

6

MATRIX GUIDELINE FOR DISCIPLINARY ACTIONS

| | 1st Action | 2nd Action | 3rd Action |
|--|------------|--|------------|
| Non ingested error | Letter | Letter | Hearing |
| No counseling | \$750.00 | Letter Counseling CE + \$1000.00 | Hearing |
| Attorney Fees and Costs | Actual | Actual | Actual |
| Ingested no potential harm | \$500.00 | \$1000.00 | Hearing |
| Ingested with potential harm or adverse outcomes | \$1000.00 | Hearing | Hearing |
| Ingested with negative outcome or patient discomfort. | | | |
| No institution intervention | Hearing | Hearing | Hearing |
| Ingested with significant negative health circumstance. | | | |
| With institution admit | Hearing | Hearing | Hearing |
| Ingested with death related to inappropriate drug therapy | Hearing | Hearing | Hearing |

The investigative committee will review each case individually and may recommend a board hearing, particularly with mitigating circumstances such as inappropriate technician involvement or pharmacist malfeasance.

In certain cases with ingested errors and significant negative health circumstances requiring institutional care, the investigative committee recommendation will be a board hearing.

In all death cases resulting from inappropriate drug therapy a board hearing will occur.

Attorney fees and costs may be added in contested disciplinary actions requiring extensive attorney preparation and presentation and are not described in the above matrix.

The board has directed that ownership may be charged in disciplinary cases. In non-ingested errors copies of admonition letters will be sent to management. Accumulative actions for ownership monitoring will be based upon a 3 year period. All actions including non-ingested errors will be given a case number and monitored.

The Board has the authority to fine from \$0.00 to \$10,000 for each Cause of Action.

Updated May 2019

6A

BEFORE THE NEVADA STATE BOARD OF PHARMACY

FILED

DEC 13 2019

NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Case No. 19-228-CS-N

Petitioner,

v.

NOTICE OF INTENDED ACTION AND ACCUSATION

KRISTIN A. HESTDALEN, MD,
Certificate of Registration No. CS11061,

Respondent.

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under NRS 233B.127(3) and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and this respondent because at the time of the alleged events, Respondent Kristin A. Hestdalen, MD, held an expired Nevada Controlled Substance Registration, Certificate No. CS11061, issued by the Board.

FACTUAL ALLEGATIONS

II.

Respondent failed to timely renew her Certificate of Registration No. CS11061, which expired on October 31, 2018.

III.

Respondent wrote two-hundred sixty-three prescriptions for controlled substances between November 1, 2018 and May 3, 2019.

IV.

The Board approved a new Controlled Substance Registration for Respondent on December 4, 2019.

APPLICABLE LAW

V.

It is unlawful to prescribe a controlled substance except as authorized by law. NRS 453.321(1)(a); NRS 639.100(1).

VI.

A prescription for a controlled substance may be issued only by an individual practitioner who is authorized to prescribe controlled substances by the jurisdiction in which he is licensed to practice his profession. 21 CFR § 1306.03(a)(1). Every practitioner who prescribes any controlled substance within this State shall obtain biennially a registration issued by the Board. NRS 453.226(1).

VII.

Failure to renew a certificate of registration by failing to submit the application for renewal is grounds for suspension or revocation of that registration by the Board. NRS 639.210(13).

VIII.

It is unlawful for any person falsely to represent himself as a practitioner entitled to write prescriptions in this State. NRS 639.2813(1).

IX.

Violating any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(11).

X.

Violating, attempting to violate, assisting or abetting in the violation of or conspiring to violate any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy is grounds for suspension or revocation of any license issued by the Board. NRS 639.210(12).

XI.

The Board may suspend or revoke a registration to prescribe a controlled substance upon a finding that the registrant has committed an act that would render registration inconsistent with the public interest. NRS 453.236(1)(d) and NRS 453.241(1).

FIRST CAUSE OF ACTION

XII.

By failing to timely renew her Certificate of Registration CS11061, Respondent is subject to discipline pursuant to NRS 639.210(13) and NRS 639.255.

SECOND CAUSE OF ACTION

XIII.

By writing two-hundred sixty-three prescriptions for controlled substances between November 1, 2018 and May 3, 2019, without a valid registration, Respondent violated 21 CFR § 1306.03 and is subject to discipline pursuant to NRS 639.210(11) and NRS 639.255.

THIRD CAUSE OF ACTION

XIV.

By writing two-hundred sixty-three prescriptions for controlled substances between November 1, 2018 and May 3, 2019, without a valid registration, Respondent violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.226(1), NRS 453.321(1)(a), NRS 639.100(1), NRS 639.2813(1) and/or 21 CFR § 1306.03, and is subject to discipline pursuant to NRS 639.210(12) and NRS 639.255.

FOURTH CAUSE OF ACTION

XV.

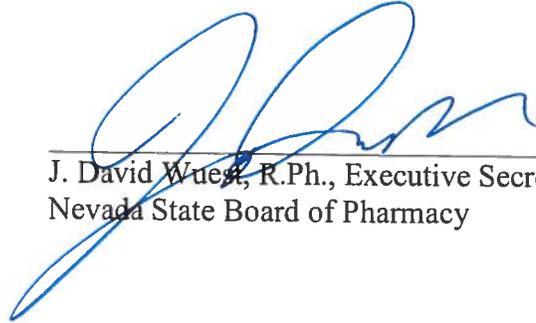
By writing two-hundred sixty-three prescriptions for controlled substances between November 1, 2018 and May 3, 2019, without a valid registration, Respondent committed an act that would render her Nevada Controlled Substance Registration, Certificate No. CS11061, inconsistent

with the public interest, and is subject to discipline pursuant to NRS 453.236(1)(d) and NRS 453.241(1).

XVI.

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificate of registration of this Respondent.

Signed this 13th day of December, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file of two copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**KRISTIN A. HESTDALEN, MD,
Certificate of Registration No. CS11061,,**

Respondent.

) **CASE NO. 19-228-CS-S**
)
)
)
) **STATEMENT TO THE**
) **RESPONDENT**
) **AND NOTICE OF HEARING**
)

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, January 15, 2020, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

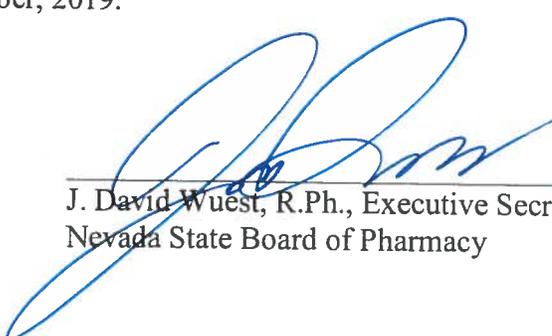
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 13th day of December, 2019.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 13th day of December, 2019, I served a true and correct copy of the foregoing document by Certified U.S.

Mail to the following:

Kristin A. Hestdalen
691 Sierra Rose Ln #B
Reno, NV 89511
NIA 19-228-CS-S

Lyn E. Beggs, Esq.
316 California Ave. #863
Reno, NV 89509



SHIRLEY HUNTING

written. Dr. Hestdalen notes that all prescriptions written were within the scope of her psychiatric practice and that she wrote the prescriptions without realizing that her Certificate of Registration had lapsed. Dr. Hestdalen asserts that she had moved her offices prior to the expiration of her Registration and did not recall receiving any correspondence regarding the expired Registration at her new address.

Paragraph IV: Dr. Hestdalen admits and agrees with the assertions set forth therein;

Applicable Law: Paragraphs V through XI

Dr. Hestdalen agrees that Paragraphs V through XI of the Accusation accurately reflect current Nevada law.

Causes of Action: Paragraphs XII through XV

First cause of action (paragraph XII): Dr. Hestdalen declines to respond to the allegations set forth therein.

Second cause of action (paragraph XIII): Dr. Hestdalen declines to respond to the allegations set forth therein.

Third cause of action (paragraph XIV): Dr. Hestdalen declines to respond to the allegations set forth therein.

Fourth cause of action (paragraph XV): Dr. Hestdalen declines to respond to the allegations set forth therein.

Respectfully submitted this 21st day of January, 2020.



Lynn E. Beggs, Esq.
Attorney for Respondent Kristin A. Hestdalen, M.D.

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 21st day of January, 2020.



Kristin A. Hestdalen, M.D.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**KRISTIN A. HESTDALEN, MD,
Certificate of Registration No. CS11061,**

Respondent.

Case No. 19-228-CS-N

STIPULATION AND ORDER

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and Respondent Kristin A. Hestdalen, MD, Certificate of Registration No. CS11061, by and through counsel, Lyn E. Beggs, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. The Board has jurisdiction over Respondent and this matter.
2. On or about December 13, 2019, Board Staff properly served Respondent with the Notice of Intended Action and Accusation (Accusation) on file in this matter together with the Statement to Respondent and Notice of Hearing.
3. Respondent is fully aware of her right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.
4. Respondent is aware of her right to a hearing on the matters alleged in the Accusation, her right to reconsideration, her right to appeal and any and all other rights which may be accorded to her pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).
5. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that Respondent has failed to comply with the provisions of Paragraphs 8, 13 and 14 below, Respondent hereby freely and voluntarily waives her rights to a hearing, reconsideration, appeal and any and all other rights related to this

action that may be accorded to him by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

6. Respondent admits that evidence exists, and that Board staff prosecuting this case could present such evidence at an administrative hearing, to establish a factual basis for the violations alleged in the Accusation, *to wit*, that:

A. Respondent failed to timely renew her Certificate of Registration No. CS11061, which expired on October 31, 2018, in violation of NRS 639.210(13), and

B. While Respondent held an expired Nevada Controlled Substance Registration, she wrote two-hundred sixty-three prescriptions for controlled substances between November 1, 2018 and May 3, 2019, in violation of NRS 453.226(1), NRS 453.321(1)(a), NRS 639.100(1), NRS 639.2813(1) and/or 21 CFR § 1306.03.

7. Those violations are plead with particularity in the Accusation, and are grounds for action pursuant to NRS 639.210 and NRS 639.255.

8. The Board approved a new Controlled Substance Registration for Respondent on December 4, 2019, at which time Respondent appeared before the Board to answer questions and give testimony regarding her application and the facts and circumstances regarding this matter.

9. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Respondent stipulate to the following penalties.

Respondent Kristin A. Hestdalen, MD, Certificate of Registration No. CS11061, shall:

A. Receive a letter of reprimand from Board Staff regarding her duties and responsibilities as a prescribing practitioner;

B. Pay a fine of Five-Thousand Dollars (\$5000.00) for the alleged violations;

and

C. Pay Nine-Hundred and Fifty Dollars (\$950.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter.

10. Any failure by Respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing Respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by Respondent, the Board may impose additional discipline upon Respondent not inconsistent with the provisions of NRS Chapter 639.

11. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on March 18, 2020, in Las Vegas, Nevada. Respondent will appear at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent or her counsel are not present at the meeting.

12. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board it shall be a public record pursuant to NRS 622.330.

13. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

14. Upon approval of this Stipulation by the Board, Respondent shall pay the fines agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, in monthly installments of \$500.00 for ten months and due on the first date of each month commencing May 1, 2020.

15. Upon approval of this Stipulation by the Board, Respondents shall pay the attorney's fees and costs agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) of the effective date of this Order.

16. Subject to the approval of this Stipulation by the Board, the Board and Respondent agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondent has fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and has freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this ___ day of March, 2020

Signed this ___ day of March, 2020



**KRISTIN A. HESTDALEN, MD,
Certificate of Registration NoCS11061**

**BRETT KANDT, ESQ.
General Counsel
Nevada State Board of Pharmacy**

**APPROVED AS TO FORM AND
CONTENT this ___ day of March, 2020**



**LYN E. BEGGS, ESQ.
Counsel for Respondent**

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Respondent Kristin A. Hestdalen, MD, Certificate of Registration No. CS11061, in Case No. 19-228 and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

IT IS SO ORDERED.

Entered this ____ day of March, 2020.

Helen Park, President
Nevada State Board of Pharmacy

6B

FEB 06 2020

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

SILVIA TORRES, RPH,
Certificate of Registration No. 18575,WALGREENS PHARMACY #7864,
License No. PH01977.

Respondents.

CASE NOS. 17-081-RPH-S
17-081-PH-SNOTICE OF INTENDED ACTION
AND ACCUSATION

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under NRS 233B.127(3) and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because at the time of the events alleged herein, respondent Silvia Torres (Torres), Certificate of Registration No. 18575, was a pharmacist registered with the Board and respondent Walgreens Pharmacy #7864 (Walgreens), License No. PH01977, was a pharmacy licensed by the Board.

FACTUAL ALLEGATIONS

II.

Torres was employed by Walgreens #7864 at the time of the events alleged herein.

III.

On August 14, 2017, D.O. saw his physician and received a prescription for losartan potassium oral tablet **50 mg.** with directions to take one tablet daily. The prescription allowed for four (4) refills.

IV.

D.O. tendered the prescription to Walgreens where pharmaceutical technician Xochitl Coin (Coin)ⁱ performed data entry in Walgreens's computer system. The computer system designated the prescription as no. 1593346.

V.

During data entry, Coin mistakenly selected losartan potassium oral tablet *25 mg.* with directions to take one tablet daily, half the dosage amount prescribed.

VI.

Torres is on record as the verifying pharmacist for prescription no. 1593346. She failed to detect the medication error when she verified data entry as accurate and performed the final product review.

VII.

The change in strength from 50 mg. to 25 mg. required the pharmacist to counsel the patient.

VIII.

Walgreens's computer patient "Consultation Required" field indicated "Y" for prescription no. 1593346. Torres documented that the patient declined counseling.

IX.

D.O. was not offered counseling.

X.

D.O. discovered the error prior to ingesting the medication.

FIRST CAUSE OF ACTION

(Respondent Torres)

XI.

Unprofessional conduct includes the failure by a licensee to follow strictly the instructions of a practitioner when filling, labeling, and dispensing a prescription. NAC 639.945(1)(d). It also includes a licensee performing his or her duties in an "incompetent,

ⁱ At the time of the alleged events, Xochitl Coin's last name was Dominquez.

unskillful, or negligent manner.” NAC 639.945(1)(i). Additionally, NAC 639.252 states in relevant part:

If a pharmaceutical technician performs one or more of the functions necessary to prepare a prescription, *the pharmacist supervising the pharmaceutical technician* is responsible for the filled prescription, including, but not limited to, verifying:

- (a) The selection and strength of the drug;
- (b) The dosage form; and
- (c) The labeling of the prescription.

NAC 639.252(2) (emphasis added.)

Respondent Torres violated NAC 639.252(2) and engaged in unprofessional conduct in violation of NAC 639.945(1)(d) and (i) when she verified the data and final product on prescription no. 1593346 as accurate when it was not, which resulted in Walgreens dispensing losartan potassium **25 mg.** tablets rather than losartan potassium **50 mg.** tablets as prescribed. Torres is therefore subject to discipline pursuant to NRS 639.210(4) and (12).

SECOND CAUSE OF ACTION

(Respondent Torres)

XII.

NRS 639.266(1) requires a pharmacist to “communicate matters which will enhance therapy through drugs with the patient or a person caring for the patient.” NAC 639.707(1), (2) and/or (4) further require counseling for all new prescriptions and provide a list of elements to be included as part of proper counseling, including, but not limited to, dose, intended use, expected response and precautions. Additionally, NAC 639.707(6) requires the pharmacist to create a record regarding counseling “at the time that counseling is provided or refused.” A pharmacist who performs those duties in an “incompetent, unskillful or negligent manner” engages in unprofessional conduct in violation of NAC 639.945(1)(i).

Respondent Torres violated NRS 639.266(1), NAC 639.707(1),(2) and/or (4) and engaged in unprofessional conduct in violation of NAC 639.945(1)(i) by failing to adequately counsel D.O. regarding prescription no. 1593346. That error, combined with other errors within the pharmacy, caused Walgreens to dispense losartan potassium **25 mg.** tablets rather than

losartan potassium *50 mg.* tablets as prescribed. Torres is therefore subject to discipline pursuant to NRS 639.210(4) and (12).

THIRD CAUSE OF ACTION
(Respondent Walgreens #7864)

XIII.

NRS 639.230(5) provides: “Any violation of any of the provisions of this chapter [NRS Chapter 639] by a managing pharmacist or by personnel of the pharmacy under the supervision of the managing pharmacist is cause for the suspension or revocation of the license of the pharmacy by the Board.”

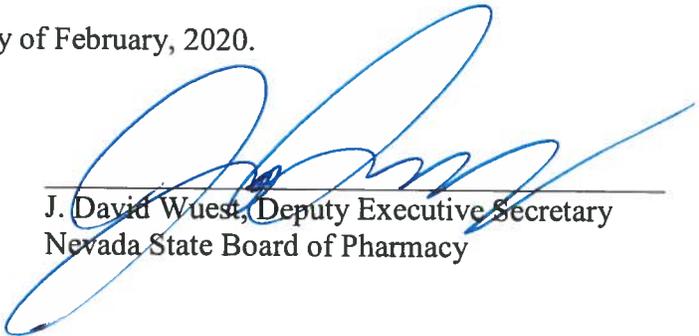
Additionally, “[t]he owner of a pharmacy, the managing pharmacist of the pharmacy and the registered pharmacist on duty at the pharmacy are responsible for the acts and omissions of pharmaceutical technicians and other personnel who are not pharmacists working in or for the pharmacy, including, but not limited to, any errors committed or unauthorized work performed by such personnel, if the owner, managing pharmacist or registered pharmacist knew or reasonably should have known of the act or omission.” NAC 639.702.

Further, the owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ. NAC 639.945(2).

As the pharmacy/pharmacy owner at which the violations of law alleged herein occurred, Walgreens Pharmacy #7864 is responsible for any violations of law by Torres pursuant to NRS 639.230(5), NAC 639.702 and NAC 639.945(2).

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of these respondents.

Signed this 6th day of February, 2020.



J. David Wuest, Deputy Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

CASE NOS. 17-081-RPH-S

Petitioner,

v.

**SILVIA TORRES, RPH
Certificate of Registration No. 18575,**

**STATEMENT TO THE RESPONDENT
NOTICE OF INTENDED ACTION
AND ACCUSATION
RIGHT TO HEARING**

Respondent.

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, March 18, 2020, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

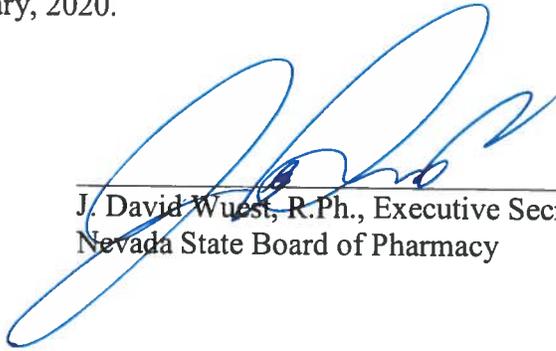
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 6th day of February, 2020.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 6th day of February, 2020, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Silvia Torres, R.Ph.
10656 College Hill Avenue
Las Vegas, NV 89166

Walgreens Pharmacy #07864
7755 N. Durango Drive
Las Vegas, NV 89131

William J. Stilling, Esq.
215 South State Street, Suite 500
Salt Lake City, UT 84111


SHIRLEY HUNTING

RESPONSES TO ALLEGATIONS AND CAUSES OF ACTION

In answer to the Notice of Intended Action and Accusation, Respondents admit, deny, and allege as follows:

JURISDICTION

I.

Respondents admit the allegations in paragraph I.

FACTUAL ALLEGATIONS

II.

Respondents admit the allegations in paragraph II.

III.

Respondents lack sufficient knowledge to admit or deny the allegations in paragraph III describing D.O. activities and therefore deny the same.

IV.

Respondents admit that D.O. tendered a prescription for losartan potassium oral tablet 50 mg which prescription was designated as no. 1593346.

V.

Respondents lack sufficient knowledge to admit or deny the allegations addressing the activities of Ms. Coin in paragraph V and therefore deny the same.

VI.

Respondents admit that Ms. Torres was the verifying pharmacist for prescription no. 1593346 and that she did not detect the 25 mg dosage when she verified the prescription.

VII.

Paragraph VII reflects a legal conclusion to which no admission or denial response is required.

VIII.

Respondents admit the allegations in paragraph VIII.

IX.

Respondents deny the allegations in paragraph IX. D.O. denied counseling.

X.

Respondents lack sufficient knowledge to admit or deny the other allegations in paragraph IV and therefore deny the same.

FIRST CAUSE OF ACTION

(Respondent Torres)

XI.

Respondents deny the allegations in paragraph XI.

SECOND CAUSE OF ACTION

(Respondent Torres)

XII.

Respondents deny the allegations in paragraph XII.

THIRD CAUSE OF ACTION

(Respondent Walgreens #7864)

XIII.

Respondents deny the allegations in paragraph XIII.

OTHER DEFENSES

Each cause of action fails to state a claim upon which relief can be granted.

RESERVATION OF RIGHTS, DEFENSES, AND GENERAL DENIAL

1. Respondents reserve the right to assert other affirmative defenses in this matter and in any civil litigation that may follow and to provide additional facts and mitigating circumstances.

2. To the extent Respondents did not specifically admit allegations in the Notice of Intent and Accusation, they deny such allegations.

PRAYER FOR RELIEF

1. That the Board find that the allegations in the Notice and all evidence presented to the Board do not support imposing discipline on any of the Respondent.

2. That the Board dismiss all Causes of Action in the Notice.

3. That the Board provide further relief to Respondents as it finds just and proper.

DATED this 10th day of March 2020.



William J. Stilling
STILLING & HARRISON, PLLC
Attorneys for Respondents
Silvia Torres, R.Ph.
Walgreens Pharmacy # 78642

CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2020, I caused to be served a true and correct copy of the foregoing **ANSWER AND NOTICE OF DEFENSE** by the method indicated below to:

Brett Kandt
General Counsel
Nevada State Board of Pharmacy
431 W. Plumb Lane
Reno, NV 89509
bkandt@pharmacy.nv.gov

- U.S. Mail postage prepaid
- Hand delivery
- Overnight Mail
- Facsimile
- Electronic Mail

David Wuest
Executive Secretary
Nevada State Board of Pharmacy
431 W. Plumb Lane
Reno, NV 89509
dwest@pharmacy.nv.gov

- U.S. Mail postage prepaid
- Hand delivery
- Overnight Mail
- Facsimile
- Electronic Mail



BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**SILVIA TORRES, RPH,
Certificate of Registration No. 18575,**

**WALGREENS PHARMACY #7864,
Pharmacy License No. PH01977.**

Respondents.

**CASE NOS. 17-081-RPH-S
17-081-PH-S**

STIPULATION AND ORDER

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), Respondent Silvia Torres (Torres), Certificate of Registration No. 18575, and Respondent Walgreens Pharmacy #7864 (Walgreens), Pharmacy License No. PH01977, by and through their counsel, William J. Stilling, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. The Board has jurisdiction over Respondents and this matter.
2. On or about February 6, 2020, Board Staff properly served each Respondent with the Notice of Intended Action and Accusation (Accusation) on file in this matter together with the Statement to Respondent and Notice of Hearing.
3. On or about March 10, 2020, Respondents jointly filed an Answer and Notice of Defense to the Accusation.
4. Respondents are fully aware of their right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.
5. Respondents are aware of the right to a hearing on the matters alleged in the Accusation, their right to reconsideration, their right to appeal and any and all other rights which may be accorded to them pursuant to NRS Chapter 233B (Nevada Administrative Procedure

Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

6. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that Respondents, or any of them, have failed to comply with the provisions of Paragraphs 9, 10, 11, 16 and 17 below, Respondents hereby freely and voluntarily waive their rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to them by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

7. Respondents do not contest the allegations in the Accusation, but acknowledge that Board staff prosecuting this case could present such evidence at an administrative hearing to establish a factual basis for the violations alleged therein, *to wit*, that:

A. Respondent Torres violated NAC 639.252(2) and NAC 639.945(1)(d) when she verified the data and final product on Prescription No. 1593346 as accurate when it was not, which resulted in Walgreens dispensing losartan potassium **25 mg.** tablets rather than losartan potassium **50 mg.** tablets as prescribed, and is subject to discipline pursuant to NRS 639.210(4) and (12).

B. Respondent Torres violated NRS 639.266(1), NAC 639.707(1), (2) and/or (4), and/or NAC 639.945(1)(i) by failing to discuss the medication sufficiently with the patient to detect that she was dispensing a wrong medication, and is subject to discipline pursuant to NRS 639.210(4) and/or (12); and

C. As the pharmacy at which the violations of law alleged herein occurred, Walgreens Pharmacy #7864 is responsible for any violations of law by Torres pursuant to NRS 639.230(5), NAC 639.702 and NAC 639.945(2).

8. Those violations are plead with particularity in the Accusation, and are grounds for action pursuant to NRS 639.210 and NRS 639.255.

9. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, and without Respondent Torres admitting to the allegations in the Accusation, the Board and Respondent Torres stipulate to the following penalties. Respondent Silvia Torres, Certificate of Registration No. 18575, shall:

- A. Receive a letter of reprimand from Board Staff regarding her duties and responsibilities as a pharmacist;
- B. Pay a fine of One-Thousand Dollars (\$1,000.00) for the alleged violations;
- C. Pay One-Thousand Dollars (\$1,000.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter; and
- D. Complete two (2) extra hours of continuing education (CE) on error prevention, in addition to the CE hours she must otherwise complete to maintain licensure. Respondent must provide certificates demonstrating that she completed those additional CEs within sixty (60) days of the effective date of this Order.

10. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, and without Respondent Pharmacy #7864 admitting to the allegations in the Accusation, the Board and Respondent Walgreens Pharmacy ##7864 stipulate to the following penalties. Respondent Pharmacy #7864 (Walgreens), Pharmacy License No. PH01977, shall:

- A. Pay a fine of One-Thousand Dollars (\$1,000.00) for the alleged violations; and
- B. Pay One-Thousand Dollars (\$1,000.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter.

11. Any failure by any Respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing that Respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by that Respondent, the Board may impose additional discipline upon that Respondent not inconsistent with the provisions of NRS Chapter 639.

12. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on March 18, 2020, in Las Vegas, Nevada. Respondents and their authorized representative(s) will appear at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondents or their counsel are not present at the meeting.

13. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board it shall be a public record pursuant to NRS 622.330.

14. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

15. Upon approval of this Stipulation by the Board, Respondents shall pay the fines agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this Order.

16. Upon approval of this Stipulation by the Board, Respondents shall pay the attorney's fees and costs agreed to herein by *cashier's check* or *certified check* or *money order*

made payable to “Nevada State Board of Pharmacy,” to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) of the effective date of this Order.

17. Subject to the approval of this Stipulation by the Board, the Board and Respondents, and each of them, agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondents, and each of them, have fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and have freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this ___ day of June, 2020

Signed this ___ day of June, 2020

SILVIA TORRES, RPH,
Certificate of Registration No. 18575

Signed this ___ day of June, 2020

BRETT KANDT, ESQ.
General Counsel
Nevada State Board of Pharmacy

WALGREENS PHARMACY #7864,
Pharmacy License No. PH01977

APPROVED AS TO FORM AND
CONTENT this ___ day of June, 2020

WILLIAM J. STILLING, ESQ.
Counsel for Respondents

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Respondent Silvia Torres, Certificate of Registration No. 18575, and Respondent Walgreens Pharmacy #7864, Pharmacy License No. PH01977, in Case No. 17-081 and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

IT IS SO ORDERED.

Entered this ___ day of June, 2020.

Helen Park, President
Nevada State Board of Pharmacy

6C

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

CASE NOS. 17-081-PH-S

Petitioner,

v.

**WALGREENS PHARMACY #7864
License No. PH01977,**

**STATEMENT TO THE RESPONDENT
NOTICE OF INTENDED ACTION
AND ACCUSATION
RIGHT TO HEARING**

Respondent.

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, March 18, 2020, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

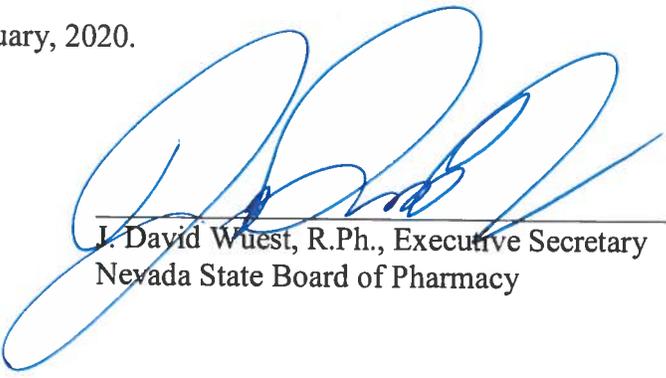
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 6th day of February, 2020.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

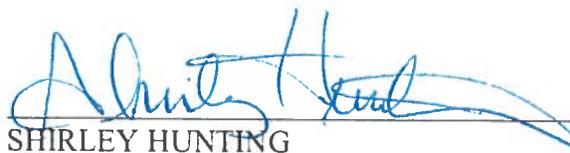
CERTIFICATE OF SERVICE

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Silvia Torres, R.Ph.
10656 College Hill Avenue
Las Vegas, NV 89166

Walgreens Pharmacy #07864
7755 N. Durango Drive
Las Vegas, NV 89131

William J. Stilling, Esq.
215 South State Street, Suite 500
Salt Lake City, UT 84111


SHIRLEY HUNTING

RESPONSES TO ALLEGATIONS AND CAUSES OF ACTION

In answer to the Notice of Intended Action and Accusation, Respondents admit, deny, and allege as follows:

JURISDICTION

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FACTUAL ALLEGATIONS

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Paragraph VII reflects a legal conclusion to which no admission or denial response is required.

VIII.

Respondents admit the allegations in paragraph VIII.

IX.

Respondents deny the allegations in paragraph IX. D.O. denied counseling.

X.

Respondents lack sufficient knowledge to admit or deny the other allegations in paragraph IV and therefore deny the same.

FIRST CAUSE OF ACTION

(Respondent Torres)

XI.

Respondents deny the allegations in paragraph XI.

SECOND CAUSE OF ACTION

(Respondent Torres)

XII.

Respondents deny the allegations in paragraph XII.

THIRD CAUSE OF ACTION

(Respondent Walgreens #7864)

XIII.

Respondents deny the allegations in paragraph XIII.

OTHER DEFENSES

Each cause of action fails to state a claim upon which relief can be granted.

RESERVATION OF RIGHTS, DEFENSES, AND GENERAL DENIAL

1. Respondents reserve the right to assert other affirmative defenses in this matter and in any civil litigation that may follow and to provide additional facts and mitigating circumstances.

2. To the extent Respondents did not specifically admit allegations in the Notice of Intent and Accusation, they deny such allegations.

PRAYER FOR RELIEF

1. That the Board find that the allegations in the Notice and all evidence presented to the Board do not support imposing discipline on any of the Respondent.

2. That the Board dismiss all Causes of Action in in the Notice.

3. That the Board provide further relief to Respondents as it finds just and proper.

DATED this 10th day of March 2020.



William J. Stilling
STILLING & HARRISON, PLLC
Attorneys for Respondents
Silvia Torres, R.Ph.
Walgreens Pharmacy # 78642

CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2020, I caused to be served a true and correct copy of the foregoing **ANSWER AND NOTICE OF DEFENSE** by the method indicated below to:

Brett Kandt
General Counsel
Nevada State Board of Pharmacy
431 W. Plumb Lane
Reno, NV 89509
bkandt@pharmacy.nv.gov

- U.S. Mail postage prepaid
- Hand delivery
- Overnight Mail
- Facsimile
- Electronic Mail

David Wuest
Executive Secretary
Nevada State Board of Pharmacy
431 W. Plumb Lane
Reno, NV 89509
dwuest@pharmacy.nv.gov

- U.S. Mail postage prepaid
- Hand delivery
- Overnight Mail
- Facsimile
- Electronic Mail



6D

FILED

FEB 13 2020

**NEVADA STATE BOARD
OF PHARMACY**

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**JOSHUA AIGHOBAHI, RPH,
Certificate of Registration No. 18747,**

**KATHERINE KUEHL, RPH,
Certificate of Registration No. 11172,**

**FELICIA AIGHOBAHI, PT,
Certificate of Registration No. PT17660, and**

**DIVINE TOUCH SERVICES PHARMACY,
Pharmacy License No. PH03411,**

Respondents.

**Case Nos. 19-035-RPH-A-S
19-035-RPH-B-S
19-035-PT-S
19-035-PH-S**

**NOTICE OF INTENDED ACTION
AND ACCUSATION**

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under NRS 233B.127(3) and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because at the time of the events alleged herein, Respondent Joshua Aighobahi, R.Ph., Certificate of Registration No. 18747, and Respondent Katherine Kuehl, R.Ph., Certificate of Registration No. 11172 (Kuehl), were pharmacists registered by the Board, Respondent Felicia Aighobahi, Certificate of Registration No. PT17660, was a pharmaceutical technician registered by the Board, and Respondent Divine Touch Services Pharmacy, License No. PH03411 (Divine Touch), was a pharmacy licensed by the Board.

FACTUAL ALLEGATIONS

II.

Joshua Aighobahi owns and operates Divine Touch; he was the managing pharmacist of Divine Touch and the only registered pharmacist employed in the pharmacy until approximately October 31, 2019.

III.

Felicia Aighobahi is Joshua Aighobahi's wife and employed as a pharmaceutical technician by Divine Touch.

IV.

Throughout 2019, Felicia Aighobahi performed functions that are limited by law to a registered pharmacist and attributed the performance of those functions to Joshua Aighobahi.

V.

During annual inspections of Divine Touch on or about September 7, 2017, September 8, 2018, and September 23, 2019, Board staff observed that Joshua Aighobahi failed to conduct a proper biennial inventory of the pharmacy.

VI.

During the September 23, 2019, annual inspection Board staff observed that Joshua Aighobahi exhibited behavior that rendered him incapable of safely and competently practicing pharmacy, that he failed to maintain an accurate perpetual inventory of schedule II-controlled substances, and that he failed to maintain DEA 222 forms.

VII.

On or about October 10, 2019, Board staff conducted a joint inspection of Divine Touch with the Drug Enforcement Administration (DEA). During the DEA audit of controlled substances at Divine Touch, both Board staff and DEA investigators observed that Joshua

Aighobahi exhibited behavior that rendered him incapable of complying with the audit and/or of safely and competently practicing pharmacy.

VIII.

On or about October 21, 2019, Joshua Aighobahi represented to Board staff that he would voluntarily cease operation of Divine Touch until he either successfully completed an evaluation of his competence to practice pharmacy pursuant to NRS 639.2445 or, alternatively, placed a managing pharmacist approved by Board staff in charge of the pharmacy pursuant to NRS 639.220(1).

IX.

On or about October 31, 2019, Joshua Aighobahi represented to Board staff through his legal counsel that he had employed Kuehl as the managing pharmacist for Divine Touch and had ceased practicing pharmacy.

X.

On or about January 9, 2020, Board staff conducted an inspection of Divine Touch and observed that Joshua Aighobahi continued to practice pharmacy even as his behavior continued to render him incapable of safely and competently practicing pharmacy, that Kuehl as the new managing pharmacist failed to properly conduct an initial inventory of the pharmacy, and that prescription labels did not include the expiration date for the medication.

XI.

During the inspections of Divine Touch on or about September 23, 2019, October 10, 2019, and January 9, 2020, Board staff observed that the pharmacy had possession of expired controlled substances and dangerous drugs for dispensing that were not properly segregated.

XII.

On or about January 21, 2020, Kuehl represented to Board staff that Joshua Aighobahi continued to practice pharmacy and perform certain functions reserved for a managing pharmacist.

APPLICABLE LAW

XIII.

NRS 453.246 Recordkeeping and inventory requirements for registrants. Persons registered to dispense controlled substances pursuant to the provisions of NRS 453.011 to 453.552, inclusive, shall keep records and maintain inventories in conformance with the recordkeeping and inventory requirements of state and federal law and with any additional regulations the Board issues.

XIV.

NRS 453.251 Order forms. Controlled substances listed in schedules I and II may be distributed by a registrant or licensed pharmacy to another registrant or licensed pharmacy only pursuant to an order form and may be received by a registrant only pursuant to an order form. Compliance with the provisions of federal law respecting order forms shall be deemed in compliance with this section.

XV.

NRS 453.326 Unlawful acts relating to recordkeeping, inspections and knowingly keeping or maintaining a place where controlled substances are unlawfully used, kept or sold; penalty.

1. It is unlawful for a person:

(a) To refuse or fail to make, keep or furnish any record, notification, order form, statement, invoice or information required under the provisions of NRS 453.011 to 453.552, inclusive;

....

XVI.

NRS 453.236 Suspension, revocation of registration; seizure, placement under seal of controlled substance owned or possessed by registrant; notification of Drug Enforcement Administration and Division concerning suspension, revocation or forfeiture; registrant prohibited from employing person whose pharmacist's certificate was suspended or revoked.

1. The Board may suspend or revoke a registration pursuant to NRS 453.231 to dispense a controlled substance upon a finding that the registrant has:

....

(d) Committed an act that would render registration under NRS 453.231 inconsistent with the public interest as determined pursuant to that section.

XVII.

NRS 639.100(1)(a) states in relevant part: "It is unlawful for any person to sell or dispense, or permit to be . . . sold or dispensed, any drug, . . . unless the person . . . [i]s a registered pharmacist. *See also* 21 U.S.C. § 841(a).

XVIII.

NRS 639.210 Grounds for suspension or revocation of certificate, license, registration or permit or denial of application. The Board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter, and deny the application of any person for a certificate, license, registration or permit, if the holder or applicant:

1. Is not of good moral character;

....

4. Is guilty of unprofessional conduct or conduct contrary to the public interest;

....

9. Has willfully made to the Board or its authorized representative any false statement which is material to the administration or enforcement of any of the provisions of this chapter;

....

11. Has violated any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs;

12. Has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy, or has knowingly permitted, allowed, condoned or failed to report a violation of any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy committed by the holder of a certificate, license, registration or permit;

....

15. Has, as a managing pharmacist, violated any provision of law or regulation concerning recordkeeping or inventory in a store over which he or she presides, or has knowingly allowed a violation of any provision of this chapter or other state or federal laws or regulations relating to the practice of pharmacy by personnel of the pharmacy under his or her supervision;

....

17. Has failed to maintain and make available to a state or federal officer any records in accordance with the provisions of this chapter or chapter 453 or 454 of NRS;

XIX.

NRS 639.2445 Physical or mental examination of holder of certificate believed to be incompetent; competency hearing; probation for use of alcohol or drugs.

1. Whenever the Board believes that a holder of a certificate is or has become incompetent to practice pharmacy by reason of any physical or mental injury, illness or disability or by reason of chronic or excessive use of alcohol or drugs, the Board may order that the holder of the certificate submit to a physical or psychiatric examination, or both, at the expense of the Board.

2. The Board shall designate a physician or a psychiatrist or both, as the case may be, to conduct the examination or examinations of the holder of the certificate and furnish the Board and the holder of the certificate with a report of the findings. If the holder of the certificate is dissatisfied with the findings, the holder of the certificate may obtain an independent examination and report at his or her own expense, not later than 10 days following receipt of the initial report.

3. Upon receipt of the findings the Board shall conduct a hearing to determine whether the holder of the certificate is competent to practice pharmacy. Except as provided in subsection 4, if the Board finds that the holder of the certificate is not competent to practice pharmacy, it shall order an immediate suspension of his

or her right to practice pharmacy, and the suspension remains in effect until the Board determines that a certificate may be reinstated.

4. The Board may place on probation a holder of a certificate who is not competent to practice pharmacy by reason of chronic or excessive use of alcohol or drugs if the holder of the certificate voluntarily enters and completes a program of treatment approved by the Board and complies with any other conditions imposed by the Board.

XX.

NRS 639.282 Unlawful possession or sale of certain pharmaceutical preparations, drugs or chemicals; destruction.

1. Except as otherwise provided . . . it is unlawful for any person to have in his or her possession, or under his or her control, for the purpose of resale, or to sell or offer to sell or dispense or give away, any pharmaceutical preparation, drug or chemical which:

....
(d) Is no longer safe or effective for use, as indicated by the expiration date appearing on its label; or

XXI.

NAC 453.475 Initial and biennial inventory of controlled substances by new managing pharmacist.

1. A pharmacist who is hired or promoted to manage a pharmacy pursuant to the provisions of NRS 639.220 shall:

(a) Within 48 hours after first reporting for duty as the managing pharmacist, conduct an inventory of the controlled substances of the pharmacy with the pharmacist who preceded him or her as the managing pharmacist. The pharmacists shall sign the inventory.

(b) After the date on which the inventory required pursuant to paragraph (a) was taken, conduct an inventory of the controlled substances of the pharmacy at least once every 2 years during the course of his or her employment as managing pharmacist at the pharmacy. The managing pharmacist may conduct the biennial inventory on any date which is within 2 years of the date on which the previous biennial inventory was conducted.

2. An inventory required by subsection 1 must be:

(a) Conducted according to the method prescribed by the provisions of 21 C.F.R. Part 1304; and

(b) Placed in the records of the controlled substances of the pharmacy.

XXII.

NAC 639.050 Storage and destruction of certain controlled substances.

....

2. Each practitioner or pharmacy shall physically separate each controlled substance which is outdated, damaged, deteriorated, misbranded or adulterated from the balance of its stock medications.

XXIII.

NAC 639.473 Procurement and storage of drugs.

1. The managing pharmacist of a pharmacy is responsible for the procurement and storage of drugs in that pharmacy.

....

3. Outdated drugs must be removed from stock and identified and maintained separately from other stock until disposal.

XXIV.

NAC 639.482 Maintenance and availability of records.

1. Each record required to be kept pursuant to NAC 639.483 to 639.489, inclusive, must be kept by a pharmacy for at least 2 years after the date of the record.

2. Records maintained by a pharmacy must be made available for inspection and copying upon the request of the Board, its representatives, or another authorized local, state or federal law enforcement agency.

XXV.

NAC 639.485 Maintenance of records for controlled substances.

1. A pharmacy shall maintain records for controlled substances:

(a) In a readily retrievable manner.

(b) In a manner that establishes the receipt, distribution and destruction of all controlled substances handled by the pharmacy.

2. A pharmacy shall maintain a perpetual inventory of any controlled substance listed in schedule II.

3. Records of the distribution of controlled substances listed in schedule II, schedule III or schedule IV must include:

(a) The name of the drug, dosage form and strength.

(b) The name of the pharmacist distributing or authorizing the distribution of the controlled substance.

(c) The name of the authorized person receiving the controlled substance. This information may be included on the record of administration.

(d) The location to which the controlled substance is being distributed.

(e) Controlled substances returned to the pharmacy.

(f) A record of any waste of any prepared or partially administered dose of a controlled substance, which must be witnessed and cosigned by another person who is licensed to provide medical care.

XXVI.

NAC 639.487 Maintenance of additional records.

In addition to any other requirements for keeping records, a pharmacy shall maintain the following records:

1. Copy 3 of the order form of the Drug Enforcement Administration (DEA 222C), properly dated, initialed and filed, copies of each unaccepted or defective order form, and any attached statements or other documents.

2. Suppliers' invoices of controlled substances and dangerous drugs. The pharmacist or other personnel of the pharmacy shall clearly record on each invoice the actual date on which the controlled substance or dangerous drug was received.

3. Suppliers' credit memos for controlled substances and dangerous drugs.

4. The biennial inventory of controlled substances required by the Drug Enforcement Administration.

5. Any reports of theft or significant loss of controlled substances submitted to the Drug Enforcement Administration.

6. Reports of the surrender or destruction of controlled substances or dangerous drugs, or both, to an appropriate state or federal agency.

7. A register book for nonprescription drugs listed in schedule V.

XXVII.

NAC 639.510 Maintenance and storage of pharmaceutical stock.

....

2. The managing pharmacist of a pharmacy:

(a) Is responsible for, and must have knowledge and control of, the acquisition and disposition by the pharmacy of the stock of the pharmacy; and

(b) Shall ensure that the records relating to the acquisition or disposition of the stock of the pharmacy are maintained as required by law.

3. The dangerous drugs, controlled substances, chemicals, biologicals and devices kept in the stock of a pharmacy must meet all of such standards of purity and strength as established by current official compendia or as established on the appropriate labels, and must be properly stored. Any preparation which varies from such standards of purity and strength or becomes unfit for use from deterioration or other cause must not be carried in stock and must be destroyed in a manner provided by law when so ordered by an agent of the Board.

XXVIII.

NAC 639.512 Class A and B packaging: Label; expiration date; log.

....

2. Each unit dose of a controlled substance or dangerous drug packaged or repackaged by a pharmacy must contain a label which specifies:

....

(c) The expiration date; and

....

XXIX.

NAC 639.523 Physical address for delivery of drugs.

....

3. A pharmacist employed by a pharmacy shall acknowledge on every invoice that the drugs listed in the invoice were physically received by the pharmacy at the physical address to which the Board has issued the license of the pharmacy.

XXX.

NAC 639.601 Prescription drugs: Separation and disposal of certain drugs.

1. A prescription drug that is outdated, damaged, deteriorated, misbranded or adulterated must be separated from other prescription drugs until it is destroyed or returned to the supplier.

....

XXXI.

NAC 639.945 Unprofessional conduct; owner responsible for acts of employees.

1. The following acts or practices by a holder of any license, certificate or registration issued by the Board or any employee of any business holding any such license, certificate or registration are declared to be, specifically but not by way of limitation, unprofessional conduct and conduct contrary to the public interest:

....

(h) Performing or in any way being a party to any fraudulent or deceitful practice or transaction.

(i) Performing any of his or her duties as the holder of a license, certificate or registration issued by the Board, or as the owner of a business or an entity licensed by the Board, in an incompetent, unskillful or negligent manner.

(j) Aiding or abetting a person not licensed to practice pharmacy in the State of Nevada.

(k) Performing any act, task or operation for which licensure, certification or registration is required without the required license, certificate or registration.

....

(m) Failing to provide any document, data or information that is required to be made and maintained pursuant to chapters 453, 454, 585 and 639 of NRS and chapters 453, 454, 585 and 639 of NAC to a member of the Board or a member of the staff of the Board upon his or her request.

....

2. The owner of any business or facility licensed, certified or registered by the Board is responsible for the acts of all personnel in his or her employ.

XXXII.

NAC 639.955 Imposition of fines; authority to take disciplinary action.

1. Except as otherwise provided in this section, the Board may impose a fine against a pharmacist or pharmacy pursuant to paragraph (f) of subsection 1 of NRS 639.255 according to the following schedule:

....

(h) For failing to make or maintain a biennial inventory of controlled substances.....\$1,000.00

....

2. The Board may impose a fine for a violation listed in subsection 1 that is less than or greater than the amount set forth in that subsection for that violation after giving consideration to any aggravating and mitigating factors that relate to the violator's role in and responsibility for the conduct for which the fine is being imposed, and the unique circumstances of each case.

....

5. The Board may, as it deems appropriate, impose a fine for a violation not listed in subsection 1 that is commensurate with the severity of the violation.

6. No fine imposed by the Board will exceed \$10,000.

....

8. This section will be construed and applied so as to preserve the discretion of the Board to take any disciplinary action authorized by NRS 639.255.

XXXIII.

21 C.F.R. § 1304.11 Inventory requirements.

....

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

XXXIV.

21 C.F.R. § 1304.21 General requirements for continuing records.

(a) Every registrant required to keep records pursuant to §1304.03 shall maintain, on a current basis, a complete and accurate record of each substance manufactured, imported, received, sold, delivered, exported, or otherwise disposed of by him/her, and each inner liner, sealed inner liner, and unused and returned mail-back package, except that no registrant shall be required to maintain a perpetual inventory.

XXXV.

21 U.S.C. § 842(a)(5) states in relevant part: "It shall be unlawful for any person . . . to refuse or negligently fail to make, keep, or furnish any record, report, notification, declaration,

order or order form, statement, invoice, or information required under this subchapter or subchapter II[.]”

FIRST CAUSE OF ACTION

Failure to Maintain Perpetual Inventories of Controlled Substances
(Respondents Joshua Aighobahi and Divine Touch)

XXXVI.

By failing to maintain at least two years’ worth of perpetual inventories of schedule II-controlled substances in a readily retrievable manner, Joshua Aighobahi and Divine Touch violated NRS 453.246, NAC 639.485(1) and (2), and NAC 639.482(a) and (b), engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1) and NRS 639.210(4), (12) and (17).

SECOND CAUSE OF ACTION

Failure to Maintain Accurate Biennial Inventories of Controlled Substances
(Respondents Joshua Aighobahi and Divine Touch)

XXXVII.

By failing to maintain at least two years’ worth of biennial inventories of its controlled substances in a readily retrievable manner, Joshua Aighobahi and Divine Touch violated NRS 453.246, NAC 453.475(1)(b) and (2), NAC 639.482(a) and (b), NAC 639.487(4), NAC 639.510, 21 U.S.C. § 842(a)(5) and 21 CFR § 1304.11, engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1), NRS 639.210(4), (12) and (17).

THIRD CAUSE OF ACTION

Failure to Maintain Records of Controlled Substance Purchases
(Respondents Joshua Aighobahi and Divine Touch)

XXXVIII.

By failing to maintain accurate and complete invoices for the controlled substances Divine Touch purchased and received, Joshua Aighobahi and Divine Touch violated NRS 453.246, NRS 453.251, NRS 453.326(1)(a), NAC 639.510, NAC 639.523(3), 21 U.S.C. §

842(a)(5) and 21 CFR § 1304.21, engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1), NRS 639.210(4), (11), (12) and (17).

FOURTH CAUSE OF ACTION

Fraudulent or Deceitful Practice/Practicing as a Registered Pharmacist Without Registration
(Respondent Felicia Aighobahi)

XXXIX.

By performing functions that are limited by law to a registered pharmacist and attributing the performance of those functions to Joshua Aighobahi, Felicia Aighobahi was party to a fraudulent or deceitful practice or transaction, engaged in unprofessional conduct as defined in NAC 639.945(1)(h) and (k), and is subject to discipline pursuant to NRS 639.210(4).

FIFTH CAUSE OF ACTION

Fraudulent or Deceitful Practice /Aiding or Abetting a Person Not Licensed to Practice Pharmacy
(Respondent Joshua Aighobahi)

XL.

By permitting Felicia Aighobahi to perform duties that are limited by law to a registered pharmacist, Joshua Aighobahi was party to a fraudulent or deceitful practice or transaction, aided or abetted a person not licensed to practice pharmacy in the State of Nevada, engaged in unprofessional conduct as defined in NAC 639.945(1)(h) and (j), and is subject to discipline pursuant to NRS 639.210(4).

SIXTH CAUSE OF ACTION

Unlawful Dispensing and Sales
(Respondents Joshua Aighobahi and Felicia Aighobahi)

XLI.

By permitting Felicia Aighobahi to perform functions that are limited by law to a registered pharmacist and attributing the performance of those functions to Joshua Aighobahi, Joshua Aighobahi and Felicia Aighobahi violated, attempted to violate, assisted or abetted in the

violation of or conspired to violate NRS 453.331(1)(c), NRS 453.381(8), NRS 453.401(1)(a), NRS 639.100(1)(a), NRS 639.284 and/or 21 U.S.C. § 841(a), and are subject to discipline pursuant to NRS 639.210(9), (11) and (12).

SEVENTH CAUSE OF ACTION

**Failure to Conduct Initial Inventory of Controlled Substances
(Respondent Kuehl)**

XLII.

By failing to properly conduct an initial inventory of the pharmacy as the new managing pharmacist, Kuehl violated NRS 453.246, NAC 453.475(1)(a) and (2) and NAC 639.510, engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and is subject to discipline pursuant to NRS 639.210(4), (15) and (17).

EIGHTH CAUSE OF ACTION

**Failure to Properly Store Expired Drugs
(Respondents Joshua Aighobahi, Kuehl and Divine Touch)**

XLIII.

By failing to segregate expired drugs from unexpired drugs and secure those expired drugs in an area where they could not be used to administer or fill prescriptions, Joshua Aighobahi, Kuehl and Divine Touch violated NRS 639.282(1)(d), NAC 639.050(2), NAC 639.473(1) and (3), NAC 639.510(3) and NAC 639.601(1), engaged in unprofessional conduct as defined in NAC 639.945(i), and are subject to discipline pursuant to NRS 639.210(4), (12) and (15).

NINTH CAUSE OF ACTION

**Failure to Properly Label Prescription Drugs
(Respondents Joshua Aighobahi, Kuehl and Divine Touch)**

XLIV.

By failing to include the expiration date for medication on prescription labels, Joshua Aighobahi, Kuehl and Divine Touch violated NAC 639.512(2)(c), engaged in unprofessional

conduct as defined in NAC 639.945(i), and are subject to discipline pursuant to NRS 639.210(4), (12) and (15).

TENTH CAUSE OF ACTION
Incompetent, Unskillful and Negligent Practice of Pharmacy
 (Respondent Joshua Aighobahi)

XLV.

By continuing to practice pharmacy even as his behavior rendered him incapable of safely and competently practicing pharmacy, Joshua Aighobahi performing his duties as a registered pharmacist and as the owner of Divine Touch in an incompetent, unskillful or negligent manner, engaged in unprofessional conduct as defined in NAC 639.945(1)(i), is subject to discipline pursuant to NRS 639.210(4), and should be required to submit to a physical or psychiatric examination, or both, pursuant to NRS 639.2445.

ELVENTH CAUSE OF ACTION
Managing Pharmacist Responsibilities
 (Respondents Joshua Aighobahi and Kuehl)

XLVI.

As the managing pharmacists of Divine Touch at the time of the violations alleged herein, either Joshua Aighobahi and Kuehl are responsible for those violations, including those of the pharmacy's employees, pursuant to NRS 639.220(1), NAC 639.473, NAC 639.510 and NAC 639.702, and are subject to discipline pursuant to NRS 639.210(15).

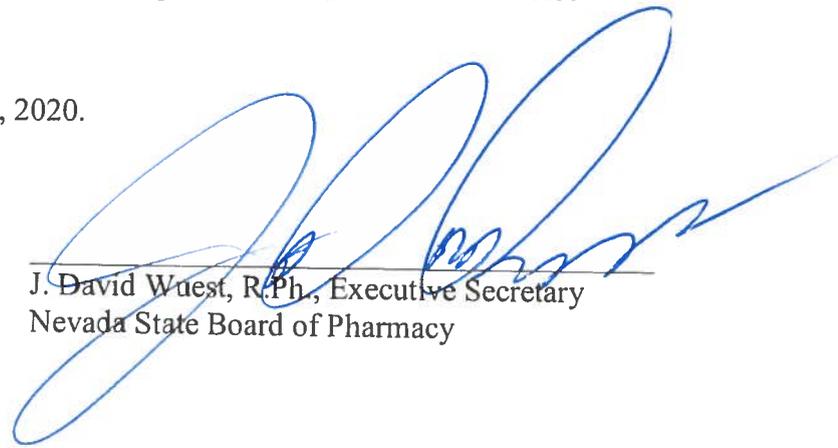
TWELVTH CAUSE OF ACTION
Pharmacy/Pharmacy Owner Responsibility
 (Respondent Joshua Aighobahi)

XLVII.

As the owner of Divine Touch at the time of each of the violations alleged herein, Joshua Aighobahi is responsible for the violations, including those of his employees, pursuant to NRS 639.230(5) and NAC 639.945(2), and is subject to discipline pursuant to NRS 639.210(1), (4), (9) (11), (12), (15) and (17).

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration and/or licenses of these respondents.

DATED this 13th day of February, 2020.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

CASE NO. 19-035-RPH-A-S

Petitioner,

v.

**JOSHUA AIGHOBAHI, RPH,
Certificate of Registration No. 18747,**

**STATEMENT TO
THE RESPONDENT
AND NOTICE OF HEARING**

Respondent.

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, March 18, 2020, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

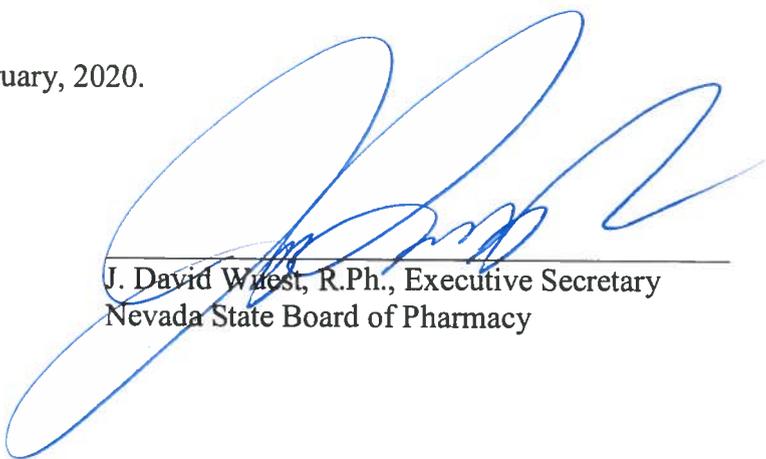
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 13th day of February, 2020.



J. David Wiest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY**NEVADA STATE BOARD OF PHARMACY,****Petitioner,**

v.

**JOSHUA AIGHOBAHI, RPH,
Certificate of Registration No. 18747,****Respondent.****CASE NO. 19-035-RPH-A-S****ANSWER AND NOTICE
OF DEFENSE**

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ___ day of February, 2020.

JOSHUA AIGHOBAHI, RPH

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 14th day of February, 2020, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Joshua Aighobahi, R.Ph.
9504 Empire Rock Street
Las Vegas, NV 89143

Katherine L. Kuehl, R.Ph.
700 North Las Vegas Blvd.
Las Vegas, NV 89101

Felicia Aighobahi, PT
2208 E. Charleston Blvd., #B
Las Vegas, NV 89104

Divine Touch Services Pharmacy
2208 E. Charleston Blvd., #B
Las Vegas, NV 89104

Persi J. Mishel, Esq.
10161 Park Run Drive, Ste. 150
Las Vegas, NV 89145



SHIRLEY HUNTING

March 6, 2020

J. David Wuest, R. Ph., Executive Secretary
Nevada State Board Pharmacy
985 Damonte Ranch Pkwy., Suite 206
Reno, Nevada 89521-4881

Re: Surrender of Certificate of Pharmacy Registration #18747

Dear Mr. Wuest:

This letter is to notify you that I hereby surrender my Certificate of Pharmacy Registration #18747, in accordance with NRS 639.2107.

Sincerely,

A handwritten signature in black ink, appearing to read "Joshua Aighobahi", is written over a horizontal line. The signature is stylized and somewhat cursive.

Joshua Aighobahi

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**JOSHUA AIGHOBAHI, RPH,
Certificate of Registration No. 18747,**

**KATHERINE KUEHL, RPH,
Certificate of Registration No. 11172,**

**FELICIA AIGHOBAHI, PT,
Certificate of Registration No. PT17660, and**

**DIVINE TOUCH SERVICES PHARMACY,
Pharmacy License No. PH03411,**

Respondents.

**Case Nos. 19-035-RPH-A-S
19-035-RPH-B-S
19-035-PT-S
19-035-PH-S**

**STIPULATION AND ORDER
(Respondents Joshua Aighobahi,
Felicia Aighobahi and
Divine Touch Services Pharmacy)**

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), Respondent Joshua Aighobahi, R.Ph., Certificate of Registration No. 18747, Respondent Felicia Aighobahi, Certificate of Registration No. PT17660, and Respondent Divine Touch Services Pharmacy, License No. PH03411 (Divine Touch), by and through their counsel, Persi J. Mishel, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. On or about February 18, 2020, Respondents were served with the Notice of Intended Action and Accusation (Accusation) on file in this matter together with the Statement to Respondent and Notice of Hearing.

2. On or about March 6, 2020, through their legal counsel, Joshua Aighobahi voluntarily surrendered Certificate of Registration No. 18747, Felicia Aighobahi voluntarily surrendered Certificate of Registration No. PT17660, and Joshua Aighobahi on behalf of Divine Touch voluntarily surrendered License No. PH03411. A true and correct copy of the documentation of voluntarily surrender is attached as **EXHIBIT A** hereto.

3. Respondents are fully aware of their right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.

4. Respondents are aware of the right to a hearing on the matters alleged in the Accusation, their right to reconsideration, their right to appeal and any and all other rights which may be accorded to them pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

5. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that Respondents, or any of them, have failed to comply with the provisions of Paragraphs 8-10 below, Respondents hereby freely and voluntarily waive their rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to them by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

6. Respondents do not contest the allegations in the Accusation, but acknowledge that Board staff prosecuting this case could present such evidence at an administrative hearing to establish a factual basis for the violations alleged therein, *to wit*, that:

A. By failing to maintain at least two years' worth of perpetual inventories of schedule II-controlled substances in a readily retrievable manner, Joshua Aighobahi and Divine Touch violated NRS 453.246, NAC 639.485(1) and (2), and NAC 639.482(a) and (b), engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1) and NRS 639.210(4), (12) and (17).

B. By failing to maintain at least two years' worth of biennial inventories of its controlled substances in a readily retrievable manner, Joshua Aighobahi and Divine Touch violated NRS 453.246, NAC 453.475(1)(b) and (2), NAC 639.482(a) and (b), NAC 639.487(4),

NAC 639.510, 21 U.S.C. § 842(a)(5) and 21 CFR § 1304.11, engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1), NRS 639.210(4), (12) and (17).

C. By failing to maintain accurate and complete invoices for the controlled substances Divine Touch purchased and received, Joshua Aighobahi and Divine Touch violated NRS 453.246, NRS 453.251, NRS 453.326(1)(a), NAC 639.510, NAC 639.523(3), 21 U.S.C. § 842(a)(5) and 21 CFR § 1304.21, engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1), NRS 639.210(4), (11), (12) and (17).

D. By performing functions that are limited by law to a registered pharmacist and attributing the performance of those functions to Joshua Aighobahi, Felicia Aighobahi was party to a fraudulent or deceitful practice or transaction, engaged in unprofessional conduct as defined in NAC 639.945(1)(h) and (k), and is subject to discipline pursuant to NRS 639.210(4).

E. By permitting Felicia Aighobahi to perform duties that are limited by law to a registered pharmacist, Joshua Aighobahi was party to a fraudulent or deceitful practice or transaction, aided or abetted a person not licensed to practice pharmacy in the State of Nevada, engaged in unprofessional conduct as defined in NAC 639.945(1)(h) and (j), and is subject to discipline pursuant to NRS 639.210(4).

F. By permitting Felicia Aighobahi to perform functions that are limited by law to a registered pharmacist and attributing the performance of those functions to Joshua Aighobahi, Joshua Aighobahi and Felicia Aighobahi violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.331(1)(c), NRS 453.381(8), NRS 453.401(l)(a), NRS 639.100(1)(a), NRS 639.284 and/or 21 U.S.C. § 846, and are subject to discipline pursuant to NRS 639.210(9), (11) and (12).

G. By failing to segregate expired drugs from unexpired drugs and secure those expired drugs in an area where they could not be used to administer or fill prescriptions, Joshua Aighobahi and Divine Touch violated NRS 639.282(1)(d), NAC 639.050(2), NAC 639.473(1) and (3), NAC 639.510(3) and NAC 639.601(1), engaged in unprofessional conduct as defined in NAC 639.945(i), and are subject to discipline pursuant to NRS 639.210(4), (12) and (15).

H. By failing to include the expiration date for medication on prescription labels, Joshua Aighobahi and Divine Touch violated NAC 639.512(2)(c), engaged in unprofessional conduct as defined in NAC 639.945(i), and are subject to discipline pursuant to NRS 639.210(4), (12) and (15).

I. By continuing to practice pharmacy even as his behavior rendered him incapable of safely and competently practicing pharmacy, Joshua Aighobahi performing his duties as a registered pharmacist and as the owner of Divine Touch in an incompetent, unskillful or negligent manner, engaged in unprofessional conduct as defined in NAC 639.945(1)(i), is subject to discipline pursuant to NRS 639.210(4), and should be required to submit to a physical or psychiatric examination, or both, pursuant to NRS 639.2445.

J. As the managing pharmacist of Divine Touch and the only registered pharmacist employed in the pharmacy until approximately October 31, 2019, Joshua is responsible for the violations during that time frame, including those of the pharmacy's employees, pursuant to NRS 639.220(1), NAC 639.473, NAC 639.510 and NAC 639.702, and are subject to discipline pursuant to NRS 639.210(15).

K. As the owner of Divine Touch at the time of the violations herein, Joshua Aighobahi is responsible for the violations, including those of his employees, pursuant to NRS 639.230(5) and NAC 639.945(2), and is subject to discipline pursuant to NRS 639.210(1), (4), (9) (11), (12), (15) and (17).

7. Those violations are plead with particularity in the Accusation, and are grounds for action pursuant to NRS 639.210 and NRS 639.255.

8. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Respondent Joshua Aighobahi, R.Ph., Certificate of Registration No. 18747 stipulate to the following penalties:

A. By voluntarily surrendering his Certificate of Registration No. 18747 while this administrative action was pending, Joshua Aighobahi is subject to discipline pursuant to NRS 233B.121(6).

B. Joshua Aighobahi may not work for any facility licensed by the Board, including a pharmacy, in any capacity unless and until he has petitioned the Board for reinstatement pursuant to NRS 622A.410 and NRS 639.257 and the Board reinstates his certificate of registration.

C. Joshua Aighobahi may not petition for reinstatement of his certificate of registration for a period of one (1) year from the effective date of this Order.

D. In the event Joshua Aighobahi applies for reinstatement, or for any other certificate, license or permit with the Board he shall appear before the Board to answer questions and give testimony regarding the application, compliance with this Order, and the facts and circumstances underlying this matter.

E. In the event Joshua Aighobahi applies for reinstatement, or for any other certificate, license or permit with the Board, he shall successfully complete an evaluation of his competence to practice pharmacy pursuant to NRS 639.2445.

9. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Felicia Aighobahi, Certificate of Registration No. PT17660, stipulate to the following penalties:

A. By voluntarily surrendering her Certificate of Registration No. PT17660 while this administrative action was pending, Felicia Aighobahi is subject to discipline pursuant to NRS 233B.121(6).

B. Felicia Aighobahi may not work for any facility licensed by the Board, including a pharmacy, in any capacity unless and until she has petitioned the Board for reinstatement pursuant to NRS 622A.410 and NRS 639.257 and the Board reinstates her certificate of registration.

C. Felicia Aighobahi may not petition for reinstatement of her certificate of registration for a period of one (1) year from the effective date of this Order.

D. In the event Felicia Aighobahi applies for reinstatement, or for any other certificate, license or permit with the Board, she shall appear before the Board to answer questions and give testimony regarding the application, compliance with this Order, and the facts and circumstances underlying this matter.

10. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Divine Touch Services Pharmacy, License No. PH03411, stipulate to the following penalties:

A. By voluntarily surrendering License No. PH03411 while this administrative action was pending, Divine Touch is subject to discipline pursuant to NRS 233B.121(6).

B. Divine Touch Services Pharmacy may not operate in any capacity unless and until it has petitioned the Board for reinstatement pursuant to NRS 622A.410 and NRS 639.257 and the Board reinstates its pharmacy license.

C. Divine Touch may not petition for reinstatement of its pharmacy license for a period of one (1) year from the effective date of this Order.

D. In the event Divine Touch applies for reinstatement, or for any other certificate, license or permit with the Board, Joshua Aighobahi shall appear before the Board to answer questions and give testimony regarding the application, compliance with this Order, and the facts and circumstances underlying this matter.

11. In addition to the foregoing penalties, Respondent Joshua Aighobahi, R.Ph., Certificate of Registration No. 18747, Respondent Felicia Aighobahi, Certificate of Registration No. PT17660, and Respondent Divine Touch Services Pharmacy, License No. PH03411, further stipulate to the following:

A. Payment of a fine of Two-Thousand Five-Hundred Dollars (\$2500.00) pursuant to NRS 639.255(1)(f) for which Respondents shall be jointly and severally liable; and

B. Payment of Three-Thousand Dollars (\$3000.00) to partially reimburse the Board for attorney's fees and costs incurred in investigating and prosecuting this matter that are recoverable pursuant to NRS 622.400, for which Respondents shall be jointly and severally liable.

10. Any failure by any respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing that respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by that respondent, the Board may impose additional discipline upon that respondent not inconsistent with the provisions of NRS Chapter 639.

11. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on March 18, 2020, in Las Vegas, Nevada. Respondents and their authorized representative(s) will appear at the meeting to answer questions from the Board members and/or staff. The Board members may discuss and

deliberate regarding this Stipulation, even if Respondents or their counsel are not present at the meeting.

12. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board it shall be a public record pursuant to NRS 622.330.

13. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

14. Upon approval of this Stipulation by the Board, Respondents shall pay the fine agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this order.

15. Upon approval of this Stipulation by the Board, Respondents shall pay the attorney's fees and costs agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) of the effective date of this order.

16. Subject to the approval of this Stipulation by the Board, the Board and Respondents, and each of them, agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondents, and each of them, have fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and have freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this ___ day of March, 2020

JOSHUA AIGHOBAHI, RPH,
Certificate of Registration No. 18747

Signed this ___ day of March, 2020

FELICIA AIGHOBAHI, PT,
Certificate of Registration No. PT17660

Signed this ___ day of March, 2020

**DIVINE TOUCH SERVICES
PHARMACY,**
Pharmacy License No. PH03411

**APPROVED AS TO FORM AND
CONTENT** this ___ day of March, 2020

PERSI J. MISHEL, ESQ.
Counsel for Respondents

Signed this ___ day of March, 2020

BRETT KANDT, ESQ.
General Counsel
Nevada State Board of Pharmacy

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Joshua Aighobahi, R.Ph., Certificate of Registration No. 18747, Respondent Felicia Aighobahi, Certificate of Registration No. PT17660, and Respondent Divine Touch Services Pharmacy, License No. PH03411, in Case No. 19-035 and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

IT IS SO ORDERED.

Entered this ___ day of March, 2020.

Helen Park, President
Nevada State Board of Pharmacy

6E

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

CASE NO. 19-035-PT-S

Petitioner,

v.

**FELICIA AIGHOBAHI, PT,
Certificate of Registration No. PT17660,**

**STATEMENT TO
THE RESPONDENT
AND NOTICE OF HEARING**

Respondent.

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, March 18, 2020, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

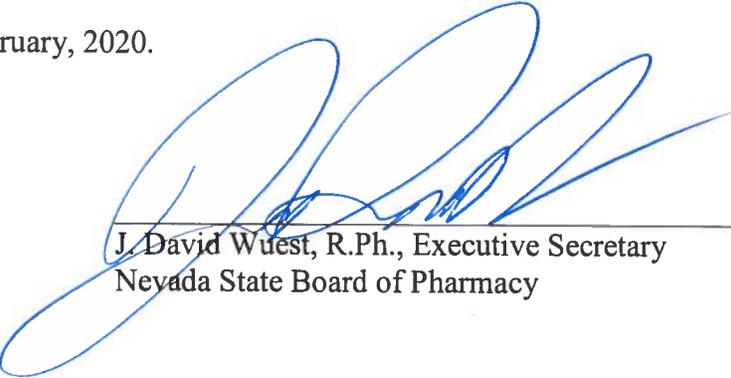
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 13th day of February, 2020.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**FELICIA AIGHOBAHI, PT
Certificate of Registration No. PT17660,**

Respondent.

CASE NO. 19-035-PT-S

**ANSWER AND NOTICE
OF DEFENSE**

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ___ day of February, 2020.

FELICIA AIGHOBAHI, PT

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 14th day of February, 2020, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

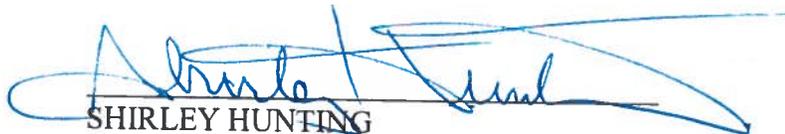
Joshua Aighobahi, R.Ph.
9504 Empire Rock Street
Las Vegas, NV 89143

Katherine L. Kuehl, R.Ph.
700 North Las Vegas Blvd.
Las Vegas, NV 89101

Felicia Aighobahi, PT
2208 E. Charleston Blvd., #B
Las Vegas, NV 89104

Divine Touch Services Pharmacy
2208 E. Charleston Blvd., #B
Las Vegas, NV 89104

Persi J. Mishel, Esq.
10161 Park Run Drive, Ste. 150
Las Vegas, NV 89145


SHIRLEY HUNTING

March 6, 2020

J. David Wuest, R. Ph., Executive Secretary
Nevada State Board Pharmacy
985 Damonte Ranch Pkwy., Suite 206
Reno, Nevada 89521-4881

Re: Surrender of Certificate of Registration PT17660

Dear Mr. Wuest:

This letter is to notify you that I hereby surrender my Certificate of Registration PT17660 in accordance with NRS 639.2107.

Sincerely,



Felicia Aighobahi

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**JOSHUA AIGHOBAHI, RPH,
Certificate of Registration No. 18747,**

**KATHERINE KUEHL, RPH,
Certificate of Registration No. 11172,**

**FELICIA AIGHOBAHI, PT,
Certificate of Registration No. PT17660, and**

**DIVINE TOUCH SERVICES PHARMACY,
Pharmacy License No. PH03411,**

Respondents.

**Case Nos. 19-035-RPH-A-S
19-035-RPH-B-S
19-035-PT-S
19-035-PH-S**

**STIPULATION AND ORDER
(Respondents Joshua Aighobahi,
Felicia Aighobahi and
Divine Touch Services Pharmacy)**

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), Respondent Joshua Aighobahi, R.Ph., Certificate of Registration No. 18747, Respondent Felicia Aighobahi, Certificate of Registration No. PT17660, and Respondent Divine Touch Services Pharmacy, License No. PH03411 (Divine Touch), by and through their counsel, Persi J. Mishel, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. On or about February 18, 2020, Respondents were served with the Notice of Intended Action and Accusation (Accusation) on file in this matter together with the Statement to Respondent and Notice of Hearing.

2. On or about March 6, 2020, through their legal counsel, Joshua Aighobahi voluntarily surrendered Certificate of Registration No. 18747, Felicia Aighobahi voluntarily surrendered Certificate of Registration No. PT17660, and Joshua Aighobahi on behalf of Divine Touch voluntarily surrendered License No. PH03411. A true and correct copy of the documentation of voluntarily surrender is attached as **EXHIBIT A** hereto.

3. Respondents are fully aware of their right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.

4. Respondents are aware of the right to a hearing on the matters alleged in the Accusation, their right to reconsideration, their right to appeal and any and all other rights which may be accorded to them pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

5. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that Respondents, or any of them, have failed to comply with the provisions of Paragraphs 8-10 below, Respondents hereby freely and voluntarily waive their rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to them by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

6. Respondents do not contest the allegations in the Accusation, but acknowledge that Board staff prosecuting this case could present such evidence at an administrative hearing to establish a factual basis for the violations alleged therein, *to wit*, that:

A. By failing to maintain at least two years' worth of perpetual inventories of schedule II-controlled substances in a readily retrievable manner, Joshua Aighobahi and Divine Touch violated NRS 453.246, NAC 639.485(1) and (2), and NAC 639.482(a) and (b), engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1) and NRS 639.210(4), (12) and (17).

B. By failing to maintain at least two years' worth of biennial inventories of its controlled substances in a readily retrievable manner, Joshua Aighobahi and Divine Touch violated NRS 453.246, NAC 453.475(1)(b) and (2), NAC 639.482(a) and (b), NAC 639.487(4),

NAC 639.510, 21 U.S.C. § 842(a)(5) and 21 CFR § 1304.11, engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1), NRS 639.210(4), (12) and (17).

C. By failing to maintain accurate and complete invoices for the controlled substances Divine Touch purchased and received, Joshua Aighobahi and Divine Touch violated NRS 453.246, NRS 453.251, NRS 453.326(1)(a), NAC 639.510, NAC 639.523(3), 21 U.S.C. § 842(a)(5) and 21 CFR § 1304.21, engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1), NRS 639.210(4), (11), (12) and (17).

D. By performing functions that are limited by law to a registered pharmacist and attributing the performance of those functions to Joshua Aighobahi, Felicia Aighobahi was party to a fraudulent or deceitful practice or transaction, engaged in unprofessional conduct as defined in NAC 639.945(1)(h) and (k), and is subject to discipline pursuant to NRS 639.210(4).

E. By permitting Felicia Aighobahi to perform duties that are limited by law to a registered pharmacist, Joshua Aighobahi was party to a fraudulent or deceitful practice or transaction, aided or abetted a person not licensed to practice pharmacy in the State of Nevada, engaged in unprofessional conduct as defined in NAC 639.945(1)(h) and (j), and is subject to discipline pursuant to NRS 639.210(4).

F. By permitting Felicia Aighobahi to perform functions that are limited by law to a registered pharmacist and attributing the performance of those functions to Joshua Aighobahi, Joshua Aighobahi and Felicia Aighobahi violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.331(1)(c), NRS 453.381(8), NRS 453.401(l)(a), NRS 639.100(1)(a), NRS 639.284 and/or 21 U.S.C. § 846, and are subject to discipline pursuant to NRS 639.210(9), (11) and (12).

G. By failing to segregate expired drugs from unexpired drugs and secure those expired drugs in an area where they could not be used to administer or fill prescriptions, Joshua Aighobahi and Divine Touch violated NRS 639.282(1)(d), NAC 639.050(2), NAC 639.473(1) and (3), NAC 639.510(3) and NAC 639.601(1), engaged in unprofessional conduct as defined in NAC 639.945(i), and are subject to discipline pursuant to NRS 639.210(4), (12) and (15).

H. By failing to include the expiration date for medication on prescription labels, Joshua Aighobahi and Divine Touch violated NAC 639.512(2)(c), engaged in unprofessional conduct as defined in NAC 639.945(i), and are subject to discipline pursuant to NRS 639.210(4), (12) and (15).

I. By continuing to practice pharmacy even as his behavior rendered him incapable of safely and competently practicing pharmacy, Joshua Aighobahi performing his duties as a registered pharmacist and as the owner of Divine Touch in an incompetent, unskillful or negligent manner, engaged in unprofessional conduct as defined in NAC 639.945(1)(i), is subject to discipline pursuant to NRS 639.210(4), and should be required to submit to a physical or psychiatric examination, or both, pursuant to NRS 639.2445.

J. As the managing pharmacist of Divine Touch and the only registered pharmacist employed in the pharmacy until approximately October 31, 2019, Joshua is responsible for the violations during that time frame, including those of the pharmacy's employees, pursuant to NRS 639.220(1), NAC 639.473, NAC 639.510 and NAC 639.702, and are subject to discipline pursuant to NRS 639.210(15).

K. As the owner of Divine Touch at the time of the violations herein, Joshua Aighobahi is responsible for the violations, including those of his employees, pursuant to NRS 639.230(5) and NAC 639.945(2), and is subject to discipline pursuant to NRS 639.210(1), (4), (9) (11), (12), (15) and (17).

7. Those violations are plead with particularity in the Accusation, and are grounds for action pursuant to NRS 639.210 and NRS 639.255.

8. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Respondent Joshua Aighobahi, R.Ph., Certificate of Registration No. 18747 stipulate to the following penalties:

A. By voluntarily surrendering his Certificate of Registration No. 18747 while this administrative action was pending, Joshua Aighobahi is subject to discipline pursuant to NRS 233B.121(6).

B. Joshua Aighobahi may not work for any facility licensed by the Board, including a pharmacy, in any capacity unless and until he has petitioned the Board for reinstatement pursuant to NRS 622A.410 and NRS 639.257 and the Board reinstates his certificate of registration.

C. Joshua Aighobahi may not petition for reinstatement of his certificate of registration for a period of one (1) year from the effective date of this Order.

D. In the event Joshua Aighobahi applies for reinstatement, or for any other certificate, license or permit with the Board he shall appear before the Board to answer questions and give testimony regarding the application, compliance with this Order, and the facts and circumstances underlying this matter.

E. In the event Joshua Aighobahi applies for reinstatement, or for any other certificate, license or permit with the Board, he shall successfully complete an evaluation of his competence to practice pharmacy pursuant to NRS 639.2445.

9. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Felicia Aighobahi, Certificate of Registration No. PT17660, stipulate to the following penalties:

A. By voluntarily surrendering her Certificate of Registration No. PT17660 while this administrative action was pending, Felicia Aighobahi is subject to discipline pursuant to NRS 233B.121(6).

B. Felicia Aighobahi may not work for any facility licensed by the Board, including a pharmacy, in any capacity unless and until she has petitioned the Board for reinstatement pursuant to NRS 622A.410 and NRS 639.257 and the Board reinstates her certificate of registration.

C. Felicia Aighobahi may not petition for reinstatement of her certificate of registration for a period of one (1) year from the effective date of this Order.

D. In the event Felicia Aighobahi applies for reinstatement, or for any other certificate, license or permit with the Board, she shall appear before the Board to answer questions and give testimony regarding the application, compliance with this Order, and the facts and circumstances underlying this matter.

10. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Divine Touch Services Pharmacy, License No. PH03411, stipulate to the following penalties:

A. By voluntarily surrendering License No. PH03411 while this administrative action was pending, Divine Touch is subject to discipline pursuant to NRS 233B.121(6).

B. Divine Touch Services Pharmacy may not operate in any capacity unless and until it has petitioned the Board for reinstatement pursuant to NRS 622A.410 and NRS 639.257 and the Board reinstates its pharmacy license.

C. Divine Touch may not petition for reinstatement of its pharmacy license for a period of one (1) year from the effective date of this Order.

D. In the event Divine Touch applies for reinstatement, or for any other certificate, license or permit with the Board, Joshua Aighobahi shall appear before the Board to answer questions and give testimony regarding the application, compliance with this Order, and the facts and circumstances underlying this matter.

11. In addition to the foregoing penalties, Respondent Joshua Aighobahi, R.Ph., Certificate of Registration No. 18747, Respondent Felicia Aighobahi, Certificate of Registration No. PT17660, and Respondent Divine Touch Services Pharmacy, License No. PH03411, further stipulate to the following:

A. Payment of a fine of Two-Thousand Five-Hundred Dollars (\$2500.00) pursuant to NRS 639.255(1)(f) for which Respondents shall be jointly and severally liable; and

B. Payment of Three-Thousand Dollars (\$3000.00) to partially reimburse the Board for attorney's fees and costs incurred in investigating and prosecuting this matter that are recoverable pursuant to NRS 622.400, for which Respondents shall be jointly and severally liable.

10. Any failure by any respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing that respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by that respondent, the Board may impose additional discipline upon that respondent not inconsistent with the provisions of NRS Chapter 639.

11. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on March 18, 2020, in Las Vegas, Nevada. Respondents and their authorized representative(s) will appear at the meeting to answer questions from the Board members and/or staff. The Board members may discuss and

deliberate regarding this Stipulation, even if Respondents or their counsel are not present at the meeting.

12. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board it shall be a public record pursuant to NRS 622.330.

13. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

14. Upon approval of this Stipulation by the Board, Respondents shall pay the fine agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this order.

15. Upon approval of this Stipulation by the Board, Respondents shall pay the attorney's fees and costs agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) of the effective date of this order.

16. Subject to the approval of this Stipulation by the Board, the Board and Respondents, and each of them, agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondents, and each of them, have fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and have freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this ___ day of March, 2020

JOSHUA AIGHOBAHI, RPH,
Certificate of Registration No. 18747

Signed this ___ day of March, 2020

FELICIA AIGHOBAHI, PT,
Certificate of Registration No. PT17660

Signed this ___ day of March, 2020

**DIVINE TOUCH SERVICES
PHARMACY,**
Pharmacy License No. PH03411

**APPROVED AS TO FORM AND
CONTENT** this ___ day of March, 2020

PERSI J. MISHEL, ESQ.
Counsel for Respondents

Signed this ___ day of March, 2020

BRETT KANDT, ESQ.
General Counsel
Nevada State Board of Pharmacy

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Joshua Aighobahi, R.Ph., Certificate of Registration No. 18747, Respondent Felicia Aighobahi, Certificate of Registration No. PT17660, and Respondent Divine Touch Services Pharmacy, License No. PH03411, in Case No. 19-035 and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

IT IS SO ORDERED.

Entered this ___ day of March, 2020.

Helen Park, President
Nevada State Board of Pharmacy

6F

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

CASE NO. 19-035-PH-S

Petitioner,

v.

**DIVINE TOUCH SERVICES PHARMACY,
Pharmacy License No. PH03411,**

**STATEMENT TO
THE RESPONDENT
AND NOTICE OF HEARING**

Respondent.

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

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You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, March 18, 2020, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

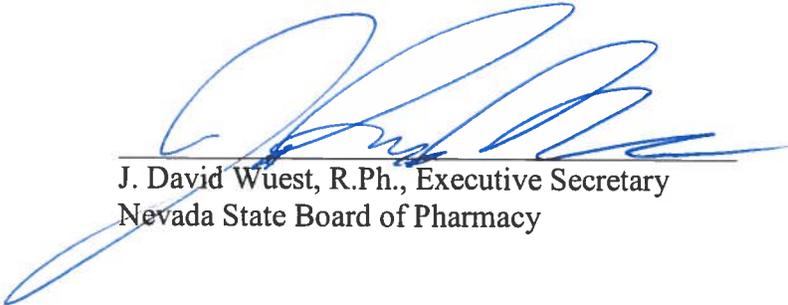
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 13th day of February, 2020.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

CASE NO. 19-035-PH-S

Petitioner,

v.

**DIVINE TOUCH SERVICES PHARMACY,
Pharmacy License No. PH03411,**

**ANSWER AND NOTICE
OF DEFENSE**

Respondent.

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this ___ day of February 2020.

TYPE OR PRINT NAME

**AUTHORIZED REPRESENTATIVE FOR
DIVINE TOUCH SERVICES PHARMACY**

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 14th day of February, 2020, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Joshua Aighobahi, R.Ph.
9504 Empire Rock Street
Las Vegas, NV 89143

Katherine L. Kuehl, R.Ph.
700 North Las Vegas Blvd.
Las Vegas, NV 89101

Felicia Aighobahi, PT
2208 E. Charleston Blvd., #B
Las Vegas, NV 89104

Divine Touch Services Pharmacy
2208 E. Charleston Blvd., #B
Las Vegas, NV 89104

Persi J. Mishel, Esq.
10161 Park Run Drive, Ste. 150
Las Vegas, NV 89145


SHIRLEY HUNTING

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 14th day of February, 2020, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

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2208 E. Charleston Blvd., #B
Las Vegas, NV 89104

Divine Touch Services Pharmacy
2208 E. Charleston Blvd., #B
Las Vegas, NV 89104

Persi J. Mishel, Esq.
10161 Park Run Drive, Ste. 150
Las Vegas, NV 89145


SHIRLEY HUNTING

PERSI J. MISHEL
Attorney at Law

10161 Park Run Dr., Ste. 150
Las Vegas, NV 89145

(702) 981-3043
mishelpersi@yahoo.com

March 6, 2020

J. David Wuest, R. Ph., Executive Secretary
Nevada State Board Pharmacy
985 Damonte Ranch Pkwy., Suite 206
Reno, Nevada 89521-4881

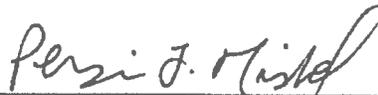
Re: Joshua Aighobahi, RPH, Certificate of Registration #18747
Felicia Aighobahi, PT, Certificate of Registration PT17660
Divine Touch Services Pharmacy. Pharmacy License #PH03411

Dear Mr. Wuest:

I represent the above-referred persons and pharmacy. My clients are surrendering their pharmacy registrations pursuant to NRS 639.2107. Please see attached my client's letters addressed to you.

They respectfully request that the hearing of March 18, 2020, be vacated and the Notice of Intended Action and Accusation dated February 13, 2020, be withdrawn.

Sincerely,



Persi J. Mishel, Esq.

Enclosures: as stated above

Cc: Clients
Brett Kandt, Esq.

March 6, 2020

J. David Wuest, R. Ph., Executive Secretary
Nevada State Board Pharmacy
985 Damonte Ranch Pkwy., Suite 206
Reno, Nevada 89521-4881

Re: Surrender of Divine Touch Services Pharmacy License #PH03411

Dear Mr. Wuest:

This letter is to notify you that I hereby surrender Divine Touch Services Pharmacy's License #PH03411, in accordance with NRS 639.2107.

Sincerely,



Joshua Aighobahi, Owner of Divine
Touch Services Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**JOSHUA AIGHOBAHI, RPH,
Certificate of Registration No. 18747,**

**KATHERINE KUEHL, RPH,
Certificate of Registration No. 11172,**

**FELICIA AIGHOBAHI, PT,
Certificate of Registration No. PT17660, and**

**DIVINE TOUCH SERVICES PHARMACY,
Pharmacy License No. PH03411,**

Respondents.

**Case Nos. 19-035-RPH-A-S
19-035-RPH-B-S
19-035-PT-S
19-035-PH-S**

**STIPULATION AND ORDER
(Respondents Joshua Aighobahi,
Felicia Aighobahi and
Divine Touch Services Pharmacy)**

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), Respondent Joshua Aighobahi, R.Ph., Certificate of Registration No. 18747, Respondent Felicia Aighobahi, Certificate of Registration No. PT17660, and Respondent Divine Touch Services Pharmacy, License No. PH03411 (Divine Touch), by and through their counsel, Persi J. Mishel, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. On or about February 18, 2020, Respondents were served with the Notice of Intended Action and Accusation (Accusation) on file in this matter together with the Statement to Respondent and Notice of Hearing.

2. On or about March 6, 2020, through their legal counsel, Joshua Aighobahi voluntarily surrendered Certificate of Registration No. 18747, Felicia Aighobahi voluntarily surrendered Certificate of Registration No. PT17660, and Joshua Aighobahi on behalf of Divine Touch voluntarily surrendered License No. PH03411. A true and correct copy of the documentation of voluntarily surrender is attached as **EXHIBIT A** hereto.

3. Respondents are fully aware of their right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.

4. Respondents are aware of the right to a hearing on the matters alleged in the Accusation, their right to reconsideration, their right to appeal and any and all other rights which may be accorded to them pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

5. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that Respondents, or any of them, have failed to comply with the provisions of Paragraphs 8-10 below, Respondents hereby freely and voluntarily waive their rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to them by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

6. Respondents do not contest the allegations in the Accusation, but acknowledge that Board staff prosecuting this case could present such evidence at an administrative hearing to establish a factual basis for the violations alleged therein, *to wit*, that:

A. By failing to maintain at least two years' worth of perpetual inventories of schedule II-controlled substances in a readily retrievable manner, Joshua Aighobahi and Divine Touch violated NRS 453.246, NAC 639.485(1) and (2), and NAC 639.482(a) and (b), engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1) and NRS 639.210(4), (12) and (17).

B. By failing to maintain at least two years' worth of biennial inventories of its controlled substances in a readily retrievable manner, Joshua Aighobahi and Divine Touch violated NRS 453.246, NAC 453.475(1)(b) and (2), NAC 639.482(a) and (b), NAC 639.487(4),

NAC 639.510, 21 U.S.C. § 842(a)(5) and 21 CFR § 1304.11, engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1), NRS 639.210(4), (12) and (17).

C. By failing to maintain accurate and complete invoices for the controlled substances Divine Touch purchased and received, Joshua Aighobahi and Divine Touch violated NRS 453.246, NRS 453.251, NRS 453.326(1)(a), NAC 639.510, NAC 639.523(3), 21 U.S.C. § 842(a)(5) and 21 CFR § 1304.21, engaged in unprofessional conduct as defined in NAC 639.945(1)(i) and (m), and are subject to discipline pursuant to NRS 453.236(1), NRS 639.210(4), (11), (12) and (17).

D. By performing functions that are limited by law to a registered pharmacist and attributing the performance of those functions to Joshua Aighobahi, Felicia Aighobahi was party to a fraudulent or deceitful practice or transaction, engaged in unprofessional conduct as defined in NAC 639.945(1)(h) and (k), and is subject to discipline pursuant to NRS 639.210(4).

E. By permitting Felicia Aighobahi to perform duties that are limited by law to a registered pharmacist, Joshua Aighobahi was party to a fraudulent or deceitful practice or transaction, aided or abetted a person not licensed to practice pharmacy in the State of Nevada, engaged in unprofessional conduct as defined in NAC 639.945(1)(h) and (j), and is subject to discipline pursuant to NRS 639.210(4).

F. By permitting Felicia Aighobahi to perform functions that are limited by law to a registered pharmacist and attributing the performance of those functions to Joshua Aighobahi, Joshua Aighobahi and Felicia Aighobahi violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.331(1)(c), NRS 453.381(8), NRS 453.401(l)(a), NRS 639.100(1)(a), NRS 639.284 and/or 21 U.S.C. § 846, and are subject to discipline pursuant to NRS 639.210(9), (11) and (12).

G. By failing to segregate expired drugs from unexpired drugs and secure those expired drugs in an area where they could not be used to administer or fill prescriptions, Joshua Aighobahi and Divine Touch violated NRS 639.282(1)(d), NAC 639.050(2), NAC 639.473(1) and (3), NAC 639.510(3) and NAC 639.601(1), engaged in unprofessional conduct as defined in NAC 639.945(i), and are subject to discipline pursuant to NRS 639.210(4), (12) and (15).

H. By failing to include the expiration date for medication on prescription labels, Joshua Aighobahi and Divine Touch violated NAC 639.512(2)(c), engaged in unprofessional conduct as defined in NAC 639.945(i), and are subject to discipline pursuant to NRS 639.210(4), (12) and (15).

I. By continuing to practice pharmacy even as his behavior rendered him incapable of safely and competently practicing pharmacy, Joshua Aighobahi performing his duties as a registered pharmacist and as the owner of Divine Touch in an incompetent, unskillful or negligent manner, engaged in unprofessional conduct as defined in NAC 639.945(1)(i), is subject to discipline pursuant to NRS 639.210(4), and should be required to submit to a physical or psychiatric examination, or both, pursuant to NRS 639.2445.

J. As the managing pharmacist of Divine Touch and the only registered pharmacist employed in the pharmacy until approximately October 31, 2019, Joshua is responsible for the violations during that time frame, including those of the pharmacy's employees, pursuant to NRS 639.220(1), NAC 639.473, NAC 639.510 and NAC 639.702, and are subject to discipline pursuant to NRS 639.210(15).

K. As the owner of Divine Touch at the time of the violations herein, Joshua Aighobahi is responsible for the violations, including those of his employees, pursuant to NRS 639.230(5) and NAC 639.945(2), and is subject to discipline pursuant to NRS 639.210(1), (4), (9) (11), (12), (15) and (17).

7. Those violations are plead with particularity in the Accusation, and are grounds for action pursuant to NRS 639.210 and NRS 639.255.

8. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Respondent Joshua Aighobahi, R.Ph., Certificate of Registration No. 18747 stipulate to the following penalties:

A. By voluntarily surrendering his Certificate of Registration No. 18747 while this administrative action was pending, Joshua Aighobahi is subject to discipline pursuant to NRS 233B.121(6).

B. Joshua Aighobahi may not work for any facility licensed by the Board, including a pharmacy, in any capacity unless and until he has petitioned the Board for reinstatement pursuant to NRS 622A.410 and NRS 639.257 and the Board reinstates his certificate of registration.

C. Joshua Aighobahi may not petition for reinstatement of his certificate of registration for a period of one (1) year from the effective date of this Order.

D. In the event Joshua Aighobahi applies for reinstatement, or for any other certificate, license or permit with the Board he shall appear before the Board to answer questions and give testimony regarding the application, compliance with this Order, and the facts and circumstances underlying this matter.

E. In the event Joshua Aighobahi applies for reinstatement, or for any other certificate, license or permit with the Board, he shall successfully complete an evaluation of his competence to practice pharmacy pursuant to NRS 639.2445.

9. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Felicia Aighobahi, Certificate of Registration No. PT17660, stipulate to the following penalties:

A. By voluntarily surrendering her Certificate of Registration No. PT17660 while this administrative action was pending, Felicia Aighobahi is subject to discipline pursuant to NRS 233B.121(6).

B. Felicia Aighobahi may not work for any facility licensed by the Board, including a pharmacy, in any capacity unless and until she has petitioned the Board for reinstatement pursuant to NRS 622A.410 and NRS 639.257 and the Board reinstates her certificate of registration.

C. Felicia Aighobahi may not petition for reinstatement of her certificate of registration for a period of one (1) year from the effective date of this Order.

D. In the event Felicia Aighobahi applies for reinstatement, or for any other certificate, license or permit with the Board, she shall appear before the Board to answer questions and give testimony regarding the application, compliance with this Order, and the facts and circumstances underlying this matter.

10. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Divine Touch Services Pharmacy, License No. PH03411, stipulate to the following penalties:

A. By voluntarily surrendering License No. PH03411 while this administrative action was pending, Divine Touch is subject to discipline pursuant to NRS 233B.121(6).

B. Divine Touch Services Pharmacy may not operate in any capacity unless and until it has petitioned the Board for reinstatement pursuant to NRS 622A.410 and NRS 639.257 and the Board reinstates its pharmacy license.

C. Divine Touch may not petition for reinstatement of its pharmacy license for a period of one (1) year from the effective date of this Order.

D. In the event Divine Touch applies for reinstatement, or for any other certificate, license or permit with the Board, Joshua Aighobahi shall appear before the Board to answer questions and give testimony regarding the application, compliance with this Order, and the facts and circumstances underlying this matter.

11. In addition to the foregoing penalties, Respondent Joshua Aighobahi, R.Ph., Certificate of Registration No. 18747, Respondent Felicia Aighobahi, Certificate of Registration No. PT17660, and Respondent Divine Touch Services Pharmacy, License No. PH03411, further stipulate to the following:

A. Payment of a fine of Two-Thousand Five-Hundred Dollars (\$2500.00) pursuant to NRS 639.255(1)(f) for which Respondents shall be jointly and severally liable; and

B. Payment of Three-Thousand Dollars (\$3000.00) to partially reimburse the Board for attorney's fees and costs incurred in investigating and prosecuting this matter that are recoverable pursuant to NRS 622.400, for which Respondents shall be jointly and severally liable.

10. Any failure by any respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing that respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by that respondent, the Board may impose additional discipline upon that respondent not inconsistent with the provisions of NRS Chapter 639.

11. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on March 18, 2020, in Las Vegas, Nevada. Respondents and their authorized representative(s) will appear at the meeting to answer questions from the Board members and/or staff. The Board members may discuss and

deliberate regarding this Stipulation, even if Respondents or their counsel are not present at the meeting.

12. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board it shall be a public record pursuant to NRS 622.330.

13. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

14. Upon approval of this Stipulation by the Board, Respondents shall pay the fine agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) days of the effective date of this order.

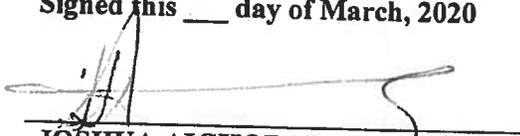
15. Upon approval of this Stipulation by the Board, Respondents shall pay the attorney's fees and costs agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) of the effective date of this order.

16. Subject to the approval of this Stipulation by the Board, the Board and Respondents, and each of them, agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondents, and each of them, have fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and have freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this ___ day of March, 2020



JOSHUA AIGHOBAHI, RPH,
Certificate of Registration No. 18747

Signed this ___ day of March, 2020



FELICIA AIGHOBAHI, PT,
Certificate of Registration No. PT17660

Signed this ___ day of March, 2020



**DIVINE TOUCH SERVICES
PHARMACY,**
Pharmacy License No. PH03411

**APPROVED AS TO FORM AND
CONTENT** this ___ day of March, 2020

PERSI J. MISHEL, ESQ.
Counsel for Respondents

Signed this ___ day of March, 2020

BRETT KANDT, ESQ.
General Counsel
Nevada State Board of Pharmacy

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Joshua Aighobahi, R.Ph., Certificate of Registration No. 18747, Respondent Felicia Aighobahi, Certificate of Registration No. PT17660, and Respondent Divine Touch Services Pharmacy, License No. PH03411, in Case No. 19-035 and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

IT IS SO ORDERED.

Entered this ___ day of March, 2020.

Helen Park, President
Nevada State Board of Pharmacy

6G

FILED

FEB 14 2020

NEVADA STATE BOARD OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**ROSA A. BELLOTA-ROJAS, MD,
Certificate of Registration No. CS21931,**

**ANURANJAN BIST, MD,
Certificate of Registration No. CS14281, and**

**DITHRA A. COTTON-LEWIS, APRN,
Certificate of Registration No. CS27780,**

Respondents.

**Case Nos. 18-103-CS-A-S
18-103-CS-B-S
18-103-CS-C-S**

**NOTICE OF INTENDED ACTION
AND ACCUSATION**

J. David Wuest, in his official capacity as Executive Secretary of the Nevada State Board of Pharmacy, makes the following that will serve as both a notice of intended action under NRS 233B.127(3) and as an accusation under NRS 622A.300(1) and NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because at the time of the events alleged herein, Respondent Rosa A. Bellota-Rojas, MD (Bellota-Rojas) held a Nevada Controlled Substance Registration, Certificate No. CS21931, Respondent Anuranjan Bist, MD (Bist) held a Nevada Controlled Substance Registration, Certificate No. CS14281, and Respondent Dithra A. Cotton-Lewis, APRN (Cotton-Lewis) held a Nevada Controlled Substance Registration, Certificate No. CS27780, all issued by the Board.

FACTUAL ALLEGATIONS

II.

Bellota-Rojas and her husband, Bist, own and operate Mind Brain Institute; Cotton-Lewis was employed by Mind Brain Institute from May 2018 until May 2019.

III.

Investigators from the Board, the Nevada State Board of Medical Examiners (BME) and the Drug Enforcement Administration (DEA) conducted a joint investigation of Mind Brain Institute in late 2018.

IV.

The investigators found evidence of misconduct and violations involving prescription records and the unlawful dispensing of controlled substances at Mind Brain Institute.

V.

Bellota-Rojas pre-signed controlled substance prescriptions that were issued to patients while she was engaged in overseas travel. Bellota-Rojas traveled outside of the United States on the following dates: September 25, 2016 – October 3, 2016; June 27, 2017 – July 9, 2017; December 12, 2017 – December 30, 2017; April 14, 2018 – April 22, 2018; and June 7, 2018 – July 1, 2018. Prescriber records and prescriptions document three-hundred and fifty-three (353) controlled substance prescriptions written or authorized in Bellota-Rojas' name during these periods.

VI.

Bellota-Rojas unlawfully prescribed controlled substances for fifty-two (52) patients with whom she did not have a bona fide practitioner/patient relationship.

VII.

Cotton-Lewis prescribed controlled substances and dangerous drugs prior to being registered to do so. Prescriber records and prescriptions document a total of fifteen (15) controlled substance prescriptions written prior to October 4, 2018, when Cotton-Lewis was issued Certificate of Registration No. CS27780. Furthermore, Cotton-Lewis wrote four (4) schedule II controlled substance prescriptions on November 2, 2018, prior to having a proper

DEA registration. In addition, Cotton-Lewis wrote twelve (12) dangerous drug prescriptions on June 7, 15 and 22, 2018, without a registration.

VIII.

Bist pre-signed controlled substance prescriptions that were issued to patients while he was engaged in overseas travel. Bist traveled outside of the United States on the following dates: November 4, 2016 – November 26, 2016; April 7, 2017 – April 29, 2017; June 27, 2017 – July 9, 2017; November 3, 2017 – November 18, 2017; January 14, 2018 – January 31, 2018; April 14, 2018 – April 22, 2018; and June 6, 2018 – July 1, 2018. Prescriber records and prescriptions document sixty (60) controlled substance prescriptions written or authorized in Bist's name during these periods.

APPLICABLE LAW

IX.

A practitioner must be properly licensed and/or registered to prescribe controlled substances or dangerous drugs. 21 U.S.C. § 822(a)(2); 21 U.S.C. § 823(f); 21 CFR § 1306.03; NRS 453.226; NRS 453.232; NRS 639.235. An advanced practice registered nurse may only prescribe controlled substances or dangerous drugs with authorization from both the Board and the State Board of Nursing. NRS 454.695; NRS 639.2351.

X.

A practitioner may prescribe controlled substances only for a legitimate medical purpose and in the usual course of his professional practice. 21 CFR § 1306.04; NRS 453.381(1); NRS 639.23911(1)(a).

XI.

Each written prescription for a controlled substance or dangerous drug must contain the handwritten signature of the prescribing practitioner. 21 CFR § 1306.05; NRS 453.128(1)(a); NRS 454.00961(1)(a), NRS 454.223(2)(a); NRS 639.013(1)(a); NRS 639.2353(2); NAC 453.410(1)(b)(8); NAC 453.440(1)(c); NAC 454.060(1).

XII.

Falsifying a prescription for a controlled substance and the possession of signed prescription blanks are felony offenses. 21 U.S.C. § 841(a); 21 U.S.C. § 842(a); NRS 453.331(1)(f) and (h).

XIII.

Conspiring to violate the Controlled Substances Act is a felony offense. 21 U.S.C. § 846; NRS 453.401(1)(a).

XIV.

Falsely representing oneself as a practitioner entitled to write prescriptions in this state is a felony offense. 21 U.S.C. § 841(a); 21 U.S.C. § 842(a); NRS 639.2813(1).

XV.

The Board may suspend or revoke a registration issued pursuant to NRS 453.231 to prescribe or otherwise dispense a controlled substance upon a finding that the registrant has committed an act that would render registration inconsistent with the public interest. NRS 453.236(1)(d) and NRS 453.241(1).

XVI.

NAC 639.945 Unprofessional conduct; owner responsible for acts of employees.

1. The following acts or practices by a holder of any license, certificate or registration issued by the Board or any employee of any business holding any such license, certificate or registration are declared to be, specifically but not by way of limitation, unprofessional conduct and conduct contrary to the public interest:

....

(h) Performing or in any way being a party to any fraudulent or deceitful practice or transaction.

(i) Performing any of his or her duties as the holder of a license, certificate or registration issued by the Board, or as the owner of a business or an entity licensed by the Board, in an incompetent, unskillful or negligent manner.

(j) Aiding or abetting a person not licensed to practice pharmacy in the State of Nevada.

(k) Performing any act, task or operation for which licensure, certification or registration is required without the required license, certificate or registration.

....

(o) Prescribing a drug as a prescribing practitioner to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship.

....

XVII.

NRS 639.210 Grounds for suspension or revocation of certificate, license, registration or permit or denial of application. The Board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter, and deny the application of any person for a certificate, license, registration or permit, if the holder or applicant:

1. Is not of good moral character;

....

4. Is guilty of unprofessional conduct or conduct contrary to the public interest;

....

11. Has violated any provision of the Federal Food, Drug and Cosmetic Act or any other federal law or regulation relating to prescription drugs;

12. Has violated, attempted to violate, assisted or abetted in the violation of or conspired to violate any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy, or has knowingly permitted, allowed, condoned or failed to report a violation of any of the provisions of this chapter or any law or regulation relating to drugs, the manufacture or distribution of drugs or the practice of pharmacy committed by the holder of a certificate, license, registration or permit;

....

FIRST CAUSE OF ACTION
(Respondents Bellota-Rojas and Bist)

XVIII.

By pre-signing controlled substance prescriptions that were issued to patients while they were engaged in overseas travel, Bellota-Rojas and Bist were party to a fraudulent or deceitful practice or transaction and engaged in unprofessional conduct and conduct contrary to the public interest in violation of NAC 639.945(1)(h), and are subject to discipline pursuant to NRS 639.210(4).

SECOND CAUSE OF ACTION
(Respondents Bellota-Rojas and Bist)

XIX.

By pre-signing controlled substance prescriptions that were issued to patients while they were engaged in overseas travel, Bellota-Rojas and Bist performed their duties as holders of a Nevada Controlled Substance Registration in an incompetent, unskillful or negligent manner and engaged in unprofessional conduct and conduct contrary to the public interest in violation of NAC 639.945(1)(i), and are subject to discipline pursuant to NRS 639.210(4).

THIRD CAUSE OF ACTION
(Respondent Bellota-Rojas)

XX.

By unlawfully prescribing controlled substances to patients with whom she did not have a bona fide therapeutic relationship, Bellota-Rojas engaged in unprofessional conduct and conduct contrary to the public interest in violation of NAC 639.945(1)(o), and is subject to discipline pursuant to NRS 639.210(4).

FOURTH CAUSE OF ACTION

(Respondent Bellota-Rojas)

XXI.

By unlawfully prescribing controlled substances to patients with whom she did not have a bona fide therapeutic relationship, Bellota-Rojas violated 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f) and 21 CFR § 1306.04. By pre-signing controlled substance prescriptions that were issued to patients while she was engaged in overseas travel, Bellota-Rojas violated 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 CFR § 1306.03 and CFR § 1306.05, and is subject to discipline pursuant to NRS 639.210(11).

FIFTH CAUSE OF ACTION

(Respondent Bist)

XXII.

By pre-signing controlled substance prescriptions that were issued to patients while he was engaged in overseas travel, Bist violated 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 CFR § 1306.03 and CFR § 1306.05, and is subject to discipline pursuant to NRS 639.210(11).

SIXTH CAUSE OF ACTION

(Respondent Cotton-Lewis)

XXIII.

By prescribing controlled substances and dangerous drugs prior to being licensed to do so, Cotton-Lewis was party to a fraudulent or deceitful practice or transaction and engaged in unprofessional conduct and conduct contrary to the public interest in violation of NAC 639.945(1)(h), and is subject to discipline pursuant to NRS 639.210(4).

SEVENTH CAUSE OF ACTION

(Respondent Cotton-Lewis)

XXIV.

By prescribing controlled substances and dangerous drugs prior to being licensed to do so, Cotton-Lewis engaged in unprofessional conduct and conduct contrary to the public interest in violation of NAC 639.945(1)(k), and is subject to discipline pursuant to NRS 639.210(4).

EIGHTH CAUSE OF ACTION

(Respondent Cotton-Lewis)

XXV.

By prescribing controlled substances and dangerous drugs prior to being licensed to do so, Cotton-Lewis violated 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f) and 21 CFR § 1306.03, and is subject to discipline pursuant to NRS 639.210(11).

NINTH CAUSE OF ACTION

(Respondents Bellota-Rojas and Bist)

XXVI.

By permitting Cotton-Lewis to prescribe controlled substances and dangerous drugs prior to being licensed to do so, Bellota-Rojas and Bist were party to a fraudulent or deceitful practice or transaction and aided or abetted a person not licensed to practice pharmacy in the State of Nevada and engaged in unprofessional conduct and conduct contrary to the public interest in violation of NAC 639.945(1)(h) and (j), and are subject to discipline pursuant to NRS 639.210(4).

TENTH CAUSE OF ACTION
(Respondents Bellota-Rojas and Bist)

XXVII.

By pre-signing controlled substance prescriptions that were issued to patients while they were engaged in overseas travel, Bellota-Rojas and Bist violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.128(1)(a), NRS 453.331(1)(f) and (h), NRS 453.401(l)(a), NRS 454.00961(1)(a), NRS 454.223(2)(a), NRS 639.013(1)(a), NRS 639.2353(2), NAC 453.410(1)(b)(8), NAC 453.440(1)(c), NAC 454.060(1), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846, 21 CFR § 1306.03, 21 CFR § 1306.04 and/or 21 CFR § 1306.05, and are subject to discipline pursuant to NRS 639.210(12).

ELEVENTH CAUSE OF ACTION
(Respondents Bellota-Rojas, Bist and Cotton-Lewis)

XXVIII.

By Cotton-Lewis being permitted to prescribe, and by her prescribing, controlled substances and dangerous drugs prior to being licensed to do so, Bellota-Rojas, Bist and Cotton-Lewis violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.226, NRS 453.232, NRS 453.331(1), NRS 453.381(1), NRS 453.401(l)(a), NRS 454.695, NRS 639.235, NRS 639.2351, NRS 639.23911(1)(a), NRS 639.2813(1), NAC 453.440(1)(c), 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846, 21 CFR § 1306.03, 21 CFR § 1306.04 and/or 21 CFR § 1306.05, and are subject to discipline pursuant to NRS 639.210(12).

TWELVTH CAUSE OF ACTION

(Respondent Bellota-Rojas)

XXIX.

By unlawfully prescribing controlled substances to patients with whom she did not have a bona fide therapeutic relationship, Bellota-Rojas violated, attempted to violate, assisted or abetted in the violation of or conspired to violate NRS 453.381(1), NRS 453.401(1)(a), NRS 639.23911(1)(a), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a) and/or 21 CFR § 1306.04, and is subject to discipline pursuant to NRS 639.210(12).

THIRTEENTH CAUSE OF ACTION

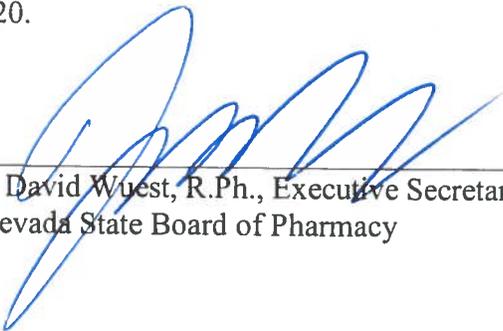
(Respondents Bellota-Rojas, Bist and Cotton-Lewis)

XXX.

By their actions as set forth herein, Bellota-Rojas, Bist and Cotton-Lewis have committed acts that render their registration to prescribe or otherwise dispense a controlled substance inconsistent with the public interest pursuant to NRS 453.231, and are subject to discipline pursuant to NRS 453.236(1)(d) and NRS 453.241(1).

WHEREFORE it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of these respondents.

DATED this 16th day of February, 2020.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

NOTICE TO RESPONDENT

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Notice of Intended Action and Accusation. NRS 639.320; NRS 639.243. Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

CASE NO. 18-103-CS-A-S

Petitioner,

v.

**ROSA A. BELLOTA-ROJAS, MD,
Certificate of Registration No. CS21931,**

**STATEMENT TO
THE RESPONDENT
AND NOTICE OF HEARING**

Respondent.

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, March 18, 2020, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

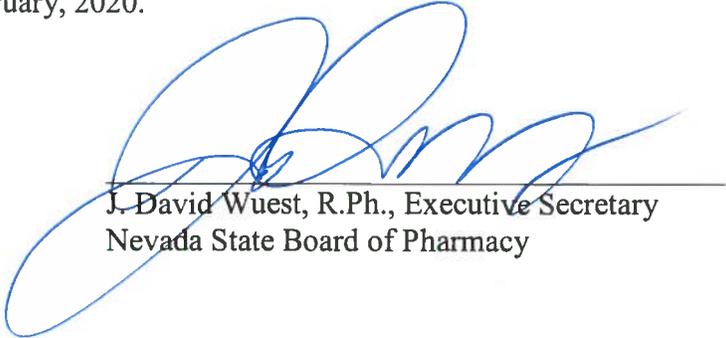
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 14th day of February, 2020.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 14th day of February, 2020, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Rosa Bellota-Rojas, MD
4958 S. Rainbow Blvd., #100
Las Vegas, NV 89118

Anuranjan Bist, MD
4958 S. Rainbow Blvd., #100
Las Vegas, NV 89118

Dithra Cotton-Lewis, APRN
1820 E. Warm Springs Rd., Suite 140
Las Vegas, NV 89119

Bridgett Kelly, Esq.
Nutile Law
7395 S. Pecos Road, Ste. 103
Las Vegas, NV 89120


SHIRLEY HUNTING

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

ROSA A. BELLOTA-ROJAS, MD
Certificate of Registration No. CS21931,

Respondent.

CASE NO. 18-103-CS-A-S

**ANSWER AND NOTICE
OF DEFENSE**

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

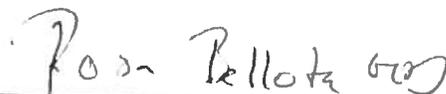
Please see attached.

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

Please see attached.

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 20th day of ~~February~~, 2020
MARCH


ROSA A. BELLOTA-ROJAS, MD

Respondent Statement
Rosa Bellota-Rojas, M.D.
Case No. 18-103-CS-A-S
March 20, 2020

Please accept the following in answer to the Notice of Intended Action and Accusation in this matter.

I object to the Notice as incomplete and failing to clearly state the charges against me. The Notice makes general allegations as to controlled substance prescriptions written or authorized while out of the country. However, the Notice fails to state with any specificity who the alleged patients were or what medications the prescriptions were for. I therefore cannot properly respond to these allegations.

I have previously responded to notices of investigation from the Nevada State Board of Pharmacy, and refer to those responses to the extent they apply to the present allegations.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

**ROSA A. BELLOTA-ROJAS, MD,
Certificate of Registration No. CS21931,**

**ANURANJAN BIST, MD,
Certificate of Registration No. CS14281, and**

**DITHRA A. COTTON-LEWIS, APRN,
Certificate of Registration No. CS27780,**

Respondents.

**Case Nos. 18-103-CS-A-S
18-103-CS-B-S
18-103-CS-C-S**

**STIPULATION AND ORDER
(Respondents Bellota-Rojas and Bist
ONLY)**

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and Respondent Rosa A. Bellota-Rojas, MD (Bellota-Rojas), Certificate of Registration No. CS21931, and Respondent Anuranjan Bist, MD (Bist), Certificate of Registration No. CS14281, by and through counsel, Maria Nutile, Esq. and Bridget Kelly, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. The Board has jurisdiction over Respondents and this matter.
2. On or about February 14, 2020, Board Staff properly served Respondents with the Notice of Intended Action and Accusation (Accusation) on file in this matter together with the Statement to Respondent and Notice of Hearing.
3. On or about March 20, 2020, Respondents each filed an Answer and Notice of Defense to the Accusation.
4. Respondents are fully aware of the right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.
5. Respondents are aware of the right to a hearing on the matters alleged in the Accusation, the right to reconsideration, the right to appeal and any and all other rights which

may be accorded pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

6. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that either Respondent has failed to comply with the provisions of Paragraphs 9, 10, 11, 17 and/or 18 below, Respondents hereby freely and voluntarily waive their rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to them by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

7. Respondents admit that evidence exists, and that Board staff prosecuting this case could present such evidence at an administrative hearing, to establish a factual basis for the violations alleged in the Accusation, *to wit*, that Respondents:

A. Pre-signed controlled substance prescriptions that were issued to patients while Respondents were engaged in overseas travel, in violation of NRS 453.128(1)(a), NRS 453.331(1)(f) and (h), NRS 453.401(1)(a), NRS 454.00961(1)(a), NRS 454.223(2)(a), NRS 639.013(1)(a), NRS 639.2353(2), NAC 453.410(1)(b)(8), NAC 453.440(1)(c), NAC 454.060(1), NAC 639.945(1)(h) and (i), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846, 21 CFR § 1306.03, 21 CFR § 1306.04 and/or 21 CFR § 1306.05.

B. Permitted an employee, Respondent Dithra A. Cotton-Lewis, APRN, to prescribe controlled substances and dangerous drugs prior to being licensed to do so, in violation of NRS 453.226, NRS 453.232, NRS 453.331(1), NRS 453.381(1), NRS 453.401(1)(a), NRS 454.695, NRS 639.235, NRS 639.2351, NRS 639.23911(1)(a), NRS 639.2813(1), NAC 453.440(1)(c), NAC 639.850, NAC 639.854, NAC 639.945(1)(h) and (j), 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846, 21 CFR § 1306.03, 21 CFR § 1306.04 and/or 21 CFR § 1306.05.

8. Those violations are plead with particularity in the Accusation, and are grounds for action pursuant to NRS 639.210 and NRS 639.255.

9. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Bellota-Rojas stipulate to the following penalties. The registration of Respondent Rosa A. Bellota-Rojas, MD, Certificate of Registration No. CS21931, is hereby suspended. The suspension is stayed, and Bellota-Rojas is placed on probation for two (2) years, subject to the following conditions. Bellota-Rojas shall:

- A. Receive a letter of reprimand from Board Staff regarding her duties and responsibilities as a prescribing practitioner;
- B. Pay a fine of Five-Thousand Dollars (\$5000.00) for the alleged violations;
- C. Pay Two-Thousand Dollars (\$2000.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter; and
- D. Comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs, and have no additional charges filed against her while on probation.

10. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Bist stipulate to the following penalties. The registration of Respondent Anuranjan Bist, MD, Certificate of Registration No. CS14281, is hereby suspended. The suspension is stayed, and Bist is placed on probation for two (2) years, subject to the following conditions. Bist shall:

- A. Receive a letter of reprimand from Board Staff regarding his duties and responsibilities as a prescribing practitioner;
- B. Pay a fine of Five-Thousand Dollars (\$5000.00) for the alleged violations;

C. Pay Two-Thousand Dollars (\$2000.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter; and

D. Comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs, and have no additional charges filed against him while his registration is on probation.

11. In addition, Board inspectors shall conduct scheduled quarterly inspections of Respondents' practice, Mind Brain Institute, for a period of 12 months from the effective date of this Order, whichever occurs first, and Respondents shall bear and reimburse the Board for inspection costs in an amount not to exceed \$500 per quarterly inspection.

12. If each respondent complies with the terms of probation, at the end of the probationary period the Executive Secretary is granted authority, at his sole discretion, to terminate that respondent's probation.

13. Any failure by either respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing that respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by either respondent, the Board may impose additional discipline upon that respondent not inconsistent with the provisions of NRS Chapter 639.

14. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on June 3, 2020. Respondents will appear telephonically at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent or counsel are not present at the meeting.

15. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board it shall be a public record pursuant to NRS 622.330.

16. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board at a later date. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

17. Upon approval of this Stipulation by the Board, Respondents shall pay the fines agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) of the effective date of this Order.

18. Upon approval of this Stipulation by the Board, Respondents shall pay the attorney's fees and costs agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) of the effective date of this Order.

19. Subject to the approval of this Stipulation by the Board, the Board and Respondents agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondents, and each of them, have fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and have freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this ___ day of June, 2020

Signed this ___ day of June, 2020

ROSA A. BELLOTA-ROJAS, MD
Certificate of Registration No. CS21931

ANURANJAN BIST, MD
Certificate of Registration No. CS14281

**APPROVED AS TO FORM AND
CONTENT this ___ day of June, 2020**

Signed this ___ day of June, 2020

MARIA NUTILE/BRIDGET KELLY
Counsel for Respondents

BRETT KANDT, ESQ.
General Counsel
Nevada State Board of Pharmacy

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Respondent Rosa A. Bellota-Rojas, MD, Certificate of Registration No. CS21931, and Respondent Anuranjan Bist, MD, Certificate of Registration No. CS14281, in Case No. 18-103-CS-S and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

IT IS SO ORDERED.

Entered this ___ day of June, 2020.

Helen Park, President
Nevada State Board of Pharmacy

6H

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

CASE NO. 18-103-CS-B-S

Petitioner,

v.

**ANURANJAN BIST, MD,
Certificate of Registration No. CS14281,**

**STATEMENT TO
THE RESPONDENT
AND NOTICE OF HEARING**

Respondent.

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, March 18, 2020, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

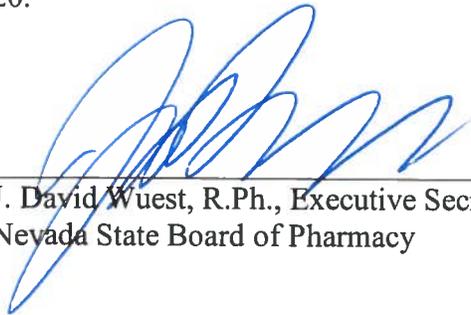
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 14th day of February, 2020.



J. David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

CERTIFICATE OF SERVICE

I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 14th day of February, 2020, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Rosa Bellota-Rojas, MD
4958 S. Rainbow Blvd., #100
Las Vegas, NV 89118

Anuranjan Bist, MD
4958 S. Rainbow Blvd., #100
Las Vegas, NV 89118

Dithra Cotton-Lewis, APRN
1820 E. Warm Springs Rd., Suite 140
Las Vegas, NV 89119

Bridgett Kelly, Esq.
Nutile Law
7395 S. Pecos Road, Ste. 103
Las Vegas, NV 89120


SHIRLEY HUNTING

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

CASE NO. 18-103-CS-~~A~~-S
B

Petitioner,

v.
ANURANJAN BIST, M.D.
~~ROSA A. BELLOTA-ROJAS, MD~~
Certificate of Registration No. ~~CS21031~~,

ANSWER AND NOTICE
OF DEFENSE

CS14281
Respondent.

Respondent above named, in answer to the Notice of Intended Action and Accusation filed in the above-entitled matter before the Nevada State Board of Pharmacy, declares:

1. That his objection to the Notice of Intended Action and Accusation as being incomplete or failing to state clearly the charges against him, is hereby interposed on the following grounds: (State specific objections or insert "none").

Please see attached.

2. That, in answer to the Notice of Intended Action and Accusation, he admits, denies and alleges as follows:

Please see attached.

I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of Defense, and all facts therein stated, are true and correct to the best of my knowledge.

DATED this 20th day of February, 2020
MARCH


~~ROSA A. BELLOTA-ROJAS, MD~~
ANURANJAN BIST, M.D.

Respondent Statement
Anuranjan Bist, M.D.
Case No. 18-103-CS-B-S
March 20, 2020

Please accept the following in answer to the Notice of Intended Action and Accusation in this matter.

I object to the Notice as incomplete and failing to clearly state the charges against me. The Notice makes general allegations as to controlled substance prescriptions written or authorized while out of the country. However, the Notice fails to state with any specificity who the alleged patients were or what medications the prescriptions were for. I therefore cannot properly respond to these allegations.

I have previously responded to notices of investigation from the Nevada State Board of Pharmacy, and refer to those responses to the extent they apply to the present allegations.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

ROSA A. BELLOTA-ROJAS, MD,
Certificate of Registration No. CS21931,

ANURANJAN BIST, MD,
Certificate of Registration No. CS14281, and

DITHRA A. COTTON-LEWIS, APRN,
Certificate of Registration No. CS27780,

Respondents.

Case Nos. 18-103-CS-A-S
18-103-CS-B-S
18-103-CS-C-S

STIPULATION AND ORDER
(Respondents Bellota-Rojas and Bist
ONLY)

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and Respondent Rosa A. Bellota-Rojas, MD (Bellota-Rojas), Certificate of Registration No. CS21931, and Respondent Anuranjan Bist, MD (Bist), Certificate of Registration No. CS14281, by and through counsel, Maria Nutile, Esq. and Bridget Kelly, Esq., **HEREBY STIPULATE AND AGREE THAT:**

1. The Board has jurisdiction over Respondents and this matter.
2. On or about February 14, 2020, Board Staff properly served Respondents with the Notice of Intended Action and Accusation (Accusation) on file in this matter together with the Statement to Respondent and Notice of Hearing.
3. On or about March 20, 2020, Respondents each filed an Answer and Notice of Defense to the Accusation.
4. Respondents are fully aware of the right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.
5. Respondents are aware of the right to a hearing on the matters alleged in the Accusation, the right to reconsideration, the right to appeal and any and all other rights which

may be accorded pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

6. Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that either Respondent has failed to comply with the provisions of Paragraphs 9, 10, 11, 17 and/or 18 below, Respondents hereby freely and voluntarily waive their rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to them by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).

7. Respondents admit that evidence exists, and that Board staff prosecuting this case could present such evidence at an administrative hearing, to establish a factual basis for the violations alleged in the Accusation, *to wit*, that Respondents:

A. Pre-signed controlled substance prescriptions that were issued to patients while Respondents were engaged in overseas travel, in violation of NRS 453.128(1)(a), NRS 453.331(1)(f) and (h), NRS 453.401(1)(a), NRS 454.00961(1)(a), NRS 454.223(2)(a), NRS 639.013(1)(a), NRS 639.2353(2), NAC 453.410(1)(b)(8), NAC 453.440(1)(c), NAC 454.060(1), NAC 639.945(1)(h) and (i), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846, 21 CFR § 1306.03, 21 CFR § 1306.04 and/or 21 CFR § 1306.05.

B. Permitted an employee, Respondent Dithra A. Cotton-Lewis, APRN, to prescribe controlled substances and dangerous drugs prior to being licensed to do so, in violation of NRS 453.226, NRS 453.232, NRS 453.331(1), NRS 453.381(1), NRS 453.401(1)(a), NRS 454.695, NRS 639.235, NRS 639.2351, NRS 639.23911(1)(a), NRS 639.2813(1), NAC 453.440(1)(c), NAC 639.850, NAC 639.854, NAC 639.945(1)(h) and (j), 21 U.S.C. § 822(a)(2), 21 U.S.C. § 823(f), 21 U.S.C. § 841(a), 21 U.S.C. § 842(a), 21 U.S.C. § 846, 21 CFR § 1306.03, 21 CFR § 1306.04 and/or 21 CFR § 1306.05.

8. Those violations are plead with particularity in the Accusation, and are grounds for action pursuant to NRS 639.210 and NRS 639.255.

9. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Bellota-Rojas stipulate to the following penalties. The registration of Respondent Rosa A. Bellota-Rojas, MD, Certificate of Registration No. CS21931, is hereby suspended. The suspension is stayed, and Bellota-Rojas is placed on probation for two (2) years, subject to the following conditions. Bellota-Rojas shall:

- A. Receive a letter of reprimand from Board Staff regarding her duties and responsibilities as a prescribing practitioner;
- B. Pay a fine of Five-Thousand Dollars (\$5000.00) for the alleged violations;
- C. Pay Two-Thousand Dollars (\$2000.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter; and
- D. Comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs, and have no additional charges filed against her while on probation.

10. In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Bist stipulate to the following penalties. The registration of Respondent Anuranjan Bist, MD, Certificate of Registration No. CS14281, is hereby suspended. The suspension is stayed, and Bist is placed on probation for two (2) years, subject to the following conditions. Bist shall:

- A. Receive a letter of reprimand from Board Staff regarding his duties and responsibilities as a prescribing practitioner;
- B. Pay a fine of Five-Thousand Dollars (\$5000.00) for the alleged violations;

C. Pay Two-Thousand Dollars (\$2000.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter; and

D. Comply with all federal and state statutes and regulations regarding controlled substances and dangerous drugs, and have no additional charges filed against him while his registration is on probation.

11. In addition, Board inspectors shall conduct scheduled quarterly inspections of Respondents' practice, Mind Brain Institute, for a period of 12 months from the effective date of this Order, whichever occurs first, and Respondents shall bear and reimburse the Board for inspection costs in an amount not to exceed \$500 per quarterly inspection.

12. If each respondent complies with the terms of probation, at the end of the probationary period the Executive Secretary is granted authority, at his sole discretion, to terminate that respondent's probation.

13. Any failure by either respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing that respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by either respondent, the Board may impose additional discipline upon that respondent not inconsistent with the provisions of NRS Chapter 639.

14. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on June 3, 2020. Respondents will appear telephonically at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent or counsel are not present at the meeting.

15. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board it shall be a public record pursuant to NRS 622.330.

16. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board at a later date. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

17. Upon approval of this Stipulation by the Board, Respondents shall pay the fines agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) of the effective date of this Order.

18. Upon approval of this Stipulation by the Board, Respondents shall pay the attorney's fees and costs agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within thirty (30) of the effective date of this Order.

19. Subject to the approval of this Stipulation by the Board, the Board and Respondents agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondents, and each of them, have fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and have freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this ___ day of June, 2020

Signed this ___ day of June, 2020

ROSA A. BELLOTA-ROJAS, MD
Certificate of Registration No. CS21931

ANURANJAN BIST, MD
Certificate of Registration No. CS14281

**APPROVED AS TO FORM AND
CONTENT this ___ day of June, 2020**

Signed this ___ day of June, 2020

MARIA NUTILE/BRIDGET KELLY
Counsel for Respondents

BRETT KANDT, ESQ.
General Counsel
Nevada State Board of Pharmacy

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Respondent Rosa A. Bellota-Rojas, MD, Certificate of Registration No. CS21931, and Respondent Anuranjan Bist, MD, Certificate of Registration No. CS14281, in Case No. 18-103-CS-S and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

IT IS SO ORDERED.

Entered this ___ day of June, 2020.

Helen Park, President
Nevada State Board of Pharmacy

61

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

CASE NO. 18-103-CS-C-S

Petitioner,

v.

**DITHRA A. COTTON-LEWIS, APRN,
Certificate of Registration No. CS27780,**

**STATEMENT TO
THE RESPONDENT
AND NOTICE OF HEARING**

Respondent.

TO THE RESPONDENT ABOVE-NAMED: PLEASE TAKE NOTICE THAT:

I.

Pursuant to the authority and jurisdiction conferred upon the Nevada State Board of Pharmacy (Board) by NRS 639.241 to NRS 639.2576, inclusive, and NRS chapter 233B and 622A, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, J. David Wuest, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you, as is more fully explained and set forth in the Notice of Intended Action and Accusation served herewith and hereby incorporated reference herein.

II.

You have the right to show the Nevada State Board of Pharmacy that your conduct, as alleged above, complies with all lawful requirements. NRS 233B.127(3). You have the right to a hearing before the Board to answer the Notice of Intended Action and Accusation and present evidence and argument on all issues involved, either personally or through counsel. NRS 233B.121; NRS 233B.127(3); NRS 622A.300(1) and (3); NRS 639.241. To do so, you must complete and file two (2) copies of the Answer and Notice of Defense served herewith, to be received by the Board’s Reno office located at 985 Damonte Ranch Parkway – Suite 206, Reno, Nevada 89521, within twenty (20) days of your receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within. NRS 639.320; NRS 639.243.

III.

The Board has scheduled your hearing on this matter for Wednesday, March 18, 2020, at 9:00 a.m. or soon thereafter. The hearing will occur at the Hilton Garden Inn, 7830 S. Las Vegas Blvd., Las Vegas, Nevada.

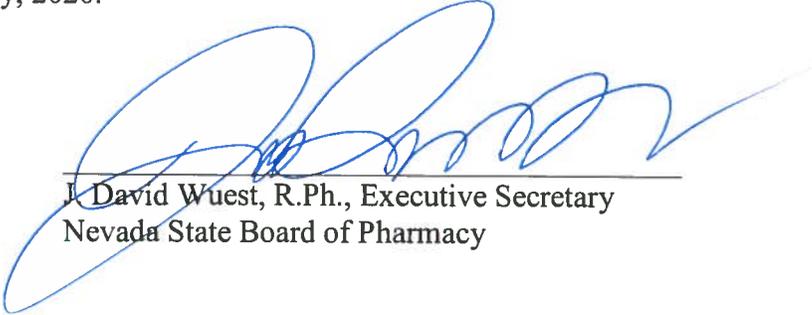
IV.

Pursuant to NRS 241.033 and 241.034, please be advised that the hearing is a public meeting, and the Board may, without further notice, take administrative action against you if the Board determines that such administrative action is warranted after considering your character, alleged misconduct, professional competence, or physical or mental health. The Board at its discretion may go into closed session to consider your character, alleged misconduct, professional competence, or physical or mental health. You may attend any closed session, have an attorney or other representative of your choosing present during any closed session, and present written evidence, provide testimony, and present witnesses relating to your character, alleged misconduct, professional competence, or physical or mental health during any closed session.

V.

Your failure to timely file an Answer and Notice of Defense constitutes an admission of the charges and waiver of the right to a hearing. NRS 639.244. If you fail to appear at the hearing and the Board finds that you were given sufficient legal notice of the hearing, the Board may accept the allegations as true and may proceed to consider the case and render a decision. NRS 622A.350.

DATED this 14th day of February, 2020.



David Wuest, R.Ph., Executive Secretary
Nevada State Board of Pharmacy

CERTIFICATE OF SERVICE

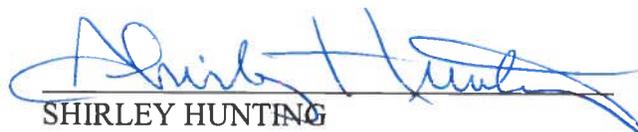
I certify that I am an employee of the Nevada State Board of Pharmacy, and that on this 14th day of February, 2020, I served a true and correct copy of the foregoing document by Certified U.S. Mail to the following:

Rosa Bellota-Rojas, MD
4958 S. Rainbow Blvd., #100
Las Vegas, NV 89118

Anuranjan Bist, MD
4958 S. Rainbow Blvd., #100
Las Vegas, NV 89118

Dithra Cotton-Lewis, APRN
1820 E. Warm Springs Rd., Suite 140
Las Vegas, NV 89119

Bridgett Kelly, Esq.
Nutile Law
7395 S. Pecos Road, Ste. 103
Las Vegas, NV 89120


SHIRLEY HUNTING

FILED

MAR 05 2020

NEVADA STATE BOARD OF PHARMACY

1 Crane M. Pomerantz, Esq.
2 Nevada Bar No.: 14103
3 SKLAR WILLIAMS PLLC
4 410 South Rampart Boulevard, Suite 350
5 Las Vegas, Nevada 89145
6 Telephone: (702) 360-6000
7 Facsimile: (702) 360-0000
8 Email: cpomerantz@sklar-law.com

9 Attorneys for Dithra Cotton-Lewis

10 **BEFORE THE NEVADA STATE BOARD OF PHARMACY**

11 CASE NO.: 18-103-CS-C-S

12 NEVADA STATE BOARD OF
13 PHARMACY,

14 Petitioner,

15 **ANSWER AND NOTICE OF DEFENSE**

16 v.

17 DITHRA COTTON-LEWIS, APRN,

18 Certificate of Registration No. CS27780,

19 Respondent.

20 Respondent above named, in answer to the Notice of Intended Action and Accusation filed
21 in the above-titled matter before the Nevada States Board of Pharmacy (the "Board"), declares:

22 1. That her objections to the Notice of Intended Action and Accusation as being
23 incomplete or failing to state clearly the charges against her, is hereby interposed on the following
24 grounds:

25 a. As alleged, the allegations in Paragraph VII, as reflected in the Sixth,
26 Seventh, Eighth, Eleventh, and Thirteenth Causes of Action, violate Ms. Cotton-Lewis' Sixth
27 Amendment rights and are unconstitutionally vague because they fail to apprise the Respondent,
28 with reasonable certainty, of the allegations against her and, thus, deprive her of the ability to
prepare a defense. *United States v. Nance*, 533 F.2d 699, 701 (D.C. Cir. 1976); *see United States*
v. Blinder, 10 F.3d 1468, 1476 (9th Cir. 1993)(indictment charging RICO violation in omitting
material facts sufficient despite lack of detailed explanations of omissions). Paragraph VII
generally alleges that "prescriber records and prescriptions" document: (1) fifteen controlled

1 substance prescriptions written prior to October 4, 2018; (2) four schedule II controlled substance
2 prescriptions on November 2, 2018; and (3) twelve dangerous drug prescriptions on three separate
3 days. By failing to identify specific prescriptions written on dates certain, the Notice of Intended
4 Action and Accusation deprives Respondent of the ability to defend herself adequately.

5 b. As alleged, the Allegations in the Sixth, Seventh, Eighth, Eleventh, and
6 Thirteenth Causes of Action are duplicitous, insofar as the Board has joined in a single count two
7 or more distinct and separate offenses. *Gordon v. Eighth Judicial District Court*, 112 Nev. 216,
8 228, 913 P.2d 240, 247-8 (1996); *United States v. UCO Oil Co.*, 546 F.2d 833, 835 (9th Cir. 1976).
9 As alleged, the Board of Pharmacy could take disciplinary action against Ms. Cotton-Lewis'
10 license if it determines either that she: (1) wrote fifteen controlled substance prescription prior to
11 October 4, 2018; (2) wrote four schedule II controlled substance prescription on November 2,
12 2018; or (3) wrote twelve dangerous drug prescriptions on June 7, 15, and 22, 2018, without
13 specifying which. Ms. Cotton-Lewis respectfully submits that an individual Cause of Action only
14 may allege one violation.

15 c. The purpose of the foregoing paragraphs was to place the Board on notice
16 of Respondent's legal objections to its Notice of Intended Action and Accusation. Ms. Cotton-
17 Lewis respectfully reserves the right to brief further and expand upon these objections at the
18 appropriate juncture, if necessary.

19 2. That, in answer to the Notice of Intended Action and Accusation, she admits,
20 denies, and alleges as follows:

21 a. Respondent admits that the Board has jurisdiction over this matter.

22 b. Paragraphs I through VI and VIII of the Notice of Intended Action and
23 Accusation do not contain allegations against Respondent. To the extent an answer is required,
24 Respondent denies the allegations in these paragraphs.

25 c. With regard to the allegations in Paragraph VII, Respondent:

26 1. Denies that she was issued Certificate of Registration No. CS27780
27 on October 4, 2018 and, thus, denies that she wrote fifteen controlled substance prescriptions prior
28 to being registered to do so. She further denies this allegation on the grounds that she cannot
respond adequately to the allegation without further information, as set forth in her objections
above.

2. Cannot respond adequately to the allegation that she wrote four

1 schedule II controlled substance prescriptions on November 2, 2018 without further information,
2 as set forth in her objections above, and, thus, denies this allegation on that basis.

3 3. Admits that she wrote a small number of dangerous drug
4 prescriptions prior to receiving the appropriate registration from the Board due to inadvertent error,
5 but cannot respond adequately without knowing precisely which prescriptions were written on
6 which day.

7 d. The allegations in Paragraphs IX through VXII contain conclusions of law
8 for which no answer is required.

9 e. The First, Second, Third, Fourth, Fifth, Ninth, Tenth, and Twelfth Causes
10 of Action do not contain allegations against the Respondent. To the extent an answer is required,
11 the Respondent denies the allegations in these paragraphs.

12 f. For the reasons set forth in her objections, and based on her admissions and
13 denials of the allegations in Paragraph VII, Respondent denies the allegations in the Sixth, Seventh,
14 Eighth, Eleventh, and Thirteenth Causes of Action.

15 I hereby declare, under penalty of perjury, that the foregoing Answer and Notice of
16 Defense, and all facts therein stated, are true and correct to best of my knowledge.

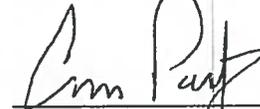
17 Dated this 4th day of March, 2020.

18 

19 Dithra Cotton-Lewis, APRN

20 On behalf of Respondent:

21 SKLAR WILLIAMS PLLC

22 

23 Crane M. Pometantz, Esq.
24 Nevada Bar No. 14103
25 410 South Rampart Blvd., Suite 350
26 Las Vegas, Nevada 89145
27 Telephone: (702) 360-6000
28 Facsimile: (702) 360-000

BEFORE THE NEVADA STATE BOARD OF PHARMACY

| | |
|---|---|
| <p>NEVADA STATE BOARD OF PHARMACY,</p> <p style="text-align: right;">Petitioner,</p> <p style="text-align: center;">v.</p> <p>ROSA A. BELLOTA-ROJAS, MD, Certificate of Registration No. CS21931,</p> <p>ANURANJAN BIST, MD, Certificate of Registration No. CS14281, and</p> <p>DITHRA A. COTTON-LEWIS, APRN, Certificate of Registration No. CS27780,</p> <p style="text-align: right;"><i>Respondents.</i></p> | <p>Case Nos. 18-103-CS-A-S 18-103-CS-B-S 18-103-CS-C-S</p> <p>STIPULATION AND ORDER (Respondent Cotton-Lewis ONLY)</p> |
|---|---|

Brett Kandt, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and Respondent Dithra A. Cotton-Lewis, APRN (Cotton-Lewis), Certificate of Registration No. CS27780, by and through counsel, Crane M. Pomerantz, Esq., **HEREBY STIPULATE AND AGREE THAT:**

- 1 . The Board has jurisdiction over Respondent and this matter.
- 2 . On or about February 14, 2020, Board Staff properly served Respondent with the Notice of Intended Action and Accusation (Accusation) on file in this matter together with the Statement to Respondent and Notice of Hearing.
- 3 . On or about March 4, 2020, Respondent filed an Answer and Notice of Defense to the Accusation.
- 4 . Respondent is fully aware of her right to seek the advice of counsel in this matter and obtained the advice of counsel prior to entering into this Stipulation.
- 5 . Respondent is aware of her right to a hearing on the matters alleged in the Accusation, her right to reconsideration, her right to appeal and any and all other rights which may be accorded to her pursuant to NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).
- 6 . Conditioned on the acceptance of this Stipulation by the Board, and with the exception of the right to challenge any determination that Respondent has failed to comply with the provisions of Paragraphs 8, 13 and 14 below, Respondent hereby freely and voluntarily waives her rights to a hearing, reconsideration, appeal and any and all other rights related to this action that may be accorded to him by NRS Chapter 233B (Nevada Administrative Procedure Act), NRS Chapter 622A (Administrative Procedure Before Certain Regulatory Bodies), and NRS Chapter 639 (Nevada Pharmacy Act).
- 7 . Respondent does not contest the allegations in the Accusation, but acknowledges that Board staff prosecuting this case could present such evidence at an administrative hearing to establish a factual basis for the violations alleged therein, *to wit*, that Respondent prescribed drugs prior to being licensed to do so, in violation of, without limitation, NRS 454.695 and NRS 639.2351.
- 8 . The alleged violations are grounds for action pursuant to NRS 639.210 and NRS 639.255.
- 9 . In order to resolve this matter without incurring any further costs or the expense associated with a hearing, the Board and Respondent stipulate to the following penalties. Respondent Dithra A. Cotton-Lewis, APRN, Certificate of Registration No. CS27780, shall:
 - A . Receive a letter of reprimand from Board Staff regarding her duties and responsibilities as a prescribing practitioner;
 - B . Pay a fine of Five-Thousand Dollars (\$5000.00) for the alleged violations;

and

C. Pay Nine-Hundred and Fifty Dollars (\$950.00) to partially reimburse the Board for recoverable attorney's fees and costs incurred in investigating and prosecuting this matter.

10. Any failure by Respondent to comply with the terms of this Order may result in issuance by the Executive Secretary of an order to show cause pursuant to NAC 639.965 directing Respondent to appear before the Board at the next regularly-scheduled meeting for a show cause hearing. If such a hearing results in a finding of a violation of this Order by Respondent, the Board may impose additional discipline upon Respondent not inconsistent with the provisions of NRS Chapter 639.

11. General Counsel will present this Stipulation to the Board for approval pursuant to NRS 622.330 at the Board's regularly scheduled public meeting on April 15, 2020, in Las Vegas, Nevada. Respondent will appear at the meeting to answer questions from the Board Members and/or Board Staff. The Board Members and Staff may discuss and deliberate regarding this Stipulation, even if Respondent or her counsel are not present at the meeting.

12. The Board has discretion to accept this Stipulation, but it is not obligated to do so. If this Stipulation is approved by the Board it shall be a public record pursuant to NRS 622.330.

13. If the Board rejects any part or all of this Stipulation, and unless they reach an alternative agreement on the record during the hearing, the parties agree that a full hearing on the merits of this matter may be heard by the Board. The terms and admissions herein may not be used or referred to in a full hearing on the merits of this matter.

14. Upon approval of this Stipulation by the Board, Respondent shall pay the fines agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "State of Nevada, Office of the Treasurer," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway - Suite 206, Reno, Nevada 89521, within thirty (30) of the effective date of this Order.

15. Upon approval of this Stipulation by the Board, Respondent shall pay the attorney's fees and costs agreed to herein by *cashier's check* or *certified check* or *money order* made payable to "Nevada State Board of Pharmacy," to be received by the Board's Reno office located at 985 Damonte Ranch Parkway - Suite 206, Reno, Nevada 89521, within thirty (30) of the effective date of this Order.

16. Subject to the approval of this Stipulation by the Board, the Board and Respondent agree to release each other from any and all additional claims arising from the facts set forth in the Accusation on file herein, whether known or unknown that might otherwise have existed on or before the effective date of this Order.

Respondent has fully considered the charges and allegations contained in the *Notice of Intended Action and Accusation* in this matter, and the terms of this Stipulation, and has freely and voluntarily agreed to the terms set forth herein, and waived certain rights, as stated herein.

AGREED:

Signed this 14 day of April, 2020

Signed this ___ day of April, 2020

Dithra Cotton-Lewis APRN

**DITHRA A. COTTON-LEWIS, APRN,
Certificate of Registration No. CS27780**

**BRETT KANDT, ESQ.
General Counsel
Nevada State Board of Pharmacy**

**APPROVED AS TO FORM AND
CONTENT this ___ day of April, 2020**

**CRANE M. POMERANTZ, ESQ.
Counsel for Respondent**

7

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision as to Respondent Dithra A. Cotton-Lewis, APRN, Certificate of Registration No. CS27780, in Case No. 18-103-CS-C-S and hereby orders that the terms of the foregoing Stipulation be made effective upon execution below.

IT IS SO ORDERED.

Entered this ___ day of April, 2020.

Helen Park, President

Nevada State Board of Pharmacy

9