

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

In the Matter of the Accusation Against:

**MYRNA B. CORTEZ,
Pharmacist License No. RPH 46795**

Respondent.

Agency Case No. 7424

OAH NO. 2023110727

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary 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 May 8, 2024.

It is so ORDERED on April 8, 2024.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
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Supervising Deputy Attorney General
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Attorneys for Complainant
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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 **MYRNA B. CORTEZ**
14 **3765 Mayfair Drive**
Pasadena, CA 91107
15 **Pharmacist License No. RPH 46795**

16 Respondent.
17

Case No. 7424

OAH No. 2023110727

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
23 (Board). She brought this action solely in her official capacity and is represented in this matter by
24 Rob Bonta, Attorney General of the State of California, by William D. Gardner, Deputy Attorney
25 General.

26 2. Respondent Myrna B. Cortez (Respondent) is represented in this proceeding by
27 attorney Michael A. Dowell, whose address is 350 S. Grand Avenue, Suite 3600
28 Los Angeles, CA 90071-3476.

1 placed on probation for an additional two (2) years, during which time Respondent shall be
2 subject to the following terms and conditions.

3 **1. Obey All Laws**

4 Respondent shall obey all state and federal laws and regulations.

5 Respondent shall report any of the following occurrences to the board, in writing, within
6 seventy- two (72) hours of such occurrence:

- 7 • an arrest or issuance of a criminal complaint for violation of any provision of the
8 Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances
9 laws
- 10 • a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal
11 proceeding to any criminal complaint, information or indictment
- 12 • a conviction of any crime
- 13 • the filing of a disciplinary pleading, issuance of a citation, or initiation of another
14 administrative action filed by any state or federal agency which involves respondent's license or
15 which is related to the practice of pharmacy or the manufacturing, obtaining, handling,
16 distributing, billing, or charging for any drug, device or controlled substance.

17 Failure to timely report such occurrence shall be considered a violation of probation.

18 **2. Report to the Board**

19 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
20 designee. The report shall be made either in person or in writing, as directed. Among other
21 requirements, respondent shall state in each report under penalty of perjury whether there has
22 been compliance with all the terms and conditions of probation.

23 Failure to submit timely reports in a form as directed shall be considered a violation of
24 probation. Any period(s) of delinquency in submission of reports as directed may be added to the
25 total period of probation. Moreover, if the final probation report is not made as directed,
26 probation shall be automatically extended until such time as the final report is made and accepted
27 by the board.

28 ///

1 **3. Interview with the Board**

2 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
3 with the board or its designee, at such intervals and locations as are determined by the board or its
4 designee. Failure to appear for any scheduled interview without prior notification to board staff,
5 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
6 the period of probation, shall be considered a violation of probation.

7 **4. Cooperate with Board Staff**

8 Respondent shall timely cooperate with the board's inspection program and with the board's
9 monitoring and investigation of respondent's compliance with the terms and conditions of
10 Respondent's probation, including but not limited to: timely responses to requests for information
11 by board staff; timely compliance with directives from board staff regarding requirements of any
12 term or condition of probation; and timely completion of documentation pertaining to a term or
13 condition of probation. Failure to timely cooperate shall be considered a violation of probation.

14 **5. Continuing Education**

15 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
16 pharmacist as directed by the board or its designee.

17 **6. Reporting of Employment and Notice to Employers**

18 During the period of probation, respondent shall notify all present and prospective
19 employers of the decision in case number 7424 and the terms, conditions and restrictions imposed
20 on respondent by the decision, as follows:

21 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
22 undertaking any new employment, respondent shall report to the board in writing the name,
23 physical address, and mailing address of each of Respondent's employer(s), and the name(s) and
24 telephone number(s) of all of Respondent's direct supervisor(s), as well as any pharmacist(s)-in-
25 charge, designated representative(s)-in-charge, responsible manager, or other compliance
26 supervisor(s) and the work schedule, if known. Respondent shall also include the reason(s) for
27 leaving the prior employment. Respondent shall sign and return to the board a written consent
28 authorizing the board or its designee to communicate with all of respondent's employer(s) and

1 supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the board
2 or its designee, concerning respondent's work status, performance, and monitoring. Failure to
3 comply with the requirements or deadlines of this condition shall be considered a violation of
4 probation.

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 respondent undertaking any new employment, respondent shall cause (a) Respondent's direct
7 supervisor, (b) Respondent's pharmacist-in-charge, designated representative-in-charge,
8 responsible manager, or other compliance supervisor, and (c) the owner or owner representative
9 of Respondent's employer, to report to the board in writing acknowledging that the listed
10 individual(s) has/have read the decision in case number 7424, and terms and conditions imposed
11 thereby. If one person serves in more than one role described in (a), (b), or (c), the
12 acknowledgment shall so state. It shall be the respondent's responsibility to ensure that these
13 acknowledgment(s) are timely submitted to the board. In the event of a change in the person(s)
14 serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause
15 the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days of
16 the change acknowledging that he or she has read the decision in case number 7424, and the
17 terms and conditions imposed thereby.

18 If respondent works for or is employed by or through an employment service, respondent
19 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
20 of the decision in case number 7424, and the terms and conditions imposed thereby in advance of
21 respondent commencing work at such licensed entity. A record of this notification must be
22 provided to the board upon request.

23 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
24 (15) days of respondent undertaking any new employment by or through an employment service,
25 respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service
26 to report to the board in writing acknowledging that he or she has read the decision in case
27 number, and the terms and conditions imposed thereby. It shall be respondent's responsibility to
28 ensure that these acknowledgment(s) are timely submitted to the board.

1 Failure to timely notify present or prospective employer(s) or failure to cause the identified
2 person(s) with that/those employer(s) to submit timely written acknowledgments to the board
3 shall be considered a violation of probation.

4 "Employment" within the meaning of this provision includes any full-time, part-time,
5 temporary, relief, or employment/management service position as a registered pharmacist, or any
6 position for which a registered pharmacist is a requirement or criterion for employment, whether
7 the respondent is an employee, independent contractor or volunteer.

8 **7. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

9 Respondent shall further notify the board in writing within ten (10) days of any change in
10 name, residence address, mailing address, e-mail address or phone number.

11 Failure to timely notify the board of any change in employer, name, address, or phone
12 number shall be considered a violation of probation.

13 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

14 Respondent shall be permanently prohibited from supervising any intern pharmacist, being
15 the pharmacist-in-charge, designated representative-in-charge, responsible manager or other
16 compliance supervisor of any entity licensed by the Board, and from serving as a consultant.
17 Assumption of any such unauthorized supervision responsibilities shall be considered a violation
18 of probation and a cause for discipline.

19 **9. Probation Monitoring Costs**

20 Respondent shall pay any costs associated with probation monitoring as determined by the
21 board each and every year of probation. Such costs shall be payable to the board on a schedule as
22 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
23 be considered a violation of probation.

24 **10. Status of License**

25 Respondent shall, at all times while on probation, maintain an active, current Pharmacist
26 License with the board, including any period during which suspension or probation is tolled.
27 Failure to maintain an active, current Pharmacist License shall be considered a violation of
28 probation.

1 If respondent's Pharmacist License expires or is cancelled by operation of law or otherwise
2 at any time during the period of probation, including any extensions thereof due to tolling or
3 otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and
4 conditions of this probation not previously satisfied.

5 **11. License Surrender While on Probation/Suspension**

6 Following the effective date of this decision, should respondent cease practice due to
7 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
8 respondent may relinquish her license, including any indicia of licensure issued by the board,
9 along with a request to surrender the license. The board or its designee shall have the discretion
10 whether to accept the surrender or take any other action it deems appropriate and reasonable.
11 Upon formal acceptance of the surrender of the license, respondent will no longer be subject to
12 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
13 become a part of the respondent's license history with the board.

14 Upon acceptance of the surrender, respondent shall relinquish her pocket and/or wall
15 license, including any indicia of licensure not previously provided to the board within ten (10)
16 days of notification by the board that the surrender is accepted if not already provided.
17 Respondent may not reapply for any license from the board for three (3) years from the effective
18 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
19 of the date the application for that license is submitted to the board, including any outstanding
20 costs.

21 **12. Practice Requirement – Extension of Probation**

22 Except during periods of suspension, respondent shall, at all times while on probation, be
23 employed as a registered pharmacist in California for a minimum of 60 hours per calendar month.
24 Any month during which this minimum is not met shall extend the period of probation by one
25 month. During any such period of insufficient employment, respondent must nonetheless comply
26 with all terms and conditions of probation, unless respondent receives a waiver in writing from
27 the board or its designee.

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1 If respondent does not practice as a registered pharmacist in California for the minimum
2 number of hours in any calendar month, for any reason (including vacation), respondent shall
3 notify the board in writing within ten (10) days of the conclusion of that calendar month. This
4 notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s)
5 for the interruption or reduction in practice; and the anticipated date(s) on which respondent will
6 resume practice at the required level. Respondent shall further notify the board in writing within
7 ten (10) days following the next calendar month during which respondent practices as a registered
8 pharmacist in California for the minimum of hours. Any failure to timely provide such
9 notification(s) shall be considered a violation of probation.

10 It is a violation of probation for respondent's probation to be extended pursuant to the
11 provisions of this condition for a total period, counting consecutive and non-consecutive months,
12 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended
13 probation period on its website.

14 **13. Violation of Probation**

15 If respondent has not complied with any term or condition of probation, the board shall
16 have continuing jurisdiction over respondent, and the board shall provide notice to respondent
17 that probation shall automatically be extended, until all terms and conditions have been satisfied
18 or the board has taken other action as deemed appropriate to treat the failure to comply as a
19 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
20 board or its designee may post a notice of the extended probation period on its website.

21 If respondent violates probation in any respect, the board, after giving respondent notice
22 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
23 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
24 probation, or the preparation of an accusation or petition to revoke probation is requested from
25 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
26 probation shall be automatically extended until the petition to revoke probation or accusation is
27 heard and decided.

28 ///

1 **14. No Ownership or Management of Licensed Premises**

2 Respondent shall be permanently prohibited from owning, having any legal or beneficial
3 interest in, or serving as a manager, administrator, member, officer, director, trustee, associate, or
4 partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the
5 board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by
6 the board within ninety (90) days following the effective date of this decision and shall
7 immediately thereafter provide written proof thereof to the board. Failure to timely divest any
8 legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of
9 probation.

10 **15. Completion of Probation**

11 Upon written notice by the board or its designee indicating successful completion of
12 probation, respondent's license will be fully restored with the exception of the permanent
13 prohibitions set forth in paragraphs 8 and 14 of this Order.

14 **16. Reimbursement of Board Costs**

15 As a condition precedent to successful completion of probation, Respondent shall pay to the
16 Board its costs of investigation and prosecution in the amount of \$29,300.25. Respondent shall
17 be permitted to pay these costs in a payment plan approved by the Board or its designee, so long
18 as full payment is completed no later than one (1) year prior to the end date of probation.

19 Failure to pay costs by the deadline(s) as directed shall be considered a violation of
20 probation.

21 **17. Remedial Education**

22 Within 60 days of the effective date of this decision, Respondent shall submit to the Board
23 or its designee, for prior approval, an appropriate program of remedial education related to the
24 Drug Supply Chain Security Act. The program of remedial education shall consist of at least 10
25 hours, which shall be completed within one year of the effective date of this decision at
26 respondent's own expense. All remedial education shall be in addition to, and shall not be
27 credited toward, continuing education (CE) courses used for license renewal purposes for
28 pharmacists.

1 Failure to timely submit for approval or complete the approved remedial education shall be
2 considered a violation of probation. The period of probation will be automatically extended until
3 such remedial education is successfully completed and written proof, in a form acceptable to the
4 Board, is provided to the Board or its designee.

5 **ACCEPTANCE**

6 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
7 discussed it with my attorney, Michael A. Dowell. I understand the stipulation and the effect it
8 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
9 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
10 of the Board of Pharmacy.

11
12 DATED: _____

_____ MYRNA B. CORTEZ
Respondent

13
14
15 I have read and fully discussed with Respondent Myrna B. Cortez the terms and conditions
16 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
17 its form and content.

18
19 DATED: _____

_____ MICHAEL A. DOWELL
Attorney for Respondent

20
21 ///

22 ///

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1 Failure to timely submit for approval or complete the approved remedial education shall be
2 considered a violation of probation. The period of probation will be automatically extended until
3 such remedial education is successfully completed and written proof, in a form acceptable to the
4 Board, is provided to the Board or its designee.

5 **ACCEPTANCE**

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7 discussed it with my attorney, Michael A. Dowell. I understand the stipulation and the effect it
8 will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary
9 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
10 of the Board of Pharmacy.

11
12 DATED: 3/04/24 
13 MYRNA B. CORTEZ
14 Respondent

15 I have read and fully discussed with Respondent Myrna B. Cortez the terms and conditions
16 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
17 its form and content.

18
19 DATED: 03/05/2024 
20 MICHAEL A. DOWELL
21 Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy.

DATED: _____

Respectfully submitted,
ROB BONTA
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General

WILLIAM D. GARDNER
Deputy Attorney General
Attorneys for Complainant

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DATED: 3/5/2024

Respectfully submitted,

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



WILLIAM D. GARDNER
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 7424

1 ROB BONTA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 WILLIAM D. GARDNER
Deputy Attorney General
4 State Bar No. 244817
300 So. Spring Street, Suite 1702
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 7424

13 **MYRNA B. CORTEZ**
14 **3765 Mayfair Drive**
Pasadena, CA 91107

ACCUSATION

15 **Pharmacist License No. RPH 46795**

16 Respondent.

17
18 **PARTIES**

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

21 2. On or about November 22, 1993, the Board issued Pharmacist License Number RPH
22 46795 to Myrna B. Cortez (Respondent). The Pharmacist License was in full force and effect at
23 all times relevant to the charges brought herein and will expire on August 30, 2025, unless
24 renewed.

25 **JURISDICTION**

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

1 4. Code section 4011 provides that the Board shall administer and enforce both the
2 Pharmacy Law (Bus. & Prof. Code, § 4000 *et seq.*) and the Uniform Controlled Substances Act
3 (Health & Safety Code, § 11000 *et seq.*).

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

6 6. Code section 4300.1 states:

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

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

14 Any person who has been denied a license or whose license has been revoked
15 or is under suspension, or who has failed to renew his or her license while it was
16 under suspension, or who has been a manager, administrator, owner member, officer,
17 director, associate, or partner of any partnership, corporation, firm, or association
18 whose application for a license has been denied or revoked, is under suspension or
19 has been placed on probation, and while acting as the manger, administrator, owner,
20 member, officer, director, associate, or partner had knowledge or knowingly
21 participated in any conduct for which the license was denied, revoked, suspended, or
22 placed on probation, shall be prohibited from serving as a manger, administrator,
23 owner, member, officer, director, associate, or partner of a licensee as follows:

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

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

PERTINENT STATE LAW

8. 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.

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

3 9. Code section 4059.5, subdivision (a), states in pertinent part:

4 Except as otherwise provided in this chapter, dangerous drugs or dangerous
5 devices may only be ordered by an entity licensed by the board and shall be delivered
6 to the licensed premises and signed for and received by a pharmacist.

7 10. Code section 4113, subdivision (c) states:

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

10 11. Code section 4169 provides in pertinent part:

11 (a) A person or entity shall not do any of the following:

12 ...

13 (2) Purchase, trade, sell, or transfer dangerous drugs that the person knew or
14 reasonably should have known were adulterated, as set forth in Article 2
15 (commencing with Section 111250) of Chapter 6 of Part 5 of Division 104 of the
16 Health and Safety Code.

17 ...

18 12. Code section 4301 states in pertinent part:

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

23 ...

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

26 ...

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

...

///

1 13. Code section 4306.5, subdivision (a) states:

2 Unprofessional conduct for a pharmacist may include any of the following:

3 Acts or omissions that involve, in whole or in part, the inappropriate exercise of
4 his or her education, training, or experience as a pharmacist, whether or not the act or
5 omission arises in the course of the practice of pharmacy or the ownership,
6 management, administration, or operation of a pharmacy or other entity licensed by
7 the board.

8 14. Health and Safety Code section 111255 states:

9 Any drug or device is adulterated if it has been produced, prepared, packed, or
10 held under conditions whereby it may have been contaminated with filth, or whereby
11 it may have been rendered injurious to health.

12 15. Health and Safety Code section 111295 states:

13 It is unlawful for any person to manufacture, sell, deliver, hold or offer for sale
14 any drug or device that is adulterated.

15 **PERTINENT FEDERAL LAW**

16 16. United States Code (U.S.C.), title 21, section 331, subdivision (t) [Food, Drug &
17 Cosmetic Act, section 301] provides, in part, that it is unlawful to fail to comply with the
18 requirements of 21 U.S.C. § 360eee-1.

19 17. 21 U.S.C. § 360eee [Drug Supply Chain Security Act, section 582] states in pertinent
20 part:

21 (3) Dispenser

22 The term “dispenser”--

23 (A) means a retail pharmacy, hospital pharmacy, a group of chain pharmacies
24 under common ownership and control that do not act as a wholesale distributor, or
25 any other person authorized by law to dispense or administer prescription drugs, and
26 the affiliated warehouses or distribution centers of such entities under common
27 ownership and control that do not act as a wholesale distributor; and

28 (B) does not include a person who dispenses only products to be used in
animals in accordance with section 360b(a)(5) of this title.

...

(21) Suspect product

The term “suspect product” means a product for which there is reason to
believe that such product--

1 (A) is potentially counterfeit, diverted, or stolen;

2 (B) is potentially intentionally adulterated such that the product would result in
3 serious adverse health consequences or death to humans;

4 (C) is potentially the subject of a fraudulent transaction; or

5 (D) appears otherwise unfit for distribution such that the product would result
6 in serious adverse health consequences or death to humans . . .

7 18. 21 U.S.C. § 360eee-1 [Drug Supply Chain Security Act, section 582] states in
8 pertinent part:

9 (a) Each manufacturer, repackager, wholesale distributor, and dispenser shall
10 comply with the requirements set forth in this section with respect to the role of such
11 manufacturer, repackager, wholesale distributor, or dispenser in a transaction
12 involving product. If an entity meets the definition of more than one of the entities
13 listed in the preceding sentence, such entity shall comply with all applicable
14 requirements in this section, but shall not be required to duplicate requirements.

15 . . .

16 (d)(1)(A)(i) Beginning July 1, 2015, a dispenser—(i) shall not accept ownership of a
17 product, unless the previous owner prior to, or at the time of, the transaction, provides
18 transaction history, transaction information, and a transaction statement.

19 . . .

20 (d)(4)(i) Beginning not later than January 1, 2015, a dispenser shall have
21 systems in place to enable the dispenser to comply with the following requirements:
22 Upon making a determination that a product in possession or control of the dispenser
23 is a suspect product, or upon receiving a request for verification from the Secretary
24 that has made a determination that a product within the possession or control of a
25 dispenser is a suspect product, a dispenser shall (1) quarantine such product within
26 the possession or control of the dispenser from product intended for distribution until
27 such product is cleared or dispositioned; and (II) promptly conduct an investigation in
28 coordination with its trading partners, as applicable to determine whether the product
is an illegitimate product.

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 licentiate 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.

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1 **DANGEROUS DRUGS**

2 20. Biktarvy is an expensive drug used to treat Human Immunodeficiency Virus (HIV)
3 and a dangerous drug as defined by Code section 4022. Because of its high dollar value, it often
4 is the subject of diversion and counterfeiting efforts.

5 21. Descovy is an expensive drug used to treat Human Immunodeficiency Virus (HIV)
6 and a dangerous drug as defined by Code section 4022. Because of its high dollar value, it often
7 is the subject of diversion and counterfeiting efforts.

8 22. Genvoya is an expensive drug used to treat HIV and a dangerous drug as defined by
9 Code section 4022. Because of its high dollar value, it often is the subject of diversion and
10 counterfeiting efforts.

11 23. Truvada is an expensive drug used to treat HIV and a dangerous drug as defined by
12 Code section 4022. Because of its high dollar value, it often is the subject of diversion and
13 counterfeiting efforts.

14 24. Complera is an expensive drug used to treat Human Immunodeficiency Virus (HIV)
15 and a dangerous drug as defined by Code section 4022. Because of its high dollar value, it often
16 is the subject of diversion and counterfeiting efforts.

17 25. Odefsey is an expensive drug used to treat Human Immunodeficiency Virus (HIV)
18 and a dangerous drug as defined by Code section 4022. Because of its high dollar value, it often
19 is the subject of diversion and counterfeiting efforts.

20 **FACTUAL ALLEGATIONS**

21 26. This case involves the purchasing of millions of dollars' worth of adulterated HIV
22 drugs with suspicious pedigrees¹ and the dispensing of those drugs in violation of both federal
23 and state law. Namely, such actions violate state Pharmacy Law (*i.e.*, Business & Professions
24 Code section 4169, subdivision (a)), state drug laws (*i.e.*, Health & Safety Code section 111295),
25 and federal law ([Drug Supply Chain Security Act], *i.e.*, 21 U.S.C. § 331, subd. (t), 21 U.S.C. §
26 360eee-1, subds. (a), (d)(1)(A)(i) and (d)(4)(i)).

27 ¹ A drug pedigree is a statement of origin that identifies each prior sale, purchase, or trade of a
28 drug, including the date of those transactions and the names and addresses of all parties to them.

1 27. At all times relevant to the allegations set forth herein, Good Health, Inc. dba Premier
2 Pharmacy Services (Premier) was a closed-door pharmacy located in Baldwin Park, California.²
3 Respondent was designated as Premier’s pharmacist-in-charge at all times relevant to the
4 allegations set forth herein.

5 28. After receiving an anonymous complaint about Premier’s operating practices, the
6 Board obtained records related to Premier’s purchase of the following high-priced HIV drugs
7 from wholesaler Gulf Coast Pharmaceuticals Plus (Gulf Coast): Truvada, Biktarvy, Descovy,
8 Genvoya, Complera and Odefsey.³ All six of these drugs are manufactured by Gilead Sciences
9 Inc. (Gilead). Due to their high value, these drugs are vulnerable to diversion and counterfeiting.

10 29. The records obtained by the Board included 253 invoices from Gulf Coast for which
11 there were accompanying pedigrees that purportedly documented each prior sale, purchase or
12 trade of the drugs from the manufacturer onward. The invoices and pedigrees related to
13 Premier’s purchases of the six HIV drugs identified above from Gulf Coast between January 1,
14 2018 and July 15, 2020.

15 30. A Board inspector analyzed 148 of the invoices and corresponding pedigrees and
16 identified a variety of red flags that indicated the purchases involved suspect product. For
17 example, some of the pedigrees indicated that the first purchaser from Gilead had been entities
18 that were not Gilead-authorized distributors.⁴ Those entities included Gulf Coast, Dispensing
19 Physician consulting, Barce LLC and Premier itself. In addition, the pedigrees analyzed by the
20 inspector showed that many of the drugs had purportedly been distributed through up to four
21 different wholesalers prior being sold to Premier. Many of the pedigrees also provided inaccurate
22 contact information for certain wholesalers who were claimed to have been within the chain of
23 custody.

24 ² Good Health, Inc. dba Premier Pharmacy Services surrendered its pharmacy permit (No. PHY
25 53274) pursuant to the Decision and Order in Case No. 6863.

26 ³ The average price paid by Premier at wholesale for 30 tablets of the HIV medications at issue is
27 as follows: \$1,659.51 for Truvada; \$2,983.7 for Biktarvy; \$1,727.07 for Descovy; \$2,986.99 for Genvoya;
\$2,729.32 for Complera; and \$2,646.94 for Odefsey.

28 ⁴ Gilead provides a list of all authorized distributors on its website in compliance with the Drug
Supply Chain Security Act.

1 (a)(2), in that Premier purchased and/or sold dangerous drugs that Premier and Respondent knew
2 or reasonably should have known were adulterated within the meaning of Health and Safety Code
3 section 111255. Complainant refers to, and by this reference incorporates, the allegations set
4 forth in paragraphs 26 through 33 above as though set forth fully herein.

5 **SECOND CAUSE FOR DISCIPLINE**

6 **(Hold/Offer to Sell Adulterated Drugs in Violation of Drug Laws)**

7 36. Respondent is subject to disciplinary action under Code section 4301, subdivision (j),
8 in conjunction with Code section 4113, subdivision (c), and Health and Safety Code section
9 111295 in that Premier held or offered for sale dangerous drugs that were adulterated within the
10 meaning of Health and Safety Code section 111255. Complainant refers to, and by this reference
11 incorporates, the allegations set forth in paragraphs 26 through 33 above as though set forth fully
12 herein.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Violation of Drug Supply Chain Security Act)**

15 37. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j)
16 and (o), in conjunction with Code section 4113, subdivision (c), and 21 U.S.C. sections 331,
17 subdivision (t) and 360eee-1, subdivisions (a), (d)(1)(A)(i) and (d)(4)(i), in that Premier failed to
18 engage in transactions with authorized trading partners, accepted ownership of drugs without
19 valid transaction information and transaction history (pedigrees) and failed to quarantine and
20 promptly investigate suspect product, within the meaning of section 360eee. Complainant refers
21 to, and by this reference incorporates, the allegations set forth in paragraphs 26 through 33 above
22 as though set forth fully herein.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **(Receipt of Dangerous Drugs by Non-Pharmacist)**

25 38. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
26 in conjunction with Code section 4113, subdivision (c), and Code section 4059.5 subdivision (a),
27 in that Premier routinely allowed non-pharmacists to sign for and/or receive dangerous drug

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1 shipments. Complainant refers to, and by this reference incorporates, the allegations set forth in
2 paragraph 34 above as though set forth fully herein.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Inappropriate Exercise of Education, Training or Experience)**

5 39. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
6 for violating Business and Professions Code section 4306.5, subdivision (a), in that Respondent
7 inappropriately exercised her education, training and/or experience as a pharmacist with respect
8 to Premier's receipt of dangerous drug deliveries, its purchase of expensive HIV drugs from Gulf
9 Coast and its subsequent dispensing of those HIV drugs to patients. Complainant refers to, and
10 by this reference incorporates, the allegations set forth in paragraphs 26 through 34 above as
11 though set forth fully herein.

12 **SIXTH CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct)**

14 40. Respondent is subject to disciplinary action under Code section 4301 for in that
15 Respondent engaged in unprofessional conduct as described in paragraphs 26 through 34, above.

16 **DISCIPLINE CONSIDERATIONS**

17 41. To determine the degree of discipline, if any, to be imposed on Respondent,
18 Complainant alleges that in the Decision and Order in Case No. 6863 (*Accusation Against Good*
19 *Health, Inc. dba Premier Pharmacy Services, et al.*), effective November 16, 2022, Respondent's
20 pharmacist license was placed on probation for a period of three years.

21 **OTHER MATTERS**

22 42. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
23 Number RPH 46795 issued to Respondent Myrna B. Cortez, Respondent shall be prohibited from
24 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
25 licensee for five years if Pharmacist License Number RPH 46795 is placed on probation or until
26 the Pharmacist License is reinstated if it is revoked.

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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 Pharmacist License Number RPH 46795, issued to Myrna B. Cortez;

2. Ordering Myrna B. Cortez 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;

3. Prohibiting Myrna B. Cortez from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 46795 is placed on probation or until the Pharmacist License is reinstated, if it is revoked; and

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

DATED: 8/22/2023

Sodergren,
Anne@DCA

 Digitally signed by Sodergren,
Anne@DCA
Date: 2023.08.22 19:37:38 -07'00'

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

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