

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

**In the Matter of the Accusation and Petition to Revoke  
Probation Against:**

**PAMELA GUMBS,**

**Pharmacist License No. RPH 29485**

**Respondent.**

**Agency Case No. 7545**

**OAH No. 2023100593**

**PROPOSED DECISION**

Administrative Law Judge Holly M. Baldwin, State of California, Office of Administrative Hearings, heard this matter on March 28, 2024, by videoconference.

Deputy Attorney General Julianne Mossler represented complainant Anne Sodergren, Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

Respondent Pamela Gumbs represented herself.

The matter was submitted for decision on March 28, 2024.

## **FACTUAL FINDINGS**

### **Procedural History and Probation Conditions**

1. On May 27, 1975, the Board of Pharmacy (Board) issued Pharmacist License Number RPH 29485 to respondent Pamela Gumbs. Respondent's license is scheduled to expire on April 30, 2024, unless renewed. On October 5, 2007, the Board issued Original Permit Number PHY 48413 to United Pharmacy with Gumbs, its owner, serving as pharmacist-in-charge (PIC).

2. On August 23, 2021, an accusation was filed against United Pharmacy and respondent in Case Number 6318, alleging 12 causes for license discipline stemming from conduct in 2014 to 2019.

3. Respondent signed a stipulated settlement on June 20, 2022, in which respondent admitted the truth of all allegations and charges in the accusation and agreed to be placed on probation. The Board issued a decision and order effective September 28, 2022, in which respondent's license was revoked, the revocation was stayed, and respondent was placed on probation for a period of five years. Her conditions of probation include, among others, the following requirements:

- Obey all state and federal laws and regulations (Condition 1);
- Make written quarterly reports to the Board regarding probation compliance (Condition 2);
- Respondent shall not supervise any intern pharmacist; be the PIC, designated representative-in-charge, responsible manager, or other

compliance supervisor of any entity licensed by the Board; or serve as a consultant (Condition 8);

- Practice as a pharmacist in California for a minimum of 50 hours per month, and notify the Board within 10 days after the end of each month if that minimum was not met, with failure to maintain the minimum practice hours in any month extending the probation period by one month (Condition 13);
- Enroll in an ethics course, approved in advance by the Board, within 60 days after the effective date of the decision, initiate the course during the first year of probation, and complete the course by the end of the second year of probation (Condition 17);
- Submit to the Board for approval the name of a pharmacist to serve as respondent's practice supervisor, within 30 days after the effective date of the decision, including the proposed practice supervisor's acknowledgment of reviewing the decision and terms of probation, and practice only under the required level of supervision by the Board-approved practice supervisor (Condition 18); and
- While on probation, respondent shall not own or manage any premises licensed by the Board; shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within 90 days after the effective date of the decision; and shall immediately thereafter provide written proof to the Board of that sale or transfer (Condition 19).

Condition 14 provides that if respondent violates any term or condition of probation, the Board may, after giving respondent notice and an opportunity to be heard, revoke probation and impose the stayed discipline.

4. As part of the resolution of the accusation, respondent also agreed to a stipulated surrender of United Pharmacy's license, signing a stipulated surrender as the pharmacy's owner on June 20, 2022. The Board issued a decision and order effective September 28, 2022, accepting the surrender of United Pharmacy's license, but staying the surrender for a period of 90 days from the effective date of the decision, at which time the pharmacy must be sold or closed. Upon signature of the stipulated settlement, United Pharmacy was required to designate a new proposed PIC, who was to be approved by the Board prior to the effective date of the decision.

5. On August 8, 2023, complainant Anne Sodergren issued an accusation and petition to revoke respondent's probation in her official capacity as the Board's Executive Officer, alleging that respondent was subject to license discipline for unlicensed practice and failing to comply with probation in multiple respects.

6. Respondent filed a notice of defense, and this hearing followed.

## **Violations of Probation Conditions and Unlicensed Practice**

7. Hilda Nip, Pharm.D., is respondent's probation monitor. Nip prepared an investigation report and testified credibly at hearing. Nip has worked as an inspector for the Board since 2008 and previously worked as a pharmacist from 1997 to 2008.

8. On September 20, 2022, Nip conducted a telephone conference with respondent to review and explain the terms and conditions of respondent's probation, prior to the effective date of September 28, 2022. During the telephone conference with Nip, respondent stated that she was in the process of selling United Pharmacy and believed the sale could be completed by the deadline of December 27, 2022. Nip instructed respondent to provide written proof of the sale to the Board, as required by probation Condition 19. Respondent signed a declaration on September 20, 2022, to

acknowledge that she understood her probation conditions. Nip also emailed respondent a summary of the probation conditions on September 20, 2022, including reminders about upcoming deadlines.

9. Respondent did not designate a new proposed PIC for United Pharmacy upon signing the stipulated surrender on June 20, 2022. Nor did respondent submit an application for a change of PIC to the Board prior to September 28, 2022, the effective date of the decisions accepting United Pharmacy's stipulated surrender and placing respondent on probation. On October 4, 2022, the Board confirmed that respondent had not yet disassociated as the PIC for United Pharmacy or submitted the PIC change application. A Board probation analyst emailed respondent a reminder to do so, with a new compliance deadline of October 12, 2022.

10. Respondent submitted a PIC change application on October 12, 2022, proposing pharmacist Steven V. Bacon, her employee, as the PIC for United Pharmacy. However, this application was never approved, and it was subsequently withdrawn by respondent (see Factual Finding 24).

11. Nip conducted an inspection at United Pharmacy on October 21, 2022. During that inspection, respondent told Nip that Bacon had agreed to serve as her practice supervisor pursuant to probation Condition 18. Respondent stated she had already submitted the paperwork to the Board seeking approval of Bacon as her practice supervisor. However, that was not true. After the inspection, Nip confirmed that respondent had neither submitted Bacon's name to the Board for approval, nor caused Bacon to provide an acknowledgment in writing of reading the decision and probation conditions, including the level of supervision required by the Board. Respondent eventually provided the Board with Bacon's signed acknowledgment on

November 16, 2022, beyond the 30-day deadline from the effective date of the decision.

12. During the inspection on October 21, 2022, Nip also discussed with respondent her requirement to enroll in an approved ethics course by November 27, 2022. Respondent stated she planned to enroll by the end of October. She did not. About a year after respondent's probation period had begun, in October 2023, she provided proof of having enrolled in the ethics course. The course includes two days of class, which respondent completed in January 2023, and six-month and 12-month follow-up components, which are still in progress.

13. During the inspection on October 21, 2022, Nip discussed with respondent her plans for the sale of United Pharmacy. Respondent stated she was in the process of selling the pharmacy with the help of a broker, and believed the sale would be complete by December 27, 2022.

14. The license for United Pharmacy was canceled on December 27, 2022, pursuant to the stipulated surrender described in Factual Finding 4. After that date, United Pharmacy no longer had the right to operate as a pharmacy.

15. United Pharmacy was not sold or closed prior to December 27, 2022.

16. On January 16, 2023, respondent forwarded Nip an email from her attorney, instructing respondent to present the proposed buyer for the pharmacy to the Board as soon as possible, along with an executed purchase agreement and at least a partially completed application for change in ownership. Respondent told Nip that pharmacy technician Gabriel Arcos wished to buy the pharmacy.

17. On January 18, 2023, respondent emailed Nip a copy of an application for a community pharmacy license and change in ownership of United Pharmacy. The application listed Arcos as the proposed new owner, stated Arcos would pay \$750 per week from the business profits, and listed Bacon as the proposed PIC. However, the application was incomplete. The Board communicated with Arcos about completing the application but he did not do so within 60 days, and the application eventually was deemed abandoned and withdrawn.

18. On February 10, 2023, respondent sent an email to the Board's enforcement unit, asking for an extension of time to sell United Pharmacy. Board staff replied and informed respondent that the Board no longer had jurisdiction to further extend the stay of the stipulated surrender, due to the cancellation of United Pharmacy's license on December 27, 2022.

19. On February 15, 2023, Nip called United Pharmacy and spoke by telephone with technician Arcos and pharmacist Bacon, who told her that the pharmacy was open for business and that they were unaware that United Pharmacy's license had been canceled.

20. Nip conducted an inspection at United Pharmacy on February 16, 2023. During the inspection, Nip met with respondent, Arcos, and another pharmacist, who were all working at the pharmacy that day. Nip informed respondent that the license for United Pharmacy had been canceled on December 27, 2022, and that she must immediately cease operating the premises without an active license. Nip showed respondent where on the Board's website to locate the form that she must complete and submit regarding discontinuance of the facility. Nip also issued a written notice to respondent and United Pharmacy on February 16, 2023, stating that United Pharmacy must immediately cease operations.

21. Nip obtained a copy of United Pharmacy's prescription log from December 27, 2022, through February 16, 2023. The log showed that United Pharmacy had dispensed 1,771 prescriptions while its license was canceled and not active.

22. During the inspection on February 16, 2023, Nip also instructed respondent to conduct an inventory of the dangerous drugs, dangerous devices, and controlled substances at United Pharmacy; provide the inventory to the Board; and provide the name of the licensed facility to which the drugs and pharmacy records would be transferred. Nip also sent an email to respondent regarding this request; respondent did not respond.

23. On February 23, 2023, Nip went to United Pharmacy to confirm the pharmacy was closed. She observed that the pharmacy was closed and a notice was posted on the door, stating the pharmacy was temporarily closed due to a change of ownership "until all proper permits are in place."

24. On February 23, 2023, respondent sent an email to the Board and Nip, requesting that the PIC change application she previously submitted be disregarded, because she had forgotten to provide a written signature and notarization, and to pay the required fee. Respondent stated a completed application would be forthcoming.

25. Respondent emailed Nip on February 27, 2023, asking what the deadline was to transfer the pharmacy's drug inventory and records. Nip replied on February 28, 2023, and told respondent that this transfer should have been completed by the effective surrender date of the pharmacy license. Nip informed respondent that the transfer should be done immediately because the pharmacy no longer had an active license that allowed for storage of dangerous drugs/devices and records. Respondent did not immediately comply.



26. On March 16, 2023, the Board sent respondent a letter regarding her non-compliance with Condition 2 of her probation, which required her to submit a quarterly report by January 10, 2023, and Condition 17, which required her to enroll in an ethics course within the first 60 days of her probation period.

27. On March 17, 2023, respondent emailed Nip, stating that she would be transferring her inventory to Haller's Pharmacy in Fremont. Nip replied on March 20, 2023, provided a link to the Board's website and the discontinuance of business forms, and directed respondent to follow the instructions on the forms. Nip followed up again on March 22, 2023, directing respondent to complete the forms and send them to the Board.

28. Respondent sent Nip a spreadsheet by email on March 20, 2023, with the subject line "inventory," stating that she would send these items to Haller's Pharmacy. However, the inventory spreadsheet was titled "2021 inventory 02-05-2021." Nip asked respondent for confirmation that this was an accurate inventory as of February 16, 2023, and respondent stated it was.

29. On March 29, 2023, Nip emailed respondent, asking if she was currently employed as a pharmacist in California for at least 50 hours per month, as required by Condition 13 of respondent's probation. Respondent stated that she had been completing her continuing education classes that month and was awaiting the pharmacy's reopening to resume work. Nip reminded respondent about her responsibility to provide quarterly reports to the Board.

30. On April 1, 2023, respondent sent the Board the discontinuance of business form for United Pharmacy, stating that the inventory would be transferred to

Haller's Pharmacy. However, the form was incomplete because it did not specify where the records of acquisition and disposition of dangerous drugs would be maintained.

31. On April 18, 2023, Nip called the PIC at Haller's Pharmacy, who stated that respondent had not yet transferred any inventory or records to the facility. Nip then emailed respondent and directed her to immediately complete the transfer of inventory and records to Haller's Pharmacy, and to complete the missing portion of the discontinuance of business form.

32. The record at hearing did not establish when respondent completed the transfer of United Pharmacy's inventory and records.

33. As of the date of hearing, Nip was not aware whether respondent had ever sold or transferred her interest in United Pharmacy.

34. Respondent did not file the quarterly reports that were due on January 10, 2023, and April 10, 2023. As of the date of hearing, respondent had not submitted any of her required quarterly written reports to the Board.

## **Respondent's Evidence**

35. Respondent admitted that she never received approval from the Board for Bacon to be the PIC for United Pharmacy, or for Bacon to serve as her practice supervisor. She thought the Board's approval would happen right away and would be "almost automatic." Respondent stated that Bacon was acting as the PIC for United Pharmacy as of January 2023, respondent was working 20 hours per week in the pharmacy, and Bacon was supervising her for 10 of those hours.

36. Respondent also thought the Board would approve Arcos to take over ownership of the pharmacy. Respondent stated that Arcos sent in a new application for a premises license but never heard back from the Board.

37. Respondent kept operating United Pharmacy after its license was canceled, because she thought the approval would come through and she did not want to lose the lease on the premises.

38. When Nip told respondent in February 2023 to cease operation of the pharmacy, respondent did so.

39. Respondent had to continue paying rent on the premises occupied by United Pharmacy, and the landlord raised the rent, which was a financial hardship.

40. Respondent stated the delay in transferring the inventory and records from United Pharmacy was due to difficulty finding another pharmacy to accept the inventory.

41. Respondent was experiencing financial hardship when her probation period began. Her husband died in January 2022 after 50 years of marriage, and respondent had incurred large medical bills for his care in his final illness.

42. Respondent reports that her delay in signing up for the ethics course was due to lack of funds for the \$2,400 course.

43. Respondent had been working 50 hours a month as a pharmacist at United Pharmacy before its closure in February 2023. Respondent has not worked as a pharmacist since the closure of United Pharmacy. Respondent stated that she asked the Board whether she could work as a remote pharmacist from home, but that she did not receive a response.

44. Respondent has been a pharmacist for more than 40 years, and stated that she has done a lot of good in the community. Respondent believes she should be given a chance to prove her worth and that her license should not be revoked.

## **Costs**

45. The Board seeks to recover a total of \$11,447.75 for the costs of investigation and enforcement of this action. The claimed costs include \$7,182.50 for attorney and paralegal time billed to the Board by the Department of Justice; and \$4,265.25 for time spent by the Board's inspector. These costs are supported by declarations that comply with California Code of Regulations, title 1, section 1042, and are found to be reasonable.

## **LEGAL CONCLUSIONS**

1. In a proceeding seeking to revoke or suspend a pharmacist's license, the burden of proof is on complainant to establish cause for discipline, by clear and convincing evidence. (*Sternberg v. California State Board of Pharmacy* (2015) 239 Cal.App.4th 1159, 1171.) Complainant is required to prove the allegations in a petition to revoke probation by a preponderance of the evidence. (*Sandarg v. Dental Board of California* (2010) 184 Cal.App.4th 1434, 1441.) The burden of establishing mitigation or rehabilitation is on respondent, by a preponderance of the evidence. (*Whetstone v. Board of Dental Examiners* (1927) 87 Cal.App. 156, 164; Evid. Code, §§ 115, 500.)

### **First Cause for Discipline (Unlicensed Activity)**

2. The Board may discipline a pharmacist's license for unprofessional conduct, including violating any provision of the laws and regulations governing the

practice of pharmacy. (Bus. & Prof. Code, § 4301, subd. (o).) No person shall operate a pharmacy in California without a license from the Board. (Bus. & Prof. Code, § 4110, subd. (a).) Respondent engaged in unlicensed practice by operating United Pharmacy after its license had been canceled. (Factual Findings 14-15, 19-21.) Cause for discipline was established under Business and Professions Code sections 4301, subdivision (o), and 4110, subdivision (a).

### **Second Cause for Discipline (Failure to Comply with Probation)**

3. Any pharmacist who is serving a period of probation shall obey all laws and regulations substantially related to the practice of pharmacy, and shall make quarterly reports to the Board as directed. (Cal. Code Regs., tit. 16, § 1773, subd. (a)(1)-(2).) Respondent failed to comply with multiple probation conditions, including the requirement to make quarterly reports. (Factual Findings 9-34.) Cause for discipline was established under Business and Professions Code sections 4301, subdivision (o), and California Code of Regulations, title 16, section 1773, subdivision (a)(1) and (2).

### **First Cause to Revoke Probation (Obey All Laws)**

4. Respondent violated Condition 1 of her probation by failing to obey all laws and regulations governing the practice of pharmacy, and operating United Pharmacy after its license was canceled. (Factual Findings 3, 14-15, 19-21.) Cause exists to revoke respondent's probation and impose the stayed discipline of license revocation.

## **Second Cause to Revoke Probation (Report to the Board)**

5. Respondent violated Condition 2 of her probation by failing to provide written quarterly reports to the Board. (Factual Findings 3, 34.) Cause exists to revoke respondent's probation and impose the stayed discipline of license revocation.

## **Third Cause to Revoke Probation (Restrictions on Supervision and Oversight of Licensed Facilities)**

6. Respondent violated Condition 8 of her probation by continuing to act as PIC for United Pharmacy after the effective date of her probation. (Factual Findings 3-4, 9-10, 17, 24.) Cause exists to revoke respondent's probation and impose the stayed discipline of license revocation.

## **Fourth Cause to Revoke Probation (Practice Requirement)**

7. Respondent violated Condition 13 of her probation by not practicing as a pharmacist in California for a minimum of 50 hours per month after the closure of United Pharmacy, and failing to timely notify the Board of her failure to meet the minimum practice requirement. (Factual Findings 3, 29, 43.) Cause exists to revoke respondent's probation and impose the stayed discipline of license revocation.

## **Fifth Cause to Revoke Probation (Ethics Course)**

8. Respondent violated Condition 17 of her probation by not enrolling in an approved ethics course within 60 days of the effective date of her probation, and not beginning the course within the first year of probation. (Factual Findings 3, 12.) Cause exists to revoke respondent's probation and impose the stayed discipline of license revocation.

## **Sixth Cause to Revoke Probation (Supervised Practice)**

9. Respondent violated Condition 18 of her probation, by not timely causing her proposed practice supervisor to submit a written report to the Board acknowledging having read the decision and being familiar with the terms and conditions of respondent's probation. (Factual Findings 3, 11.) Cause exists to revoke respondent's probation and impose the stayed discipline of license revocation.

## **Seventh Cause to Revoke Probation (No Ownership or Management of Licensed Premises)**

10. Respondent violated Condition 19 of her probation by failing to sell or transfer any legal or beneficial interest in United Pharmacy within 90 days after the effective date of her probation. (Factual Findings 3-4, 15-17.) Cause exists to revoke respondent's probation and impose the stayed discipline of license revocation.

## **Determination of Discipline**

11. The highest priority of the Board in exercising its licensing, regulatory, and disciplinary functions is the protection of the public. (Bus. & Prof. Code, § 4001.1.) Cause for discipline having been established, the remaining issue is what level of discipline is required to protect the public.

12. The Board has set forth factors to consider in determining the appropriate penalty imposed in a given case, including as relevant here, the nature and severity of the acts; actual or potential harm to the public or any consumer; time passed since the acts; aggravating and mitigating evidence; and rehabilitation evidence. (Disciplinary Guidelines, A Manual of Disciplinary Guidelines and Model Disciplinary Orders (rev. Feb. 2017). Here, respondent knowingly engaged in

unlicensed practice by continuing to operate United Pharmacy after its license had been cancelled for a substantial period of time, a serious violation. While respondent provided some evidence of mitigating factors, she has not demonstrated a serious effort to comply with the conditions of her probation, especially the Board's mandate that her practice be supervised to ensure public protection.

Given these circumstances, public protection requires that respondent's probation be revoked, the stayed order of revocation be imposed, and that respondent's pharmacist license be revoked.

## **Costs**

13. A licensee found to have committed a violation of the licensing act may be required to pay the Board the reasonable costs of its investigation and prosecution of the case. (Bus. & Prof. Code, § 125.3.) Respondent has committed violations of the licensing act. (Legal Conclusions 2-4.) As set forth in Factual Finding 45, the reasonable costs of investigation and prosecution in this matter are \$11,447.75.

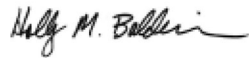
14. In *Zuckerman v. State Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, 45, the California Supreme Court set forth standards for determining whether costs should be assessed in the particular circumstances of each case, to ensure that licensees with potentially meritorious claims are not deterred from exercising their right to an administrative hearing. Those standards include whether the licensee has been successful at hearing in getting the charges dismissed or reduced, the licensee's good faith belief in the merits of his or her position, whether the licensee raised a colorable challenge to the proposed discipline, financial ability of the licensee to pay, and whether the scope of investigation was appropriate to the alleged misconduct. None of these considerations support reducing the Board's cost recovery in this case.



## ORDER

1. The probation that was granted to respondent Pamela Gumbs, Pharmacist License Number RPH 29485, in Case Number 6318 is revoked, and the disciplinary order of revocation that was stayed is imposed.
2. Pharmacist License Number RPH 29485 issued to respondent Pamela Gumbs is revoked.
3. Respondent Pamela Gumbs shall pay the Board's costs of investigation and prosecution of this action pursuant to Business and Professions Code 125.3, in the amount of \$11,447.75.

DATE: 04/21/2024



HOLLY M. BALDWIN

Administrative Law Judge

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

13 In the Matter of the Accusation and Petition to  
14 Revoke Probation Against:

15 **PAMELA GUMBS**  
2971 Florida Street  
16 Oakland, CA 94602

17 **Pharmacist License No. RPH 29485**

18 Respondent.

Case No. 7545

**ACCUSATION AND PETITION TO  
REVOKE PROBATION**

19  
20 **PARTIES**

21 1. Anne Sodergren (Complainant) brings this Accusation and Petition to Revoke  
22 Probation solely in her official capacity as the Executive Officer of the Board of Pharmacy,  
23 Department of Consumer Affairs (Board).

24 2. On or about May 27, 1975, the Board issued Pharmacist License Number RPH 29485  
25 to Pamela Gumbs (Respondent). The Pharmacist License was in full force and effect at all times  
26 relevant to the charges brought in this Accusation and Petition to Revoke Probation, and will  
27 expire on April 30, 2024, unless renewed.

28 3. In a disciplinary action titled "In the Matter of the Accusation against United

1 Pharmacy, Pamela Gumbs, Owner, and Pamela Gumbs,” Case No. 6318, the Board issued a  
2 Decision and Order effective September 28, 2022, in which Respondent’s Pharmacist License  
3 was revoked. However, the revocation was stayed and Respondent’s Pharmacist License was  
4 placed on probation for five (5) years with certain terms and conditions. A copy of that Decision  
5 and Order is attached as Exhibit A and is incorporated by reference.

6 **JURISDICTION PROVISIONS FOR ACCUSATION**

7 4. This Accusation is brought before the Board, under the authority of the following  
8 laws. All section references are to the Business and Professions Code (Code) unless otherwise  
9 indicated.

10 5. Code section 4011 provides that the Board shall administer and enforce both the  
11 Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act  
12 [Health & Safety Code, § 11000 et seq.].

13 6. Code section 4300 states in relevant part:

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

15 . . .

16 (d) The board may initiate disciplinary proceedings to revoke or suspend any  
17 probationary certificate of licensure for any violation of the terms and  
18 conditions of probation. Upon satisfactory completion of probation, the board  
shall convert the probationary certificate to a regular certificate, free of  
conditions.

19 . . .

20 7. Code section 4300.1 of the Code states:

21 The expiration, cancellation, forfeiture, or suspension of a board-issued license  
22 by operation of law or by order or decision of the board or a court of law, the  
23 placement of a license on a retired status, or the voluntary surrender of a license  
24 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.

25 8. Code section 4307, subdivision (a) provides in relevant part:

26 Any person who has been denied a license or whose license has been revoked  
27 or is under suspension, or who has failed to renew his or her license while it  
28 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:

...

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

### **STATUTORY PROVISIONS FOR ACCUSATION**

9. Code section 4110, subdivision (a) states:

No person shall conduct a pharmacy in the State of California unless they have obtained a license from the board. A license shall be required for each pharmacy owned or operated by a specific person. A separate license shall be required for each of the premises of any person operating a pharmacy in more than one location. The license shall be renewed annually. The license shall not be renewed unless the applicant includes necessary matters identified by the board in the renewal application, including, but not limited to, notification to the board regarding compounding practices, including compounded human drug preparations distributed outside of the state. The board may, by regulation, determine the circumstances under which a license may be transferred.

### **REGULATORY PROVISIONS FOR ACCUSATION**

10. California Code of Regulations, title 16, (Regulations) section 1773 states in relevant part:

(a) Unless otherwise directed by the Board in its sole discretion, any pharmacist who is serving a period of probation shall comply with the following conditions:

(1) Obey all laws and regulations substantially related to the practice of Pharmacy;

(2) Report to the Board or its designee quarterly either in person or in writing as directed; the report shall include the name and address of the probationer's employer. If the final probation report is not made as directed, the period of probation shall be extended until such time as the final report is made;

...

### **COST RECOVERY FOR ACCUSATION**

11. Code section 125.3 states, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and

1 enforcement of the case.

2 **FACTUAL ALLEGATIONS**

3 12. Respondent is a licensed Pharmacist and was the owner of United Pharmacy. On  
4 August 29, 2022, the Board adopted a stipulated settlement and disciplinary order placing  
5 Respondent's Pharmacist license on probation for five years, subject to specified terms and  
6 conditions. On the same day, the Board adopted a stipulated surrender of the Pharmacy license  
7 for United Pharmacy that resulted in the pharmacy losing all rights and privileges to operate as a  
8 pharmacy, effective on September 28, 2022. The stipulated surrender also called for United  
9 Pharmacy to designate a new pharmacist-in-charge (PIC) on signing, to be approved by the board  
10 before the effective date. The Order was stayed for 90 days to give Respondent time to sell or  
11 close the pharmacy.

12 13. On October 4, 2022, the Board determined that Respondent had not disassociated as  
13 the PIC at United Pharmacy. On October 12, 2022, Respondent emailed an application proposing  
14 a new PIC, but on February 23, 2023, Respondent requested that the application be discarded due  
15 to the lack of notarization, fees, and written signature.

16 14. On October 21, 2022, the Board conducted an inspection at United Pharmacy.  
17 During the inspection, Respondent told the Board's inspector that:

- 18 the proposed new PIC agreed to serve as Respondent's practice supervisor;
- 19 • paperwork seeking the Board's approval of the proposed new PIC as Respondent's  
20 practice supervisor was already submitted to the Board;
  - 21 • Respondent would enroll in an ethics course before the November 27, 2022  
22 deadline; and
  - 23 • Respondent was in the process of selling the pharmacy with the help of a broker,  
24 and believed the sale would be complete by December 27, 2022.

25 15. After the inspection, the Board reviewed its records and found no documentation to  
26 support Respondent's assertion that she provided the proposed practice supervisor with a copy of  
27 the Decision and Order in case number 6318, or that the proposed practice supervisor submitted a  
28 written report to the Board acknowledging that he read the Decision and was familiar with the

1 terms and conditions of Respondent's probation, including the 50% level of supervision required  
2 by the Board. Respondent did not provide the signed acknowledgment from the proposed  
3 practice supervisor until November 16, 2022.

4 16. United Pharmacy's license was cancelled on December 27, 2022.

5 17. On February 10, 2023, Respondent requested more time to sell the pharmacy. The  
6 Board informed Respondent that cancellation of the pharmacy's license on December 27, 2022,  
7 meant the Board no longer had jurisdiction over the matter and could not extend the stay.

8 18. A Board inspector visited United Pharmacy on February 16, 2023, and observed  
9 Respondent, another pharmacist, and a pharmacy technician working in the pharmacy. The  
10 inspector reminded Respondent that United Pharmacy's license was canceled on December 27,  
11 2022 based on the stipulated surrender, and instructed Respondent to immediately cease operating  
12 the premises without an active license.

13 19. According to the pharmacy's prescription log report for the period of December 27,  
14 2022 to February 16, 2023, United Pharmacy dispensed 1,771 prescriptions after the pharmacy  
15 license was cancelled.

16 20. On March 29, 2023, the Board asked Respondent if she was currently employed as a  
17 pharmacist in California for a minimum of 50 hours per Term 13 of her probation. Respondent  
18 replied that she was not currently employed as a pharmacist for a minimum of 50 hours per  
19 month. The Board advised Respondent to review all the terms of her probation and reminded her  
20 to provide the Board with quarterly reports as set forth in her terms of probation.

21 21. As of April 23, 2023, Respondent has not submitted proof of enrollment in an ethics  
22 course.

23 22. Review of the Board's records shows that Respondent failed to file quarterly written  
24 reports on January 10, 2023 and April 10, 2023.

25 **FIRST CAUSE FOR DISCIPLINE**  
26 (Unlicensed Activity)

27 23. Respondent's Pharmacist License is subject to disciplinary action for unprofessional  
28 conduct for violating Code section 4301, subdivision (o), for violating Code section 4110,

subdivision (a), in that she engaged in unlicensed practice. The facts are more fully set forth in paragraphs 12, and 16 through 19, above.

**SECOND CAUSE FOR DISCIPLINE**

(Failure to Comply with Terms and Conditions of Probation)

24. Respondent's Pharmacist License is subject to disciplinary action for unprofessional conduct for violating Code section 4301, subdivision (o), in that she failed to comply with the terms and conditions of her probation as required by Regulations section 1773, subdivision (a)(1)(2). The facts are more fully set forth in paragraphs 12 through 22, above.

**JURISDICTION FOR PETITION TO REVOKE PROBATION**

25. This Petition to Revoke Probation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs under Probation Term and Condition Number 14 of the Decision and Order in the Matter of the Accusation against United Pharmacy, Pamela Gumbs, Owner, and Pamela Gumbs, Case No. 6318. That term and condition states:

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

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

**FIRST CAUSE TO REVOKE PROBATION**

(Obey All Laws)

26. At all times after the effective date of Respondent's probation, Condition 1 stated:

Respondent shall obey all state and federal laws and regulations.

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

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

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

27. Respondent's probation is subject to revocation because she failed to comply with Probation Condition One by operating United Pharmacy after the license was cancelled on December 27, 2022. The circumstances are more particularly set forth in paragraphs 12, and 16 through 19 above, which are incorporated here by reference.

### **SECOND CAUSE TO REVOKE PROBATION**

(Report to the Board)

28. At all times after the effective date of Respondent's probation, Condition 2 stated:

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

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

29. Respondent's probation is subject to revocation because she failed to comply with Probation Condition Two because she failed to submit written quarterly reports that were due on January 10, 2023 and April 10, 2023. The circumstances are more particularly set forth in paragraph 22 above, which is incorporated here by reference.

### **THIRD CAUSE TO REVOKE PROBATION**

(Restrictions on Supervision and Oversight of Licensed Facilities)

30. At all times after the effective date of Respondent's probation, Condition 8 stated:

During the period of probation, Respondent shall not supervise any intern pharmacist,



1 be the pharmacist-in-charge, designated representative-in-charge, responsible  
2 manager or other compliance supervisor of any entity licensed by the Board, nor  
3 serve as a consultant. Assumption of any such unauthorized supervision  
4 responsibilities shall be considered a violation of probation.

5 31. Respondent's probation is subject to revocation because she failed to comply with  
6 Probation Condition Eight because she continued to act as the PIC for United Pharmacy after the  
7 effective date of her probation. The circumstances are more particularly set forth in paragraphs  
8 12 through 13 above, which are incorporated here by reference.

#### 9 **FOURTH CAUSE TO REVOKE PROBATION**

10 (Practice Requirement – Extension of Probation)

11 32. At all times after the effective date of Respondent's probation, Condition 13 stated:

12 Except during periods of suspension, Respondent shall, at all times while on  
13 probation, be employed as a Pharmacist in California for a minimum of 50 hours per  
14 calendar month. Any month during which this minimum is not met shall extend the  
15 period of probation by one month. During any such period of insufficient  
16 employment, Respondent must nonetheless comply with all terms and conditions of  
17 probation, unless Respondent receives a waiver in writing from the Board or its  
18 designee.

19 If Respondent does not practice as a Pharmacist in California for the minimum  
20 number of hours in any calendar month, for any reason (including vacation),  
21 Respondent shall notify the Board in writing within ten (10) days of the conclusion of  
22 that calendar month. This notification shall include at least: the date(s), location(s),  
23 and hours of last practice; the reason(s) for the interruption or reduction in practice;  
24 and the anticipated date(s) on which Respondent will resume practice at the required  
25 level. Respondent shall further notify the Board in writing within ten (10) days  
26 following the next calendar month during which Respondent practices as a  
27 Pharmacist in California for the minimum of hours. Any failure to timely provide  
28 such notification(s) shall be considered a violation of probation.

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

33. Respondent's probation is subject to revocation because she failed to comply with  
Probation Condition Thirteen because Respondent failed to notify the Board in writing within 10  
days of the conclusion of the calendar month that she did not practice as a Pharmacist in  
California for the minimum of 50 hours. The circumstances are more particularly set forth in  
paragraph 20 above, which is incorporated here by reference.

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1 **FIFTH CAUSE TO REVOKE PROBATION**

2 (Ethics Course)

3 34. At all times after the effective date of Respondent's probation, Condition 17 stated:

4 Within sixty (60) calendar days of the effective date of this decision, Respondent  
5 shall enroll in a course in ethics, at Respondent's expense, approved in advance by  
6 the Board or its designee that complies with Title 16 California Code of Regulations  
7 section 1773.5. Respondent shall provide proof of enrollment upon request. Within  
8 five (5) days of completion, Respondent shall submit a copy of the certificate of  
9 completion to the Board or its designee. Failure to timely enroll in an approved  
ethics course, to initiate the course during the first year of probation, to successfully  
complete it before the end of the second year of probation, or to timely submit proof  
of completion to the Board or its designee, shall be considered a violation of  
probation.

10 35. Respondent's probation is subject to revocation because she failed to comply with  
11 Probation Condition Seventeen because Respondent failed to enroll in the ethics course approved  
12 by the Board within 60 days of the effective date of the decision. The circumstances are more  
13 particularly set forth in paragraph 21 above, which is incorporated here by reference.

14 **SIXTH CAUSE TO REVOKE PROBATION**

15 (Supervised Practice)

16 36. At all times after the effective date of Respondent's probation, Condition 18 stated:

17 Within thirty (30) days of the effective date of this decision, Respondent shall submit  
18 to the Board or its designee, for prior approval, the name of a Pharmacist by and not  
19 on probation with the Board, to serve as Respondent's practice supervisor. As part of  
20 the documentation submitted, Respondent shall cause the proposed practice  
21 supervisor to report to the Board in writing acknowledging that he or she has read the  
22 decision in case number 6318, and is familiar with the terms and conditions imposed  
thereby, including the level of supervision required by the Board or its designee.  
This level will be determined by the Board or its designee, will be communicated to  
the Respondent on or before the effective date of this decision and shall be one of the  
following:

23 Continuous – At least 75% of a work week  
24 Substantial - At least 50% of a work week  
Partial - At least 25% of a work week

25 Daily Review - Supervisor's review of probationer's daily activities within 24 hours  
26 Respondent may practice only under the required level of supervision by an approved  
27 practice supervisor. If, for any reason, including change of employment, Respondent  
28 is no longer supervised at the required level by an approved practice supervisor,  
within ten (10) days of this change in supervision Respondent shall submit to the  
Board or its designee, for prior approval, the name of a Pharmacist by and not on  
probation with the Board, to serve as Respondent's replacement practice supervisor.  
As part of the documentation submitted, Respondent shall cause the proposed

1 replacement practice supervisor to report to the Board in writing acknowledging that  
2 he or she has read the decision in case number 6318, and is familiar with the terms  
3 and conditions imposed thereby, including the level of supervision required.

4 Any of the following shall result in the automatic suspension of practice by a  
5 Respondent and shall be considered a violation of probation:

- 6 • Failure to nominate an initial practice supervisor, and to have that practice  
7 supervisor report to the Board in writing acknowledging the decision, terms and  
8 conditions, and supervision level, within thirty (30) days;
- 9 • Failure to nominate a replacement practice supervisor, and to have that practice  
10 supervisor report to the Board in writing acknowledging the decision, terms and  
11 conditions, and supervision level, within ten (10) days;
- 12 • Practicing in the absence of an approved practice supervisor beyond the initial  
13 or replacement nomination period; or
- 14 • Any failure to adhere to the required level of supervision.

15 Respondent shall not resume practice until notified in writing by the Board or its  
16 designee.

17 During any suspension, Respondent shall not enter any pharmacy area or any portion  
18 of the licensed premises of a wholesaler, third-party logistics provider, veterinary  
19 food-animal drug retailer or any other distributor of drugs which is licensed by the  
20 Board, or any manufacturer, or any area where dangerous drugs and/or dangerous  
21 devices or controlled substances are maintained. Respondent shall not practice  
22 pharmacy nor do any act involving drug selection, selection of stock, manufacturing,  
23 compounding, dispensing or patient consultation; nor shall Respondent manage,  
24 administer, or be a consultant to any licensee of the Board, or have access to or  
25 control the ordering, distributing, manufacturing or dispensing of dangerous drugs  
26 and/or dangerous devices or controlled substances.

27 During any suspension, Respondent shall not engage in any activity that requires the  
28 professional judgment and/or licensure as a Pharmacist. Respondent shall not direct  
or control any aspect of the practice of pharmacy or of the manufacture, distribution,  
wholesaling, or retailing of dangerous drugs and/or dangerous devices or controlled  
substances.

Failure to comply with any suspension shall be considered a violation of probation.

37. Respondent's probation is subject to revocation because she failed to comply with  
Probation Condition Eighteen because Respondent failed to cause the proposed practice  
supervisor to submit a written report to the Board acknowledging that he read the Decision in  
case number 6318, and was familiar with the terms and conditions of Respondent's probation,  
including the level of supervision required by the Board. The circumstances are more particularly  
set forth in paragraphs 14 through 15 above, which are incorporated here by reference.

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**SEVENTH CAUSE TO REVOKE PROBATION**  
(No Ownership or Management of Licensed Premises)

38. At all times after the effective date of Respondent's probation, Condition 19 stated:

Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

39. Respondent's probation is subject to revocation because she failed to comply with Probation Condition Nineteen because Respondent failed to sell or transfer any legal or beneficial interest of United Pharmacy within ninety (90) days following the effective date of the decision. The circumstances are more particularly set forth in paragraphs 12, 14, and 17 above, which are incorporated here by reference.

**PRAYER**

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

1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 6318 and imposing the disciplinary order that was stayed thereby revoking Pharmacist License No. RPH 29485 issued to Pamela Gumbs;

2. Revoking or suspending Pharmacist License No. RPH 29485, issued to Pamela Gumbs;

3. Ordering Pamela Gumbs to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 8/8/2023

Sodergren,  
Anne@DCA

Digitally signed by Sodergren,  
Anne@DCA  
Date: 2023.08.08 11:22:27  
-07'00'

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

OK2023900200  
Accusation and Petition to Revoke Probation - KTJ notes.docx

# **Exhibit A**

**Decision and Order**

**Board of Pharmacy Case No. 6318**

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

**In the Matter of the Accusation Against:**

**UNITED PHARMACY,  
PAMELA GUMBS, OWNER;  
Original Permit No. PHY 48413**

**and**

**PAMELA GUMBS,  
Pharmacist No. RPH 29485,**

**Respondents.**

**Agency Case No. 6318**

**OAH No. 2021110067**

## 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 September 28, 2022.

It is so ORDERED on August 29, 2022.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh", is written over a light gray rectangular background.

Seung W. Oh, Pharm.D.  
Board President



1 ROB BONTA  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 JULIANNE MOSSLER  
Deputy Attorney General  
4 State Bar No. 243749  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 879-1349  
Facsimile: (510) 622-2270  
7 E-mail: Julianne.Mossler@doj.ca.gov  
*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 **UNITED PHARMACY,**  
15 **PAMELA GUMBS, OWNER**  
2929 Telegraph Ave.  
16 Berkeley, CA 94705  
17 **Original Permit No. PHY 48413**

18 **PAMELA GUMBS**  
2971 Florida St.  
19 Oakland, CA 94602

20 **Pharmacist No. RPH 29485**

21 Respondents.

Case No. 6318

OAH No. 2021110067

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

**As to Respondent Pamela Gumbs Only**

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

25 **PARTIES**

26 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy  
27 (Board). She brought this action solely in her official capacity and is represented in this matter by  
28 Rob Bonta, Attorney General of the State of California, by Julianne Mossler, Deputy Attorney

1 General.

2 2. Respondent Pamela Gumbs (Respondent) is represented in this proceeding by  
3 attorneys Tony J. Park, Pharm.D., J.D., and Andre P. Vizcocho, R.Ph, J.D., Law Offices of Tony  
4 J. Park, Inc., 9090 Irvine Center Drive, Irvine, CA 92618.

5 3. On or about May 27, 1975, the Board issued Pharmacist License No. RPH 29485 to  
6 Respondent. The Pharmacist License was in full force and effect at all times relevant to the  
7 charges brought in this Accusation, and will expire on April 30, 2024 unless renewed.

8 **JURISDICTION**

9 4. Accusation No. 6318 was filed before the Board on August 23, 2021, and is currently  
10 pending against Respondent. The Accusation and all other statutorily required documents were  
11 properly served on Respondent on August 26, 2021. Respondent timely filed her Notice of  
12 Defense contesting the Accusation.

13 5. A copy of Accusation No. 6318 is attached as exhibit A and incorporated by  
14 reference.

15 **ADVISEMENT AND WAIVERS**

16 6. Respondent has carefully read, fully discussed with counsel, and understands the  
17 charges and allegations in Accusation No. 6318. Respondent has also carefully read, fully  
18 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
19 Order.

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

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

28 ///

1 **CULPABILITY**

2 9. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 6318.

4 10. Respondent agrees that her Pharmacist License is subject to discipline and she agrees  
5 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

6 **CONTINGENCY**

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

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

19 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
20 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
21 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
22 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
23 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
24 writing executed by an authorized representative of each of the parties.

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

28 ///

## **DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Pharmacist License No. RPH 29485 to Respondent Pamela Gumbs is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

### **1. Obey All Laws**

Respondent shall obey all state and federal laws and regulations.

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

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

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

### **2. Report to the Board**

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

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

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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  
4 its designee. Failure to appear for any scheduled interview without prior notification to Board  
5 staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee  
6 during 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  
9 Board's monitoring and investigation of Respondent's compliance with the terms and conditions  
10 of her probation, including but not limited to: timely responses to requests for information by  
11 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 6318 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 her employer(s), and the name(s) and telephone  
24 number(s) of all of her direct supervisor(s), as well as any pharmacist(s)-in-charge, designated  
25 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work  
26 schedule, if known. Respondent shall also include the reason(s) for leaving the prior  
27 employment. Respondent shall sign and return to the Board a written consent authorizing the  
28 Board or its designee to communicate with all of Respondent's employer(s) and supervisor(s),

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

4       Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
5 Respondent undertaking any new employment, Respondent shall cause (a) her direct supervisor,  
6 (b) her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other  
7 compliance supervisor, and (c) the owner or owner representative of her employer, to report to the  
8 Board in writing acknowledging that the listed individual(s) has/have read the decision in case  
9 number 6318, and terms and conditions imposed thereby. If one person serves in more than one  
10 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the Respondent's  
11 responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the  
12 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term  
13 of probation, Respondent shall cause the person(s) taking over the role(s) to report to the Board in  
14 writing within fifteen (15) days of the change acknowledging that he or she has read the decision  
15 in case number 6318, and the terms and conditions imposed thereby.

16       If Respondent works for or is employed by or through an employment service, Respondent  
17 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board  
18 of the decision in case number 6318, and the terms and conditions imposed thereby in advance of  
19 Respondent commencing work at such licensed entity. A record of this notification must be  
20 provided to the Board upon request.

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

27       Failure to timely notify present or prospective employer(s) or failure to cause the identified  
28 person(s) with that/those employer(s) to submit timely written acknowledgments to the Board

1 shall be considered a violation of probation.

2 "Employment" within the meaning of this provision includes any full-time, part-time,  
3 temporary, relief, or employment/management service position as a Pharmacist, or any position  
4 for which a Pharmacist License is a requirement or criterion for employment, whether the  
5 Respondent is an employee, independent contractor or volunteer.

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

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

9 Failure to timely notify the Board of any change in employer, name, address, or phone  
10 number shall be considered a violation of probation.

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

12 During the period of probation, Respondent shall not supervise any intern pharmacist, be  
13 the pharmacist-in-charge, designated representative-in-charge, responsible manager or other  
14 compliance supervisor of any entity licensed by the Board, nor serve as a consultant. Assumption  
15 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

16 **9. Reimbursement of Board Costs**

17 As a condition precedent to successful completion of probation, Respondent shall pay to the  
18 Board its costs of investigation and prosecution in the amount of \$10,000 in equal monthly  
19 installments over a term of 60 months. Payments will begin on the effective date of the Board's  
20 Decision and Order, and continue every 30 days thereafter until paid in full.

21 There shall be no deviation from this schedule absent prior written approval by the Board or  
22 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of  
23 probation.

24 **10. Probation Monitoring Costs**

25 Respondent shall pay any costs associated with probation monitoring as determined by the  
26 Board each and every year of probation. Such costs shall be payable to the Board on a schedule  
27 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed  
28 shall be considered a violation of probation.

1           **11. Status of License**

2           Respondent shall, at all times while on probation, maintain an active, current Pharmacist  
3 License with the Board, including any period during which suspension or probation is tolled.  
4 Failure to maintain an active, current Pharmacist License shall be considered a violation of  
5 probation.

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

10           **12. License Surrender While on Probation/Suspension**

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

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

26           **13. Practice Requirement – Extension of Probation**

27           Except during periods of suspension, Respondent shall, at all times while on probation, be  
28 employed as a Pharmacist in California for a minimum of 50 hours per calendar month. Any



1 month during which this minimum is not met shall extend the period of probation by one month.  
2 During any such period of insufficient employment, Respondent must nonetheless comply with  
3 all terms and conditions of probation, unless Respondent receives a waiver in writing from the  
4 Board or its designee.

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

14 It is a violation of probation for Respondent's probation to be extended pursuant to the  
15 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
16 exceeding thirty-six (36) months. The Board or its designee may post a notice of the extended  
17 probation period on its website.

#### 18 **14. Violation of Probation**

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

25 If Respondent violates probation in any respect, the Board, after giving Respondent notice  
26 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
27 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during  
28 probation, or the preparation of an accusation or petition to revoke probation is requested from

1 the Office of the Attorney General, the Board shall have continuing jurisdiction and the period of  
2 probation shall be automatically extended until the petition to revoke probation or accusation is  
3 heard and decided.

#### 4 **15. Completion of Probation**

5 Upon written notice by the Board or its designee indicating successful completion of  
6 probation, Respondent's license will be fully restored.

#### 7 **16. Remedial Education**

8 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the  
9 Board or its designee, for prior approval, an appropriate program of remedial education related to  
10 Pharmacy Law. The program of remedial education shall consist of at least 10 hours per year  
11 during each year of probation having 50% in-person training or live webinar at Respondent's own  
12 expense. All remedial education shall be in addition to, and shall not be credited toward,  
13 continuing education (CE) courses used for license renewal purposes for pharmacists.

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

18 Following the completion of each course, the Board or its designee may require the  
19 Respondent, at her own expense, to take an approved examination to test the Respondent's  
20 knowledge of the course. If the Respondent does not achieve a passing score on the examination  
21 that course shall not count towards satisfaction of this term. Respondent shall take another course  
22 approved by the Board in the same subject area.

#### 23 **17. Ethics Course**

24 Within sixty (60) calendar days of the effective date of this decision, Respondent shall  
25 enroll in a course in ethics, at Respondent's expense, approved in advance by the Board or its  
26 designee that complies with Title 16 California Code of Regulations section 1773.5. Respondent  
27 shall provide proof of enrollment upon request. Within five (5) days of completion, Respondent  
28 shall submit a copy of the certificate of completion to the Board or its designee. Failure to timely

enroll in an approved ethics course, to initiate the course during the first year of probation, to successfully complete it before the end of the second year of probation, or to timely submit proof of completion to the Board or its designee, shall be considered a violation of probation.

#### 18. **Supervised Practice**

Within thirty (30) days of the effective date of this decision, Respondent shall submit to the Board or its designee, for prior approval, the name of a Pharmacist by and not on probation with the Board, to serve as Respondent's practice supervisor. As part of the documentation submitted, Respondent shall cause the proposed practice supervisor to report to the Board in writing acknowledging that he or she has read the decision in case number 6318, and is familiar with the terms and conditions imposed thereby, including the level of supervision required by the Board or its designee. This level will be determined by the Board or its designee, will be communicated to the Respondent on or before the effective date of this decision and shall be one of the following:

Continuous – At least 75% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

Daily Review - Supervisor's review of probationer's daily activities within 24 hours

Respondent may practice only under the required level of supervision by an approved practice supervisor. If, for any reason, including change of employment, Respondent is no longer supervised at the required level by an approved practice supervisor, within ten (10) days of this change in supervision Respondent shall submit to the Board or its designee, for prior approval, the name of a Pharmacist by and not on probation with the Board, to serve as Respondent's replacement practice supervisor. As part of the documentation submitted, Respondent shall cause the proposed replacement practice supervisor to report to the Board in writing acknowledging that he or she has read the decision in case number 6318, and is familiar with the terms and conditions imposed thereby, including the level of supervision required.

Any of the following shall result in the automatic suspension of practice by a Respondent and shall be considered a violation of probation:

- Failure to nominate an initial practice supervisor, and to have that practice

supervisor report to the Board in writing acknowledging the decision, terms and conditions, and supervision level, within thirty (30) days;

- Failure to nominate a replacement practice supervisor, and to have that practice supervisor report to the Board in writing acknowledging the decision, terms and conditions, and supervision level, within ten (10) days;
- Practicing in the absence of an approved practice supervisor beyond the initial or replacement nomination period; or
- Any failure to adhere to the required level of supervision.

Respondent shall not resume practice until notified in writing by the Board or its designee.

During any suspension, Respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices or controlled substances.

During any suspension, Respondent shall not engage in any activity that requires the professional judgment and/or licensure as a Pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy or of the manufacture, distribution, wholesaling, or retailing of dangerous drugs and/or dangerous devices or controlled substances.

Failure to comply with any suspension shall be considered a violation of probation.

#### **19. No Ownership or Management of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90) days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide

documentation thereof shall be considered a violation of probation.

**ACCEPTANCE**

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

DATED: \_\_\_\_\_

\_\_\_\_\_  
PAMELA GUMBS  
*Respondent*

I have read and fully discussed with Respondent Pamela Gumbs the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: \_\_\_\_\_

\_\_\_\_\_  
TONY J. PARK  
*Attorney for Respondent*

**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  
DIANN SOKOLOFF  
Supervising Deputy Attorney General

JULIANNE MOSSLER  
Deputy Attorney General  
*Attorneys for Complainant*

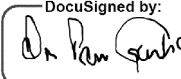
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documentation thereof shall be considered a violation of probation.

**ACCEPTANCE**

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DATED: 6/20/2022

DocuSigned by:  
  
7988F00DB32E401...  
PAMELA GUMBS  
Respondent

I have read and fully discussed with Respondent Pamela Gumbs the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: \_\_\_\_\_

\_\_\_\_\_  
TONY J. PARK  
Attorney for Respondent

**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  
DIANN SOKOLOFF  
Supervising Deputy Attorney General

JULIANNE MOSSLER  
Deputy Attorney General  
Attorneys for Complainant

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**ACCEPTANCE**


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DATED: \_\_\_\_\_

PAMELA GUMBS  
*Respondent*

I have read and fully discussed with Respondent Pamela Gumbs the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 06/20/2022

  
TONY J. PARK  
*Attorney for Respondent*

**ENDORSEMENT**

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

DATED: June 20, 2022

Respectfully submitted,

ROB BONTA  
Attorney General of California  
DIANN SOKOLOFF  
Supervising Deputy Attorney General



JULIANNE MOSSLER  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 6318**



1 ROB BONTA  
Attorney General of California  
2 DIANN SOKOLOFF  
Supervising Deputy Attorney General  
3 LAURA PEDICINI  
Deputy Attorney General  
4 State Bar No. 200934  
1515 Clay Street, 20th Floor  
5 P.O. Box 70550  
Oakland, CA 94612-0550  
6 Telephone: (510) 879-0269  
Facsimile: (510) 622-2270  
7 *Attorneys for Complainant*

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

10 In the Matter of the Accusation Against:

Case No. 6318

11 **UNITED PHARMACY,**  
12 **PAMELA GUMBS, OWNER**  
13 2929 Telegraph Ave.  
Berkeley, CA 94705  
14 **Original Permit No. PHY 48413;**  
15 **PAMELA GUMBS**  
16 2971 Florida St.  
Oakland, CA 94602  
17 **Pharmacist No. RPH 29485;**

**A C C U S A T I O N**

18 Respondents.

19 **PARTIES**

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

22 2. On October 5, 2007, the Board issued Original Permit Number PHY 48413 to United  
23 Pharmacy (Respondent United Pharmacy), with owner Pamela Gumbs as Pharmacist-in-Charge  
24 (PIC). The Original Permit was in full force and effect at all times relevant to the charges brought  
25 in this Accusation and will expire on October 1, 2021, unless renewed.

26 3. On May 27, 1975, the Board issued Registered Pharmacist License Number RPH  
27 29485 to Pamela Gumbs (Respondent Gumbs). The Registered Pharmacist License was in full  
28 force and effect at all times relevant to the charges brought in this Accusation and will expire on

1 April 30, 2022, unless renewed. At all times relevant to the charges in this Accusation against  
2 her, Respondent Gumbs functioned as the PIC at Respondent United Pharmacy.

### 3 **JURISDICTION**

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

7 5. Code section 4011 provides that the Board shall administer and enforce both the  
8 Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act  
9 [Health & Safety Code, § 11000 et seq.].

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

12 7. Code section 4300.1 provides:

13 The expiration, cancellation, forfeiture, or suspension of a board-issued  
14 license by operation of law or by order or decision of the board or a court of law,  
15 the placement of a license on a retired status, or the voluntary surrender of a  
16 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.

17 8. Code section 4307, subdivision (a) provides:

18 Any person who has been denied a license or whose license has been  
19 revoked or is under suspension, or who has failed to renew his or her license while it  
20 was under suspension, or who has been a manager, administrator, owner, member,  
21 officer, director, associate, partner, or any other person with management or control  
22 of any partnership, corporation, trust, firm, or association whose application for a  
23 license has been denied or revoked, is under suspension or has been placed on  
24 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:

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

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

1 ///

2 ///

### 3 STATUTORY PROVISIONS

4 9. Code section 4022 states:

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

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

9 (b) Any device that bears the statement: "Caution: federal law restricts this device to  
10 sale by or on the order of a \_\_\_\_\_," "Rx only," or words of similar import, the blank  
11 to be filled in with the designation of the practitioner licensed to use or order use of the  
12 device.

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

15 10. Code section 4076, subdivision (a) states, in relevant part, that a pharmacist shall not  
16 dispense any prescription drug except in a container that meets the requirements of state and  
17 federal law, and is correctly labeled with the quantity of the drug or drugs dispensed.

18 11. Code section 4077 states, in relevant part, that except as provided in subdivisions (b)  
19 and (c) of this section, no person shall dispense any dangerous drug upon prescription except in a  
20 container correctly labeled with the information required by Section 4076.

21 12. Code section 4081 states:

22 (a) All records of manufacture and of sale, acquisition, or disposition of dangerous  
23 drugs or dangerous devices shall be at all times during business hours open to inspection by  
24 authorized officers of the law, and shall be preserved for at least three years from the date  
25 of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy,  
26 veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory,  
27 clinic, hospital, institution, or establishment holding a currently valid and unrevoked  
28 certificate, license, permit, registration, or exemption under Division 2 (commencing with  
Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section  
16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of  
dangerous drugs or dangerous devices.

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

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

13. Code section 4105 states:

5 (a) All records or other documentation of the acquisition and disposition of dangerous  
6 drugs and dangerous devices by any entity licensed by the board shall be retained on the  
7 licensed premises in a readily retrievable form.

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

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

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

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

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

24 14. Code section 4113, subdivision (c) states: "The pharmacist-in-charge shall be  
25 responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining  
26 to the practice of pharmacy."

27 15. Code section 4301 states, in relevant part:

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

...

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

...

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

16. Code section 4306.5 states, in relevant part, that unprofessional conduct for a pharmacist may include the following:

(a) acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the Board.

(b) acts or omissions that involve, in whole or in part, the failure to exercise or implement his or her best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services.

(c) acts or omissions that involve, in whole or in part, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function.

17. 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.”

18. Code section 4342, subdivision (a) states:

“(a) The board may institute any action or actions as may be provided by law and that, in its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not conform to the standard and tests as to quality and strength, provided in the latest edition of the United States 155 Pharmacopoeia or the National Formulary, or that violate any provision of the Sherman Food, Drug, and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 404 of the Health and Safety Code).

19. Health and Safety Code section 11162.1 states, in relevant part:

(a) The prescription forms for controlled substances shall be printed with the following features:

(1) A latent, repetitive “void” pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word “void” shall

appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words "California Security Prescription."

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermochromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form so that the prescriber may indicate the quantity by checking the applicable box where the following quantities shall appear:

1–24

25–49

50–74

75–100

101–150

151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(8) Prescription blanks shall contain a statement printed on the bottom of the prescription blank that the "Prescription is void if the number of drugs prescribed is not noted."

(9) The preprinted name, category of licensure, license number, federal controlled substance registration number, and address of the prescribing practitioner.

(10) Check boxes shall be printed on the form so that the prescriber may indicate the number of refills ordered.

(11) The date of origin of the prescription.

(12) A check box indicating the prescriber's order not to substitute.

(13) An identifying number assigned to the approved security printer by the Department of Justice.

(14) (A) A check box by the name of each prescriber when a prescription form lists multiple prescribers.

(B) Each prescriber who signs the prescription form shall identify himself or herself as the prescriber by checking the box by his or her name.

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

20. 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.

21. Health and Safety Code section 11164 states, in relevant part:

“Except as provided in section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance, unless it complies with the requirements of this section.

“(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1.”

22. Health and Safety Code section 111255 states, in relevant part, that any drug or device is adulterated if it has been produced, prepared, packed, or held under conditions whereby it may have been contaminated with filth, or where it may have been rendered injurious to health.

23. Health and Safety Code section 111295 states, in relevant part, that it is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is adulterated.

### **REGULATORY PROVISIONS**

24. Code of Federal Regulations, title 21, section 1301.76, subdivision (b), states:

“(b) The registrant shall notify the Field Division Office of the Administration in his area, in writing, of the theft or significant loss of any controlled substances within one business day of such loss or theft. The registrant shall also complete, and submit to the Field Division Office in his area, DEA Form 106 regarding the loss or theft. . . .”

1           25.     Code of Federal Regulations, title 21, section 1304.04, states, in relevant part:

2           ...

3           “(h) Each registered pharmacy shall maintain the inventories and records of controlled  
4 substances as follows:

5           “(1) Inventories and records of all controlled substances listed in Schedule I and II shall be  
6 maintained separately from all other records of the pharmacy.”

7           26.     Code of Federal Regulations, title 21, section 1304.11, states, in relevant part:

8  
9           (a) *General requirements.* Each inventory shall contain a complete and  
10 accurate record of all controlled substances on hand on the date the inventory is  
11 taken, and shall be maintained in written, typewritten, or printed form at the  
12 registered location. An inventory taken by use of an oral recording device must be  
13 promptly transcribed. Controlled substances shall be deemed to be “on hand” if they  
14 are in the possession of or under the control of the registrant, including substances  
15 returned by a customer, ordered by a customer but not yet invoiced, stored in a  
16 warehouse on behalf of the registrant, and substances in the possession of  
17 employees of the registrant and intended for distribution as complimentary samples.  
18 A separate inventory shall be made for each registered location and each  
19 independent activity registered, except as provided in paragraph (e)(4) of this  
20 section. In the event controlled substances in the possession or under the control of  
21 the registrant are stored at a location for which he/she is not registered, the  
22 substances shall be included in the inventory of the registered location to which they  
23 are subject to control or to which the person possessing the substance is responsible.  
24 The inventory may be taken either as of opening of business or as of the close of  
25 business on the inventory date and it shall be indicated on the inventory.

18           ...

19           c) *Biennial inventory date.* After the initial inventory is taken, the registrant  
20 shall take a new inventory of all stocks of controlled substances on hand at least  
21 every two years. The biennial inventory may be taken on any date which is within  
22 two year of the previous biennial inventory date.

22           27.     Code of Regulations, title 16, section 1707.3 states, in relevant part, that prior to  
23 consultation as set forth in section 1707.2, a pharmacist shall review a patient’s drug therapy and  
24 medication record before each prescription drug is delivered. The review shall include screening  
25 for severe potential drug therapy problems.

26           28.     Code of Regulations, title 16, section 1714, subdivision (b) states: “Each pharmacy  
27 licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are  
28



1 safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of  
2 sufficient size and unobstructed area to accommodate the safe practice of pharmacy.”

3 29. Code of Regulations, title 16, section 1715.6 states that the owner shall report to the  
4 Board within 30 days of discovery of any loss of controlled substances, including their amounts  
5 and strengths.

6 30. Code of Regulations, title 16, section 1718 states:

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

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

12 31. Code of Regulations, title 16, section 1718.1 states, in relevant part, that all  
13 prescription drugs not bearing a manufacturer’s expiration date pursuant to Title 21, Code of  
14 Federal Regulations, section 211.137 are deemed to have expired and may not be manufactured,  
15 distributed, held for sale, or dispensed by any manufacturer, distributor, pharmacy, or other  
16 persons authorized to dispense such drugs in California.

17 32. Code of Regulations, title 16, section 1735.2 states, in relevant part:

18 (e) A drug preparation shall not be compounded until the pharmacy has first prepared  
19 a written master formula document that includes at least the following elements:

20 (1) Active ingredients to be used.

21 ...

22 (3) The maximum allowable beyond use date for the preparation, and the rationale or  
reference source justifying its determination.

23 (4) Inactive ingredients to be used.

24 ...

25 (i) Every compounded drug preparation shall be given a beyond use date representing  
26 the date or date and time beyond which the compounded drug preparation should not be  
27 used, stored, transported or administered, and determined based on the professional  
28 judgment of the pharmacist performing or supervising the compounding.

(1) For non-sterile compounded drug preparation(s), the beyond use date shall not exceed any of the following:

...

(F) For water-containing topical/dermal and mucosal liquid and semi-solid formulations, 30 days or an extended date established by the pharmacist's research, analysis, and documentation...

33. Code of Regulations, title 16, section 1735.3 states, in relevant part, that for each compounded drug preparation, pharmacy records shall include a compounding log, consisting of a single document, that provides the expiration date, manufacturer, and lot number of each component.

34. Code of Regulations, title 16, section 1735.7 states, in relevant part:

(a) Any pharmacy engaged in compounding shall maintain written documentation sufficient to demonstrate that pharmacy personnel have the skills and training required to properly and accurately perform their assigned responsibilities relating to compounding.

(b) The pharmacy shall develop and maintain an on-going competency evaluation process for pharmacy personnel involved in compounding, and shall maintain documentation of any and all training related to compounding undertaken by pharmacy personnel.

(c) Pharmacy personnel assigned to compounding duties shall demonstrate knowledge about processes and procedures used in compounding prior to compounding any drug preparation.

35. Code of Regulations, title 16, section 1735.8 states, in relevant part:

(a) Any pharmacy engaged in compounding shall maintain, as part of its written policies and procedures, a written quality assurance plan designed to monitor and ensure the integrity, potency, quality, and labeled strength of compounded drug preparations.

(b) The quality assurance plan shall include written procedures for verification, monitoring, and review of the adequacy of the compounding processes and shall also include written documentation of review of those processes by qualified pharmacy personnel.

(c) The quality assurance plan shall include written standards for qualitative and quantitative analysis of compounded drug preparations to ensure integrity, potency, quality, and labeled strength, including the frequency of testing. All qualitative and quantitative analysis reports for compounded drug preparations shall be retained by the pharmacy and maintained along with the compounding log and master formula document. The quality assurance plan shall include a schedule for routine testing and analysis of specified compounded drug preparations to ensure integrity, potency, quality, and labeled strength, on at least an annual basis.

1 (d) The quality assurance plan shall include a written procedure for scheduled action in  
2 the event any compounded drug preparation is ever discovered to be outside minimum  
standards for integrity, potency, quality, or labeled strength.

3 36. Code of Regulations, title 16, section 1761 states, in relevant part:

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

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

### 11 **COST RECOVERY**

12 37. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
13 administrative law judge to direct a licentiate found to have committed a violation or violations of  
14 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
15 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
16 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
17 included in a stipulated settlement.

### 18 **DRUGS**

19 38. Alprazolam, also known by the trade name Xanax, is a Schedule IV controlled  
20 substance under Health and Safety Code section 11057, subdivision (d)(1), and a dangerous drug  
21 under Business and Professions Code section 4022. It is used to treat anxiety.

22 39. Ativan, also known by the brand name lorazepam, is a Schedule IV controlled  
23 substance under Health and Safety Code section 11057, subdivision (d)(16) and a dangerous drug  
24 under Business and Professions Code section 4022. It is used to treat anxiety.

25 40. Buprenorphine/Naloxone, also known as Suboxone, is a Schedule V controlled  
26 substance under Health and Safety Code section 11058, subdivision (d), and a dangerous drug  
27 under Business and Professions Code section 4022. It is used to treat anxiety.

28 41. Carisoprodol, also known by the brand name Soma, is a Schedule IV controlled

1 substance under Title 21, Code of Federal Regulations, section 1308.14, subdivision (c)(4) and a  
2 dangerous drug under Business and Professions Code section 4022. It is used as a muscle  
3 relaxant.

4 42. Clonazepam, also known by the brand name Klonopin, is a Schedule IV controlled  
5 substance under Health and Safety Code section 11057, subdivision (d)(7), and a dangerous drug  
6 under Business and Professions Code section 4022. It is used for anxiety.

7 43. Desyrel, also known by the generic name trazodone is a dangerous drug under  
8 Business and Professions Code section 4022. It is an antidepressant.

9 44. Hydrocodone/acetaminophen, also known by the brand name Norco, is a Schedule II  
10 controlled substance under Health and Safety Code section 11055, subdivision (b)(1)(I), and Title  
11 21 CFR, section 1308.12, subdivision (b)(1)(vi), and a dangerous drug under Business and  
12 Professions Code section 4022. It is used for pain management.

13 45. Lioresal, also known by the generic name baclofen, is a dangerous drug under  
14 Business and Professions Code section 4022. It is used to treat muscle spasms.

15 46. Neurontin, also known by the generic name gabapentin, is a dangerous drug under  
16 Business and Professions Code section 4022. It is used to treat seizures and neuropathic pain.

17 47. Promethazine with Codeine, also known by the brand name Phenergan with Codeine,  
18 is a Schedule V controlled substance under Health and Safety Code section 11058, subdivision  
19 (c)(1), and a dangerous drug under Business and Professions Code section 4022. It is used to  
20 treat cold or allergy symptoms and includes an opioid cough medicine, which may be habit  
21 forming.

22 48. Zolpidem, also known by the brand name Ambien, is a Schedule IV controlled  
23 substance under Health and Safety Code section 11057, subdivision (d)(32), and a dangerous drug  
24 under Business and Professions Code section 4022. It is used to treat insomnia.

### 25 **FACTUAL BACKGROUND**

26 49. On or about July 17, 2019, patient JW filed a complaint with the Board against  
27 Respondent Pharmacy due to repeated errors with JW's prescription orders filled at Respondent  
28

1 Pharmacy. JW received her medications from Respondent Pharmacy in “bubble packs.”<sup>1</sup> On  
2 multiple occasions in the years leading up to her complaint with the Board, JW’s bubble packs  
3 were missing medications. Despite bringing the errors to Respondent Pharmacy’s attention, the  
4 errors continued. On one occasion, JW experienced withdrawal symptoms because Respondent  
5 Pharmacy failed to include the drug clonazepam in her bubble pack. On another occasion, a  
6 packaging oversight attributed to Respondent Pharmacy led to JW taking more of the drug  
7 lorazepam than prescribed.

8 50. On or about November 7, 2019, a Board Inspector employed by the Board of  
9 Pharmacy reviewed some of the bubble packs JW kept in storage<sup>2</sup>. The inspector found that on  
10 multiple, separate occasions, JW’s bubble packs contained an amount of tablets or capsules  
11 different from the amount indicated on the label. The inspector found that on February 15 and  
12 March 1<sup>3</sup> prescription drug trazodone, 50 mg, was missing from the bubble pack, despite being  
13 listed on the label. On May 25, June 29, July 4, July 11, July 20, July 23, July 24, and July 25,  
14 the prescription drug gabapentin, 400 mg, was missing from the bubble pack, despite being listed  
15 on the label. On July 20, July 23, July 24, and July 25, the prescription drug baclofen, 20 mg,  
16 was missing from the bubble pack, despite being listed on the label.

17 51. The inspector also identified the following observations related to the packaging of  
18 the drugs: First, the prescription numbers and complete dates were not listed on the individual  
19 “bubbles.” Also, it was not possible to decipher how many days’ supply each bubble pack was  
20 dispensed for. Finally, there were no initials indicating which pharmacist checked the blister card  
21 pack to ensure the correct medications were placed into each “bubble.”

22 52. Previously, on or about June 8, 2017, a Board Inspector employed by the Board of  
23 Pharmacy conducted an in-person inspection of Respondent Pharmacy. The inspection was  
24 prompted by some irregularities identified in an audit of Respondent Pharmacy’s records. The  
25 following pharmacy violations, which occurred between April 1, 2014 and July 27, 2017, were

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26 <sup>1</sup> Bubble packs are also known as “blister pack cards.”

27 <sup>2</sup> It was not possible, based on the information supplied on the bubble packs, to establish  
28 the representative years. However, months and dates were identified, and are relied on here.

1 identified by the Board Inspector, and represent a compilation of findings from the June 8, 2017  
2 in-person inspection, and the inspector's subsequent review of Respondent Pharmacy's records  
3 spanning the dates of April 1, 2014 to July 27, 2017:

4 53. Between April 1, 2014 and July 27, 2017, Respondent Pharmacy routinely early  
5 refilled prescriptions for controlled substances to patients before existing supplies were  
6 exhausted. More specifically, between April 1, 2014 and July 27, 2017, Respondent Pharmacy  
7 filled approximately 180 prescriptions five days or more before previous prescription supplies  
8 were exhausted, and some prescriptions were early refilled multiple times. As a result of these  
9 practices, approximately 5,000 tablets or capsules of controlled substances were early supplied to  
10 patients between April 1, 2014 and July 27, 2017, in violation of pharmacy law. Additionally,  
11 Respondent Pharmacy's failure to review records contributed to Respondent Pharmacy refilling  
12 prescriptions early.

13 54. Between October 31, 2013, and June 13, 2017, Respondent Pharmacy failed to  
14 properly and timely dispose of expired drugs, and also failed to store expired drugs separately  
15 from non-expired drugs. More specifically, Respondent Pharmacy stored over 180 bottles and  
16 packages of expired drugs dating back to 2013 intermingled with non-expired drugs in its active  
17 stock. Additionally, on June 8, 2017, the Board inspector confirmed during an in-person  
18 inspection that inadequate safeguards were in place to safely and reliably prevent the non-expired  
19 drugs from being dispensed to patients.

20 55. During the month of August, 2015, Respondent Pharmacy was robbed. Respondent  
21 Pharmacy failed to timely report controlled substance losses, including theft of Hydrocodone, to  
22 the Drug Enforcement Agency (DEA) and the Board. Additionally, Respondent Pharmacy failed  
23 to maintain accurate, up to date controlled substance inventory information and also failed to  
24 update documentation of its inventory every two years, as required by Title 21 Code of Federal  
25 Regulations, Part 1304, Section 11, and Business and Professions Code section 4081. (21 CFR  
26 1304.11; Bus. & Prof. Code § 4081). As a result, Respondent Pharmacy could not adequately  
27 respond to Board inquiries about the stolen inventory, because Respondent Pharmacy was unable  
28 to produce accurate documentation identifying the quantities and kinds of controlled substances

1 that were stolen during the August, 2015 robbery. Respondent Pharmacy also failed to  
2 adequately maintain disposition records of controlled substances and dangerous drugs.

3 56. On or about May 26, 2017, Respondent Pharmacy violated pharmacy law when it  
4 compounded 600 grams of .2 percent Nitroglycerin ointment and packaged it into individual 30  
5 gram vials without first preparing a master formula which included all active and inactive  
6 ingredients.

7 57. On or about May 26, 2017, Respondent Pharmacy violated pharmacy law when it  
8 compounded 600 grams of .2 percent Nitroglycerin ointment using a purified water base and  
9 packaged it with an expiration date of 188 days, instead of 30 days for water-containing  
10 topical/dermal and mucosal liquid and semi-solid formulations. (Cal. Code of Regs. § 1735.2.)  
11 Additionally, the compounding log for the product did not list the expiration dates or lot numbers  
12 of the ingredients used, thus the Board of Pharmacy concluded that no true beyond use date for  
13 the end-product could be properly determined.

14 58. On or about May 26, 2017, Respondent Pharmacy violated pharmacy law when it  
15 compounded 600 grams of .2 percent Nitroglycerin without maintaining a compounding log  
16 which included the manufacturer, expiration date, and lot number of each component.

17 59. On June 8, 2017, Board of Pharmacy inspectors could not locate and Respondent did  
18 not offer required documentation substantiating that pharmacy personnel were trained to properly  
19 and accurately perform their assigned responsibilities specific to compounding. Respondent  
20 Pharmacy did not have an ongoing competency evaluation process in place, as required, for  
21 compounding personnel.

22 60. On or about May 26, 2017, Respondent Pharmacy violated pharmacy law by failing  
23 to have a quality assurance plan in place to verify, monitor, and review the compounding process.  
24 Respondent Pharmacy also lacked a plan to ensure qualitative and quantitative analysis of  
25 compound drug preparations.

26 61. On June 8, 2017, Board of Pharmacy investigators determined that between April 1,  
27 2014 and July 27, 2017, Respondent Pharmacy dispensed prescriptions for the following  
28 controlled substances, and in each case failed to comply with controlled substance prescription

1 requirements and security features: Promethazine/Codeine (240 prescriptions),  
2 Hydrocodone/APAP (300 prescriptions), Alprazolam (90 prescriptions), Diazepam (180  
3 prescriptions). The documented violations included, but were not limited to: failing to include  
4 the required watermark printed on the backside of the prescription blank; failing to include the  
5 required quantity check off boxes on each prescription form (from 1-24 to 151 and over); failing  
6 to include the required statement printed on the bottom of the prescription that states,  
7 "Prescription is void if the number of drugs prescribed is not noted); A check box indicating the  
8 prescriber's order not to substitute; and failing to include an identifying number assigned by the  
9 Department of Justice to the approved security printer.

10 62. On or about December 20, 2016, while employed as a pharmacist at Respondent  
11 Pharmacy, Respondent Cho verified a prescription for Hydrocodone/APAP to be dispensed even  
12 though the prescription document was missing several features required for controlled substance  
13 security forms.

14 63. On October 6, 2016 and January 10, 2017, while employed as a pharmacist at  
15 Respondent Pharmacy, Respondent Gebremichael verified prescriptions to be dispensed for  
16 Diazepam and Hydrocodone even though the prescription documents lacked required safety  
17 features. One of the prescription documents presented with irregularities commonly seen in  
18 illegitimate prescriptions, including cash payment and out of area prescriber.

19 64. On June 30, 2015 and January 2, 2017, while employed as a pharmacist at  
20 Respondent Pharmacy, Respondent Bacon verified prescriptions to be dispensed for Alprazolam  
21 and Hydrocodone/APAP even though the prescription documents were missing several features  
22 required for controlled substance security forms.

23 65. On June 8, 2017, Board of Pharmacy investigators determined that between April 1,  
24 2014 and July 27, 2017, Respondent Pharmacy dispensed approximately 180 controlled substance  
25 prescriptions that contained irregularities and omissions. The irregularities, which are commonly  
26 seen in illegitimate prescriptions, included cash payments, out of area patients and prescribers,  
27 and omissions of several required security features.

28 ///



1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Operational Standards Failure Related to Housing of Expired Drugs)**

3 66. Respondent Pharmacy has subjected its pharmacy permit to disciplinary action, and  
4 Respondent Pharmacist Gumbs has subjected her pharmacist license to disciplinary action,  
5 because Respondents stored expired drugs intermingled with their active stock of drugs, which  
6 were held for sale, in violation of California Code of Regulations section 1714, subdivision (b),  
7 and Health and Safety Code sections 111255 and 111295. The circumstances are set forth in  
8 paragraph 54, above.

9 **SECOND CAUSE FOR DISCIPLINE**

10 **(Failure to Maintain Controlled Substance Inventories)**

11 67. Respondent Pharmacy has subjected its pharmacy permit to disciplinary action, and  
12 Respondent Pharmacist Gumbs has subjected her pharmacist license to disciplinary action,  
13 because Respondents failed to complete and maintain required controlled substance inventories,  
14 in violation of California Code of Regulations section 1718, and Code of Federal Regulations,  
15 Title 21, section 1304.11, subdivisions (a) and (c). The circumstances are set forth in paragraph  
16 55 above.

17 **THIRD CAUSE FOR DISCIPLINE**

18 **(Failure to Report Loss of Controlled Substances to the Board and DEA)**

19 68. Respondent Pharmacy has subjected its pharmacy license to disciplinary action, and  
20 Respondent Pharmacist Gumbs has subjected her pharmacist license to disciplinary action,  
21 because Respondents failed to comply with requirements related to reporting the loss of  
22 controlled substances to the Board and the Drug Enforcement Administration (DEA), in violation  
23 of California Code of Regulations, title 16, section 1715.6. and Code of Federal Regulations, Title  
24 21, section 1301.76, subdivision (b). The circumstances are described in paragraph 55, above.

25 **FOURTH CAUSE FOR DISCIPLINE**

26 **(Failure to Maintain or Produce Required Drug Records)**

27 69. Respondent Pharmacy has subjected its pharmacy license to disciplinary action, and  
28 Respondent Pharmacist Gumbs has subjected her pharmacist license to disciplinary action,

1 because Respondents failed to maintain an accurate current inventory and all records of the  
2 disposition of drugs stolen during the theft of Respondent Pharmacy in August 2015, in violation  
3 of Code sections 4332, 4081, subdivision (a), 4105, subdivisions (a) and (c), and California Code  
4 of Regulations section 1718. The circumstances are described in paragraph 55, above.

5 **FIFTH CAUSE FOR DISCIPLINE**

6 **(Failure to Properly Prepare Compounding Master Formula)**

7 70. Respondent Pharmacy has subjected its pharmacy permit to disciplinary action and  
8 Respondent Pharmacist Gumbs has subjected her pharmacist license to disciplinary, because on  
9 May 26, 2017, Respondents compounded a drug without first preparing a master formula, which  
10 included all active and inactive ingredients, in violation of California Code of Regulations section  
11 1735.2, subdivision (e)(1)(3). The circumstances are described in paragraph 56, above.

12 **SIXTH CAUSE FOR DISCIPLINE**

13 **(Beyond Use Dating of Compounding Drugs)**

14 71. Respondent Pharmacy has subjected its pharmacy permit to disciplinary action and  
15 Respondent Pharmacist Gumbs has subjected her pharmacist license to disciplinary action,  
16 because on or about May 26, 2017, Respondents compounded 600 grams of .2 percent  
17 Nitroglycerin ointment using a purified water base and packaged it with an expiration date of 188  
18 days, in violation of California Code of Regulations, section 1735.2, subdivision (i)(1)(F). The  
19 circumstances are described in paragraph 57, above.

20 **SEVENTH CAUSE FOR DISCIPLINE**

21 **(Recordkeeping Errors - Compounded Drug Preparations)**

22 72. Respondent Pharmacy has subjected its pharmacy permit to disciplinary action and  
23 Respondent Pharmacist Gumbs has subjected her pharmacist license to disciplinary action, in that  
24 Respondents compounded drug preparations without maintaining a compounding record which  
25 documented the manufacturer, expiration date, and lot number of each component, in violation of  
26 California Code of Regulations section 1735.3, subdivision (a)(2)(F). The circumstances are  
27 described in paragraph 58, above.

28 ///

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Training of Compounding Staff and Corresponding Records)**

3 73. Respondent Pharmacy has subjected its pharmacy license to disciplinary action, in  
4 violation of California Code of Regulations section 1735.7, subdivisions (a), (b) and (c), because  
5 on May 26, 2017, Respondent failed to provide documentation substantiating that pharmacy  
6 personnel were trained to properly and accurately perform their assigned responsibilities in  
7 violation of subdivision (a) of section 1735.7; failed to provide investigators with an ongoing  
8 competency evaluation process for personnel involved in compounding in violation of  
9 subdivision (b) of section 1735.7; and failed to demonstrate knowledge of processes and  
10 procedures used in compounding, in violation of subdivision (c) of section 1735.7. The  
11 circumstances are further explained in paragraphs 56-60, above.

12 **NINTH CAUSE FOR DISCIPLINE**

13 **(Compounding Quality Assurance)**

14 74. Respondent Pharmacy has subjected its pharmacy permit to disciplinary action, and  
15 Respondent Pharmacist Gumbs has subjected her pharmacist license to disciplinary action in  
16 violation of California Code of Regulations section 1735.8, subdivisions (a), (b), (c) and (d),  
17 because on May 26, 2017, Respondents failed to have a quality assurance plan to verify, monitor,  
18 and review the compounding process, and a plan to ensure qualitative and quantitative analysis of  
19 compound drug preparations. The circumstances are described in paragraphs 60, above.

20 **TENTH CAUSE FOR DISCIPLINE**

21 **(Controlled Substance Prescription Requirements)**

22 75. Respondent Pharmacy has subjected its pharmacy permit to disciplinary action, and  
23 Respondent Pharmacist Gumbs has subjected her pharmacist license to disciplinary action,  
24 because between the dates of February 28, 2015 and March 9, 2017, Respondents dispensed 10  
25 controlled substance prescriptions using prescription forms which were missing required security  
26 features, in violation of Health & Safety Code sections 11162.1 & 11164 and California Code of  
27 Regulations, title 16, section 1761, subdivisions (a) and (b). The circumstances are described in  
28 paragraphs 61-65, above.

**ELEVENTH CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct: Corresponding Responsibility, Irregular Prescriptions)**

76. Respondent Pharmacy has subjected its pharmacy permit to disciplinary action, and Respondent Pharmacist Gumbs has subjected her pharmacist license to disciplinary action under Code sections 4301, subdivision (d), (j), and (o), in that Respondents dispensed 10 controlled substances despite invalid security forms with red flags for illegitimacy, and 180 controlled prescriptions more than five days before previously dispensed supplies were exhausted, in violation of Health and Safety Code section 11153, subdivision (a), Code section 4306.5, subdivisions (a), (b), and (c), and California Code of Regulations section 1761, subdivisions (a) and (b). The circumstances are described in paragraph 53, and 61-65, above.

**TWELFTH CAUSE FOR DISCIPLINE**

**(Prescription Container Errors – Labeling)**

77. Respondent Pharmacy has subjected its pharmacy permit to discipline and Respondent Pharmacist Gumbs has subjected her pharmacist license to discipline in violation of Business and Professions Code section 4076, subdivision (a)(8) because Respondents repeatedly dispensed drugs in mislabeled containers which included an incorrect quantity of dispensed drugs. The circumstances are described in paragraphs 49-51, above.

**OTHER MATTERS**

78. Under Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 48413 issued to United Pharmacy, then United Pharmacy shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 48413 is placed on probation or until Pharmacy Permit Number PHY 48413 is reinstated if it is revoked.

79. Under Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 48413 issued to United Pharmacy, while Pamela Gumbs has been an officer and owner and had knowledge of, or knowingly participated, in any conduct for which the licensee was disciplined, then Pamela Gumbs shall be prohibited from serving as a manager, administrator, owner,

1 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
2 Number PHY 48413 is placed on probation or until Pharmacy Permit Number PHY 48413 is  
3 reinstated if it is revoked.

4 80. Under Code section 4307, if discipline is imposed on Pharmacist License Number  
5 RPH 29485 issued to Pamela Gumbs, then Pamela Gumbs shall be prohibited from serving as a  
6 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for  
7 five years if Pharmacist License Number RPH 29485 is placed on probation or until Pharmacist  
8 License Number RPH 29485 is reinstated if it is revoked.

9 **PRAYER**

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

12 1. Revoking or suspending Pharmacy Permit Number PHY 48413, issued to United  
13 Pharmacy;

14 2. Revoking or suspending Pharmacy License Number RPH 29485, issued to Pamela  
15 Gumbs;

16 3. Prohibiting United Pharmacy from serving as a manager, administrator, owner,  
17 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
18 Number PHY 48413 is placed on probation or until Pharmacy Permit Number PHY 48413 issued  
19 to United Pharmacy is reinstated if it is revoked;

20 4. Prohibiting Pamela Gumbs from serving as a manager, administrator, owner,  
21 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit  
22 Number PHY 48413 is placed on probation or until Pharmacy Permit Number PHY 48413 issued  
23 to United Pharmacy, Inc. is reinstated if it is revoked;

24 5. Prohibiting Pamela Gumbs from serving as a manager, administrator, owner,  
25 member, officer, director, associate, or partner of a licensee for five years if Pharmacy License  
26 Number RPH 29485 is placed on probation or until Pharmacy License Number RPH 29485  
27 issued to Pamela Gumbs is reinstated if it is revoked;  
28

1           6.     Ordering Respondents to pay the Board of Pharmacy the reasonable costs of the  
2 investigation and enforcement of this case, pursuant to Business and Professions Code section  
3 125.3; and,

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

5  
6           DATED: 8/23/2021

Sodergren,  
Anne@DCA

Digitally signed by Sodergren,  
Anne@DCA  
Date: 2021.08.23 14:59:39 -07'00'

Anne Sodergren  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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