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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:

13 **ZOEY PHARMACY INC., DBA ZOEY**
14 **PHARMACY, BING ZHU, JIE GUO**
15 **18500 Via Princessa #4**
16 **Santa Clarita, CA 91351**

17 **Pharmacy Permit No. PHY 47050,**

18 **BING BING ZHU**
19 **45 Kewen Pl.**
20 **San Marino, CA 91108**

21 **Pharmacist License No. RPH 53181,**

22 **and**

23 **JIE GUO**
24 **18500 Via Princessa #4**
25 **Canyon Country, CA 91387**

26 **Pharmacist License No. RPH 52220**

27 Respondents.

Case No. 7386

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

28 **FINDINGS OF FACT**

1. On or about February 15, 2023, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed

1 Accusation No. 7386 against Zoey Pharmacy Inc., dba Zoey Pharmacy (Respondent Pharmacy),
2 Bing Bing Zhu (Respondent Zhu), and Jie Guo (Respondent Guo) before the Board of Pharmacy.
3 (Accusation attached as Exhibit A.)

4 2. On or about February 16, 2005, the Board of Pharmacy (Board) issued Pharmacy
5 Permit Number PHY 47050 to Respondent Pharmacy. The Pharmacy Permit expired on
6 September 26, 2022, and has not been renewed.

7 3. On or about October 1, 2001, the Board issued Pharmacist License Number RPH
8 53181 to Respondent Zhu. The Pharmacist License will expire on September 30, 2023, unless
9 renewed.

10 4. On or about September 26, 2000, the Board issued Pharmacist License Number RPH
11 52220 to Respondent Guo. The Pharmacist License expired on April 30, 2022, and has not been
12 renewed.

13 5. On or about February 21, 2023, Respondent Pharmacy was served by Certified and
14 First Class Mail copies of the Accusation No. 7386, Statement to Respondent, Notice of Defense,
15 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
16 and 11507.7) at Respondent Pharmacy's address of record which, pursuant to Business and
17 Professions Code section 4100, is required to be reported and maintained with the Board.
18 Respondent Pharmacy's address of record was and is: 18500 Via Princessa #4, Santa Clarita, CA
19 91351.

20 6. On or about February 21, 2023, Respondent Zhu was served by Certified and First
21 Class Mail copies of the Accusation No. 7386, Statement to Respondent, Notice of Defense,
22 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,
23 and 11507.7) at Respondent Zhu's address of record which, pursuant to Business and Professions
24 Code section 4100, is required to be reported and maintained with the Board. Respondent Zhu's
25 address of record was and is: 45 Kewen Pl., San Marino, CA 91108.

26 7. On or about February 21, 2023, Respondent Guo was served by Certified and First
27 Class Mail copies of the Accusation No. 7386, Statement to Respondent, Notice of Defense,
28 Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6,

1 and 11507.7) at Respondent Guo's address of record which, pursuant to Business and Professions
2 Code section 4100, is required to be reported and maintained with the Board. Respondent Guo's
3 address of record was and is: 18500 Via Princessa #4, Canyon Country, CA 91387.

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

6 9. Government Code section 11506(c) states, in pertinent part:

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

12 10. The Board takes official notice of its records and the fact that Respondent Pharmacy,
13 Respondent Zhu, and Respondent Guo failed to file a Notice of Defense within 15 days after
14 service upon them of the Accusation, and therefore waived their right to a hearing on the merits
15 of Accusation No. 7386.

16 11. California Government Code section 11520(a) states, in pertinent part:

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

21 12. Pursuant to its authority under Government Code section 11520, the Board finds
22 Respondents Pharmacy, Zhu, and Guo are in default. The Board will take action without further
23 hearing and, based on the relevant evidence contained in the Default Decision Investigatory
24 Evidence Packet in this matter, finds that the charges and allegations in Accusation No. 7386, are
25 separately and severally, found to be true and correct by clear and convincing evidence.

26 13. The Board finds that the actual costs for Investigation and Enforcement are
27 \$27,641.75 as of March 23, 2023.

28 **DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondents Pharmacy, Zhu, and Guo have
subjected their Pharmacy Permit No. PHY 47050, Pharmacist License No. RPH 53181, and
Pharmacist License No. RPH 52220 to discipline.

Exhibit A

Accusation

1 ROB BONTA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 BRIAN LEE
Deputy Attorney General
4 State Bar No. 253592
300 So. Spring Street, Suite 1702
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Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

Case No. 7386

13 **ZOEY PHARMACY INC., DBA ZOEY**
14 **PHARMACY, BING ZHU, OWNER AND**
15 **PRESIDENT, JIE GUO, OWNER AND**
16 **SECRETARY**
17 **18500 Via Princessa #4**
18 **Santa Clarita, CA 91351**

ACCUSATION

19 **Pharmacy Permit No. PHY 47050,**

20 **BING BING ZHU**
21 **45 Keweenaw Pl.**
22 **San Marino, CA 91108**

23 **Pharmacist License No. RPH 53181,**

24 **and**

25 **JIE GUO**
26 **18500 Via Princessa #4**
27 **Canyon Country, CA 91387**

28 **Pharmacist License No. RPH 52220**

Respondents.

1 **PARTIES**

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

4 2. On or about February 16, 2005, the Board issued Pharmacy Permit Number PHY
5 47050 to Zoey Pharmacy Inc., dba Zoey Pharmacy (Respondent Pharmacy). Board records show
6 that Bing Zhu RPH 53181 was the President and 50% Shareholder from February 16, 2005 to
7 September 26, 2022. Bing Zhu was also the Pharmacist-in-Charge from February 16, 2005 to
8 September 26, 2022. Board records also show that Jie Guo, RPH 52220, was the secretary and
9 50% Shareholder from February 16, 2005 to September 26, 2022. The Pharmacy Permit was in
10 full force and effect at all times relevant to the charges brought herein, expired on February 1,
11 2021, and was cancelled on September 26, 2022.

12 3. On or about October 1, 2001, the Board issued Pharmacist License Number RPH
13 53181 to Bing Bing Zhu (Respondent Zhu). The Pharmacist License was in full force and effect
14 at all times relevant to the charges brought herein and will expire on September 30, 2023, unless
15 renewed.

16 4. On or about September 26, 2000, the Board issued Pharmacist License Number RPH
17 52220 to Jie Guo (Respondent Guo). The Pharmacist License was in full force and effect at all
18 times relevant to the charges brought herein and expired on April 30, 2022, and has not been
19 renewed.

20 **JURISDICTION**

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

24 6. Section 4011 of the Code provides that the Board shall administer and enforce both
25 the Pharmacy Law [Code sections 4000 et seq.] and the Uniform Controlled Substances Act
26 [Health & Safety Code sections 11000 et seq].

27 7. Section 4300 of the Code states, in pertinent part, that “[e]very license issued may be
28 suspended or revoked.”

1 8. Section 4300.1 of the Code states:

2 The expiration, cancellation, forfeiture, or suspension of a board-issued license by
3 operation of law or by order or decision of the board or a court of law, the placement of a
4 license on a retired status, or the voluntary surrender of a license by a licensee shall not
5 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.

6 9. Section 4302 of the Code states:

7 The board may deny, suspend, or revoke any license of a corporation where
8 conditions exist in relation to any person holding 10 percent or more of the corporate stock
9 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.

10 STATUTORY PROVISIONS

11 10. Section 4036.5 of the Code states:

12 “Pharmacist-in-charge” means a pharmacist proposed by a pharmacy and
13 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.

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

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

17 ...

18 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
19 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.

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

22 ...

23 (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.

24 ...

25 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
26 or of the applicable federal and state laws and regulations governing pharmacy,
27 including regulations established by the board or by any other state or federal
28 regulatory agency.

12. Section 4081 of the Code states:

(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during 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, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, 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.

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

(c) The pharmacist-in-charge or representative-in-charge shall not be criminally responsible for acts of the owner, officer, partner, or employee that violate this section and of which the pharmacist-in-charge or representative-in-charge had no knowledge, or in which he or she did not knowingly participate.

13. Section 4105 of the Code states:

(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 retained on the licensed premises in a readily retrievable form.

(b) The licensee may remove the original records or documentation from the licensed premises on a temporary basis for license-related purposes. However, a duplicate set of those records or other documentation shall be retained on the licensed premises.

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

(d) Any records that are maintained electronically shall be maintained so that the pharmacist-in-charge, the pharmacist on duty if the pharmacist-in-charge is not on duty, or, in the case of a veterinary food-animal drug retailer or wholesaler, the designated representative on duty, shall, at all times during which the licensed premises are open for business, be able to produce a hard copy and electronic copy of all records of acquisition or disposition or other drug or dispensing-related records maintained electronically.

(e)(1) Notwithstanding subdivisions (a), (b), and (c), the board, may upon written request, grant to a licensee a waiver of the requirements that the records described in subdivisions (a), (b), and (c) be kept on the licensed premises.

(2) A waiver granted pursuant to this subdivision shall not affect the board's authority under this section or any other provision of this chapter.

14. 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.”

15. Section 4037 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, _____” 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.

REGULATORY PROVISIONS

16. California Code of Regulations (CCR), 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.

DANGEROUS DRUGS / CONTROLLED SUBSTANCES

17. 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.

18. 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.

19. The following table provides information related to some of the dangerous drugs discussed below:

BRAND NAME	GENERIC NAME	DANGEROUS DRUG PER B & PC 4022	CONTROLLED SUBSTANCE PER H & SC	INDICATIONS FOR USE
Renagel	sevelamer HCL	Yes	No	Lower high blood phosphorus levels in patients on dialysis due to severe kidney disease.
Sensipar	cinacalcet	Yes	No	Treatment of secondary hyperparathyroidism in adult patients with chronic kidney disease on dialysis.
Abilify	aripiprazole	Yes	No	Treatment of schizophrenia, bipolar mania and major depressive disorder.
Onfi	clobazam	Yes	Yes (HSC 11057)	Used in combination with other medications to treat seizures
Pulmicort	budesonide	Yes	No	Prevent asthma attacks

COST RECOVERY

20. 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

21. On or about September 6, 2019, the Board received a complaint from the Department of Health Care Services (DHCS) that following an audit of Respondent Pharmacy's Medi-Cal practice, which included an inventory review of six drugs ("audit medications"), a total of \$205,784 was unsupported by the pharmacy's wholesale drug purchasing records for the review period of September 1, 2017 to August 31, 2018. DHCS determined that this was in violation of California Code of Regulations, title 22, section 51476, and demanded repayment of the overpayment. The calculated overpayment was eventually paid back with full interest.

22. The following table shows the inventory discrepancy for brand name drugs and how the overpayment was calculated:

Item Paid	No. of units paid	No. of units purchased	Inventory Shortage	Percent (%) Not Supported	Dollar Amount Paid	PD AMT Not Supported
Renagel 800mg tablet	18,210	5,573	12,637	69.40%	\$128,353	\$89,073.34
Sensipar 90mg tablet	360	106	254	70.59%	\$28,990	\$20,464
Abilify 10mg tablet	1,260	709	551	43.75%	\$37,538	\$16,423
Abilify 5mg tablet	915	58	857	93.65%	\$27,211	\$25,484
Onfi 10mg tablet	2,070	775	1,295	62.57%	\$27,953	\$17,491
Pulmicort 0.5mg/2ml Respule	7,560	0	7,560	100.00%	\$36,850	\$36,850
					Total Overpayment:	\$205,784

23. On February 5, 2020, Board inspectors visited Zoey Pharmacy to perform an inspection. The inspection, and subsequent investigation, showed that Respondents failed to reverse prescriptions, failed to maintain records of current inventory, and admittedly received overpayments from Medi-Cal of at least \$205,783.53 by charging for brand name drugs when in fact generic versions of those drugs were dispensed.

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FAILURE TO REVERSE PRESCRIPTIONS

24. During the inspection, several return-to-stock (RTS) prescription vials were found on active drug shelves, which were not reversed through the patient's prescription insurance. Respondents Zhu and Guo admitted to Board inspectors that these drugs were not being reversed because the insurance companies were not paying the pharmacy enough for these medications and that it costs them a fee to reverse the prescriptions. The failure to reverse these prescriptions resulted in an estimated financial benefit of \$2,076.33.

25. The prescription medications located by Board inspectors on active drug shelves, not reversed through patient's insurance, are noted in the following table:

RX Number	Date	Patient's Initials	Medication Name	Billed (Yes/No)	Amt Billed
6164147	1/30/19	CF	dexamethasone 0.5mg/5ml	Yes	\$5.50
6174497	5/14/19	JG	doxepin 25mg capsule	Yes	\$10.88
6182464	11/11/19	KG	fluoxetine 20mg/5ml sol	Yes	\$27.77
6181131	12/30/19	GL	carvedilol 12.5mg tablet	Yes	\$13.08
6185572	1/6/20	GL	doxycycline hyclate 100mg	Yes	\$45.52
6181491	9/13/19	YI	naproxen 250mg tablet	Yes	\$1.52
6179110	7/2/19	DK	Digoxin 125mcg tablet	Yes	Not available
6181165	9/4/19	SB	fluticasone-salmeterol	Yes	\$95.55
6184275	1/16/20	AR	paroxetine HCL 30mg tablet	Yes	\$4.24
6179472	1/21/20	ZG	Creon DR 36,000 units	Yes	\$1,872.27

FAILURE TO MAINTAIN COMPLETE ACCOUNTABILITY OF CURRENT INVENTORY

26. By reviewing acquisition and disposition records obtained from various sources including from Respondents, Respondent Pharmacy's wholesalers, and Respondent Pharmacy's reverse distributor, Board inspectors determined that Respondents failed to maintain complete accountability of the audit medications (both brand name and generics). There was a vast array of inventory overages and/or shortages as of February 5, 2020. Respondents were unable to produce records to account for these variances and admitted that they had engaged in the practice of billing Medi-Cal for brand name medications but dispensing generic versions of those medications to patients.

27. The Board's inspector conducted a zero-based audit for the audit medications to determine the approximate variance for each of the medications. A positive variance indicates a

shortage (purchases/acquisitions greater than sales/disposition). A negative variance indicates an overage (sold more than purchased). The discrepancies are set forth in the table below:

Drug	Acquisition Total 9/1/17 until 2/5/20	Disposition (DUR 9/1/17 until 2/5/20)	Returns 9/1/17 until 2/5/20	Ending Inventory (Stock on Hand 2/5/20)	DISPO Total	Variance
Sensipar 90mg	270	750	0	(0)	750	-480
Onfi 10mg	2100	2790	0	(0)	2790	-690
clobazam 10mg	1100	1050	0	(55)	1105	-5
Abilify 10mg	1110	2250	0	(0)	2250	-1,140
aripiprazole 10mg ¹	1680	840	0	(400) *120	(1,240) *960	(440) *720
Abilify 5mg	180	1215	0	(0)	1215	-1,035
aripiprazole 5mg	6370	5734	0	(215)	5,949	421
Pulmicort 0.5/2ml ampule (30-unit dose ampules)	120	8,400	0	(0)	8,400ml	-8,280ml
budesonide 0.5/2ml vial (30-unit dose ampules)	14,160	16,920	0	(240ml)	17,160ml	-3,000ml
Renagel 800mg	14,940	39,780	0	(0)	39780	-24,840
sevelamer hydrochloride 800mg	1800	7,920	0	(0)	7920	-6,120

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¹ The variance above (440) for aripiprazole 10mg was based on the amount written, on the stock on hand report, provided during inspection, on 2/5/20; and the variance above *720 for aripiprazole 10mg was based on the Respondent's Guo's email, which stated the pharmacy had a quantity of 120 in stock, on the day of inspection, on 2/5/20.

1 **FIRST CAUSE FOR DISCIPLINE**

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

3 28. Respondents Pharmacy, Zhu, and Guo are subject to disciplinary action under Code
4 sections 4301, subdivisions (j) and (o), 4081, subdivisions (a) and (b), 4105, and 4113,
5 subdivision (c), in conjunction with California Code of Regulations, title 16, section 1718, for
6 unprofessional conduct, in that Respondents failed to maintain and produce records to account for
7 the inventory overage and/or shortage of the audit medications as determined by DHCS and later
8 by Board inspectors. Complainant refers to, and by this reference incorporates, the allegations set
9 forth above in paragraphs 21 through 27, as though set forth in full herein.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Fraudulent Billing)**

12 29. Respondents Pharmacy, Zhu, and Guo are subject to disciplinary action under Code
13 sections 4301, subdivisions (f) and (g), and 4113, subdivision (c), for unprofessional conduct, in
14 that Respondents committed dishonest and fraudulent acts by falsely billing Medi-Cal for brand
15 named drugs while dispensing generic named drugs to Medi-Cal beneficiaries. Complainant
16 refers to, and by this reference incorporates, the allegations set forth above in paragraphs 21
17 through 27, as though set forth in full herein.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Failure to Reverse Medications)**

20 30. Respondents Pharmacy, Zhu, and Guo are subject to disciplinary action under Code
21 sections 4301 and 4301, subdivision (f), and 4113, subdivision (c), for unprofessional conduct, in
22 that Respondents committed dishonest and fraudulent acts by not reversing medications after
23 patients failed to pick up their prescriptions. Complainant refers to, and by this reference
24 incorporates, the allegations set forth above in 21 through 27, as though set forth in full herein.

25 **DISCIPLINARY CONSIDERATIONS**

26 31. To determine the degree of discipline, if any, to be imposed on Respondent
27 Pharmacy, Complainant alleges that on or about October 7, 2020, the Board issued Citation 2018
28 83732 for violations of Code section 4081, subdivision (a)/CCR, Title 16, section 1718 [Failure

1 to maintain records of acquisition and disposition]; Code section 4076, subdivision (a)(11)(A)
2 [Failure to provide physical description of dispensed medication on prescription container label];
3 CCR, Title 16, section 1714, subdivision (b) [Failure to properly maintain drugs]; Code section
4 4104, subdivision (b) [failure to establish written policy and procedures addressing theft,
5 impairment and diversion]; and CCR, title 16, section 1707.1, subdivision (a)(1)(B)(1) [Failure to
6 properly maintain patient's medication profile]. The citation has been completed.

7 32. To determine the degree of discipline, if any, to be imposed on Respondent Zhu,
8 Complainant alleges that on or about October 7, 2020, the Board issued Citation 2020 89324 for
9 violations of Code section 4081, subdivision (a)/CCR, Title 16, section 1718 [Failure to maintain
10 records of acquisition and disposition]; Code section 4076, subdivision (a)(11)(A) [Failure to
11 provide physical description of dispensed medication on prescription container label]; CCR, Title
12 16, section 1714, subdivision (b) [Failure to properly maintain drugs]; Code section 4104,
13 subdivision (b) [failure to establish written policy and procedures addressing theft, impairment
14 and diversion]; and CCR, title 16, section 1707.1, subdivision (a)(1)(B)(1) [Failure to properly
15 maintain patient's medication profile]. The citation has been completed.

16 **OTHER MATTERS**

17 33. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
18 PHY 47050, issued to Zoey Pharmacy Inc., dba Zoey Pharmacy, Respondent Pharmacy shall be
19 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
20 or partner of a licensee for five years if Pharmacy Permit Number PHY 47050 is placed on
21 probation or until Pharmacy Permit Number PHY 47050 is reinstated if it is revoked.

22 34. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
23 PHY 47050, issued to Zoey Pharmacy Inc., dba Zoey Pharmacy, while Bing Bing Zhu has been
24 an officer, director, and/or owner and had knowledge of or knowingly participated in any conduct
25 for which the licensee was disciplined, Respondent Zhu shall be prohibited from serving as a
26 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
27 five years if Pharmacy Permit Number PHY 47050 is placed on probation or until Pharmacy
28 Permit Number PHY 47050 is reinstated if it is revoked.

35. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 47050, issued to Zoey Pharmacy Inc., dba Zoey Pharmacy, while Jie Guo 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 Guo 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 47050 is placed on probation or until Pharmacy Permit Number PHY 47050 is reinstated if it is revoked.

36. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License Number RPH 53181, issued to Bing Bing Zhu, Respondent Zhu 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 53181 is placed on probation or until Pharmacist License Number RPH 53181 is reinstated if it is revoked.

37. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License Number RPH 52220, issued to Jie Guo, Respondent Guo 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 52220 is placed on probation or until Pharmacist License Number RPH 52220 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 47050, issued to Zoey Pharmacy Inc., dba Zoey Pharmacy, Bing Zhu, Jie Guo;

2. Revoking or suspending Pharmacist License Number RPH 53181, issued to Bing
Bing Zhu;

3. Revoking or suspending Pharmacist License Number RPH 52220, issued to Jie Guo;

4. Pursuant to Business and Professions Code section 4307, prohibiting Zoey Pharmacy Inc., dba Zoey Pharmacy 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 47050 is placed on probation or until Pharmacy Permit Number PHY 47050 is reinstated if Pharmacy Permit Number PHY 47050 is revoked;

5. Pursuant to Business and Professions Code section 4307, prohibiting Bing Bing Zhu 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 47050 is placed on probation or until Pharmacy Permit Number PHY 47050 is reinstated if Pharmacy Permit Number PHY 47050 is revoked;

6. Pursuant to Business and Professions Code section 4307, prohibiting Jie Guo 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 47050 is placed on probation or until Pharmacy Permit Number PHY 47050 is reinstated if Pharmacy Permit Number PHY 47050 is revoked;

7. Pursuant to Business and Professions Code section 4307, prohibiting Bing Bing Zhu 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 53181 is placed on probation or until Pharmacist License Number RPH 53181 is reinstated if Pharmacist License Number RPH 53181 is revoked;

8. Pursuant to Business and Professions Code section 4307, prohibiting Jie Guo 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 52220 is placed on probation or until Pharmacist License Number RPH 52220 is reinstated if Pharmacist License Number RPH 52220 is revoked;

9. Ordering Zoey Pharmacy Inc., Bing Bing Zhu and Jie Guo 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,

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

DATED: 2/15/2023

Sodergren,
Anne@DCA

Digitally signed by
Sodergren, Anne@DCA
Date: 2023.02.15 19:17:58
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ANNE SODERGREN
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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