, member, officer,

1 director, associate, or partner of a licensee of the Board for five years if Registered Pharmacist
2 License Number RPH 66393 is placed on probation, or until Registered Pharmacist License
3 Number RPH 66393 is reinstated if the license is revoked.

4 53. Pursuant to Section 4307, if Registered Pharmacist License Number 55413 issued to
5 Rosanna Pamela Holtzhausen is suspended, revoked, or placed on probation, Respondent
6 Holtzhausen shall be prohibited from serving as a manager, administrator, owner, member,
7 officer, director, associate, or partner of a licensee of the Board for five years if Registered
8 Pharmacist License Number 55413 is placed on probation, or until Registered Pharmacist License
9 Number 55413 is reinstated if the license is revoked.

10 **PRAYER**

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

13 1. Revoking or suspending Pharmacy Permit Number PHY 56893, issued to Casella
14 California Inc., dba Desert Rx Pharmacy;

15 2. Revoking or suspending Registered Pharmacist License Number RPH 66393, issued
16 to Kimberleigh Marie Ingram;

17 3. Revoking or suspending Registered Pharmacist License Number RPH 55413, issued
18 to Rosanna Pamela Holtzhausen;

19 4. Prohibiting Casella California Inc. from serving as a manager, administrator, owner,
20 member, officer, director, associate, or partner of a licensee of the Board for five years if
21 Pharmacy Permit Number PHY 56893 is placed on probation, or until Pharmacy Permit Number
22 PHY 56893 is reinstated if the permit is revoked;

23 5. Prohibiting Kimberleigh Marie Ingram from serving as a manager, administrator,
24 owner, member, officer, director, associate, or partner of a licensee of the Board for five years if
25 Registered Pharmacist License Number RPH 66393 is placed on probation, or until Registered
26 Pharmacist License Number RPH 66393 is reinstated if the license is revoked;

27 6. Prohibiting Rosanna Pamela Holtzhausen from serving as a manager, administrator,
28 owner, member, officer, director, associate, or partner of a licensee of the Board for five years if

1 Registered Pharmacist License Number RPH 55413 is placed on probation, or until Pharmacist
2 License Number RPH 55413 is reinstated if the license is revoked;

3 7. Ordering Casella California Inc., dba Desert Rx Pharmacy, Kimberleigh Marie
4 Ingram, and Rosanna Pamela Holtzhausen to pay the Board of Pharmacy the reasonable costs of
5 the investigation and enforcement of this case, pursuant to Business and Professions Code section
6 125.3; and,

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

8
9 DATED: 2/2/2024

Sodergren,
Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2024.02.02 22:12:35 -08'00'

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

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