

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

In the Matter of the Accusation Against:

**LONGS DRUG STORES CALIFORNIA, LLC, dba
CVS PHARMACY #3022, Respondent**

Pharmacy Permit No. PHY 49564

Agency Case No. 7370

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Repeval is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on February 21, 2024.

It is so ORDERED on January 22, 2024.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh".

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 KAREN R. DENVIR
Supervising Deputy Attorney General
3 STEPHANIE ALAMO-LATIF
Deputy Attorney General
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8

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

13 In the Matter of the Accusation Against:

14 **LONGS DRUG STORES CALIFORNIA,**
15 **LLC, DBA CVS PHARMACY #3022**
1063 C Street
16 Galt, CA 95632

17 **Pharmacy Permit No. PHY 49564**

18 Respondent.

Case No. 7370

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL**

[Bus. & Prof. Code § 495]

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20
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
25 (Board), Department of Consumer Affairs. She brought this action solely in her official capacity
26 and is represented in this matter by Rob Bonta, Attorney General of the State of California, by
27 Stephanie Alamo-Latif, Deputy Attorney General.

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2. Longs Drug Stores California, LLC, dba CVS Pharmacy #3022 (Respondent), is represented in this proceeding by attorney Jeff J. Astarabadi, Much Shelist, P.C., 660 Newport Center Drive, Suite 900, Newport Beach, CA 92660.

JURISDICTION

3. On or about November 10, 2008, the Board issued Pharmacy Permit No. PHY 49564 to Respondent. The Pharmacy Permit was in full force and effect at all times relevant to the charges brought in Accusation No. 7370 and will expire on November 1, 2023, unless renewed.

4. Accusation No. 7370 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 10, 2023. Respondent timely filed its Notice of Defense contesting the Accusation. A copy of Accusation No. 7370 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 7370. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order for Public Reprimand.

6. Respondent is fully aware of its legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

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1 **CULPABILITY**

2 8. Respondent agrees that the charges and allegations in Accusation No. 7370, if proven
3 at hearing, constitutes cause for imposing discipline on its Pharmacy Permit.

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

8 10. Respondent agrees that in any future disciplinary proceeding before the Board, the
9 allegations giving rise to the First and Second Causes for Discipline shall be deemed admitted.

10 11. Respondent agrees that its Pharmacy Permit is subject to discipline and it agrees to be
11 bound by the Disciplinary Order below.

12 **CONTINGENCY**

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

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

27 14. This Stipulated Settlement and Disciplinary Order for Public Repeval is intended by
28 the parties to be an integrated writing representing the complete, final, and exclusive embodiment

1 of their agreement. It supersedes any and all prior or contemporaneous agreements,
2 understandings, discussions, negotiations, and commitments (written or oral). This Stipulated
3 Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified,
4 supplemented, or otherwise changed except by a writing executed by an authorized representative
5 of each of the parties.

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

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 49564 issued to Respondent
11 Longs Drug Stores California, LLC, dba CVS Pharmacy #3022, shall be publicly reproved by the
12 Board of Pharmacy under Business and Professions Code section 495 in resolution of Accusation
13 No. 7370, attached as exhibit A.

14 **1. Cost Recovery.** Within sixty (60) days from the effective date of the Decision,
15 Respondent shall pay \$4,060.00 to the Board for its costs associated with the investigation and
16 enforcement of this matter pursuant to Business and Professions Code section 125.3. If
17 Respondent fails to pay the Board costs as ordered, Respondent shall not be allowed to renew its
18 Pharmacy Permit until Respondent pays costs in full. In addition, the Board may enforce this
19 order for payment of its costs in any appropriate court, in addition to any other rights the Board
20 may have.

21 **2. Administrative Fine.** Within six (6) months from the effective date of the Decision,
22 Respondent shall pay an Administrative Fine in the amount of \$10,000 to the Board. If
23 Respondent fails to pay the Board the fine amount as ordered, Respondent shall not be allowed to
24 renew its Pharmacy Permit until Respondent pays the fine in full. In addition, the Board may
25 enforce this order for payment of the fine in any appropriate court, in addition to any other rights
26 the Board may have.

27 **3. Full Compliance.** As a resolution of the charges in Accusation No. 7370, this
28 stipulated settlement is contingent upon Respondent's full compliance with all conditions of this

1 Order. If Respondent fails to satisfy any of these conditions, such failure to comply constitutes
2 cause for discipline, including outright revocation, of Respondent's Pharmacy Permit No. PHY
3 49564.

4 **ACCEPTANCE**

5 I, _____, have been authorized to act on Respondent's behalf in
6 this matter, and have carefully read the above Stipulated Settlement and Disciplinary Order for
7 Public Repeval and have fully discussed it with our attorney, Jeff J. Astarabadi. I understand the
8 stipulation and the effect it will have on Respondent's Pharmacy Permit. I enter into this
9 Stipulated Settlement and Disciplinary Order for Public Repeval voluntarily, knowingly, and
10 intelligently, and Respondent agrees to be bound by the Decision and Order of the Board of
11 Pharmacy.

12
13 DATED: _____

LONGS DRUG STORES CALIFORNIA, LLC,
DBA CVS PHARMACY #3022

By _____
Respondent

16
17 I have read and fully discussed with Respondent Longs Drug Stores California, LLC, dba
18 CVS Pharmacy #3022 the terms and conditions and other matters contained in the above
19 Stipulated Settlement and Disciplinary Order for Public Repeval. I approve its form and content.

20 DATED: _____

JEFF J. ASTARABADI
Attorney for Respondent

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1 Order. If Respondent fails to satisfy any of these conditions, such failure to comply constitutes
2 cause for discipline, including outright revocation, of Respondent's Pharmacy Permit No. PHY
3 49564.

4 **ACCEPTANCE**

5 I, Leo Lariviere, have been authorized to act on Respondent's behalf in
6 this matter, and have carefully read the above Stipulated Settlement and Disciplinary Order for
7 Public Repeval and have fully discussed it with our attorney, Jeff J. Astarabadi. I understand the
8 stipulation and the effect it will have on Respondent's Pharmacy Permit. I enter into this
9 Stipulated Settlement and Disciplinary Order for Public Repeval voluntarily, knowingly, and
10 intelligently, and Respondent agrees to be bound by the Decision and Order of the Board of
11 Pharmacy.

12
13 DATED: 11/28/23



LONGS DRUG STORES CALIFORNIA, LLC,
DBA CVS PHARMACY #3022

By Leo Lariviere
Respondent

16
17 I have read and fully discussed with Respondent Longs Drug Stores California, LLC, dba
18 CVS Pharmacy #3022 the terms and conditions and other matters contained in the above
19 Stipulated Settlement and Disciplinary Order for Public Repeval. I approve its form and content.

20 DATED: 11/29/23


JEFF J. ASTARABADI
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reapproval 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
KAREN R. DENVIR
Supervising Deputy Attorney General

STEPHANIE ALAMO-LATIF
Deputy Attorney General
Attorneys for Complainant

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order for Public Reapproval is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 11/29/2023

Respectfully submitted,

ROB BONTA
Attorney General of California
KAREN R. DENVIR
Supervising Deputy Attorney General



STEPHANIE ALAMO-LATIF
Deputy Attorney General
Attorneys for Complainant

SA2022304352
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Exhibit A

Accusation No. 7370

1 ROB BONTA
Attorney General of California
2 KAREN R. DENVIR
Supervising Deputy Attorney General
3 STEPHANIE ALAMO-LATIF
Deputy Attorney General
4 State Bar No. 283580
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6 Telephone: (916) 210-6112
Facsimile: (916) 327-8643
7 *Attorneys for Complainant*

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

12 In the Matter of the Accusation Against:

Case No. 7370

13 **LONGS DRUG STORES CALIFORNIA,**
LLC; DBA CVS PHARMACY #3022
14 1063 C Street
15 Galt, CA 95632

ACCUSATION

Pharmacy Permit No. PHY 49564

Respondent.

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19 **PARTIES**

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

22 2. On or about November 10, 2008, the Board issued Pharmacy Permit Number PHY
23 49564 to Longs Drug Stores California, LLC, doing business as CVS Pharmacy #3022
24 (Respondent). The Pharmacy Permit was in full force and effect at all times relevant to the
25 charges brought herein and will expire on November 1, 2023, unless renewed.

26 **JURISDICTION**

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

1 indicated.

2 4. Code section 4011 provides that the Board shall administer and enforce the Pharmacy
3 Law [Code section 4000 et seq.].

4 5. Code section 4032 defines “license” to include any license, permit, registration,
5 certificate or exemption issued by the Board.

6 6. Code section 4300 states, in pertinent part:

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

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

(1) Suspending judgment.

(2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

13 ...
14 (e) The proceedings under this article shall be conducted in accordance with Chapter
15 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code,
16 and the board shall have all the powers granted therein. The action shall be final,
17 except that the propriety of the action is subject to review by the superior court
18 pursuant to Section 1094.5 of the Code of Civil Procedure.

19 7. Code section 4300.1 states:

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

26 **STATUTORY PROVISIONS**

27 8. Code section 4113 states, in pertinent part:

28 (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.

...

(d) Every pharmacy shall notify the board in writing, on a form designed by the board,
within 30 days of the date when a pharmacist-in-charge ceases to act as the pharmacist-in-
charge, and shall on the same form propose another pharmacist to take over as the
pharmacist-in-charge. The proposed replacement pharmacist-in-charge shall be subject to
approval by the board. If disapproved, the pharmacy shall propose another replacement

within 15 days of the date of disapproval and shall continue to name proposed replacements until a pharmacist-in-charge is approved by the board.

9. Code section 4301 states, in pertinent part:

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

...
(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

...
(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.

10. Code section 4305 states, in pertinent part:

...
(b) Any person who has obtained a license to conduct a Pharmacy, who willfully fails to notify the board of the termination of employment of any Pharmacist who takes charge of, or acts as manager of the Pharmacy, and who continues to permit the compounding or dispensing of prescriptions, or the furnishing of drugs or poisons, in his or her Pharmacy, except by a Pharmacist, shall be subject to summary suspension or revocation of his or her license to conduct a Pharmacy.

...

11. Code section 4307 states, in pertinent part:

(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.

...

1
2 **COST RECOVERY**

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

9 **BACKGROUND INFORMATION**

10 13. On or about August 25, 2021, the Board received an email from Respondent's prior
11 pharmacist-in-charge (PIC), T.L. (RPH 70990), stating that she disassociated from Respondent on
12 or about January 21, 2021. On March 29, 2022, the Board received an *Application for Change of*
13 *Pharmacist-in-Charge* (Application) from Respondent, signed under penalty of perjury. The
14 Application stated that on March 1, 2021, the prior PIC, T.L. had ceased to act as the PIC and that
15 A.C. (RPH 59298) was designated as the new PIC that same day.

16 **FIRST CAUSE FOR DISCIPLINE**

17 **(Failure to Timely Notify Board of New Pharmacist-In-Charge)**

18 14. Respondent is subject to disciplinary action pursuant to Code section 4301,
19 subdivision (o), on the grounds of unprofessional conduct, in that Respondent violated Code
20 section 4113, subdivision (a) when it failed to notify the Board in writing within 30 days that a
21 new PIC had been designated. Specifically, Respondent failed to notify the Board within 30 days
22 of PIC A.C.'s designation on or about March 1, 2021. Respondent operated for 393 days before it
23 notified the Board of this change. The facts and circumstances are more fully set forth above in
24 paragraph 13.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Failure to Timely Notify Board of Change of Status of Pharmacist-In-Charge)**

27 15. Respondent is subject to disciplinary action pursuant to Code section 4301,
28 subdivision (o), on the grounds of unprofessional conduct, in that Respondent violated Code

1 section 4113, subdivision (d), in that Respondent failed to notify the Board in writing within 30
2 days that T.L. had ceased to act as Respondent's PIC, and that A.C. had taken over as the PIC.
3 Respondent operated for 432 days before it notified the Board of this change. The facts and
4 circumstances are more fully set forth above in paragraph 13.

5 **THIRD CAUSE FOR DISCIPLINE**

6 **(Misrepresentation of Facts)**

7 16. Respondent is subject to disciplinary action pursuant to Code section 4301,
8 subdivision (g), on the grounds of unprofessional conduct, in that Respondent knowingly made or
9 signed a certificate or document that falsely represented the state of facts when Respondent
10 submitted an *Application for Change of Pharmacist-In-Charge*, which had been signed under
11 penalty of perjury, stating that T.L. had dissociated as pharmacist-in-charge on March 1, 2021. In
12 fact, T.L. dissociated as pharmacist-in-charge on January 21, 2021. The facts and circumstances
13 are more fully set forth above in paragraph 13.

14 **FOURTH CAUSE FOR DISCIPLINE**

15 **(Pharmacy Operation without a Pharmacist-in-Charge)**

16 17. Respondent is subject to disciplinary action pursuant to Code section 4301,
17 subdivision (o), on the grounds of unprofessional conduct, in that Respondent violated Code
18 section 4305, subdivision (b) when Respondent operated a pharmacy for more than 30 days
19 without supervision or management of a PIC. Specifically, Respondent operated without a PIC
20 from January 22, 2021, through February 28, 2021.

21 **DISCIPLINARY CONSIDERATIONS**

22 18. To determine the degree of discipline, if any, to be imposed on Respondent,
23 Complainant alleges that on or about October 20, 2020, in a prior action, the Board issued
24 Citation Number CI 2019 86340 to Respondent for violation of Code section 4306.5, subdivision
25 (a) (acts or omissions that involve, in whole or part, the inappropriate exercise of his or her
26 education, training, or experience as a pharmacist), and Code section 4025.5, subdivision (a)
27 (failure to notify patient of the substitution of a drug product with the same active ingredients).

28 \\\

1 **OTHER MATTERS**

2 19. Pursuant to Code section 4307, subdivision (a), if discipline is imposed on Pharmacy
3 Permit Number PHY 49564, issued to Longs Drug Stores California, LLC, dba CVS Pharmacy
4 #3022, it shall be prohibited from serving as a manager, administrator, owner, member, officer,
5 director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 49564,
6 issued to Longs Drug Stores California, LLC, dba CVS Pharmacy #3022 is placed on probation
7 or until Pharmacy Permit Number PHY 9564, issued to Longs Drug Stores California, LLC, dba
8 CVS Pharmacy #3022 is reinstated, if it is revoked.

9 19. Pursuant to Code section 4307, subdivision (a), if discipline is imposed on Pharmacy
10 Permit Number PHY 49564, issued to Longs Drug Stores California, LLC, dba CVS Pharmacy
11 #3022, while Thomas Swift Moffatt, Carol Denale, Melanie St. Angelo, Linda Cimbron,
12 Kimberly DeSousa, Joshua C. Cole, and/or Sheelagh Beaulieu has been an officer or owner and
13 had knowledge of or knowingly participated in any conduct for which the licensee is disciplined,
14 Thomas Swift Moffatt, Carol Denale, Melanie St. Angelo, Linda Cimbron, Kimberly DeSousa,
15 Joshua C. Cole, and/or Sheelagh Beaulieu shall be prohibited from serving as a manager,
16 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
17 Pharmacy Permit Number PHY 49564, issued to Longs Drug Stores California, LLC, dba CVS
18 Pharmacy #3022 is placed on probation or until Pharmacy Permit Number PHY 9564, issued to
19 Longs Drug Stores California, LLC, dba CVS Pharmacy #3022 is reinstated, if it is revoked.

20 **PRAYER**

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

23 1. Revoking or suspending Pharmacy Permit Number PHY 49564, issued to Longs Drug
24 Stores California, LLC, doing business as CVS Pharmacy #3022;

25 2. Prohibiting Thomas Swift Moffatt, Carol Denale, Melanie St. Angelo, Linda
26 Cimbron, Kimberly DeSousa, Joshua C. Cole, and/or Sheelagh Beaulieu from serving as a
27 manager, administrator, owner member, officer, director, associate, or partner of a license for five
28 years if Pharmacy Permit Number PHY 49564, issued to Longs Drug Stores California, LLC, dba

CVS Pharmacy #3022 is placed on probation or until Pharmacy Permit Number PHY 49564, issued to Longs Drug Stores California, LLC, dba CVS Pharmacy #3022 is reinstated if Pharmacy Permit Number PHY 49564, issued to Longs Drug Stores California, LLC, dba CVS Pharmacy #3022 is revoked.

3. Ordering Longs Drug Stores California, LLC, doing business as CVS Pharmacy #3022 to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 1/5/2023

Sodergren, Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
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ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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