

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

In the Matter of the First Amended Accusation Against:

**WALGREEN CO. dba,
WALGREENS #04724,
Pharmacy Permit No. PHY 53111;**

and

**WALGREENS.COM INC., dba,
WALGREENS #02445,
Nonresident Pharmacy Permit No. NRP 1949,**

Respondents.

Agency Case No. 7425

OAH No. 2024041091

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 January 8, 2025.

It is so ORDERED on December 9, 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 written in a cursive style with a large initial "S" and "O".

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 ASPASIA A. PAPAVALASSILOU
Deputy Attorney General
4 State Bar No. 196360
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 879-0818
Facsimile: (510) 622-2270
7 E-mail: Aspasia.Papavassiliou@doj.ca.gov
Attorneys for Complainant
8

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

13 In the Matter of the First Amended Accusation
14 Against:

15 **WALGREEN CO. DBA**
16 **WALGREENS #04724**
17 **3416 Deer Valley Rd.**
18 **Antioch, CA 94531**

19 **Pharmacy Permit Number PHY 53111**

20 **WALGREENS.COM INC. DBA**
21 **WALGREENS #02445**
22 **8337 S. Park Cir.**
23 **Orlando, FL 32819**

24 **Nonresident Pharmacy Permit Number**
25 **NRP 1949**

26 Respondents.

Case No. 7425

OAH No. 2024041091

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

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

PARTIES

1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
(Board). She brought this action solely in her official capacity and is represented in this matter by

1 Rob Bonta, Attorney General of the State of California, by Aspasia A. Papavassiliou, Deputy
2 Attorney General.

3 2. Respondent Walgreen Co. doing business as Walgreens #04724 (Respondent
4 Walgreens #04724) and Respondent Walgreens.Com Inc doing business as Walgreens #02445
5 (Respondent Walgreens #02445) are represented in this proceeding by attorney Sweta H. Patel,
6 whose address is: Potomac Law Group PLLC, 1255 Treat Boulevard, Suite 300, Walnut Creek,
7 CA 94597-7965.

8 3. On or about December 31, 2014, the Board of Pharmacy issued Pharmacy Permit
9 Number PHY 53111 to Respondent Walgreens #04724. The permit was in full force and effect at
10 all times relevant to the charges brought in this Accusation and will expire on December 1, 2024,
11 unless renewed.

12 4. On or about March 13, 2017, the Board of Pharmacy issued Nonresident Pharmacy
13 Permit Number NRP 1949 to Respondent Walgreens #02445. The license was in full force and
14 effect at all times relevant to the charges brought in this Accusation and will expire on March 1,
15 2025, unless renewed.

16 **JURISDICTION**

17 5. First Amended Accusation No. 7425 was filed before the Board, and is currently
18 pending against Respondents. The First Amended Accusation and all other statutorily required
19 documents were properly served on Respondents on September 11, 2023. Respondents had
20 previously timely filed a Notice of Defense contesting the original Accusation, thereby also
21 contesting the subsequently filed First Amended Accusation. A copy of First Amended
22 Accusation No. 7425 is attached as exhibit A and incorporated here by reference.

23 **ADVISEMENT AND WAIVERS**

24 6. Respondents have carefully read, fully discussed with counsel, and understand the
25 charges and allegations in First Amended Accusation No. 7425. Respondents have also carefully
26 read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and
27 Disciplinary Order.

28 7. Respondents are fully aware of their legal rights in this matter, including the right to a

1 hearing on the charges and allegations in the First Amended Accusation; the right to confront and
2 cross-examine the witnesses against them; the right to present evidence and to testify on their own
3 behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the
4 production of documents; the right to reconsideration and court review of an adverse decision;
5 and all other rights accorded by the California Administrative Procedure Act and other applicable
6 laws.

7 8. Respondents voluntarily, knowingly, and intelligently waive and give up each and
8 every right set forth above.

9 **CULPABILITY**

10 9. Respondents admit the truth of each and every charge and allegation in First
11 Amended Accusation No. 7425.

12 10. Respondents agree that their pharmacy permits are subject to discipline and they
13 agree to be bound by the terms as set forth in the applicable Disciplinary Order below.

14 **CONTINGENCY**

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

25 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
26 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
27 signatures thereto, shall have the same force and effect as the originals.

28 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an

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

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

9 **DISCIPLINARY ORDER REGARDING WALGREENS #04724**

10 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 53111 issued to Respondent
11 Walgreens #04724 (Respondent), is surrendered and accepted by the Board of Pharmacy.

12 **Definition: Respondent**

13 For the purposes of these terms and conditions, "Respondent" shall refer to Respondent
14 Walgreens #04724. All terms and conditions stated here shall bind and be applicable to the
15 licensed premises and to all owners, managers, officers, administrators, members, directors,
16 trustees, associates, or partners thereof. For purposes of compliance with any term or condition,
17 any report, submission, filing, payment, or appearance required to be made by respondent to or
18 before the board or its designee shall be made by an owner or executive officer with authority to
19 act on behalf of and legally bind the licensed entity.

20 1. The surrender of Respondent's pharmacy permit and the acceptance of the
21 surrendered permit by the Board shall constitute the imposition of discipline against Respondent.
22 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
23 permit history with the Board of Pharmacy.

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

26 3. Respondent shall cause to be delivered to the Board, on or before the effective date
27 of the Decision and Order, any pocket license and/or wall certificate that Respondent was issued.

28 4. If Respondent ever applies for licensure or petition for reinstatements in the State

1 of California, the Board shall treat the matter as a new application for licensure. Respondent
2 must comply with all the laws, regulations and procedures for licensure in effect at the time the
3 application or petition is filed, and all of the charges and allegations contained in First Amended
4 Accusation Case No. 7425 shall be deemed to be true, correct and admitted by Respondent when
5 the Board determines whether to grant or deny the application. Respondent shall satisfy all
6 requirements applicable to that license as of the date the application is submitted to the Board and
7 Respondent is required to report its surrenders as a disciplinary action.

8 5. If Respondent should ever apply or reapply for a new license or certification, or
9 petition for reinstatement of a license, by any other health care licensing agency in the State of
10 California, all of the charges and allegations contained in Accusation Case No. 7425 shall be
11 deemed to be true, correct, and admitted by Respondent for the purpose of any Statement of
12 Issues or any other proceeding seeking to deny or restrict licensure.

13 6. Respondent shall not automatically be prohibited from applying for licensure or
14 petitioning for reinstatement.

15 7. Respondent shall pay, jointly and severally with Respondent Walgreens #02445,
16 within one year from the effective date of the decision, \$15,000.00 to the Board for its costs
17 associated with the investigation and enforcement of this matter.

18 8. Respondent shall, by the effective date of this decision, arrange for the
19 continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written
20 notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that
21 identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating
22 as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five
23 days of its provision to the pharmacy's ongoing patients, Respondent shall provide a copy of the
24 written notice to the board. For the purposes of this provision, "ongoing patients" means those
25 patients for whom the pharmacy has on file a prescription with one or more refills outstanding, or
26 for whom the pharmacy has filled a prescription within the preceding sixty (60) days.

27 **DISCIPLINARY ORDER REGARDING WALGREENS #02445**

28 IT IS HEREBY ORDERED that Nonresident Pharmacy Permit No. 1949 issued to

1 Respondent Walgreens #02445 (Respondent) shall be publicly reproved by the Board of
2 Pharmacy under Business and Professions Code section 495, in resolution of First Amended
3 Accusation No. 7425, which is attached as exhibit A. This decision constitutes a record of
4 discipline and shall become a part of Respondent’s license history with the Board, and the public
5 reproof is issued and made contingent on compliance with the additional conditions listed below.

6 **Definition: Respondent**

7 For the purposes of these terms and conditions, “Respondent” shall refer to Walgreens
8 #02445. All terms and conditions stated here shall bind and be applicable to the licensed
9 premises and to all owners, managers, officers, administrators, members, directors, trustees,
10 associates, or partners thereof. For purposes of compliance with any term or condition, any
11 report, submission, filing, payment, or appearance required to be made by respondent to or before
12 the board or its designee shall be made by an owner or executive officer with authority to act on
13 behalf of and legally bind the licensed entity.

14 1. **Administrative Fine.** Respondent shall pay to the Board an administrative fine in
15 the amount of \$10,000.00 prior to renewal of its nonresident pharmacy permit.

16 2. **Cost Recovery.** Respondent shall pay, jointly and severally with Respondent
17 Walgreens #04724, \$15,000 to the Board for its costs associated with the investigation and
18 enforcement of this matter. Respondent shall be permitted to pay these costs in a payment plan
19 approved by the Board. If Respondent fails to pay the Board costs as ordered, Respondent shall
20 not be allowed to renew its nonresident pharmacy permit until Respondent pays costs in full.

21 3. **Full Compliance.** As a resolution of the charges in First Amended Accusation
22 No. 7425 this stipulated settlement is contingent upon Respondent’s full compliance with all
23 conditions of this Order. If Respondent fails to satisfy any of these conditions, such failure to
24 comply constitutes cause for discipline, including outright revocation, of Respondent’s
25 Nonresident Pharmacy Permit Number NRP 1949.

26 **ACCEPTANCE**

27 On behalf of Respondents Walgreens #04724 and Walgreens #02445, I have carefully read
28 the above Stipulated Settlement and Disciplinary Order and have fully discussed it with

1 Respondents' attorney, Sweta H. Patel. I understand the stipulation and the effect they will have
2 on Respondents' pharmacy and nonresident pharmacy permits. I am authorized to sign for and
3 bind Respondents Walgreens #04724 and Walgreens #02445. They enter into this Stipulated
4 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
5 bound by the Decision and Order of the Board of Pharmacy.

6
7 DATED: _____

8 John Colaizzi, Vice President,
9 Pharmacy Practice, Walgreen Co., for
10 WALGREENS #04724 and WALGREENS #02445
11 *Respondents*

12 I have read and fully discussed with Respondents Walgreens #04724 and Walgreens
13 #02445 the terms and conditions and other matters contained in the above Stipulated Settlement
14 and Disciplinary Order. I approve its form and content.

15 DATED: _____

16 SWETA H. PATEL
17 *Attorney for Respondent*

18 **ENDORSEMENT**

19 The foregoing Stipulated Settlement and Disciplinary Orders are hereby respectfully
20 submitted for consideration by the Board of Pharmacy.

21 DATED: _____

22 Respectfully submitted,

23 ROB BONTA
24 Attorney General of California
25 DIANN SOKOLOFF
26 Supervising Deputy Attorney General

27 ASPASIA A. PAPAVASSILIOU
28 Deputy Attorney General
Attorneys for Complainant

OK2022900394

1 Respondents' attorney, Sweta H. Patel. I understand the stipulation and the effect they will have
2 on Respondents' pharmacy and nonresident pharmacy permits. I am authorized to sign for and
3 bind Respondents Walgreens #04724 and Walgreens #02445. They enter into this Stipulated
4 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be
5 bound by the Decision and Order of the Board of Pharmacy.

6
7 DATED: 9/24/2024



8 John Colaizzi, Vice President,
9 Pharmacy Practice, Walgreen Co., for
10 WALGREENS #04724 and WALGREENS #02445
11 Respondents

12 I have read and fully discussed with Respondents Walgreens #04724 and Walgreens
13 #02445 the terms and conditions and other matters contained in the above Stipulated Settlement
14 and Disciplinary Order. I approve its form and content.

15 DATED: 9/24/24



16 SWETA H. PATEL
17 Attorney for Respondent

18 **ENDORSEMENT**

19 The foregoing Stipulated Settlement and Disciplinary Orders are hereby respectfully
20 submitted for consideration by the Board of Pharmacy.

21 DATED: September 25, 2024

22 Respectfully submitted,

23 ROB BONTA
24 Attorney General of California
25 DIANN SOKOLOFF
26 Supervising Deputy Attorney General



27 ASPASIA A. PAPAVALASSILIOU
28 Deputy Attorney General
Attorneys for Complainant

OK2022900394

Exhibit A

First Amended Accusation No. 7425

1 ROB BONTA
Attorney General of California
2 DIANN SOKOLOFF
Supervising Deputy Attorney General
3 ASPASIA A. PAPAVALASSILOU
Deputy Attorney General
4 State Bar No. 196360
1515 Clay Street, 20th Floor
5 P.O. Box 70550
Oakland, CA 94612-0550
6 Telephone: (510) 879-0818
Facsimile: (510) 622-2270
7 *Attorneys for Complainant*

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

12 In the Matter of the First Amended Accusation
13 Against:

Case No. 7425

14 **WALGREEN CO. DBA**
WALGREENS #04724
15 **3416 Deer Valley Rd.**
Antioch, CA 94531

FIRST AMENDED
ACCUSATION

16 **Pharmacy Permit Number PHY 53111**

17 **WALGREENS.COM INC. DBA**
18 **WALGREENS #02445**
8337 S. Park Cir.
19 **Orlando, FL 32819**

20 **Nonresident Pharmacy Permit Number**
NRP 1949

21 Respondents.
22

23
24 **PARTIES**

25 1. Anne Sodergren (Complainant) brings this First Amended Accusation solely in her
26 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
27 Affairs.
28

1 placement of a license on a retired status, or the voluntary surrender of a license by a
2 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.

3 7. Section 4307 of the Code states:

4 (a) Any person who has been denied a license or whose license has been
5 revoked or is under suspension, or who has failed to renew his or her license while it
6 was under suspension, or who has been a manager, administrator, owner, member,
7 officer, director, associate, partner, or any other person with management or control
8 of any partnership, corporation, trust, firm, or association whose application for a
9 license has been denied or revoked, is under suspension or has been placed on
10 probation, and while acting as the manager, administrator, owner, member, officer,
11 director, associate, partner, or any other person with management or control had
12 knowledge of or knowingly participated in any conduct for which the license was
13 denied, revoked, suspended, or placed on probation, shall be prohibited from serving
14 as a manager, administrator, owner, member, officer, director, associate, partner, or in
15 any other position with management or control of a licensee as follows:

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

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

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

25 (c) The provisions of subdivision (a) may be alleged in any pleading filed
26 pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of
27 the Government Code. However, no order may be issued in that case except as to a
28 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.

STATUTORY PROVISIONS

8. Section 4073 of the Code, states, in pertinent part:

(a) A pharmacist filling a prescription order for a drug product prescribed by its
trade or brand name may select another drug product with the same active chemical
ingredients of the same strength, quantity, and dosage form, and of the same generic
drug name as determined by the United States Adopted Names (USAN) and accepted
by the federal Food and Drug Administration (FDA), of those drug products having
the same active chemical ingredients.

1 9. Section 4301 of the Code states, in pertinent part:

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

5 ...

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

8 ...

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

14 REGULATORY PROVISIONS

15 10. California Code of Regulations, title 16, section 1714, subdivision (b) states:

16 Each pharmacy licensed by the board shall maintain its facilities, space,
17 fixtures, and equipment so that drugs are safely and properly prepared, maintained,
18 secured and distributed. The pharmacy shall be of sufficient size and unobstructed
19 area to accommodate the safe practice of pharmacy.

20 11. California Code of Regulations, title 16, section 1715.6 states, in pertinent part:

21 (a) The owner shall submit to the Board a report containing the information in
22 subdivision (b) no later than thirty (30) days after the date of discovery of the
23 following:

24 (1) Any loss of a controlled substance in one of the following categories that
25 causes the aggregate amount of unreported losses discovered in that category, on or
26 after the same day of the previous year, to equal or exceed:

27 (A) For tablets, capsules, or other oral medication, 99 dosage units.

28 (B) For single-dose injectable medications, lozenges, film, such as oral, buccal
and sublingual, suppositories, or patches, 10 dosage units.

(C) For injectable multi-dose medications, medications administered by
continuous infusion, or any other multi-dose unit not described in subparagraph (A),
two or more multi-dose vials, infusion bags, or other containers.

12. California Code of Regulations, title 16, section 1715.65 states, in pertinent part:

(a) Every pharmacy, and every clinic licensed under sections 4180 or 4190 of
the Business and Professions Code, shall perform periodic inventory activities and
prepare inventory reconciliation reports to detect and prevent the loss of federal
controlled substances. Except as provided in subdivisions (f) and (g), inventory
reconciliation reports shall be prepared on the following ongoing basis:

1 (1) For federal Schedule II controlled substances, at least once every three
2 months.

3 (2) For products containing the following substances in the following strengths
4 per tablet, capsule, other unit, or specified volume, at least once every 12 months:

5 (A) Alprazolam, 1 milligram/unit.

6 (B) Alprazolam, 2 milligrams/unit.

7 (C) Tramadol, 50 milligrams/unit.

8 (D) Promethazine/codeine, 6.25 milligrams of promethazine and 10 milligrams
9 of codeine per 5 milliliters of product.

10 13. California Code of Regulations, title 16, section 1716, states:

11 Pharmacists shall not deviate from the requirements of a prescription except
12 upon the prior consent of the prescriber or to select the drug product in accordance
13 with Section 4073 of the Business and Professions Code.

14 Nothing in this regulation is intended to prohibit a pharmacist from exercising
15 commonly-accepted pharmaceutical practice in the compounding or dispensing of a
16 prescription.

17 **COST RECOVERY**

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

22 **FACTUAL BACKGROUND**

23 Investigation No. CI 2021 95667

24 15. On or about July 21, 2022, an investigative inspection of Respondent PHY found that
25 Respondent PHY misfilled a prescription (dispensing dextroamphetamine instead of
26 dexmethylphenidate) and that the reviewing pharmacy, Respondent NRP, failed to catch the error.

27 Investigation No. CI 2022 98722

28 16. On or about July 17, 2023, an investigative inspection of Respondent PHY found that
Respondent PHY had sustained large losses of controlled substances, and had also failed to timely
report those losses to the Board.

DRUGS

1 17. Dextroamphetamine, also known by the brand name Dexedrine, is indicated for use in
2 treating Attention Deficit Hyperactivity Disorder (ADHD). It is a dangerous drug under Business
3 and Professions Code section 4022 and a Schedule II Controlled Substance under Health and
4 Safety Code section 11055, subdivision (d)(1).

5 18. Dexmethylphenidate, also known by the brand name Focalin, is indicated for use in
6 treating ADHD. It is a dangerous drug under Business and Professions Code section 4022 and a
7 Schedule II Controlled Substance under Health and Safety Code section 11055, subdivision
8 (d)(6).

9 19. Promethazine with codeine, also known by the brand name Phenergan with Codeine,
10 is a cough medication that is a dangerous drug under Code section 4022 and a Schedule V
11 controlled substance under Health and Safety Code section 11058, subdivision (c)(1).

12 20. Pregabalin, also known by the brand name Lyrica, is a pain relief medication that is a
13 dangerous drug under Code section 4022 and a schedule V controlled substance under 21 C.F.R.
14 §, 1308.15, subdivision (e)(6).

15 21. Acetaminophen with codeine, also known by the brand name Tylenol with Codeine,
16 is a pain relief medication that is a dangerous drug under Code section 4022 and a Schedule III
17 controlled substance under Health and Safety Code section 11056, subdivision (e)(2).

18 22. Tramadol, also known by the brand name Ultram, is a pain relief medication that is a
19 dangerous drug under Code section 4022, and a Schedule IV controlled substance under 21
20 C.F.R. § Title 21, 1308.14, subdivision (b)(3).

21 23. Guaifenesin with codeine, also known by the brand name Robitussin AC is a cough
22 medication that is a dangerous drug under Code section 4022 and a Schedule III controlled
23 substance under Health and Safety Code section 11056, subdivision (e)(2).

24 **CAUSE FOR DISCIPLINE**

25 **AS TO RESPONDENT PHY AND RESPONDENT NRP**

26 **FIRST CAUSE FOR DISCIPLINE**

27 (Variation from a Prescription)

28 24. Respondent PHY has subjected its pharmacy permit to discipline, and Respondent

1 NRP has subjected its nonresident pharmacy permit to discipline, in that Respondents committed
2 unprofessional conduct by deviating from the requirements of a prescription, in violation of Code
3 section 4301, subdivisions (j) and/or (o), and California Code of Regulations, title 16, section
4 1716. On or about March 30, 2022, Respondent PHY staff, when filling ADHD medication for a
5 teen-aged patient, typed dextroamphetamine instead of dexmethylphenidate, and the remote out-
6 of-state pharmacist working for Respondent NRP and tasked with verifying the prescription failed
7 to catch the error. The wrong medication was subsequently dispensed to the patient on or about
8 April 3, 2022. In a complaint to the Board filed on May 6, 2022, the patient's father stated that as
9 a result of the misfill, the boy took the wrong medication for about thirty days and suffered
10 adverse effects such as irritability and loss of appetite.

11 **CAUSES FOR DISCIPLINE**

12 **AS TO RESPONDENT PHY ONLY**

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Failure to Maintain Operational Standards and Security)

15 25. Respondent PHY has subjected its pharmacy permit to discipline in that it committed
16 unprofessional conduct by failing to maintain operational standards and security, in violation of
17 Code section 4301, subdivisions (j) and/or (o), and California Code of Regulations, title 16,
18 section 1714, subdivision (b). Respondent PHY lost a total of 23,461 units of controlled
19 substances between June 10, 2021, and December 9, 2022. Lost controlled substances included,
20 but were not limited to, promethazine with codeine, pregabalin, acetaminophen with codeine,
21 tramadol, and guaifenesin with codeine.

22 **THIRD CAUSE FOR DISCIPLINE**

23 (Failure to Timely Report Drug Loss)

24 26. Respondent PHY has subjected its pharmacy permit to discipline in that it committed
25 unprofessional conduct by failing to report drug losses within 30 days of discovery, in violation
26 of Code section 4301, subdivisions (j) and/or (o), and California Code of Regulations, title 16,
27 section 1715.6, subdivision (a)(1). On November 2, 2022, Respondent PHY discovered a loss of
28 10,887 units of controlled substances for the period of June 10, 2022, to September 9, 2022, and

1 were required to report a loss of 10,103 units, but failed to report the loss to the Board until
2 December 14, 2022. In addition, on November 18, 2022, Respondent PHY discovered a loss of
3 11,796 units of controlled substances for the period of June 10, 2021 to June 9, 2022, and were
4 required to report a loss of 10,201 units, but failed to report the loss to the Board until January
5 18, 2023.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 (Failure to Compile Inventory Reconciliation Reports regarding Controlled Substance)

8 27. Respondent PHY has subjected its pharmacy permit to discipline in that it committed
9 unprofessional conduct by failing to compile inventory reconciliation reports to prevent the loss
10 of controlled substances, in violation of Code section 4301, subdivisions (j) and/or (o), and
11 California Code of Regulations, title 16, section 1715.65, subdivision (a)(1)(2). Respondent PHY
12 failed to compile inventory reconciliation reports from on or about June 10, 2021 to on or about
13 September 9, 2022. During this period, the pharmacy lost 22,683 units of controlled substances.

14 **DISCIPLINARY CONSIDERATIONS**

15 28. Complainant further alleges that Respondents were subject to prior Board actions, as
16 described below. Each action is final and incorporated by reference as if fully set forth.

17 **Respondent PHY**

18 29. On or about May 11, 2023, the Board issued Citation Number CI 2022 97354 to
19 Respondent PHY for failing to notify the Board in writing within 30 days of the date of a change
20 of a pharmacist-in-charge or to identify an interim pharmacist-in-charge, in violation of Code
21 section 4113, subdivisions (d) and (e), in that after a prior pharmacist-in-charge disassociated
22 effective December 24, 2021, a new pharmacist-in-charge did not associate until October 20,
23 2022, and Respondent PHY failed to notify the Board until November 1, 2022. The citation is
24 final and incorporated by reference as if fully set forth.

25 30. On or about May 6, 2022, the Board issued Citation Number CI 2021 93783 to
26 Respondent PHY for obstructing a patient in obtaining a prescription (Jardiance, a diabetes
27 medication), in violation of Code section 733, subd. (a), and attempting to subvert a Board
28

1 investigation, in violation of Code section 4301, subd. (q). The citation is final and incorporated
2 by reference as if fully set forth.

3 Respondent NRP

4 31. On or about January 13, 2023, the Board issued Citation Number CI 2022 98669 to
5 Respondent NRP for failure to maintain medication profiles (patient medication records), in
6 violation of California Code of Regulations, title 16, section 1707.1, subdivision (a)(1)(B)(2),
7 when Respondent verified two Schedule II controlled substance prescriptions under the incorrect
8 DEA registration numbers for the prescribers. The citation is final and incorporated by reference
9 as if fully set forth.

10 32. Effective July 28, 2021, the Board issued a Decision and Order publicly reprovng
11 Respondent NRP in resolution of Accusation Number 6906. The Accusation alleged that
12 Respondent engaged in clearly excessive furnishing of controlled substances, in violation of
13 Health and Safety Code section 11153, and dispensing erroneous or uncertain prescriptions, in
14 violation of California Code of Regulations, title 16, section 1761. Respondent NRP allegedly
15 failed to exercise corresponding responsibility and contributed to the improper dispensing of
16 controlled substances when it verified controlled substance prescriptions without access to the
17 Controlled Substance Utilization Review and Evaluation System (CURES).

18 33. On or about December 15, 2021, the Board issued Citation Number CI 2021 93801 to
19 Respondent NRP for failing to exercise corresponding responsibility to ensure the legitimacy of
20 the prescription, in violation of Health and Safety Code section 11153, subd. (a), and for
21 furnishing a dangerous drug without a valid prescription in violation of Code section 4059, subd.
22 (a). Respondent verified a prescription for hydrocodone/acetaminophen 10/325 tablets when the
23 prescribing doctor was prohibited from practicing medicine pending resolution of a criminal case
24 against him.

25 34. On or about August 6, 2021, the Board issued Citation Number CI 2020 89310 to
26 Respondent NRP for variation from a prescription in violation of California Code of Regulations,
27 title 16, section 1716, when it verified fluocinonide prescription instructions erroneously calling
28 for the medication to be taken orally instead of being applied topically.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this First Amended Accusation, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Permit Number PHY 53111, issued to Walgreen Co. doing business as Walgreens #04724;

2. Revoking or suspending Nonresident Pharmacy Permit Number NRP 1949, issued to Walgreens.Com Inc. doing business as Walgreens #02445;

3. Prohibiting Walgreen Co. doing business as Walgreens #04724 from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 53111 is placed on probation, or until reinstatement if Pharmacy Permit Number PHY 53111 is revoked;

4. Prohibiting Walgreens.Com Inc. doing business as Walgreens #02445 from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Nonresident Pharmacy Permit Number NRP 1949 is placed on probation, or until reinstatement if Nonresident Pharmacy Permit Number NRP 1949 is revoked;

5. Ordering Walgreen Co. doing business as Walgreens #04724 and Walgreens.Com Inc. doing business as Walgreens #02445 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,

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

DATED: 12/13/2023

Sodergren,
Anne@DCA

Digitally signed by
Sodergren, Anne@DCA
Date: 2023.12.13 19:34:13
-08'00'

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

OK2022900394