

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

In the Matter of the Accusation Against:

**MD PHARMACEUTICALS CORP., dba
CARE ONE PHARMACY,
MARIA DONNER, CEO,
100% SHAREHOLDER/PRESIDENT/SECRETARY/
TREASURER/CFO/DIRECTOR,
Pharmacy License No. PHY 57363;**

**MINH TU LY,
Registered Pharmacist License No. RPH 68160;**

and

**BRIAN SUNGTAE KIM,
Registered Pharmacist License No. RPH 65658,**

Respondents.

Agency Case No. 7422

OAH No. 2023070154

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on July 18, 2024.

It is so ORDERED on June 18, 2024.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" clearly visible.

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
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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:

14 **MD PHARMACEUTICALS CORP., DBA**
15 **CARE ONE PHARMACY; MARIA**
16 **DONNER, CEO/ 100% SHAREHOLDER/**
17 **PRESIDENT/ SECRETARY/**
18 **TREASURER/ CFO/ DIRECTOR**

19 **Pharmacy License No. PHY 57363,**

20 **MINH TU LY, PHARMACIST**

21 **Registered Pharmacist License No. RPH**
22 **68160,**

23 **and**

24 **BRIAN SUNGTAE KIM, PHARMACIST**

25 **Registered Pharmacist License No. RPH**
26 **65658**

27 Respondents.

Case No. 7422

OAH No. 2023070154

STIPULATED SURRENDER OF
LICENSE AND ORDER AS TO
RESPONDENT MD
PHARMACEUTICALS CORP., DBA
CARE ONE PHARMACY, MARIA
DONNER, CEO/ 100% SHAREHOLDER/
PRESIDENT/ SECRETARY/
TREASURER/ CFO/ DIRECTOR

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

1 **PARTIES**

2 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
3 (Board). She brought this action solely in her official capacity and is represented in this matter by
4 Rob Bonta, Attorney General of the State of California, by Nicole R. Trama, Deputy Attorney
5 General.

6 2. MD Pharmaceuticals Corp., dba Care One Pharmacy, with Maria Donner as the Chief
7 Executive Officer, 100% Shareholder, President, Secretary, Treasurer/Chief Financial Officer and
8 Director is represented in this proceeding by attorney Armond Marcarian, whose address is:
9 21650 Oxnard Street, Suite 1980 Woodland Hills, CA 91367-7853.

10 3. On or about September 12, 2019, the Board issued Pharmacy License No. PHY
11 57363 to MD Pharmaceuticals Corp., dba Care One Pharmacy (Respondent) with Maria Donner
12 as the Chief Executive Officer, 100% Shareholder, President, Secretary, Treasurer/Chief
13 Financial Officer and Director. The Pharmacy License expired on December 13, 2021, pursuant
14 to a Discontinuance of Business, and has not been renewed.

15 **JURISDICTION**

16 4. Accusation No. 7422 was filed before the Board, and is currently pending against
17 Respondent. The Accusation and all other statutorily required documents were properly served
18 on Respondent on March 14, 2023. Respondent timely filed its Notice of Defense contesting the
19 Accusation. A copy of Accusation No. 7422 is attached as Exhibit A and incorporated by
20 reference.

21 **ADVISEMENT AND WAIVERS**

22 5. Respondent has carefully read, fully discussed with counsel, and understands the
23 charges and allegations in Accusation No. 7422. Respondent also has carefully read, fully
24 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
25 Order.

26 6. Respondent is fully aware of its legal rights in this matter, including the right to a
27 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
28 the witnesses against them; the right to present evidence and to testify on its own behalf; the right

1 to the issuance of subpoenas to compel the attendance of witnesses and the production of
2 documents; the right to reconsideration and court review of an adverse decision; and all other
3 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

6 **CULPABILITY**

7 8. Respondent understands that the charges and allegations in Accusation No. 7422, if
8 proven at a hearing, constitute cause for imposing discipline upon its Pharmacy License.

9 9. For the purpose of resolving the Accusation without the expense and uncertainty of
10 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
11 basis for the charges in the Accusation and that those charges constitute cause for discipline.
12 Respondent hereby gives up the right to contest that cause for discipline exists based on those
13 charges.

14 10. Respondent understands that by signing this stipulation it enables the Board to issue
15 an order accepting the surrender of the Pharmacy License without further process.

16 **RESERVATION**

17 11. The admissions made by Respondent herein are only for the purposes of this
18 proceeding, or any other proceedings in which the Board of Pharmacy or other professional
19 licensing agency is involved, and shall not be admissible in any other criminal or civil
20 proceeding.

21 **CONTINGENCY**

22 12. This stipulation shall be subject to approval by the Board. Respondent understands
23 and agrees that counsel for Complainant and the staff of the Board may communicate directly
24 with the Board regarding this stipulation and surrender, without notice to or participation by
25 Respondent or its counsel. By signing the stipulation, Respondent understands and agrees that
26 they may not withdraw its agreement or seek to rescind the stipulation prior to the time the Board
27 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
28 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this

1 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
2 be disqualified from further action by having considered this matter.

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

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

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

14 **ORDER**

15 IT IS HEREBY ORDERED that Pharmacy License No. PHY 57363, issued to Respondent
16 MD Pharmaceuticals Corp., dba Care One Pharmacy, with Maria Donner as the Chief Executive
17 Officer, 100% Shareholder, President, Secretary, Treasurer/Chief Financial Officer and Director
18 is surrendered and accepted by the Board.

19 1. The surrender of Respondent's Pharmacy License and the acceptance of the
20 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
21 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
22 license history with the Board. Respondent understands and agrees that for purposes of Business
23 and Professions Code section 4307, the surrender shall be construed the same as revocation.

24 2. Maria Donner as the Chief Executive Officer, 100% Shareholder, President,
25 Secretary, Treasurer/Chief Financial Officer and Director of Respondent understands and agrees
26 that she will be prohibited from serving as a manager, administrator, owner, member, officer,
27 director, associate, partner, or in any other position with management or control of a licensee
28 pursuant to Business and Professions Code section 4307.

3. Respondent shall lose all rights and privileges as a pharmacy in California as of the effective date of the Board's Decision and Order.

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

5. Respondent may not apply for any license, permit, or registration from the Board for three years from the effective date of this decision. If Respondent ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 7422 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

2. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$20,000 prior to issuance of a new or reinstated license.

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Armond Marcarian. I understand the stipulation and the effect it will have on my Pharmacy License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED:

MARIA DONNER as Chief Executive Officer, 100% Shareholder, President, Secretary, Treasurer/Chief Financial Officer and Director on behalf of, MD PHARMACEUTICALS CORP., DBA CARE ONE PHARMACY
Respondent

3. Respondent shall lose all rights and privileges as a pharmacy in California as of the effective date of the Board's Decision and Order.

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

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I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Armond Marcarian. I understand the stipulation and the effect it will have on my Pharmacy License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED:

5/2/2024

- Mary Berry

MARIA DONNER as Chief Executive Officer, 100% Shareholder, President, Secretary, Treasurer/Chief Financial Officer and Director on behalf of, MD PHARMACEUTICALS CORP., DBA CARE ONE PHARMACY
Respondent

1 I have read and fully discussed with Maria Donner, Chief Executive Officer, 100%
2 Shareholder, President, Secretary, Treasurer/Chief Financial Officer and Director of MD
3 Pharmaceuticals Corp., dba Care One Pharmacy, the terms and conditions and other matters
4 contained in this Stipulated Surrender of License and Order. I approve its form and content.

5
6 DATED: _____ ARMOND MARCARIAN
7 *Attorney for Respondent*
8

9 **ENDORSEMENT**

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

12 DATED: 5/6/2024 Respectfully submitted,
13 ROB BONTA
14 Attorney General of California
15 GREGORY J. SALUTE
16 Supervising Deputy Attorney General
17 *Nicole R. Trama*
18 NICOLE R. TRAMA
19 Deputy Attorney General
20 *Attorneys for Complainant*

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1 I have read and fully discussed with Maria Donner, Chief Executive Officer, 100%
2 Shareholder, President, Secretary, Treasurer/Chief Financial Officer and Director of MD
3 Pharmaceuticals Corp., dba Care One Pharmacy, the terms and conditions and other matters
4 contained in this Stipulated Surrender of License and Order. I approve its form and content.

5
6 DATED: May 3, 2024



ARMOND MARCARIAN
Attorney for Respondent

7
8
9 **ENDORSEMENT**

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

12 DATED: _____

Respectfully submitted,

13 ROB BONTA
14 Attorney General of California
15 GREGORY J. SALUTE
Supervising Deputy Attorney General

16
17 NICOLE R. TRAMA
18 Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 7422

1 ROB BONTA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
Deputy Attorney General
4 State Bar No. 263607
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9441
7 Facsimile: (619) 645-2061
E-mail: Nicole.Trama@doj.ca.gov
8 *Attorneys for Complainant*

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

13 In the Matter of the Accusation Against:

Case No. 7422

14 **MD PHARMACEUTICALS CORP., DBA**
15 **CARE ONE PHARMACY**
16 **MARIA DONNER, CEO/ 100%**
17 **SHAREHOLDER/ PRESIDENT/**
SECRETARY/ TREASURER/ CFO/
DIRECTOR
18 **9055 Garfield Avenue**
Fountain Valley, CA 92708

ACCUSATION

19 **Pharmacy License No. PHY 57363,**

20 **MINH TU LY, PHARMACIST**
21 **16455 Mount Ararat Circle**
Fountain Valley, CA 92708

22 **Registered Pharmacist License No. RPH 68160,**

23 **and**

24 **BRIAN SUNGTAE KIM, PHARMACIST**
25 **2673 W. Greenbrier Avenue**
Anaheim, CA 92801

26 **Registered Pharmacist License No. RPH 65658**

27 Respondents.
28

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 September 12, 2019, the Board issued Pharmacy License Number PHY
5 57363 to MD Pharmaceuticals Corp., dba Care One Pharmacy (Respondent Care One), with
6 Maria Donner as the Chief Executive Officer, 100% Shareholder, President, Secretary,
7 Treasurer/Chief Financial Officer and Director. The Pharmacy License expired on December 13,
8 2021, pursuant to a Discontinuance of Business, and has not been renewed.

9 3. On or about October 2, 2012, the Board issued Registered Pharmacist License
10 Number RPH 68160 to Minh Tu Ly, Pharmacist (Respondent Ly). The Registered Pharmacist
11 License was in full force and effect at all times relevant to the charges brought herein and will
12 expire on March 31, 2024, unless renewed.

13 4. On or about August 4, 2011, the Board issued Registered Pharmacist License Number
14 RPH 65658 to Brian Sungtae Kim, Pharmacist (Respondent Kim). The Registered Pharmacist
15 License was in full force and effect at all times relevant to the charges brought herein and will
16 expire on February 25, 2025, unless renewed.

17 **JURISDICTION**

18 5. This Accusation is brought before the Board, under the authority of the following
19 laws. All section references are to the Business and Professions Code (Code) unless otherwise
20 indicated.

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

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

26 8. Code section 4300.1 states:

27 The expiration, cancellation, forfeiture, or suspension of a board-issued license
28 by operation of law or by order or decision of the board or a court of law, the
placement of a license on a retired status, or the voluntary surrender of a license by a

licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

STATUTORY PROVISIONS

9. Code section 4022 states:

“Dangerous drug” or “dangerous device” means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: “Caution: federal law prohibits dispensing without prescription,” “Rx only,” or words of similar import.

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

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

10. Code section 4081 states in part:

(a) All records of manufacture and of sale, acquisition, receipt, shipment, 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, third-party logistics provider, pharmacy, veterinary food-animal drug retailer, outsourcing facility, physician, dentist, podiatrist, veterinarian, laboratory, licensed correctional clinic, as defined in Section 4187, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

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

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

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

12. Code section 4301 states in pertinent part:

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

...

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

...

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

...

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

Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner, member, officer, director, associate, 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.

14. Code section 4332 states:

Any person who fails, neglects, or refuses to maintain the records required by Section 4081 or who, when called upon by an authorized officer or a member of the board, fails, neglects, or refuses to produce or provide the records within a reasonable time, or who willfully produces or furnishes records that are false, is guilty of a misdemeanor.

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

A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding

responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

REGULATORY PROVISIONS

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

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

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

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

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

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

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

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

COST RECOVERY

19. 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

1 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
2 enforcement of the case.

3 4 **DRUGS**

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

8 21. Norco is the brand name for hydrocodone/acetaminophen, a Schedule II controlled
9 substance pursuant to Health and Safety Code section 11055(b)(1)(l)(ii) and 21 C.F.R.
10 1308.12(b)(1)(vi) and is a dangerous drug as defined by Business and Professions Code section
11 4022.

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

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

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

21 **FACTUAL ALLEGATIONS**

22 25. Respondent Care One was a retail pharmacy located in Fountain Valley, California.
23 From September 12, 2019 to September 20, 2019, Respondent Kim was the Pharmacist-in-Charge
24 (PIC) at Respondent Care One. From September 20, 2019 to June 1, 2020, Respondent Ly was
25 the PIC at Respondent Care One.

26 26. Between September 12, 2019 and September 23, 2020, Respondent Care One
27 dispensed 1,029 prescriptions, including 332 controlled substance prescriptions, under the
28 prescribing authority of Dr. DJ. These prescriptions included 136 prescriptions for oxycodone 30

1 mg for a total of 10,574 tablets. Respondent Care One dispensed these prescriptions in the
2 presence of the following significant factors of irregularity or “red flags” indicating the
3 prescriptions were not legitimately issued:

4 a. Oxycodone 30 mg was Dr. DJ’s most commonly prescribed medication, representing
5 13.22% of his total prescribing.

6 b. 32.26% of Dr. DJ’s prescriptions were written for controlled substances, including
7 commonly abused controlled substances such as alprazolam 2 mg, hydrocodone/acetaminophen
8 10/325 mg, promethazine/codeine syrup, carisoprodol 350 mg, and generic Adderall 30 mg.
9 These medications treated a variety of conditions including pain, anxiety, cough, muscle spasms,
10 and Attention-Deficit Hyperactivity Disorder.

11 c. Dr. DJ frequently prescribed controlled substances in the highest available dose. For
12 example, Dr. DJ’s prescribing profile contained 136 prescriptions for oxycodone 30 mg (and only
13 14 prescriptions for the lower strengths), 42 prescriptions for alprazolam 2 mg (and only 8
14 prescriptions for the lower strengths), 41 prescriptions for hydrocodone/acetaminophen 10/325
15 mg (and only 2 prescriptions for the lower strengths), and 17 prescriptions for
16 dextroamphetamine/amphetamine 30 mg (and only 1 prescription for the lower strength).

17 d. Dr. DJ’s patients had addresses that were unusually far from Respondent Care One.
18 Specifically, 146 patients received prescriptions from Dr. DJ, and of those 126 patients had
19 addresses more than 20 miles from Respondent Care One.

20 e. In several instances, patients with the same last name and/or same address received
21 similar prescriptions from Dr. DJ at Respondent Care One.

22 f. Respondent Care One processed similar prescriptions for oxycodone from Dr. DJ
23 within minutes of each other, assigning them consecutive or nearly consecutive prescription
24 numbers.

25 g. There were numerous instances when patients of Dr. DJ received combinations of an
26 opioid and alprazolam, an opioid and promethazine/codeine syrup, or an opioid and carisoprodol.

27 h. In multiple instances, Dr. DJ initiated opioid therapy at very high doses. For
28 example, at least 22 patients who received the highest strength of oxycodone (30 mg) from

Respondent Care One appeared to be opioid naïve or not opioid tolerant, based on Respondent's records and CURES.

27. In addition to the controlled substance prescriptions dispensed under the prescribing authority of Dr. DJ, Respondents also dispensed several prescriptions for non-controlled drugs that contained irregularities, uncertainties, and ambiguities. Specifically, between September 13, 2019 and September 23, 2020, Respondent Care One dispensed 1,509 prescriptions for high-cost medications including combination products and kits, specifically, NuDiclo SoluPAK, Xyzbac tablets, Yosprala DR 81-40 mg, NuDroxiPAK, NuTriaRx CreamPAK, Prodigen capsule, Sil-K 2"x5.5" pads, NuDermRxPAK, Pedizol PAK, Inflammacin Kit, Allzital 25-350 mg tablet, and NuSurgePAK Surgical Prep Kit. Of the 1,509 prescriptions dispensed, 1,439 prescriptions (or 95%) were dispensed in a three month period between September 13, 2019 and December 20, 2019.¹ There were numerous irregularities in these prescriptions, including but not limited to the following:

a. Patients frequently received concurrent prescriptions for multiple kits with duplicate ingredients. For example, 49 patients received concurrent prescriptions for NuDiclo SoluPAK and NuDroxiPAK (thereby receiving both an oral and topical anti-inflammatory and two products containing topical capsaicin); 13 patients received NuDiclo SoluPAK and Inflammacin Kit (thereby receiving both oral and topical diclofenac and two topical capsaicin products); 3 patients received concurrent prescriptions for NuDiclo SoluPAK, NuDroxiPAK, and Inflammacin (thereby receiving two oral and one topical anti-inflammatory and two capsaicin containing products); 3 patients received concurrent prescriptions for omeprazole and Yosprala DR 81-40 mg (which also contains omeprazole); 30 patients received concurrent prescriptions for NuTriaRx CreamPAK and NuDermRxPAK (thereby receiving a bottle of dimethicone 5% in both prescriptions); 5 patients received concurrent prescriptions for NuTriaRx CreamPAK and NuSurgePAK Surgical Prep Kit (thereby receiving dimethicone 5% and silicone tape in both kits); 12 patients received concurrent prescriptions for Sil-K pads and NuTriaRx CreamPAK; and

¹ Respondent Kim was documented as the verifying pharmacist for 1,405 (93.11%) of the prescriptions for the medications at issue.

3 patients received concurrent prescriptions for Sil-K pads, NuTriaRx CreamPAK, and NuSurgePAK Surgical Prep Kit (thereby receiving topical silicone treatments in all three kits).

b. The duration of use for some of these prescriptions was not what would be expected for the type of medication dispensed. For example, of the 97 patients who received Xyzbac (a multivitamin), none received more than four prescriptions, and while NuSurgePAK Surgical Prep Kit was marketed as a set of medications to be used in preparation for and following surgery, 13 patients received more than one prescription of this Kit, dispensed one or two months apart, with 1 of the patients receiving three of these kits, and another patient receiving five of these kits.

c. Respondent Care One's dispensing profiles for patients who received Yosprala DR 81-40 were inconsistent with expected diagnoses for a patient receiving daily low dose aspirin. For example, 75 of the 80 patients who received Yosprala DR 81-40 mg (a medication indicated for prevention of a heart attack and stroke after an initial cardiac event), did not receive any other medications typically prescribed to patients who have experienced a cardiovascular event, including medications to lower blood pressure and cholesterol.

d. Multiple prescriptions had irregular dosing. For example, all 173 prescriptions for NuDroxiPAK dispensed at Respondent Care One had directions to take up to 600 mg of celecoxib daily even though the prescribing information for celecoxib indicates it should be dosed with a maximum maintenance dose of 400 mg per day. In another example, 91 prescriptions for Sil-K pads were dispensed with a quantity of eight patches to be a 30-day supply, even though these prescriptions had directions indicating that the patches should be applied for 8-12 hours per day, with the same patch to be reapplied for seven days. Therefore, four patches would be a 28-day supply; however, the patients were receiving almost double that in each prescription.

e. The directions for all 38 prescriptions for NuSurgePAK surgical Prep Kit only addressed the use of mupirocin ointment even though the kit also contained other drugs, including chlorhexidine 4% solution, dimethicone 5% cream, and silicone tape.

28. A review of the purchasing and dispensing records at Respondent Care One from September 12, 2019 to September 23, 2020, showed that Respondent Care One had dispensing records in excess of its acquisition or purchasing records. The following discrepancies were

1 noted: 4,800 grams of calcipotriene 0.005% cream; 56 Sil-K pads; 19 Inflammacin Kits; and 400
2 Allzital 25-325 mg tablets.

3 **FIRST CAUSE FOR DISCIPLINE**

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

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

13 **SECOND CAUSE FOR DISCIPLINE**

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

16 30. Respondents are subject to disciplinary action under Code section 4301, subdivision
17 (o), for violating title 16, California Code of Regulations, sections 1761, subdivisions (a) and (b)
18 because Respondents dispensed dangerous drugs based on prescriptions which contained
19 significant errors, omissions, irregularities, uncertainties, ambiguities or alterations, as described
20 above.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Failure to Maintain Records)**

23 31. Respondents are subject to disciplinary action under Code section 4301, subdivision
24 (o), for violating Business and Professions Code section 4081, subdivision (a) because
25 Respondents failed to maintain all records of disposition and/or acquisition, as described above.

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27 ///

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

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

3 32. Respondents are subject to disciplinary action under Code section 4301, subdivision
4 (o), for violating title 16, California Code of Regulations, sections 1718 because Respondents
5 failed to maintain a current inventory, as described above.

6 **OTHER MATTERS**

7 33. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
8 PHY 57363, issued to MD Pharmaceuticals Corp., to do business as Care One Pharmacy,
9 Respondent MD Pharmaceuticals Corp., to do business as Care One Pharmacy shall be prohibited
10 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
11 of a licensee for five years if Pharmacy Permit Number PHY 57363, issued to MD
12 Pharmaceuticals Corp., to do business as Care One Pharmacy is reinstated if it is revoked.

13 34. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
14 PHY 57363, issued to MD Pharmaceuticals Corp., to do business as Care One Pharmacy, while
15 Maria Donner has been an officer and owner and had knowledge of or knowingly participated in
16 any conduct for which the licensee was disciplined, Maria Donner shall be prohibited from
17 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
18 licensee for five years if Pharmacy Permit Number PHY 57363, issued MD Pharmaceuticals
19 Corp., to do business as Care One Pharmacy is reinstated if it is revoked.

20 35. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
21 Number RPH 68160, issued to Minh Ly, Respondent Ly shall be prohibited from serving as a
22 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
23 five years if Pharmacist License Number RPH 68160 is placed on probation or until Pharmacist
24 License Number RPH 68160 is reinstated if it is revoked.

25 36. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
26 Number RPH 65658, issued to Brian Sungtae Kim, Respondent Kim shall be prohibited from
27 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
28

licensee for five years if Pharmacist License Number RPH 65658 is placed on probation or until Pharmacist License Number RPH 65658 is reinstated if it is revoked.

DISCIPLINARY CONSIDERATIONS

37. To determine the degree of discipline, if any, Complainant further alleges the following:

a. Effective April 27, 2022, the Board issued a Decision and Order in the prior disciplinary case entitled, *In the Matter of the First Amended Accusation Against M&S Pharmaceuticals, Inc., DBA OC Wellness and Specialty Pharmacy and Brian Sungtae Kim*, Case Number 6979, revoking Respondent Kim's pharmacist license. However, the revocation was stayed, and Respondent Kim was placed on probation for a period of five years with certain terms and conditions.

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 License Number PHY 57363, issued to MD Pharmaceuticals Corp., dba Care One Pharmacy;

2. Revoking or suspending Registered Pharmacist License Number RPH 68160, issued to Minh Tu Ly, Pharmacist;

3. Revoking or suspending Registered Pharmacist License Number RPH 65658, issued to Brian Sungtae Kim, Pharmacist;

4. Prohibiting MD Pharmaceuticals Corp., to do business as Care One Pharmacy from servicing as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 57363 is placed on probation or until Pharmacy Permit Number PHY 57363 is reinstated if Pharmacy Permit Number PHY 57363 issued to MD Pharmaceuticals Corp., to do business as Care One Pharmacy is revoked;

5. Prohibiting Maria Donner from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 57363 is placed on probation or until Pharmacy Permit Number PHY 57363 is reinstated if

Pharmacy Permit Number PHY 57363 issued to MD Pharmaceuticals Corp., to do business as Care One Pharmacy, is revoked;

6. Prohibiting Minh Ly from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 68160 is placed on probation or until Pharmacist License Number RPH 68160 is reinstated if Pharmacist License Number RPH 68160 issued to Minh Ly is revoked

7. Prohibiting Brian Sungtae Kim from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 65658 is placed on probation or until Pharmacist License Number RPH 65658 is reinstated if Pharmacist License Number RPH 65658 issued to Brian Sungtae Kim is revoked;

8. Ordering Respondents 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,

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

DATED: 2/26/2023

Sodergren,
Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2023.02.26 20:29:54
-08'00'

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

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