

MAY 05 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

HAKEEM SANCHEZ-BRAVO, PTT
Certificate of Registration No. PT17763,SHELLEY VERMA, RPH
Certificate of Registration No. 17761,WALGREENS PHARMACY #03845
Certificate of Registration No. PHN01064,RACHAEL MCDONALD, RPH
Certificate of Registration No. 18416,WALGREENS PHARMACY #04086
Certificate of Registration No. PH01248,SUZETTE JACOBS, RPH
Certificate of Registration No. 17642,WALGREENS PHARMACY #15035
Certificate of Registration No. PH02742, and

WALGREENS CO., an Illinois Corporation,

Respondents.

CASE NOS. 16-080-PTT- S

16-080-RPH-A-S

16-080-PH-A-S

16-080-RPH-B-S

16-080-PH-B-S

16-080-RPH-C-S

16-080-PH-C-S

16-080-PH-D-S

NOTICE OF INTENDED ACTION
AND ACCUSATION

Larry L. Pinson, 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 Nevada Revised Statutes (NRS) 233B.127(3) and as an accusation under NRS 639.241.

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because at the time of the events alleged herein, Respondent Hakeem Sanchez-Bravo (Mr. Sanchez-Bravo), Certificate of Registration PT17763, was a registered pharmaceutical technician in training with the Board; Respondents Shelley Verma (Ms. Verma), Certificate of Registration No. 17761; Rachael McDonald (Ms. McDonald), Certificate of Registration No. 18416; and Suzette Jacobs

(Ms. Jacobs), Certificate of Registration 17642, were registered pharmacists with the Board. Similarly, Respondent Walgreens Pharmacy #03845, Certificate of Registration No. PHN01064; Walgreens Pharmacy #04086, Certificate of Registration PH01248; and Walgreens Pharmacy #15035, Certificate of Registration PH02742, were pharmacies registered with the Board. Walgreen Co. is an Illinois corporation that is the owner of each of the individual Walgreens pharmacies named in this matter.

II.

Nevada Administrative Code (NAC) 639.242(3) states that “[u]pon receipt of an application and the required fee, the Executive Secretary shall, unless he or she has good cause to deny the registration, issue a registration certificate for a pharmaceutical technician in training to the managing pharmacist of the pharmacy where the trainee will be employed.”

III.

Additionally, a trainee may be employed as a technician in training at multiple pharmacies, but the trainee is required to register at each location. NAC 639.242(5). If a pharmaceutical technician in training changes pharmacy locations (even within the same chain), the trainee must submit a new application and become registered for the new site. *Id.* Termination of employment at a pharmacy voids the trainee’s registration and the trainee must reapply for registration before working at any other pharmacy.

FACTUAL ALLEGATIONS

IV.

On or about January 8, 2016, the Board issued Pharmaceutical Technician Trainee Certificate of Registration No. PT17763 to Hakeem Sanchez-Bravo (Mr. Sanchez-Bravo).

V.

Certificate of Registration No. PT17763 was valid at Walgreens Pharmacy #4790.

VI.

Certificate of Registration No. PT17763 expired on October 31, 2016.

VII.

On November 7, 2016, Mr. Sanchez-Bravo telephoned the Board Office regarding the renewal of his registration. During that discussion with Board Staff, Mr. Sanchez-Bravo indicated that he has been working at Walgreens Pharmacy #03845 for the prior four months.

VIII.

Board Staff learned that Mr. Sanchez-Bravo did not have a valid pharmaceutical technician in training registration at Walgreens Pharmacy #03845.

IX.

Records provided to the Board Investigator by Walgreens' District Manager Jaclyn Latteri show that from April 2016, through November 2016, Mr. Sanchez-Bravo worked as a technician in training at three separate Walgreens' where he did not have a registration. Those records show that he worked unregistered at those locations for a combined total of approximately one-hundred and forty (140) days.

X.

Table 1 below shows the number of hours and the pharmacy manager at each location where Mr. Sanchez-Bravo worked without a registration.

<u>Walgreens Store #</u>	<u>Number of Days Sanchez-Bravo Worked Unregistered</u>	<u>Pharmacy Manager at Each Walgreens Location</u>
03845	135	Shelley Verma
04086	4	Rachael McDonald
15035	<u>1</u>	Suzette Jacobs
Total	140	

XI.

Ms. Latteri, Walgreens' District Manager, confirmed in a written statement that Mr. Sanchez-Bravo worked unlicensed as a pharmaceutical technician in training during the 140 day time period.

XII.

The Board Investigator also requested Walgreens' records documenting the hours Mr. Sanchez-Bravo was on duty during the pharmacies' hours of business. The records Walgreens

provided indicate that Mr. Sanchez-Bravo did not consistently record the hours that he worked at any of the Walgreens' locations.

XIII.

The following summarizes the number of days Mr. Sanchez-Bravo worked but failed to log his hours on duty during the 140-day period:

- Walgreens #03845 – 84 days
- Walgreens #04086 – 3 days
- Walgreens #15035 – 1 day

XIV.

Walgreens Co. has a history of allowing employees to work unlicensed in its stores, as evidenced by a number of prior disciplinary actions taken by the Board against various Walgreens' pharmacies for unlicensed activity. Those cases include each of the following:

Prior Disciplinary Actions Taken Against Walgreen Respondents for Unlicensed Practice

- A. *Board of Pharmacy v. Respondent Walgreens Pharmacy #05646*, Case No. 07-062-PH-S
- Board of Pharmacy v. Respondent Walgreens Pharmacy #03844*, Case No. 07-063-PH-S
- Board of Pharmacy v. Respondent Walgreens Pharmacy #05646*, Case No. 07-064-PH-S
- B. *Board of Pharmacy v. Respondent Walgreens Pharmacy #06310*, Case No. 07-021-PH-S
- C. *Board of Pharmacy v. Respondent Walgreens Pharmacy #12646*, Case No. 10-007-PH-S
- D. *Board of Pharmacy v. Respondent Walgreens Pharmacy #04855*, Case No. 11-044-PH-S
- E. *Board of Pharmacy v. Respondent Walgreens Pharmacy #12488*, Case No. 13-016-PH-S

XV.

A copy of the Findings of Fact, Conclusions of Law and Order and/or the Stipulation and Order for each of those cases are attached hereto as **Exhibits A through E**, respectively, the contents of which are incorporated herein by reference.

XVI.

FIRST CAUSE OF ACTION (Respondent Hakeem Sanchez-Bravo)

A pharmaceutical technician in training may be employed at multiple pharmacies, but the trainee is required to register at each location. NAC 639.242(5).

By working at Walgreens #03845, Walgreens #04086 and Walgreens #15035 for a combined total of approximately 140 days between April 2016, and November 2016, when he

did not have a current pharmaceutical technician in training registration at those locations, Hakeem Sanchez-Bravo violated Nevada Administrative Code (NAC) 639.240(1), which violations are grounds for discipline pursuant to NRS 639.210(4), and/or (13), or alternatively, under NRS 639.255.

SECOND CAUSE OF ACTION

(Respondent Shelley Verma)

XVII.

As the managing pharmacist during the period of April 2016, through November 2016, for the pharmacy in which Mr. Sanchez-Bravo worked without a license for one-hundred and thirty-five (135) days, and in failing to verify that Mr. Sanchez-Bravo had a valid registration for the pharmacy she managed during that time, Respondent Ms. Verma violated Nevada Revised Statute (NRS) 639.220(1) and Nevada Administrative Code (NAC) 639.945(1)(i) and/or (j), which violations are grounds for discipline pursuant to NRS 639.210(4), (11), (12) and/or (15), or alternatively, under NRS 639.255.

THIRD CAUSE OF ACTION

(Respondent Rachael McDonald)

XVIII.

As the managing pharmacist during the period of August 2016, through September 2016, for the pharmacy in which Mr. Sanchez-Bravo worked without a license for four (4) days, and in failing to verify that Mr. Sanchez-Bravo had a valid registration for the pharmacy she managed during that time, Respondent Rachael McDonald violated NRS 639.220(1) and NAC 639.945(1)(i) and/or (j), which violations are grounds for discipline pursuant to NRS 639.210(4), (11), (12) and/or (15), or alternatively, under NRS 639.255.

FOURTH CAUSE OF ACTION

(Respondent Suzette Jacobs)

XIX.

As the managing pharmacist during the period of October 2016, for the pharmacy in which Mr. Sanchez-Bravo worked without a license for one (1) day, and in failing to verify that

Mr. Sanchez-Bravo had a valid registration for the pharmacy she managed at that time, Respondent Suzette Jacobs violated NRS 639.220(1) and NAC 639.945(1)(i) and/or (j), which violations are grounds for discipline pursuant to NRS 639.210(4), (11), (12) and/or (15), or alternatively, under NRS 639.255.

FIFTH CAUSE OF ACTION

(Respondents Ms. Verma, Ms. McDonald and Ms. Jacobs)

XX.

NAC 639.245(1) requires that “[a] written record must be kept available for inspection showing the pharmacists, pharmaceutical technicians and pharmaceutical technicians in training on duty during the hours of business.” The record must be “[r]eadily retrievable” and “[r]etained for 2 years. *Id.* NAC 639.945(m) defines unprofessional conduct to include “failing to provide any document, data or information that is required to be made and maintained...to a member of the Board or member of the staff of the Board . . .” upon request.

By failing to keep and provide Board Staff with a written record showing the days and hours that Mr. Sanchez-Bravo was on duty as a pharmaceutical technician in training during the hours of business at each of their respective pharmacies, Respondents Ms. Verma, Ms. McDonald and Ms. Jacobs each violated NAC 639.245(1) and NAC 639.945(1)(i) and (m). Those violations are grounds for discipline pursuant to NRS 639.210(4) and/or (15), or alternatively, under NRS 639.255.

SIXTH CAUSE OF ACTION

(Respondents Walgreens #03845, Walgreens #04086, and Walgreens #15035)

XXI.

NAC 639.945(2) states that “[t]he 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”. At the time of the violations alleged herein, Respondents Ms. Verma, Ms. McDonald, and Ms. Jacobs were each Walgreens’ employees. As such, Walgreens is responsible for each of the violations alleged herein.

The violations alleged above, including in causes of action one through five, are grounds

for discipline against the licenses of Ms. Verma, Mr. McDonald, Ms. Jacobs, as well as Walgreens #03845, Walgreens #04086 and Walgreens #15035 pursuant to NRS 639.210(4), (11), (12), (15) and/or (17) as well as NRS 639.255.


SEVENTH CAUSE OF ACTION
(Respondent Walgreens Co.)

XXII.

In being repeatedly negligent in its registration verification process, as evidenced by the allegations in this action, and the outcome in Case Nos. 07-062-PH-S, 07-063-PH-S, 07-064-PH-S, 07-021-PH-S, 10-007-PH-S, 11-044-PH-S, and 13-016-PH-S, Walgreens Co., through its pharmacies, violated NRS 639.210(4), (12) and/or (16), as well as NAC 639.945(1)(i). Collectively they are responsible for those actions under NAC 639.945(2), and are subject to discipline pursuant to NRS 639.210(4), (11), (12), (15) and (17), as well as NRS 639.255.

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 4th day of May, 2017.


Larry Pinson, Pharm.D., 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 regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-080-PTT-S
)	
Petitioner,)	
v.)	
	)	STATEMENT TO THE RESPONDENT
HAKEEM SANCHEZ-BRAVO, PTT	)	NOTICE OF INTENDED ACTION
Certificate of Registration No. PT17763,	)	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, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, Larry L. Pinson, 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 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. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.


III.

The Board has scheduled your hearing on this matter for Wednesday, July 19, 2017, 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.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 4th day of May, 2017.


Larry L. Pinson, Pharm.D., Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-080-PTT-S
)	
Petitioner,)	
)	
v.)	
)	
HAKEEM SANCHEZ-BRAVO, PTT	)	ANSWER AND NOTICE
Certificate of Registration No. PT17763,	)	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 _____, 2017.

HAKEEM SANCHEZ-BRAVO

Exhibit A

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,
v.

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER

LEHA M. DEROSIA, P.T.

Certificate of Registration No. PT06209

Case No. 07-062-PT-S

WALGREENS PHARMACY #05646

Certificate of Registration No. PH01505,

Case No. 07-062-PH-S

CHRISTINA M. ROMERO, P.T.

Certificate of Registration No. PT01314,

Case No. 07-063-PT-S

WALGREENS PHARMACY #03844

Certificate of Registration No. PH01123,

Case No. 07-063-PH-S

JESSICA L. McCULLOCH, P.T.

Certificate of Registration No. PT07762,

Case No. 07-064-PTT-S

WALGREENS PHARMACY #05646

Certificate of Registration No. PH01505,

Case No. 07-064-PH-S

Respondents.

_____/

THIS MATTER was heard by the Nevada State Board of Pharmacy (hereinafter Board) at its regular meeting on October 24, 2007 in Las Vegas, Nevada. The Board was represented by Louis Ling, General Counsel to the Board. All Respondents were represented by Robert Graham of Rob Graham and Associates. The parties entered an oral stipulation which was presented to the Board at the hearing of the matter by Mr. Ling. Based upon the agreements and presentations of the parties, the Board finds the following to be the facts of the matter.

FINDINGS OF FACT

1. The parties orally stipulated to the presentation of this matter by Mr. Ling and that appearances would not be expected from any of the Respondents or Mr. Graham. Mr. Ling explained that the three individual Respondents had already attended a continuing education session regarding Nevada jurisprudence and that all Respondents were agreeable to the presentation made by Mr. Ling.

2. All registrations of pharmaceutical technicians and pharmaceutical technicians in training were required to be renewed by October 31, 2006, and any such registration that was not renewed by October 31, 2006 expired. No pharmaceutical technician or pharmaceutical technician in training may lawfully be employed as a pharmaceutical technician or pharmaceutical technician in training on an expired registration.

2. All of the Respondent pharmaceutical technicians and pharmaceutical technicians in training in this matter failed to renew their respective registrations by October 31, 2006, and all were employed by the various Respondent Walgreen pharmacies as pharmaceutical technicians or pharmaceutical technicians in training on expired registrations. Following is a table of the Respondents and the number of hours and estimated workdays (based upon an assumed eight-hour workday) worked by each Respondent on expired registrations:

<u>Respondents</u>	<u>Hours Worked</u>	<u>Estimated Days Worked</u>
McCulloch/Walgreens #05646	1,440	180
DeRosia/ Walgreens #05646	1,384	173
Romero/ Walgreens #03844	1,312	164
TOTALS	4,136	517

3. At hearing, Board Staff explained that Walgreens has had a good recent history regarding assuring that its employees have properly and timely renewed their

registrations. Two of the three matters in this case arose from one pharmacy, and the issues regarding that pharmacy have been addressed. Board Staff also explained that the Board's efforts to gain compliance with the renewal and registration laws have been largely successful and that the few instances, such as those in this case, are aberrations.

CONCLUSIONS OF LAW

1. The Nevada State Board of Pharmacy has jurisdiction over this matter because Respondents DeRosia, and Romero are pharmaceutical technicians registered by the Board, Respondent McCulloch is a pharmaceutical technician in training registered by the Board, and Respondents Walgreens ##05646 and 03844 are pharmacies licensed by the Board.

2. In working as a pharmaceutical technician or pharmaceutical technician in training on expired registrations, Respondents DeRosia, Romero, and McCulloch each violated NRS 639.210(4) and (13) and NAC 639.945(1)(k).

3. In employing the individual Respondents, Walgreens ##05646 and 03844 violated NRS 639.210(4) and (13) and NAC 639.945(1)(k) and (2).

ORDER

Based upon the foregoing, the Board hereby orders the following:

1. Each Respondent Walgreens pharmacy shall pay a fine of \$250.00 for each of the pharmaceutical technicians or pharmaceutical technicians in training employed with expired registrations. Walgreens may choose to pay by a single cashier's or certified check or money order made payable to "State of Nevada, Office of the

Treasurer" in a total amount of \$750.00 to be received by the Board's Reno office within 90 days of the effective date of this Order.

2. Each Respondent technician or technician in training shall pay a fine of \$250.00 by a cashier's 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 within 90 days of the effective date of this Order.

3. Respondents DeRosia, Romero, and McCulloch shall each attend and successfully complete a Nevada jurisprudence continuing education course presented by Board Staff at such time and place as is set by Board Staff, which attendance may already have been completed before the effective date of this Order and shall be deemed compliance with this Order.

4. The failure by any individual Respondent to comply with any term in this Order shall result in the immediate suspension of her registration and will also result in further discipline, up to and including revocation of the registration. The failure by any Respondent Walgreens pharmacy to comply with any term in this Order shall result in a fine of \$1,000 per day for every day that it has failed to comply with the Order until the Order is fully complied with, up to a total fine not to exceed \$30,000, and will also result in further discipline, up to and including revocation of the its license.

Signed and effective this 20th day of November, 2007.



Barry Boudreaux, President
Nevada State Board of Pharmacy

Exhibit B

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER

AMANDA L. WEAVER, P.T.,
Certificate of Registration No. PT06996,

Case No. 07-021-PT-S

WALGREENS #06310,
Certificate of Registration No. PH01549,

Case No. 07-021-PH-S

Respondents.

_____/

THIS MATTER was heard by the Nevada State Board of Pharmacy (hereinafter Board) at its regular meeting on June 6, 2007 in Las Vegas, Nevada. The Board was represented by Louis Ling, General Counsel to the Board. Respondent Amanda L. Weaver appeared and represented herself. Mr. Ling represented to the Board that Board Staff had entered into an oral stipulation with Robert Graham, counsel for Walgreens #06310, pursuant to which the parties had agreed that Mr. Ling would present the terms of the oral stipulation and that Mr. Graham or representatives of Walgreens were excused from appearing in the matter. Based upon the agreements and presentations of the parties, the Board finds the following to be the facts of the matter.

FINDINGS OF FACT

1. At hearing, Ms. Weaver appeared, testified, and represented herself. Because of the oral stipulation between Mr. Ling and Mr. Graham, Board Staff presented no witnesses or evidence. Instead, Board Staff represented the terms of the

oral stipulation between himself and Mr. Graham, namely that Walgreens #06310 admitted that it had employed Ms. Weaver for 16 days while Ms. Weaver's pharmaceutical technician's registration was expired and that Walgreens #06310 was willing to pay whatever fine and fees and costs as might be assessed by the Board up to but not to exceed the regulatorily established amount of \$100.00 per day for each day that Ms. Weaver was employed on an expired registration. Board Staff further explained that Walgreens #06310's employment of Ms. Weaver appeared to be an isolated incident because other similar incidences were not noted after November 1, 2007 in any other Walgreens pharmacy. Based upon the presentations and testimony of the parties, the Board finds the following to be the facts in this matter.

2. All registrations of pharmaceutical technicians were required to be renewed by October 31, 2006, and any such registration that was not renewed by October 31, 2006 expired. No pharmaceutical technician may lawfully be employed as a pharmaceutical technician on an expired registration.

3. On March 9, 2007, Board Staff learned that Ms. Weaver had failed to renew her pharmaceutical technician's registration and that she had worked at Walgreens #06310 while her registration was expired. Subsequent investigation showed that Mr. Weaver had been employed as a pharmaceutical technician a total of 16 days between November 1, 2006 and March 7, 2007.

4. At hearing, Ms. Weaver explained that prior to November 1, 2006, she had accepted temporary employment as an intern at Walt Disney World in Orlando, Florida and that during her internship she had inadvertently forgotten to renew her registration. When she returned to Nevada, she recommenced employment at Walgreens #06310.

After working for a few weeks, Ms. Weaver and Walgreens #06310 discovered that she had failed to renew her registration. Ms. Weaver apologized to the Board for her actions.

CONCLUSIONS OF LAW

1. The Nevada State Board of Pharmacy has jurisdiction over this matter because Respondent Weaver is a pharmaceutical technician registered by the Board and Respondent Walgreens #06310 is a pharmacy licensed by the Board.

2. In working as a pharmaceutical technician on and expired registration, Respondents Weaver violated NRS 639.210(4) and (13) and NAC 639.945(1)(i) and (k).

3. In owning and operating the pharmacy that employed Ms. Weaver as a pharmaceutical technician while her registration was expired, Walgreens #06310 violated NRS 639.210(4) and NAC 639.260 and 639.945(1)(i) and (k) and (2).

ORDER

Based upon the foregoing, the Board hereby orders the following:

1. Respondent Walgreens #06310 shall pay a fine of \$250.00 by cashier's 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 within 90 days of the effective date of this Order.

2. Respondent Walgreens #06310 shall pay the Board's costs and attorney's fees of \$210.00 and the Board's administrative fee of \$290.00, for a total of \$500.00 by cashier's or certified check or money order made payable to "Nevada State Board of

Pharmacy" to be received by the Board's Reno office within 90 days of the effective date of this Order.

3. Respondent Weaver shall pay a fine of \$125.00 by cashier's 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 within 90 days of the effective date of this Order.

4. Respondent Weaver shall attend and successfully complete a Nevada jurisprudence continuing education course presented by Board Staff at such time and place as is set by Board Staff. Additionally, Respondent Weaver shall complete three hours of continuing education regarding legal issues related to her practice as a pharmaceutical technician, which hours must be completed before October 31, 2008.

5. The failure by Respondent Weaver to comply with any term in this order shall result in the immediate suspension of her registration and will also result in further discipline, up to and including revocation of the registration. The failure by Respondent Walgreens #06310 to comply with any term in this order shall result in a fine of \$1,000 per day for every day that it has failed to comply with the Order until the Order is fully complied with, up to a total fine not to exceed \$30,000, and will also result in further discipline, up to and including revocation of the its license.

Signed and effective this 28th day of June, 2007.

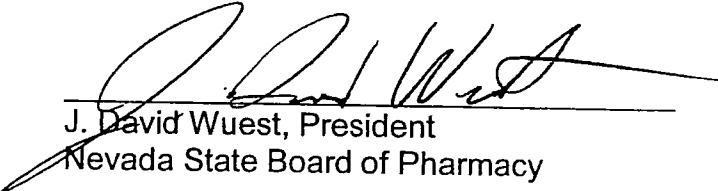

J. David Wuest, President
Nevada State Board of Pharmacy

Exhibit C

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,
v.

FINDINGS OF FACT,
CONCLUSIONS OF LAW,
AND ORDER

LISA A. HEATHCOCK, PT,
Certificate of Registration No.: PT02628,

Case No. 10-007-PT-S

**WALGREENS #12646,
Certificate of Registration No.: PH02353,**

Case No. 10-007-PH-S

Respondents.

THIS MATTER was heard by the Nevada State Board of Pharmacy (hereinafter Board) at its regular meeting on July 14, 2010, in Las Vegas, Nevada. The Board was represented by Carolyn J. Cramer, General Counsel for the Board, and Ms. Heathcock was not present because of a family emergency and her matter was continued until the October, 2010 Board meeting. Walgreens #12646 (Walgreens) was represented by Robert Graham, Esq. Based on the presentations of the parties, the parties' admissions, and the public records in the possession and control of the Board, the Board issues the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

1. At hearing, the parties agreed that the facts as plead in the Notice of Intended Action and Accusation were essentially true and correct regarding the issues related to Ms. Heathcock working for Walgreens for 205 days without having renewed her registration as a pharmaceutical technician with the Board. Mr. Graham advised that Walgreens did check to ensure all of their staff had renewed their licenses and that their computer system was working properly, however Walgreens staff was given false

information from Ms. Heathcock. Mr. Graham submitted an exhibit, a copy of license verification with part of the expiration date missing that Ms. Heathcock had written in "2011" and had submitted as her proof to Walgreens that she had renewed her registration. Ms. Heathcock claimed she had not received her registration. Mr. Graham admitted that the managing pharmacist did not follow through to make sure that Ms. Heathcock was registered, but ultimately the responsibility was Ms. Heathcock's. Mr. Graham advised that Ms. Heathcock may have been experiencing financial problems because she was borrowing money from store personnel and even requested reimbursement from Walgreens for renewing her registration with the Board of Pharmacy when she had not done so. Based upon the stipulations of the parties and the testimony and evidence presented, the Board finds the following to be the facts of the matter.

2. Ms. Heathcock had worked 1,644 hours or approximately 205 days, between November 1, 2008 and December 14, 2009, the date of her termination of employment, without a valid registration.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over this matter because Ms. Heathcock is a pharmaceutical technician registered by the Board and Walgreens #12646 is a pharmacy licensed with the Board.

2. In owning and operating the pharmacy in which Ms. Heathcock worked without a registration and in failing to verify that Ms. Heathcock had timely and validly renewed her registration, Walgreens #12646 violated NRS 639.210(4) and/or NAC 639.260, 639.945(1)(i) and/or (k) and/or (2).

ORDER

Based upon the foregoing, the Board hereby orders the following:

1. Walgreens #12646 shall pay a fine of \$250.00 by cashier's 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 within 60 days of the effective date of this Order.
2. Walgreens #12646 shall pay the Board's administrative fee of \$295.00, by cashier's or certified check or money order made payable to "Nevada State Board of Pharmacy" to be received by the Board's Reno office within 60 days of the effective date of this Order.
3. Walgreen's shall do a presentation to Board Staff of its computer system that tracks the licensure of employees to make sure the problem is corrected within 60 days of the signing of this Order.
4. Ms. Heathcock's appearance before the Board is continued until the October 2010 meeting in Las Vegas, Nevada.

Signed and effective this 9th day of August, 2010.

Candy Nally for
Donald W. Fey, President
Nevada State Board of Pharmacy

Exhibit D

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

v.

Petitioner,

STIPULATION AND ORDER

YVONNE JETT, PT
Certificate of Registration No.: PT09615

Case No. 11-044-PTT-S

WALGREENS #04855
Certificate of Registration No.: PH01307

Case No. 11-044-PH-S

WALGREENS CO.
An Illinois Corporation

Case No. 11-044-PH-S

Respondents.

Carolyn J. Cramer, General Counsel for the Nevada State Board of Pharmacy, and Respondents, Yvonne Jett, Walgreens #04855 and Walgreens Corporation, all represented by Rob Graham, Esq., of Rob Graham and Associates, stipulate and agree as follows:

1. The Respondents admit the factual allegations made in the First, Second and Third Causes of Action.
2. Respondents admit that although there are systems in place to prevent a licensed employee who has not renewed his or her license from working in Respondent's pharmacy, those systems did not work and additional steps must be taken to prevent this from happening again.
3. The parties shall present this Stipulation and Agreement to the Board at its meeting on July 13, 2011. The parties agree that the Board may ask questions of the parties' counsel, may discuss and deliberate regarding the presentations, and shall enter an Order that may impose discipline as recommended by the parties.

4. Board Staff and the Respondent Jett will recommend that the Board impose discipline for the First Cause of Action by suspending her pharmaceutical technician registration for 120 days during which time she cannot work in any facility that is licensed pursuant the Nevada Board of Pharmacy and pay a total fine of \$2,500 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 within 180 days after her suspension ends. The suspension of Respondent Jett's pharmaceutical technician registration will start with the effective date of this order and run through November 10, 2011.

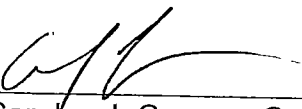
5. Board Staff and Respondents Walgreens Corporation and Walgreens #04855 will recommend that the Board impose discipline on Respondents for the Second and Third Causes of Action by requiring that all Nevada Walgreens pharmacies be trained on and use the licensing computer program that is in place in Nevada. In addition, Walgreens pharmacies in Nevada will be required to implement a statewide policy requiring all managing pharmacists, or if none is present staff pharmacists, to personally verify that the personnel they are working with are properly licensed or registered before they work. If the managing pharmacist, or if no managing pharmacist is present the staff pharmacist, fails to personally verify that all registered personnel are properly licensed or registered and may lawfully work, the managing pharmacist or staff pharmacist will be disciplined by Walgreens and will be subject to disciplinary action by the Board.

6. If the Board rejects any part or all of this stipulation, the parties agree that a full hearing on the merits of this matter may be heard by the Board and that the Board would hear this matter at its meeting on October 12, 2011. The terms and admissions


in this stipulation may not be used or referred to in the full hearing on the merits of this matter.

7. The Board and the Respondents shall each agree to release the other from any and all claims, whether known or unknown, that might otherwise have existed on or before the effective date of the Board's Order in this matter.

Signed this 13th day of July, 2011.



Carolyn J. Cramer, General Counsel



Rob Graham, Esq.



Yvonne Jett, PT.

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation as its decision and hereby orders that the foregoing Stipulation be made effective. This decision and order shall be effective on the 13th day of July, 2011.

7/13/2011
DATED

Beth Foster, RPh
Beth Foster, President
Nevada State Board of Pharmacy

Exhibit E

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	
	)	CASE NOS. 13-016-PT-N
Petitioner,	)	13-016-PTT-N
v.	)	13-016-RPH-N
	)	13-016-PH-N
ANGELIQUE CHEYENNE STINSON, PT)	
Certificate of Registration No. PT06175)	
	)	STIPULATION AND ORDER
LUDWIG JOSEPH, PTT)	
Certificate of Registration No. PT14490)	
)	
AMBER SHORE, RPH)	
Certificate of Registration No. 17498)	
)	
WALGREENS #12488)	
Certificate of Registration No. PH02741)	
)	
Respondents.	/	

S. Paul Edwards, General Counsel for Petitioner the Nevada State Board of Pharmacy (Board), and ANGELIQUE CHEYENNE STINSON, PT, Certificate of Registration No. PT06175; LUDWIG JOSEPH, PTT, Certificate of Registration No. PT14490; AMBER SHORE, RPH, Certificate of Registration No. 17498 and WALGREENS #12488, Certificate of Registration No. PH02741 (collectively Respondents), by and through their counsel, Williams J. Stilling of Parsons Behle & Latimer, **HEREBY STIPULATE AND AGREE AS FOLLOWS:**

1. Respondents, and each of them, admit to the factual allegations set forth in paragraphs I through III of the Accusation on file herein.
2. Respondent Ms. Stinson agrees that the facts she admits above subject her to fines under NRS 639.255 and NAC 639.955.
3. Respondent Mr. Joseph agrees that the facts he admits above subject him to fines under NRS 639.255 and NAC 639.955.
4. Respondent Ms. Shore agrees that the facts she admits above subject her to fines under NRS 639.255 and NAC 639.955.

5. Respondent Walgreens #12488 agrees that the facts it admits above subject it to fines under NRS 639.255 and NAC 639.955.

6. Based on Respondents' admissions, Board Staff and Respondents will recommend that the Board impose discipline as follows:

a. Ms. Stinson, PT, shall pay a fine of \$480.00 (\$20/day for each of the twenty-four (24) days she worked without a current registration).

b. Mr. Joseph, PTT, shall pay a fine of \$100.00 (\$20/day for each of the five (5) days he worked without a current registration).

c. Ms. Shore, RPh., shall pay a fine of \$250.00 for allowing respondents Ms. Stinson and Mr. Joseph to each work under her supervision without a current registration.

d. Walgreens shall pay a fine of \$500.00 and an administrative fee of \$395.00 for allowing respondents Ms. Stinson and Mr. Joseph to each work in its store without a current registration.

e. Walgreens shall establish policies and procedures to prevent unlicensed and/or unregistered personnel from performing tasks that require a license or registration in any of its Nevada stores. Walgreens shall further demonstrate to Board Staff, within 30 days of entry of this Order, that all of its pharmacists, intern pharmacists, pharmaceutical technicians, and pharmaceutical technicians in training have read, and expressly agree to strictly comply with, those policies and procedures.

7. Board Counsel will present this Stipulation to the Board at its regular meeting on September 4, 2013.

8. Respondents will appear at the September 4, 2013, meeting to answer questions, if any, put to them by the Board. The Board may discuss and deliberate, and at its sole discretion, may enter a Decision and Order accepting this Stipulation and imposing discipline as recommended by the parties, but it is not obligated to do so.

9. If the Board adopts the recommendations set forth above, respondents shall pay the fine(s) set forth herein by cashier's check, certified check or money order made payable to

the "State of Nevada, Office of the Treasurer" to be received by the Board's Reno office located at 431 W. Plumb Lane, Reno, NV 89509, within 90 days of the effective date of this Order.

10. Respondents shall pay the administrative fees ordered herein by cashier's check, certified check or money order made payable to the "Nevada State Board of Pharmacy" to be received by the Board's Reno office located at 431 W. Plumb Lane, Reno, NV 89509, within 90 days of the effective date of this Order.

11. If the Board adopts the recommendations set forth above, the Board and Respondents, and each of them, each agree to release the other from any and all 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 the Board's Order in this matter.

12. If the Board rejects any part or all of this Stipulation, the parties agree that a full hearing on the merits of this matter may be heard by the Board, and that the hearing shall occur at the Board's December 4, 2013 meeting.

13. The terms and admissions in this Stipulation may not be used or referred to in a full hearing on the merits of this matter.

Signed this 4th day of September, 2013

Signed this ____ day of September 2013



S. Paul Edwards, General Counsel
Nevada State Board of Pharmacy



ANGELIQUE CHEYENNE STINSON, PT



LUDWIG JOSEPH, PTT



AMBER SHORE, RPH

AUTHORIZED REPRESENTATIVE OF
WALGREENS

LUDWIG JOSEPH, PTT

AMBER SHORE, RPH



AUTHORIZED REPRESENTATIVE OF
WALGREENS

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation in the matter of the Board versus ANGELIQUE CHEYENNE STINSON, PT; LUDWIG JOSEPH, PTT; AMBER SHORE, RPH and WALGREENS as its decision, and hereby orders that the foregoing Stipulation be made effective. This decision and order shall be effective upon execution.

Signed this ____ day of September, 2013.

Kamlesh Gandhi, President
Nevada State Board of Pharmacy

DECISION AND ORDER

The Nevada State Board of Pharmacy hereby adopts the foregoing Stipulation in the matter of the Board versus ANGELIQUE CHEYENNE STINSON, PT; LUDWIG JOSEPH, PTT; AMBER SHORE, RPH and WALGREENS as its decision, and hereby orders that the foregoing Stipulation be made effective. This decision and order shall be effective upon execution.

Signed this 4 day of September, 2013.

A handwritten signature in black ink, appearing to read 'Kamlesh Gandhi', is written over a horizontal line.

Kamlesh Gandhi, President
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-080-RPH-A-S
)	
Petitioner,)	
v.)	
)	
SHELLEY VERMA, RPH	)	ANSWER AND NOTICE
Certificate of Registration No. 17761,	)	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 _____, 2017.

SHELLEY VERMA, RPH

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-080-PH-A-S
)	
Petitioner,)	
v.)	
)	
WALGREENS PHARMACY #03845	)	ANSWER AND NOTICE
Certificate of Registration No. PHN01064,	)	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 _____, 2017.

Authorized Representative For
WALGREENS PHARMACY #03845

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-080-RPH-B-S
)	
Petitioner,)	
v.)	
)	
RACHAEL MCDONALD, RPH	)	ANSWER AND NOTICE
Certificate of Registration No. 18416,	)	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 _____, 2017.

RACHAEL MCDONALD, RPH

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-080-PH-B-S
)	
Petitioner,)	
v.)	
)	
WALGREENS PHARMACY #04086	)	ANSWER AND NOTICE
Certificate of Registration No. PH01248,	)	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 _____, 2017.

Authorized Representative For
WALGREENS PHARMACY #04086

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-080-RPH-C-S
)	
Petitioner,)	
)	
v.)	
)	
SUZETTE JACOBS, RPH	)	ANSWER AND NOTICE
Certificate of Registration No. 17642,	)	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 _____, 2017.

SUZETTE JACOBS, RPH

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-080-PH-C-S
)	
Petitioner,)	
v.)	
)	
WALGREENS PHARMACY #15035	)	ANSWER AND NOTICE
Certificate of Registration No. PH02742,	)	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 _____, 2017.

Authorized Representative For
WALGREENS PHARMACY #15035

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-080-PH-D-S
)	
Petitioner,)	
v.)	
)	
WALGREENS CO.	)	ANSWER AND NOTICE
An Illinois Corporation,	)	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 _____, 2017.

Authorized Representative For
WALGREENS CO.

JUN 07 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	CASE NO. 16-072-RPH-S
	)	16-072-PTT-S
Petitioner,	)	16-072-PH-S
v.)	
)	
MANUELITA PAVON-PENALOSA, RPH)	
Certificate of Registration No. 16396,	)	NOTICE OF INTENDED ACTION
	)	AND ACCUSATION
GARY KINSEY, PTT)	
Certificate of Registration No. PT17463, and)	
)	
WALGREENS PHARMACY #10783)	
Certificate of Registration No. PH02334,)	
)	
Respondents.	/	

Larry L. Pinson, 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 Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter and these respondents because at the time of the alleged events, Respondent Manuelita Pavon-Penalosa, Certificate of Registration No. 16396, (Ms. Pavon-Penalosa) was a pharmacist licensed by the Board; Respondent Gary Kinsey, Certificate of Registration No. PT17463, (Mr. Kinsey) was a pharmaceutical technician in training licensed by the Board; and Respondent Walgreens Pharmacy #10783, Certificate of Registration No. PH02334, (Walgreens) was a pharmacy licensed by the Board.

FACTUAL ALLEGATIONS

II.

On or about September 29, 2016, S.R. filed a complaint with the Board Office on behalf of his twelve-year-old daughter M.R. In the complaint, S.R. alleges that Walgreens filled and dispensed the incorrect strength of Fentanyl patches for his daughter's prescription. S.R. discovered the error in the strength as he was preparing to apply a patch to his daughter's skin.

III.

The error occurred after M.R. saw her physician and received a prescription for ten Fentanyl Patches 12 mcg/hour with instructions to apply one patch every seventy-two (72) hours.

IV.

M.R.'s aunt, G.H., tendered the prescription to Walgreens on September 16, 2016, where Respondent Ms. Pavon-Penalosa, R.Ph., entered the data into Walgreens' computer system. The computer system designated the prescription as No. 533253.

V.

During data entry, Ms. Pavon-Penalosa inadvertently selected ***Fentanyl Patch 100 mcg/hour***, rather than ***Fentanyl Patch 12 mcg/hour*** as prescribed.

VI.

Ms. Pavon-Penalosa performed data entry verification and data product review at 14:52:56.

VII.

During data input, three Drug Utilization Review (DUR) warnings appeared on the computer screen. Those warnings were indicated as follows:

- DUR Type: DRUG/HLTH COND
DUR Description: RESPIRATORY PROBLEMS IS A POTENTIAL CONTRAINDICATION FOR FENTANYL 100MCG/HR PATCH
- DUR Type: DRUG/HLTH COND
DUR Description: ASTHMA IS A POTENTIAL CONTRAINDICATION FOR FENTANYL 100MCG/HR PATCH

- DUR Type: DRUG DOSAGE CONDITION ENCOUNTERED
DUR Description: 60 DAYS OF FENTANYL 100MCG/HR PATCH AND PREVIOUS PRESCRIPTIONS FOR THE GENERIC ENTITY(IES) MAY EXCEED THE RECOMMENDED PEDIATRIC DURATION: 3 – 30 DAYS

VIII.

Per Walgreens' records, Ms. Pavon-Penalosa overrode all three DUR warnings at 14:52:57, one second after performing data verification.

IX.

Ms. Pavon-Penalosa admitted to the Board Investigator that she could not have reviewed the DURs in one second.

X.

Ms. Pavon-Penalosa acknowledged that she may have discovered the error by reviewing the DUR warnings.

XI.

In a subsequent written statement, Ms. Pavon-Penalosa indicated that in reviewing the patient medication profile, M.R. had the same medication filled at a different Walgreens Pharmacy the prior month. Ms. Pavon-Penalosa admitted that during the review, she did not take into account the patient's age.

XII.

The "Audit/Board of Pharmacy Inspection Report" indicates that Ms. Pavon-Penalosa filled the prescription. That report is incorrect. Pharmaceutical technician Gary Kinsey actually filled the prescription.

XIII.

Ms. Pavon-Penalosa allowed Mr. Kinsey to document the fill under Ms. Pavon-Penalosa's computer credentials. In a written statement, Mr. Kinsey admits to filling the prescription under the pharmacist's initials even though he is aware that is against Walgreens' policy.

XIV.

Ms. Pavon-Penalosa verified the final product as accurate. She failed to detect the error when verifying the final product.

XV.

In Walgreens' system, the original hard-copy of the prescription accompanies the Schedule II medication. At final product verification, the verifying pharmacist can compare the hard-copy of the prescription to the prescription label and the final product.

XVI.

Ms. Pavon-Penalosa did not compare the hard-copy of the prescription to the label and the final product.

XVII.

She trusted the Data Entry Verification step in Walgreens' system and did not verify that the prescription was accurate when she verified it at the end of the filling process.

XVIII.

G.H. picked up M.R.'s medication from Walgreens. Respondent Mr. Kinsey performed the sales transaction for prescription No. 533253. At the point of sale, Mr. Kinsey did not request a current and valid form of identification from G.H.

XIX.

Jaclyn Latteri, Walgreens District Pharmacy Supervisor, informed the Board Investigator that a review of pharmacy records indicates that no information was recorded referencing G.H.'s identification when she picked up M.R.'s medication. In a written statement, Mr. Kinsey indicated that he was unsure if he requested identification. Ms. Pavon-Penalosa told the Board Investigator that she thought the request for identification was for insurance purposes.

FIRST CAUSE OF ACTION
(Respondent Pavon-Penalosa)

XX.

Nevada Administrative Code (NAC) 639.945(1)(d) defines unprofessional conduct to

include the failure by a licensee to follow strictly the instructions of a prescriber when filling, labeling and dispensing a prescription. Unprofessional conduct also includes performing duties in an “incompetent, unskillful or negligent manner”. See NAC 639.945(1)(i).

Ms. Pavon-Penalosa violated NAC 639.945(1)(d) and/or (i) by committing an error during data entry that resulted in Walgreens dispensing the incorrect strength of the prescribed drug to 12-year-old M.R. During data entry, Pavon-Penalosa selected ***Fentanyl Patch 100 mcg/hour***, rather than ***Fentanyl Patch 12 mcg/hour*** as prescribed. Ms. Pavon-Penalosa verified, labeled and caused Walgreens to dispense the wrong medication.

SECOND CAUSE OF ACTION

(Respondent Pavon-Penalosa)

XXI.

NAC 639.945(1)(i) defines unprofessional conduct to include a licensee performing any of his or her duties in an “incompetent, unskillful or negligent manner.”

Ms. Pavon-Penalosa violated NAC 639.945(1)(i) by failing to act upon the DUR alerts displayed on the computer screen for Fentanyl 100mcg/hour patch. The alerts indicated the potential for (1) respiratory contraindication; (2) asthma contraindication; and (3) drug dosage condition which may exceed the recommended pediatric duration.

THIRD CAUSE OF ACTION

(Respondent Pavon-Penalosa)

XXII.

NAC 639.945(1)(h) defines unprofessional conduct to include a licensee performing “any fraudulent or deceitful practice or transaction.” By willfully and knowingly permitting Mr. Kinsey to falsely document the “filled by” record of prescription No. 53323 under her computer credentials, Ms. Pavon-Penalosa is guilty of unprofessional conduct, as that term is defined in NAC 639.945(1)(h).

FOURTH CAUSE OF ACTION

(Respondent Kinsey)

XXIII.

NAC 639.748 requires that an employee of a pharmacy shall, before dispensing a controlled substance, request the person who picks up the controlled substance to present a current and valid form of identification. Unprofessional conduct includes a licensee performing his or her duties in an “incompetent, unskillful or negligent manner” *See* NAC 639.945(1)(i).

Mr. Kinsey violated NAC 639.748 and/or NAC 639.945(1)(i) by failing to request identification from M.R.’s aunt at the point of sale for the Fentanyl patches, which are classified as a Schedule II narcotic.

FIFTH CAUSE OF ACTION

(Respondents Pavon-Penalosa and Kinsey)

XXIV.

NAC 639.930(1) and (2) require a pharmacy computer system to have adequate safeguards to “[p]revent access by a person who is not authorized to obtain information from the system” and “who is not authorized to modify or manipulate information in the system.” When information in the pharmacy’s system is modified or manipulated, the system must identify “the person who modified or manipulated the information in the system.” *See* NAC 639.930(3). NAC 639.751 similarly requires that a pharmacy’s computer system “accurately depict the identity of the person entering [a] signature or initials” or other required information into the computer system.

NRS 639.210 states that grounds for suspension or revocation of a license or registration issued by the Board includes instances where a licensee/registrant:

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.

Walgreens #10783 has a computerized system that has safeguards in place pursuant to NAC 639.751 and NAC 639.930. In that system, employees are not authorized to sign in and fill prescriptions under another employee's initials/sign on. When Respondent Kinsey filled Prescription No. 533253 under Respondent Pavon-Penalosa's initials, and when Respondent Pavon-Penalosa allowed Respondent Kinsey to fill Prescription No. 533253 under her initials, each of them circumvented Walgreen's safeguards in violation of NAC 639.751 and NAC 639.930. They each subjected their respective license or registration to discipline pursuant to NRS 639.210(12), as well as NRS 639.255.

SIXTH CAUSE OF ACTION

(Respondent Pavon-Penalosa)

XXV.

As the managing pharmacist/pharmacist in charge of Walgreens Pharmacy #10783 at the time of each of the violations alleged herein, Respondent Pavon-Penalosa is responsible for those violations, including those of her employees. See Nevada Revised Statute (NRS) 639.0087, NRS 639.210(15), NRS 639.220(3)(c), and NAC 639.702.

SEVENTH CAUSE OF ACTION

(Walgreens Pharmacy #10783)


XXVI.

As the pharmacy in which the violations alleged above occurred, Walgreens is statutorily responsible for the actions of respondents Manuelita Pavon-Penalosa and Gary Kinsey, as alleged herein, pursuant to NAC 639.945(2).

For the forgoing error and violations, the license(s)/registration(s) of Respondents, and each of them, are subject to discipline, suspension, or revocation pursuant to the previously cited statutes and regulations, including, but not limited to, NRS 639.210(4), (11), (12), and/or (15), as well as NRS 639.230(5) and/or NRS 639.255.

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 7th day of June, 2017.



Larry L. Pinson, Pharm.D.,
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 regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of this Notice of Intended Action and Accusation a written statement showing your compliance.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

MANUELITA PAVON-PENALOSA, RPH

Certificate of Registration No. 16396

Respondent.

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

) **CASE NO. 16-072-RPH-S**
)
)
)
)

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, a Notice of Intended Action and Accusation has been filed with the Board by the Petitioner, Larry L. Pinson, 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 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. Should you desire a hearing, it is required that you complete two copies of the Answer and Notice of Defense documents served herewith and file said copies with the Board within fifteen (15) days of receipt of this Statement and Notice, and of the Notice of Intended Action and Accusation served within.


III.

The Board has scheduled your hearing on this matter for Wednesday, July 19, 2017, 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.

Failure to complete and file your Notice of Defense with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the Notice of Intended Action and Accusation filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 7th day of June, 2017.



Larry L. Pinson, Pharm.D.,
Executive Secretary
Nevada State Board of Pharmacy

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,	)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
MANUELITA PAVON-PENALOSA, RPH	)	CASE NO. 16-072-RPH-S
Certificate of Registration No. 16396)	
)	
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 June, 2017.

MANUELITA PAVON-PENALOSA, R.PH.

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
GARY KINSEY, PTT	)	CASE NO. 16-072-PTT-S
Certificate of Registration No. PT17463)	
)	
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 June, 2017.

Type or print name

GARY KINSEY, PTT

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	ANSWER AND
	)	NOTICE OF DEFENSE
Petitioner,)	
v.)	
)	
WALGREENS PHARMACY #10783	)	CASE NO. 16-072-PH-S
Certificate of Registration No. PH02334)	
)	
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 June, 2017.

Type or print name

AUTHORIZED REPRESENTATIVE FOR
WALGREENS PHARMACY #10783

FILED

JUN 07 2017

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD
OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	CASE NO. 17-049-RPH-S
)	
Petitioner,)	
v.)	
	)	NOTICE OF INTENDED ACTION
ESTHER KIM, R.PH.,	)	AND ACCUSATION
Certificate of Registration No. 16687,)	
)	
Respondent.	/	

Larry L. Pinson, 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 Nevada Revised Statutes (NRS) 233B.127(3), and as an accusation under NRS 639.241.

JURISDICTION

I.

The Nevada State Board of Pharmacy (Board) has jurisdiction over this matter because Respondent Esther Kim, R.Ph. (Ms. Kim), Certificate of Registration No. 16687, was a registered pharmacist with the Board at the time of the events alleged herein.

FACTUAL ALLEGATIONS

II.

In June 2016, the Board Office received a renewal application for Ms. Kim's Nevada pharmacist license. Ms. Kim disclosed on her application that since her last renewal, she had been the subject of an administrative action in California, where she admitted to violating statutes and regulations relating to controlled substances, dangerous drugs and California pharmacy law.

III.

On June 30, 2016, after a thorough review of Ms. Kim's application and supporting documents, Board Staff renewed Ms. Kim's license.

IV.

The events leading up to Ms. Kim's California discipline are as follows:

1. In August 2014, the Board of Pharmacy, Department of Consumer Affairs, State of California (CA Board) filed an Accusation against Ms. Kim (CA Accusation).¹
2. In the CA Accusation, the CA Board alleged that Ms. Kim had committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption with the intent to substantially benefit herself, or substantially injure another.
3. The CA Board based its allegations on Ms. Kim's admission that she diverted controlled substances and dangerous drugs from a Walgreens Pharmacy located in Big Bear Lake, California, where she was employed.
4. By her own admissions, Ms. Kim diverted:
 - a) 900 Phentermine 37.5 mg. tablets;
 - b) 60 Alprazolam 1 mg. tablets;
 - c) 150 Zolpidem 10 mg. tablets;
 - d) 280 Vestura tablets;
 - e) 360 Gabapentin 800 mg. tablets;
 - f) 200 Losartan 50 mg. tablets;
 - g) 300 Cymbalta 60 mg. tablets;
 - h) 200 Valacyclovir 1 gm. tablets.
5. Based on Ms. Kim's admissions, the CA Board charged Ms. Kim with five (5) violations of California Law related to the unlawful procurement and possession of controlled substances and dangerous drugs.
6. On August 5, 2015, the CA Board adopted a *Stipulated Settlement and Disciplinary Order* (CA Settlement Agreement). By way of the CA Settlement Agreement, the CA Board and Ms. Kim resolved each of the five allegations set forth in the CA Accusation.

¹ A copy of the CA Board's *Decision and Order*, Ms. Kim's *Stipulated Settlement and Disciplinary Order* and the *CA Accusation* are attached as **Exhibit 1**, and **Exhibit A** thereto, each of which are incorporated herein by reference.

7. The CA Board's *Decision and Order* adopting the Settlement Agreement became effective on September 4, 2015. See **Exhibit 1**.

8. In the CA Settlement Agreement, the CA Board revoked Ms. Kim's Pharmacist License No. RPH 66753. The CA Board then stayed the revocation, and placed Ms. Kim's license on probation for a period of five (5) years, with certain terms and conditions.

9. Section 11 of the Settlement Agreement, titled *License Surrender While on Probation/Suspension*, gives Ms. Kim the option to surrender her license to the CA Board in lieu of on-going formal discipline. The section states: "Upon formal acceptance of the surrender of license [by the CA Board], Respondent will no longer be subject to the terms and conditions of probation."

10. On or about December 30, 2016, Ms. Kim submitted an *Application for Voluntary Surrender of Pharmacist/Intern License* to the CA Board.

11. The CA Board accepted Ms. Kim's request to surrender her license on January 5, 2017.

12. Ms. Kim did not initially notify this Board's Staff that she was unable to satisfy the conditions of her California probation and that she had surrendered her California license to avoid further discipline.

13. Mr. Kim waited 10 months, until April 11, 2017, to disclose to Board Staff that she had surrendered her CA license.

APPLICABLE LAW

V.

Nevada Administrative Code (NAC) 639.230 states, "[i]f a pharmacist voluntarily surrenders his or her certificate, license or registration to practice pharmacy in another state pursuant to an agreement entered into by the pharmacist and the authorizing agency of that state relating to a disciplinary matter, the Board will initiate proceedings...to revoke the certificate of registration of the pharmacist to practice in the State of Nevada."

VI.

Nevada Revised Statutes (NRS) 639.210 states, in relevant part:

The Board may suspend or revoke any certificate, license, registration or permit issued pursuant to this chapter . . . 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;

....

6. Has been convicted of a violation of any law or regulation of the Federal Government or of this or any other state related to controlled substances, dangerous drugs, drug samples, or the wholesale or retail distribution of drugs;

....

12. Has violated . . . any of the provisions of this chapter or any law or regulation relating to drugs . . . [the] distribution of drugs or the practice of pharmacy . . . [or]

....

14. Has had a certificate, license or permit suspended or revoked in another state on grounds which would cause suspension or revocation of a certificate, license or permit in this State . . .

VII.

NRS 453.331(d) states, in relevant part: "It is unlawful for a person knowingly or intentionally to . . . [a]cquire or obtain . . . possession of a controlled substance . . . by misrepresentation, fraud, forgery, deception, subterfuge or alteration."

VIII.

NRS 453.336(1) states, in relevant part, that "a person shall not knowingly or intentionally possess a controlled substance, unless the substance was obtained directly from, or pursuant to, a [lawful] prescription or order of a [practitioner]".

IX.

NRS 453.337(1) states, in relevant part, that unless otherwise authorized, "it is unlawful for a person to possess for the purpose of sale . . . any controlled substance classified in schedule I or II."

X.

NRS 453.338(1) states, in relevant part, that unless otherwise authorized, “it is unlawful for a person to possess for the purpose of sale any controlled substance classified in schedule III, IV or V.”

XI.

NAC 639.945(1)(g) states that “[s]upplying or diverting drugs . . . which are legally sold in pharmacies . . . so that unqualified persons can circumvent any law pertaining to the legal sale of such articles” constitutes “unprofessional conduct and conduct contrary to the public interest.”

XII.

NAC 639.945(1)(h) states that “[p]erforming or in any way being a party to any fraudulent or deceitful practice or transaction” constitutes “unprofessional conduct and conduct contrary to the public interest.”

FIRST CAUSE OF ACTION

XIII.

By voluntarily surrendering her California Pharmacist License, License No. RPH 66573, as permitted by the *Stipulated Settlement and Disciplinary Order* in California Case No. 5044, OAH No. 20141000070, which she entered into to resolve allegations of diversion brought against her by the CA Board, Ms. Kim subjected her Nevada Pharmacist License No. 16687 to discipline and revocation pursuant to NRS 639.210(6) and (14), as well as NRS 639.255 and NAC 639.230.

SECOND CAUSE OF ACTION

XIV.

The grounds on which the CA Board revoked Ms. Kim’s CA Pharmacist License are grounds which would also cause the suspension or revocation of her Nevada pharmacist license. The facts in that case, including the diversion of dangerous drugs and controlled substances, are facts to which Ms. Kim admits, and on which the Board could conclude that Ms. Kim:

1. Is not of good character,

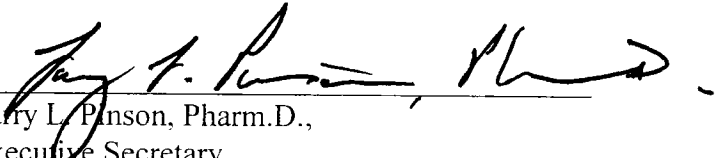
2. Is guilty of unprofessional conduct,
3. Has been convicted of violating the laws and regulations of a sister state (California) related to controlled substances and dangerous drugs, and
4. Has violated provisions of Nevada state laws and regulations related to prescription drugs, including NRS Chapters 453, 454, and 639, as well as NAC Chapters 435, 454 and 639, as alleged above.

Ms. Kim's Nevada Pharmacist License No. 16687 is therefore subject to discipline and revocation pursuant to NRS 639.210(1), (4), (6) and (12), as well as NRS 639.255 and NAC 639.230.

XV.

WHEREFORE, it is requested that the Nevada State Board of Pharmacy take appropriate disciplinary action with respect to the certificates of registration of respondent Esther Kim.

Signed this 7th day of June 2017.


Larry L. Pinson, Pharm.D.,
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 regarding your certificate of registration. To do so, you must mail to the Board within 15 days of your receipt of the Notice of Intended Action and Accusation a written statement showing your compliance.

EXHIBIT 1

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

In the Matter of the Accusation Against:

ESTHER KIM
P.O. Box 3162
Big Bear City, CA 92314

Pharmacist License No. RPH 66753

Respondent.

Case No. 5044

OAH No. 2014100070

DECISION AND ORDER

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

This Decision shall become effective on September 4, 2015.

It is so ORDERED on August 5, 2015.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 MICHAEL BROWN
Deputy Attorney General
4 State Bar No. 231237
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2095
6 Facsimile: (213) 897-2804
E-mail: MichaelB.Brown@doj.ca.gov
7 *Attorneys for Complainant*

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

11 In the Matter of the Accusation Against:

Case No. 5044

12 **ESTHER KIM**
13 **P.O. Box 3162**
Big Bear City, CA 92314

OAH No. 2014100070

14 **Pharmacist License No. RPH 66753**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
18 entitled proceedings that the following matters are true:

19 **PARTIES**

20 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Kamala
22 D. Harris, Attorney General of the State of California, by Michael Brown, Deputy Attorney
23 General.

24 2. Respondent Esther Kim ("Respondent") is represented in this proceeding by attorney
25 Tony J. Park, whose address is: 2855 Michelle Drive, Suite 180, Irvine, CA 92606.

26 ///

27 ///

28 ///

3. On or about January 9, 2012, the Board of Pharmacy issued Pharmacist License No. RPH 66753 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the charges brought in Accusation No. 5044 and will expire on June 30, 2015, unless renewed.

JURISDICTION

4. Accusation No. 5044 was filed before the Board of Pharmacy (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on September 4, 2014. Respondent timely filed her Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 5044 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 5044. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

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

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

CULPABILITY

9. Respondent admits the truth of each and every charge and allegation in Accusation No. 5044.

///

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

CONTINGENCY

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

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 66753 issued to Respondent is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1 **1. Obey All Laws**

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

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

- 5 • an arrest or issuance of a criminal complaint for violation of any provision of the
6 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
7 substances laws
- 8 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
9 criminal complaint, information or indictment
- 10 • a conviction of any crime
- 11 • discipline, citation, or other administrative action filed by any state or federal agency
12 which involves Respondent's license or which is related to the practice of pharmacy
13 or the manufacturing, obtaining, handling, distributing, billing, or charging for any
14 drug, device or controlled substance.

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

16 **2. Report to the Board**

17 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
18 designee. The report shall be made either in person or in writing, as directed. Among other
19 requirements, Respondent shall state in each report under penalty of perjury whether there has
20 been compliance with all the terms and conditions of probation. Failure to submit timely reports
21 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
22 in submission of reports as directed may be added to the total period of probation. Moreover, if
23 the final probation report is not made as directed, probation shall be automatically extended until
24 such time as the final report is made and accepted by the board.

25 **3. Interview with the Board**

26 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
27 with the board or its designee, at such intervals and locations as are determined by the board or its
28 designee. Failure to appear for any scheduled interview without prior notification to board staff,

1 on failure to appear for two (2) or more scheduled interviews with the board or its designee during
2 the period of probation, shall be considered a violation of probation.

3 4. **Cooperate with Board Staff**

4 Respondent shall cooperate with the board's inspection program and with the board's
5 monitoring and investigation of Respondent's compliance with the terms and conditions of her
6 probation. Failure to cooperate shall be considered a violation of probation.

7 5. **Continuing Education**

8 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
9 pharmacist as directed by the board or its designee. *License up-to-date*

10 6. **Notice to Employers** *PDM = PIC*

11 During the period of probation, Respondent shall notify all present and prospective
12 employers of the decision in case number 5044 and the terms, conditions and restrictions imposed
13 on Respondent by the decision, as follows:

14 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
15 Respondent undertaking any new employment, Respondent shall cause her direct supervisor,
16 pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent's
17 tenure of employment) and owner to report to the board in writing acknowledging that the listed
18 individual(s) has/have read the decision in case number 5044, and terms and conditions imposed
19 thereby. It shall be Respondent's responsibility to ensure that her employer(s) and/or
20 supervisor(s) submit timely acknowledgment(s) to the board.

21 If Respondent works for or is employed by or through a pharmacy employment service,
22 Respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
23 licensed by the board of the terms and conditions of the decision in case number 5044 in advance
24 of the Respondent commencing work at each licensed entity. A record of this notification must
25 be provided to the board upon request.

26 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
27 (15) days of Respondent undertaking any new employment by or through a pharmacy
28 employment service, Respondent shall cause her direct supervisor with the pharmacy

1 employment service to report to the board in writing acknowledging that she has read the decision
2 in case number 5044 and the terms and conditions imposed thereby. It shall be Respondent's
3 responsibility to ensure that her employer(s) and/or supervisor(s) submit timely
4 acknowledgment(s) to the board.

5 Failure to timely notify present or prospective employer(s) or to cause that/those
6 employer(s) to submit timely acknowledgments to the board shall be considered a violation of
7 probation.

8 "Employment" within the meaning of this provision shall include any full-time,
9 part-time, temporary, relief or pharmacy management service as a pharmacist or any
10 position for which a pharmacist license is a requirement or criterion for employment,
11 whether the respondent is an employee, independent contractor or volunteer.

12 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**
13 **Designated Representative-in-Charge, or Serving as a Consultant**

14 During the period of probation, Respondent shall not supervise any intern pharmacist, be
15 the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the
16 board nor serve as a consultant unless otherwise specified in this order. Assumption of any such
17 unauthorized supervision responsibilities shall be considered a violation of probation.

18 **8. Reimbursement of Board Costs** *submit a payment plan*
19 *monthly or quarterly*

20 As a condition precedent to successful completion of probation, Respondent shall pay to the
21 board its costs of investigation and prosecution in the amount of \$6,317.00 (Six Thousand Three
22 Hundred Seventeen Dollars). Respondent shall make payment on a plan approved by the Board.

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

25 The filing of bankruptcy by Respondent shall not relieve Respondent of her responsibility
26 to reimburse the board its costs of investigation and prosecution.

27 ///

28 ///

1 9. **Probation Monitoring Costs**

*Associated @ end of each prob yr
let will be 12/2016.*

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

6 10. **Status of License**

7 Respondent shall, at all times while on probation, maintain an active, current license with
8 the board, including any period during which suspension or probation is tolled. Failure to
9 maintain an active, current license shall be considered a violation of probation.

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

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

15 Following the effective date of this decision, should Respondent cease practice due to
16 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
17 Respondent may tender her license to the board for surrender. The board or its designee shall
18 have the discretion whether to grant the request for surrender or take any other action it deems
19 appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent
20 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
21 record of discipline and shall become a part of the Respondent's license history with the board.

22 Upon acceptance of the surrender, Respondent shall relinquish her pocket and wall license
23 to the board within ten (10) days of notification by the board that the surrender is accepted.
24 Respondent may not reapply for any license from the board for three (3) years from the effective
25 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
26 of the date the application for that license is submitted to the board, including any outstanding
27 costs.

28 ///

1 12. **Notification of a Change in Name, Residence Address, Mailing Address or**
2 **Employment**

3 Respondent shall notify the board in writing within ten (10) days of any change of
4 employment. Said notification shall include the reasons for leaving, the address of the new
5 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
6 shall further notify the board in writing within ten (10) days of a change in name, residence
7 address, mailing address, or phone number.

8 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
9 phone number(s) shall be considered a violation of probation.

10 13. **Tolling of Probation**

11 Except during periods of suspension, Respondent shall, at all times while on probation, be
12 employed as a pharmacist in California for a minimum of (forty) 40 hours per calendar month.
13 Any month during which this minimum is not met shall toll the period of probation, i.e., the
14 period of probation shall be extended by one month for each month during which this minimum is
15 not met. During any such period of tolling of probation, Respondent must nonetheless comply
16 with all terms and conditions of probation.

17 Should Respondent, regardless of residency, for any reason (including vacation) cease
18 practicing as a pharmacist for a minimum of (forty) 40 hours per calendar month in California,
19 Respondent must notify the board in writing within ten (10) days of the cessation of practice, and
20 must further notify the board in writing within ten (10) days of the resumption of practice. Any
21 failure to provide such notification(s) shall be considered a violation of probation.

22 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
23 provisions of this condition for a total period, counting consecutive and non-consecutive months,
24 exceeding thirty-six (36) months.

25 "Cessation of practice" means any calendar month during which respondent is
26 not practicing as a pharmacist for at least 40 (forty) hours, as defined by Business and
27 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
28 month during which respondent is practicing as a pharmacist for at least 40 (forty)

1 hours, as a pharmacist as defined by Business and Professions Code section 4000 et
2 seq.

3 **14. Violation of Probation**

4 If a Respondent has not complied with any term or condition of probation, the board shall
5 have continuing jurisdiction over Respondent, and probation shall automatically be extended,
6 until all terms and conditions have been satisfied or the board has taken other action as deemed
7 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
8 to impose the penalty that was stayed.

9 If Respondent violates probation in any respect, the board, after giving Respondent notice
10 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
11 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
12 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
13 a petition to revoke probation or an accusation is filed against Respondent during probation, the
14 board shall have continuing jurisdiction and the period of probation shall be automatically
15 extended until the petition to revoke probation or accusation is heard and decided.

16 **15. Completion of Probation**

17 Upon written notice by the board or its designee indicating successful completion of
18 probation, Respondent's license will be fully restored.

19 **16. Suspension**

20 As part of probation, Respondent is suspended from the practice of pharmacy for one (1)
21 year beginning the effective date of this decision.

22 During suspension, Respondent shall not enter any pharmacy area or any portion of the
23 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
24 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
25 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
26 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
27 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
28

1 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
2 and devices or controlled substances.

3 Respondent shall not engage in any activity that requires the professional judgment of a
4 pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy.
5 Respondent shall not perform the duties of a pharmacy technician or a designated representative
6 for any entity licensed by the board.

7 Subject to the above restrictions, Respondent may continue to own or hold an interest in
8 any licensed premises in which she holds an interest at the time this decision becomes effective
9 unless otherwise specified in this order.

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

11 **17. Random Drug Screening**

12 Respondent, at her own expense, shall participate in random testing, including but not
13 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
14 screening program as directed by the board or its designee when Respondent returns back to work
15 after the one (1) year suspension. Respondent may be required to participate in testing for the
16 entire probation period and the frequency of testing will be determined by the board or its
17 designee. At all times, Respondent shall fully cooperate with the board or its designee, and shall,
18 when directed, submit to such tests and samples for the detection of alcohol, narcotics, hypnotics,
19 dangerous drugs or other controlled substances as the board or its designee may direct. Failure to
20 timely submit to testing as directed shall be considered a violation of probation. Upon request of
21 the board or its designee, Respondent shall provide documentation from a licensed practitioner
22 that the prescription for a detected drug was legitimately issued and is a necessary part of the
23 treatment of the Respondent. Failure to timely provide such documentation shall be considered a
24 violation of probation. Any confirmed positive test for alcohol or for any drug not lawfully
25 prescribed by a licensed practitioner as part of a documented medical treatment shall be
26 considered a violation of probation and shall result in the automatic suspension of practice of
27 pharmacy by Respondent. Respondent may not resume the practice of pharmacy until notified by
28 the board in writing.

1 If Respondent test positive for any unauthorized prescription, within fifteen (15) days of the
2 positive test for any unauthorized prescriptions, Respondent shall contact the Pharmacists
3 Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll, successfully
4 participate in, and complete the treatment contract, and any subsequent addendums as
5 recommended and provided by the PRP and as approved by the board or its designee. The cost
6 for PRP participation shall be borne by the Respondent.

7 Failure to timely contact or enroll in the PRP, or successfully participate in and complete
8 the treatment contract and/or any addendums, shall be considered a violation of probation.

9 During suspension, Respondent shall not enter any pharmacy area or any portion of the
10 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
11 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
12 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
13 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
14 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
15 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
16 and controlled substances. Respondent shall not resume practice until notified by the board.

17 During suspension Respondent shall not engage in any activity that requires the
18 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
19 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
20 designated representative for any entity licensed by the board.

21 Subject to the above restrictions, Respondent may continue to own or hold an interest in
22 any licensed premises in which she holds an interest at the time this decision becomes effective
23 unless otherwise specified in this order.

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

25 * 18. **Prescription Coordination and Monitoring of Prescription Use**

26 Within thirty (30) days of the effective date of this decision, Respondent shall submit to the
27 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
28 physician assistant, or psychiatrist of Respondent's choice, who shall be aware of the

1 Respondent's history controlled substances and/or dangerous drugs and who will coordinate and
2 monitor any prescriptions for Respondent for dangerous drugs, controlled substances or mood-
3 altering drugs. The approved practitioner shall be provided with a copy of the board's Accusation
4 and decision. A record of this notification must be provided to the board upon request.
5 Respondent shall sign a release authorizing the practitioner to communicate with the board about
6 Respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or
7 psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding
8 Respondent's compliance with this condition. If any substances considered addictive have been
9 prescribed, the report shall identify a program for the time limited use of any such substances.
10 The board may require that the single coordinating physician, nurse practitioner, physician
11 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive
12 medicine. Should Respondent, for any reason, cease supervision by the approved practitioner,
13 Respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment,
14 submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist
15 of Respondent's choice to the board or its designee for its prior approval. Failure to timely
16 submit the selected practitioner or replacement practitioner to the board for approval, or to ensure
17 the required reporting thereby on the quarterly reports, shall be considered a violation of
18 probation.

19 If at any time an approved practitioner determines that Respondent is unable to practice
20 safely or independently as a pharmacist, the practitioner shall notify the board immediately by
21 telephone and follow up by written letter within three (3) working days. Upon notification from
22 the board or its designee of this determination, Respondent shall be automatically suspended and
23 shall not resume practice until notified by the board that practice may be resumed.

24 During suspension, Respondent shall not enter any pharmacy area or any portion of the
25 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
26 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
27 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
28 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient

1 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
2 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
3 and controlled substances. Respondent shall not resume practice until notified by the board.

4 During suspension, Respondent shall not engage in any activity that requires the
5 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
6 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
7 designated representative for any entity licensed by the board.

8 Subject to the above restrictions, Respondent may continue to own or hold an interest in
9 any licensed premises in which she holds an interest at the time this decision becomes effective
10 unless otherwise specified in this order.

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

12 19. Community Services Program 11/4/16 501C 3 (Tax exempt
13 programs)

14 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
15 board or its designee, for prior approval, a community service program in which Respondent shall
16 provide free health-care related services on a regular basis to a community or charitable facility or
17 agency for at least sixty-four (64) hours per year for the second to fourth years of probation.

18 Within thirty (30) days of board approval thereof, Respondent shall submit documentation to the
19 board demonstrating commencement of the community service program. A record of this
20 notification must be provided to the board upon request. Respondent shall report on progress
21 with the community service program in the quarterly reports. Failure to timely submit,
22 commence, or comply with the program shall be considered a violation of probation.

23 20. Remedial Education Accredited, 11/4/16

24 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
25 board or its designee, for prior approval, an appropriate program of remedial education related to
26 pharmacy law. The program of remedial education shall consist of at least 15 units in pharmacy
27 law, which shall be completed within thirty-six (36) months at Respondent's own expense. All
28 remedial education shall be in addition to, and shall not be credited toward, continuing education
(CE) courses used for license renewal purposes.

6-8 wks
for approval

AOPE #

Course #

Teacher
name

separate
from normal
CE's for
renewal.

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

5 Following the completion of each course, the board or its designee may require the
6 Respondent, at her own expense, to take an approved examination to test the Respondent's
7 knowledge of the course. If the Respondent does not achieve a passing score on the examination,
8 this failure shall be considered a violation of probation. Any such examination failure shall
9 require Respondent to take another course approved by the board in the same subject area.

10 **21. Supervised Practice**

11 During the period of probation, Respondent shall practice only under the supervision of a
12 licensed pharmacist not on probation with the board. Upon and after the effective date of this
13 decision, Respondent shall not practice pharmacy and her license shall be automatically
14 suspended until a supervisor is approved by the board or its designee. The supervision shall be,
15 as required by the board or its designee, either:

16 Continuous – At least 75% of a work week

17 ☒ Substantial - At least 50% of a work week

18 Partial - At least 25% of a work week

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

20 Within thirty (30) days of the effective date of this decision, Respondent shall have her
21 supervisor submit notification to the board in writing stating that the supervisor has read the
22 decision in case number 5044 and is familiar with the required level of supervision as determined
23 by the board or its designee. It shall be the Respondent's responsibility to ensure that her
24 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
25 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
26 acknowledgements to the board shall be considered a violation of probation.

27 If Respondent changes employment, it shall be the Respondent's responsibility to ensure
28 that her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely

1 acknowledgement(s) to the board. Respondent shall have her new supervisor, within fifteen (15)
2 days after employment commences, submit notification to the board in writing stating the direct
3 supervisor and pharmacist-in-charge have read the decision in case number 5044 and is familiar
4 with the level of supervision as determined by the board. Respondent shall not practice pharmacy
5 and her license shall be automatically suspended until the board or its designee approves a new
6 supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
7 acknowledgements to the board shall be considered a violation of probation.

8 Within ten (10) days of leaving employment, Respondent shall notify the board in writing.

9 During suspension, Respondent shall not enter any pharmacy area or any portion of the
10 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
11 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
12 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
13 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
14 consultation; nor shall Respondent manage, administer, or be a consultant to any licensee of the
15 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
16 and controlled substances. Respondent shall not resume practice until notified by the board.

17 During suspension, Respondent shall not engage in any activity that requires the
18 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
19 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
20 designated representative for any entity licensed by the board.

21 Subject to the above restrictions, Respondent may continue to own or hold an interest in
22 any licensed premises in which she holds an interest at the time this decision becomes effective
23 unless otherwise specified in this order.

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

25 **22. No Ownership of Licensed Premises**

26 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
27 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
28 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell

1 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
2 days following the effective date of this decision and shall immediately thereafter provide written
3 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
4 documentation thereof shall be considered a violation of probation.

5 **23. Tolling of Suspension**

6 During the period of suspension, Respondent shall not leave California for any period
7 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
8 of the (10) days during suspension shall be considered a violation of probation. Moreover, any
9 absence from California during the period of suspension exceeding ten (10) days shall toll the
10 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
11 Respondent is absent from California. During any such period of tolling of suspension,
12 Respondent must nonetheless comply with all terms and conditions of probation.

13 Respondent must notify the board in writing within ten (10) days of departure, and must
14 further notify the board in writing within ten (10) days of return. The failure to provide such
15 notification(s) shall constitute a violation of probation. Upon such departure and return,
16 Respondent shall not resume the practice of pharmacy until notified by the board that the period
17 of suspension has been satisfactorily completed.

18 **24. Ethics Course**

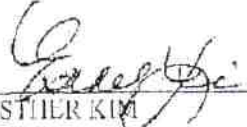
19 Proof of enrollment in an ethics course, approved in advance by the Board or its designee,
20 meeting the requirements of California Code of Regulations, title 16, section 1773.5. Respondent
21 shall thereafter initiate and successfully participate in the ethics course within twelve (12) months
22 of the effective date of the decision and shall successfully complete the approved ethics course. If
23 the ethics course is not successfully completed within twelve (12) months, Respondent has
24 twenty-four (24) months from the effective date of decision to successfully complete the ethic
25 course. Failure to complete the ethics course within twenty-four (24) months from the effective
26 date of decision will result in the revocation of Respondent's license.

27 ✕ Respondent's suspension will be in effect until Respondent successfully completes the ethic
28 course within twenty-four (24) months of the effective date of decision.

1 ACCEPTANCE


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

7 DATED: 06/15/2015

8 
ESTHER KIM
Respondent

9 I have read and fully discussed with Respondent Esther Kim the terms and conditions and
10 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its
11 form and content.

12 DATED: 06/15/2015

13 
Tony J. Park
Attorney for Respondent

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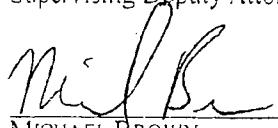
ENDORSEMENT

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

Dated: June 15, 2015

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
ARMANDO ZAMBRANO
Supervising Deputy Attorney General



MICHAEL BROWN
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5044

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA L. SUN
Supervising Deputy Attorney General
3 MICHAEL BROWN
Deputy Attorney General
4 State Bar No. 231237
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
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E-mail: MichaelB.Brown@doj.ca.gov
7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5044

12 **ESTHER KIM**
P.O. Box 3162
13 Big Bear City, CA 92314

A C C U S A T I O N

14 Pharmacist License No. RPH 66753

15 Respondent.

16
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about January 9, 2012, the Board of Pharmacy issued Pharmacist License
22 Number RPH 66753 to Esther Kim (Respondent). The Pharmacist License was in full force and
23 effect at all times relevant to the charges brought herein and will expire on June 30, 2015, unless
24 renewed.

25 **JURISDICTION**

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

1 4. Section 118, subdivision (b), of the Code provides that the
2 suspension/expiration/surrender/cancellation of a license shall not deprive the
3 Board/Registrar/Director of jurisdiction to proceed with a disciplinary action during the period
4 within which the license may be renewed, restored, reissued or reinstated.

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

8 6. Section 4300(a) of the Code states that every license issued by the Board may be
9 suspended or revoked.

10 7. Section 4300.1 of the Code states:

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

16 STATUTORY PROVISIONS

17 8. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
18 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
19 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
20 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,
21 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

22 9. Section 4060 of the Code states:

23 "No person shall possess any controlled substance, except that furnished to a person upon
24 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
25 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified
26 nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, or a
27 physician assistant pursuant to Section 3502.1, or naturopathic doctor pursuant to Section 3640.5,
28 or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of

1 subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not
2 apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy,
3 pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified
4 nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly
5 labeled with the name and address of the supplier or producer.

6 "Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a
7 physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and
8 devices."

9 10. Section 4301 of the Code states:

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

13 ..
14 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
15 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
16 whether the act is a felony or misdemeanor or not.

17 ...
18 "(j) The violation of any of the statutes of this state, or any other state, or of the United
19 States regulating controlled substances and dangerous drugs.

20 ...
21 "(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
22 violation of or conspiring to violate any provision or term of this chapter or of the applicable
23 federal and state laws and regulations governing pharmacy, including regulations established by
24 the board or by any other state or federal regulatory agency."

25 **HEALTH AND SAFETY CODE SECTIONS**

26 11. Health and Safety Code section 11150, subdivision (a), states:

27 "Except as otherwise provided in this division, every person who possesses (1) any
28 controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of

1 Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or
2 specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section
3 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic
4 drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian
5 licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of
6 Section 1170 of the Penal Code."

7 12. Health and Safety Code section 11173, subdivision (a), states:

8 "(a) No person shall obtain or attempt to obtain controlled substances, or procure or attempt
9 to procure the administration of or prescription for controlled substances, (1) by fraud, deceit,
10 misrepresentation, or subterfuge; or (2) by the concealment of a material fact."

11 COST RECOVERY

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

17 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

18 14. Section 4021 of the Code states:

19 "Controlled substance" means any substance listed in Chapter 2 (commencing with Section
20 11053) of Division 10 of the Health and Safety Code."

21 15. Section 4022 of the Code states, in pertinent part:

22 "'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use,
23 except veterinary drugs that are labeled as such, and includes the following:

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

26 ...
27 "(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
28 prescription or furnished pursuant to Section 4006."

1 16. Ambien, a brand name for Zolpidem 10 mg, is used for treating insomnia, is a
2 Schedule IV controlled substance as designated by Health and Safety Code section 11057,
3 subdivision (d)(32). It is categorized as a dangerous drug pursuant to Business and Professions
4 Code section 4022.

5 17. Cozzar, a brand name of Losartan, is used for treating hypertension. It is categorized
6 as a dangerous drug pursuant to section 4022 of the Code.

7 18. Cymbalta, a brand name of Duloxetine 60mg, is used for treating depression. It is
8 categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

9 19. Neurontin, a brand name for Gabapentin 800mg, is an anticonvulsant that is used for
10 preventing seizures and reducing pain-related responses. It is categorized as a dangerous drug
11 pursuant to section 4022 of the Code.

12 20. Ionamin/Adipex-P, a brand name for Phentermine 37.5mg, a class of drug called
13 anorectics, is used for treating obesity, is a Scheduled IV controlled substance as designated by
14 Health and Safety Code section 11057, subdivision (f)(4). It is categorized as a dangerous drug
15 pursuant to section 4022 of the Code.

16 21. Valtrex, a brand name for Valacyclovir 1gm, an antiviral used in patients with
17 normal immune systems to treat herpes zoster infections (shingles) or to treat or suppress genital
18 herpes or cold sores (herpes simplex) or other conditions as directed by a physician. It is
19 categorized as a dangerous drug pursuant to section 4022 of the Code.

20 22. Vestura, a brand name of Drospirenone/Ethinyl Estradiol, is used for birth control. It
21 is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

22 23. Xanax, a brand name for Alprazolam 1mg, is an anti-anxiety benzodiazepin and is a
23 Schedule IV controlled substance as designated by Health and Safety Code section 11057(d)(1).
24 It is categorized as a dangerous drug pursuant to section 4022(c) of the Code.

25 **FIRST CAUSE FOR DISCIPLINE**

26 (Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)

27 24. Respondent is subject to disciplinary action under sections 4300 and 4301,
28 subdivision (f), on the grounds of unprofessional conduct, in that Respondent committed acts

1 involving moral turpitude, dishonesty, fraud, deceit, or corruption with the intent to substantially
2 benefit herself, or substantially injure another, as follows:

3 a. On or about October 24, 2012, during an investigation by Loss Prevention officers at
4 Walgreens Pharmacy in Big Bear Lake, Respondent admitted that between December 2011 to
5 October 22, 2012, she stole controlled substances and dangerous drugs:

- 6 a) 900 tablets of Phentermine 37.5mg;
- 7 b) 60 tablets of Alprazolam 1mg;
- 8 c) 150 tablets of Zolpidem 10mg;
- 9 d) 280 tablets of Vestura;
- 10 e) 360 tablets of Gabapentin 800mg;
- 11 f) 200 tablets of Losartan 50mg;
- 12 g) 300 tablets of Cymbalta 60mg; and
- 13 h) 200 tablets of Valacyclovir 1gm.

14 **SECOND CAUSE FOR DISCIPLINE**

15 (Obtain/Procure Administration/Prescription of Controlled Substances by Fraud, Deceit,
16 Misrepresentation, Subterfuge, and/or Concealment of Material Fact)

17 25. Respondent is subject to disciplinary action under sections 4301, subdivision (j) and
18 Health and Safety Code section 11173, subdivision (a), on the grounds of unprofessional conduct,
19 in that between December 2011 to October 22, 2012, Respondent stole controlled substances and
20 dangerous drugs. Complainant refers to, and by this reference incorporates, the allegations set
21 forth above in paragraph 24, subparagraph (a), as though set forth fully

22 **THIRD CAUSE FOR DISCIPLINE**

23 (Unprofessional Conduct/ Violation of Licensing Chapter)

24 26. Respondent is subject to disciplinary action under section 4301, subdivision (j) and
25 (c), in that Respondent committed acts of unprofessional conduct and/ or violated provisions of
26 the licensing chapter. Complainant refers to, and by this reference incorporates, the allegations
27 set forth above in paragraph 24, subparagraph (a) and 25, as though set forth fully.

28 ///

1 **FOURTH CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct-Unlawful Possession of a Controlled Substance)**

3 27. Respondent subject to disciplinary action for unprofessional conduct under Code
4 section 4301, subdivision (j), in violation of section 4060, in that Respondent stole 900 tablets of
5 Phentermine 37.5mg, 60 tablets of Alprazolam 1mg, 150 tablets of Zolpidem 10mg, from the
6 pharmacy while working as a pharmacist at Walgreens Pharmacy. Complainant refers to, and by
7 this reference incorporates, the allegations set forth above in paragraph 24, subparagraph (a) and
8 25, as though set forth fully

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Unprofessional Conduct-Unlawful Possession of a Dangerous Drug)**

11 28. Respondent s subject to disciplinary action for unprofessional conduct under Code
12 section 4301, subdivision (j), in that Respondent stole 280 tablets of Vestura, 360 tablets of
13 Gabapentin 800mg, 200 tablets of Losartan 50mg, 300 tablets of Cymbalta 60mg and 200 tablets
14 of Valacyclovir 1gm from the pharmacy while working as a pharmacist at Walgreens Pharmacy.
15 Complainant refers to, and by this reference incorporates, the allegations set forth above in
16 paragraph 24, subparagraph (a) and 25, as though set forth fully.

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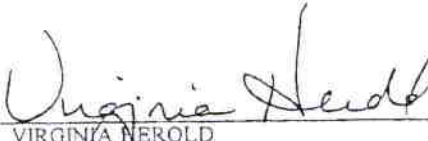
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PRAYER

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

1. Revoking or suspending Pharmacist License Number RPH 66753, issued to Esther Kim,
2. Ordering Esther Kim to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 8/12/14


VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

1.A2013510850
51475936_2.doc

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,

Petitioner,

v.

ESTHER KIM, R.PH.,
Certificate of Registration No. 16687,

Respondent.

) CASE NO. 17-049-RPH-S
)
)
)
) STATEMENT TO THE RESPONDENT
) NOTICE OF INTENDED ACTION
) AND ACCUSATION
) RIGHT TO 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, a *Notice of Intended Action and Accusation* has been filed with the Board by the Petitioner, Larry L. Pinson, Executive Secretary for the Board, alleging grounds for imposition of disciplinary action by the Board against you and your pharmacist license, 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 a hearing before the Board to answer the allegations in the *Notice of Intended Action and Accusation* and present evidence and argument on all issues involved, either personally or through counsel. Should you desire a hearing, it is required that you complete two copies of the *Answer and Notice of Defense* documents served herewith and file said copies with the Board within fifteen (15) days of receipt of this *Statement and Notice*, and of the *Notice of Intended Action and Accusation* served within.


III.

The Board has scheduled your hearing on this matter for Wednesday, July 19, 2017, 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.

Failure to complete and file your *Notice of Defense* with the Board and thereby request a hearing within the time allowed shall constitute a waiver of your right to a hearing in this matter and give cause for the entering of your default to the allegations in the *Notice of Intended Action and Accusation* filed herein, unless the Board, in its sole discretion, elects to grant or hold a hearing nonetheless.

DATED this 7th day of June 2017.



Larry L. Pinson, Pharm.D.,
Executive Secretary
Nevada State Board of Pharmacy

FILED

JUN 22 2017

NEVADA STATE BOARD
OF PHARMACY

BEFORE THE NEVADA STATE BOARD OF PHARMACY

NEVADA STATE BOARD OF PHARMACY,)	CASE NO. 17-049-RPH-S
)	
Petitioner,)	
v.)	
)	
ESTHER KIM, R.PH.	)	ANSWER AND NOTICE
Certificate of Registration No. 16687,	)	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 her objection to the *Notice of Intended Action and Accusation* as being incomplete or failing to state clearly the charges against her, is hereby interposed on the following grounds: (State specific objections or insert "none").

Please see written statement.

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

Please see written statement.

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 20 day of June 2017.



ESTHER KIM, PT

Esther Kim, PharmD
9706 Salem Mountain Ct
Las Vegas, NV 89178

Nevada State Board of Pharmacy
431 W Plumb Lane
Reno, NV 89509

Re: Answer and Notice of Defense Case No. 17-049-RPH-S

- 1. That her objection to the *Notice of Intended action and Accusation* as being incomplete or failing to state clearly the charges against her, is hereby interposed on the following grounds: (State specific objections or insert “none”).**

Under the section Factual Allegations, Section II, it states that the Board Office received a renewal application for my Nevada pharmacist license, and that I honestly disclosed that since my last renewal, I had been subject to an administrative action in California, where I admitted to violating statutes and regulations relating to controlled substances, dangerous drugs, and pharmacy law. Under Section III, it states that on June 30, 2016, after a thorough review of my application and all supporting documents, Board staff renewed my license.

My objection is this:

In this section, it shows clearly that I did not commit subterfuge by hiding my administrative action in California. I openly and honestly sent all documents for review which included the California Administrative Action and Accusation, a letter of explanation to the Board supporting the California Administrative Action and Accusation, a copy of the receipt for restitution payment to Walgreens on October 24, 2012, letters of good works in the community of my residence as part of my rehabilitation process to document my positive efforts over the course of three years, a letter from my then pharmacist in charge attesting to my good character, professionalism and moral ethics for my case in California, and all other documents presented by my then attorney for the case in California. I did not conceal anything from the Board during that time as I was completely forthcoming and honest. When I received the renewal certificate, it was not followed by a letter of explanation or that the reinstatement of my license was stipulated upon remaining on good probationary terms in the state of California. It is my honest statement that I did not intentionally withhold information or conceal evidence from the Nevada Board as proven by my honesty from the very beginning of the renewal process.

Under the section Factual Allegations, Section III, Number 12, it states that I did not initially notify the Board staff that I was unable to satisfy the conditions of the California probation and that I had surrendered my California license to avoid further discipline.

My objection is this:

Because I was unaware that the certificate renewal was stipulated upon remaining on good probationary terms set forth in California, I did not notify the Board of my surrender. It was not my intention to knowingly or purposely attempt to hide or conceal information from the Board.

Under the section Factual Allegations , Section III, Number 13, it states that I waited 10 months till April 11, 2017, to disclose to Board staff that I had surrendered my CA license.

My objection is this:

The CA Board accepted my request to surrender my license on January 5, 2017, I have included a copy of the Application for Voluntary Surrender of Pharmacist/Intern License. The time line between January 5, 2017 to April 11, 2017 is roughly 3 months and 6 days, and not 10 months as it states on the Notice of Intended Action and Accusation.

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

I, Esther Kim, am honestly and truthfully writing this statement pertaining to the Notice of Intended Action and Accusation Case No 17-049-RPH-S as part of the California administrative Action Case #AC201300504400 taken against my California license. The CA Administrative Action became effective 8/5/2015, and my license was revoked, however, the revocation was stayed and I was placed on five years of probation. As part of the probation, my license was suspended for the first of five years beginning on 9/4/2015.

I was first licensed on May 18, 2005 in the state of Nevada through NAPLEX examination. I was employed by Vons Pharmacy and practiced without incident as a pharmacist in Las Vegas, NV till I moved to California in October 2010. I left the state of Nevada with my license in good standing, and had adhered to all laws during my six years of licensure. After moving to California, I practiced without incident as a graduate intern pharmacist for Vons Pharmacy in Victorville, CA, from December 2010 to November 2011. I was hired as a graduate intern pharmacist for Walgreens #10420 in Big Bear Lake, CA on November 28, 2011. Once becoming licensed as a pharmacist through license transfer in California in January 2012, I was placed as Pharmacist In Charge. My employment with Walgreens was from 11/2011 to 10/2012, and during my employment with Walgreens, I committed theft of prescription drugs without prescription or payment. Among them were three different CIV controlled substances which included, phentermine, alprazolam, and zolpidem, as well as some other dangerous drugs which are listed in the administrative action by the California State Board of Pharmacy. The unlawful removal of medications was not for sale or personal gain. Some of the dangerous drugs, phentermine, and zolpidem were to help my then roommate in Big Bear Lake, CA. When I moved to California, she was the only person I knew, and she gave me a place to live and helped me financially when I was working as a graduate intern pharmacist for a year. Therefore, out of guilt, I made the unlawful decision to assist her. Outside of the phentermine, she had been prescribed the medications I gave her unlawfully, however, had expired prescriptions or couldn't afford the payment. The other drugs listed were to help patients previously prescribed these medications. These patients were not able to afford their medications due to price, not having insurance, or had expired prescriptions and had run out of refills. Big Bear Lake, being a small and rural community, had a large number of unemployed patients, military veteran patients, and patients without health insurance. I truly regret the decision I made to commit theft and taking for granted and advantage of the privilege I had been given to be a licensed and registered pharmacist. My actions,

although absolutely inexcusable, were in large part due to my altruistic desire to assist those unable to purchase their necessary medications for one reason or another. I fully understand my actions were unlawful, and it can be deemed as unprofessional conduct. After a true and honest statement to Walgreens, I was separated on 10/24/2012 after prompt repayment of restitution totaling \$7,564.48. I have included a copy of the Agreement to Pay, and the restitution payment with this notice.

After Walgreens, I began working for RiteAid Pharmacy #5692 in Lake Arrowhead, CA on 11/2012 and was employed till 9/4/2015 when my disciplinary year suspension took effect. I adhered to all laws during my 2 years and 10 months of employment at RiteAid Pharmacy. The pharmacist in charge wrote a letter attesting to my good character, professionalism and moral ethics for my case in California. I have included it with this statement, along with all the documents my attorney presented to the State Board of California which includes the letters from coordinators who oversaw my volunteer work as part of my mitigation efforts.

In December 2015, I made the decision to move back to Nevada due to financial instability from being unemployed and family obligations. My mother has a heart defect and she needed additional care, which lead her to have open heart surgery on April 11, 2017. My license in Nevada was reinstated to good standing by the grace of the Board on June 30, 2016 after I sent in my renewal document and all supporting materials pertaining to my case in California. I was fully honest and forthcoming, and did not attempt to conceal any evidence. I regret to state that I had no knowledge that my license certificate in Nevada was renewed on the basis that I remained on good probationary terms in California. There were no stipulating documents accompanying the certificate renewal, so I made the wrong assumption that my license was renewed free of any conditions.

I served the first full year of suspension that began 9/4/2015, and did not go back to work in pharmacy till 10/1/2016 and worked without incident till April 2017. I made an honest effort to fulfill my probationary requirements, however, it became increasingly difficult to meet the probationary terms due to my having moved back to Nevada. Section 11 of the Settlement Agreement, titled Tolling of Probation states that at all times while on probation, I must be employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. For this reason, I made the difficult decision to voluntarily surrender my license to California, and the surrender was accepted on January 5, 2017. It was never my purposeful intention to hide any information from the Nevada State Board of Pharmacy, in was purely ignorance on my part. I ceased working in a pharmacy in April 2017 after my discussion with Mr. Larry Pinson, Board Executive Secretary and I gave him my word that I would not work as a pharmacist in any capacity till after my board hearing on July 19, 2017.

In the Notice of Intended Action and Accusation, the board is concluding that I am not of good character. However, I never attempted to conceal or hide any information intentionally from the board as shown by my full disclosure when I first renewed my license in Nevada. With this statement, I have enclosed a letter from my current employer Covenant Hospice Care attesting to my good work and character, and the most recent electronic fingerprinted FBI background check for employment taken on 5/24/2017 that shows that I do not have a criminal history. In addition, pharmacist Minh Q. Tran has written a letter

attesting to my good character and moral ethics which I have also enclosed. I have known Mr. Tran for more than 10 years, and we worked together at Vons Pharmacy for several years, and most recently at Walmart Pharmacy for a short amount of time.

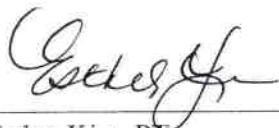
As for unprofessional conduct, which is committing an act that is detrimental or harmful to the patient or detrimental or harmful to the health, safety, and welfare of the public, I can conclude the validity of that statement in that I was giving medications to certain patients without payment. However, I never took the medications for myself for personal use, personal gain, or for sale, therefore, I can conclude that I did not knowingly endanger the welfare of the public. I absolutely went outside the scope of practice and unlawfully removed drugs from Walgreens Pharmacy in California which was wrong and I solemnly regret my actions. There isn't a day that goes by that I wish I could go back and change what I have done and the decision I made to break the law. I demonstrated bad judgment by making a very poor decision, making a life altering mistake that cannot be changed, and one I will not make again in the future. I absolutely acknowledge my mistakes, and am remorseful of the poor choices in my past. I am actively working to rehabilitate my career and it is my hope that with this statement, my previous and current remedial actions, and the letters supporting me as an honest and forthright employee and pharmacist, I have shown the Nevada State Board of Pharmacy that I am successfully working toward reformation and reestablishment of my good moral character.

At this time, I am asking for forgiveness from the Nevada State Board of Pharmacy; for my ignorance and being uninformed with regards to my unintentional non-disclosure of the surrender of my California license for 3 months and 6 days from the acceptance date. I am a good pharmacist and have contributed much in the communities that I have had the privilege of being employed, but I lost my way. It is my hope that I may be able to serve a paralleled sentence of probationary conditions from California here in Nevada so that I can work to bring my license back to good standing. My employer, as stated in their letter, is willing to serve as my probationary mentor, if so granted. With the board's permission, although there will be no dispensing of medications, Covenant Hospice Care would be willing to monitor my probation, if so granted, as a clinical pharmacist within the scope of drug utilization review, patient consultations, cost effective and therapeutic medication changes, formulary review, and involvement in patient care utilizing my general medication expertise. Therefore, I am formally asking permission of the board that if probation is granted, that I may practice pharmacy and be monitored outside of a formal pharmacy setting.

I would like to thank the Nevada State Board of Pharmacy for taking the time to review and hear my case.

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 20 day of June 2017.



Esther Kim, PT

**California State Board of Pharmacy**

1625 N. Market Blvd, N219, Sacramento, CA 95834

Phone: (916) 574-7900

Fax: (916) 574-8518

www.pharmacy.ca.gov

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY

DEPARTMENT OF CONSUMER AFFAIRS

GOVERNOR EDMUND G. BROWN JR.

APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACIST / INTERN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>Esther Kim</u>	Case No. <u>AC 201300504400</u>
Address of Record: <u>Po Box 3162</u> <u>Bla Bear city, CA 92314</u>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. AC 201300504400, I hereby request to surrender my license, License No. 66753. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

Upon the acceptance of the surrender, I shall relinquish my pocket and wall license to the Board within ten (10) days of notification by the Board that the surrender is accepted. I understand that I may not reapply for any license from the board for three (3) years from the effective date of the surrender. I further understand that I shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board, including any outstanding costs.

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

[Signature]
Applicant's Signature

[Signature]
Executive Officer's Approval

12/30/16
Date

1/5/17
Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

DEPARTMENT OF HEALTH AND HUMAN SERVICES
NEVADA DIVISION OF PUBLIC AND BEHAVIORAL HEALTH (DPBH)
(FORMERLY THE NEVADA STATE HEALTH DIVISION)

Notification of Clearance

This Determination is Fingerprint Based

06/02/2017:

RE: Esther Kim
COVENANT HOSPICE CARE - 8207
2950 E. FLAMINGO ROAD SUITE K
LAS VEGAS, NV 89121

Dear: JENNIFER BASILIO

A background investigation has been completed for the above referenced applicant in accordance with Nevada Revised Statutes (NRS) 449.123.

This letter is to advise you that there were no disqualifiers found in the investigation for the above referenced applicant.

This Notification of Clearance report must be available for inspection for the duration of the applicant's employment.

This applicant will now appear in your Determination Available queue in NABS. Select Hire or Close Without Hiring, as applicable.

If you have additional questions or concerns, you may contact us at 775-684-1070 or pbhbgcheck@health.nv.gov

Regards,

Department of Health and Human Services
Nevada Division of Public and Behavioral Health (DPBH)



Covenant Hospice Care

June 14, 2017

Edward Lopez, MBA, MHA

Director of Operations

Covenant Hospice Care

2950 E Flamingo Road, Suite K

Las Vegas, NV 89121

Nevada State Board of Pharmacy

431 W. Plumb Lane

Reno, NV

Re: Notice of Intended Action and Accusation Case No. 17-049-RPH-S

Dear Nevada State Board of Pharmacy,

My name is Edward Lopez, and I am the Director of Operations at Covenant Hospice Care. This letter is written with regards to pharmacist Esther Kim and her work here at our facility. Ms. Kim was hired on May 24, 2017, and she is fulfilling the position of Volunteer Coordinator. Her primary responsibilities are to recruit, train, and assist new volunteers in providing support, caregiver assistance, companionship, and other supportive services to the patients and families living with or experiencing a life-limiting illness. Through her work, we are building a strong foundation of skilled and trained volunteers who will be ready to assist when needed. Ms. Kim has been a great addition to our team, and we appreciate the work she is doing with us.

When Ms. Kim interviewed with us on May 11, 2017, for the aforementioned position, she was very forthcoming about the pending disciplinary action against her pharmacist license in the state of Nevada due to a disciplinary action taken against her license in the state of California. She was highly contrite during the interview and was open and honest about the pending case against her. We came to understand that she was not able to work as a pharmacist in any capacity until a decision was made in her case, which was why she was applying for employment outside the scope of her education. We decided to hire her in good faith due to her honesty which spoke to her good character, and she has been employed at our company since.



Covenant Hospice Care

Without presumption or assumption, in the case that Ms. Kim's pharmacist license in Nevada is placed on probationary terms through the good faith of the Nevada State Board of Pharmacy, pending the hearing on July 19, 2017; we at Covenant Hospice Care are willing to monitor Ms. Kim throughout her probationary efforts. In that, we are asking permission of the Board to allow Ms. Kim to practice pharmacy outside of a pharmacy setting. She would be working under the direct supervision of our Medical Director, Dr. Frank Paul, D.O., and she would be responsible for providing clinical services to our active hospice patients. This may include drug utilization review, patient consultation, cost-effective therapeutic medication changes, hospice drug formulary review, and participation in our bi-weekly Interdisciplinary Meetings where all active patients are discussed at length. There will be no dispensing of medications, however, Ms. Kim would be responsible for all things clinical with regard to patient care. We also ask permission of the board to allow our Administrative Director and proprietor, Jennifer Basilio, RN, to oversee and mentor Ms. Kim and make all necessary reports to the board as requested. Although Medical Director, Dr. Paul will be directly supervising Ms. Kim as pharmacist, Administrative Director, Jennifer Basilio, RN will have constant daily personal contact with Ms. Kim and will be able to better gauge Ms. Kim's character going forward.

Esther Kim has, thus far, been an honest, forthright and hard working employee. We appreciate your time and consideration.

Best Regards,

A handwritten signature in black ink, appearing to read 'E. Lopez', with a long, sweeping horizontal line extending to the right.

Edward Lopez , MBA, MHA

Director of Operations

Covenant Hospice Care

(702) 587-3131

Edward@covenanthospicecare.com

To Board Of Pharmacy:

6-17-17

My name is Minh Q. Tran and my license number is 15683. I have been a licensed practicing pharmacist in Nevada since 2002 and have been practicing pharmacy since August of 1994.

I have known Esther Kim for the past 14 years. She has always been a caring and empathetic professional who goes out of her way to help customers/patients. As co-workers, we often worked side by side and not once have I seen her do anything unlawful or unethical. She is very much by the books person. I can always rely on her and trust her to have my back. Outside of the work place, Esther is a trusted and dependable friend of mine. I can count on her in my time of need and vice versa. I hope the board will give Esther a second chance to prove to the board she is a good person and a trustworthy pharmacist.

Sincerely,

A handwritten signature in cursive script that reads "Minh Q. Tran".

Minh Q. Tran



May 31, 2015

Via Electronic Mail and USPS Certified Mail

Michael Brown
Deputy Attorney General
300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
MichaelB.Brown@doj.ca.gov

Re: **Stipulated Settlement Proposal**
OAH Case No. 2014100070, Agency Case No. 5044
Esther Kim - RPH 66753

Dear Deputy Attorney General Brown:

We hereby respectfully submit the following stipulated settlement proposal for your client's consideration.

The Accusation (Exhibit 1) alleges five (5) causes for discipline against Pharmacist Kim based on her admission of theft of dangerous drugs and controlled substances from her place of employment in 2012. Consequently, the Board of Pharmacy is seeking revocation or suspension of Pharmacist Kim's license to practice pharmacy as a California registered pharmacist.

Pharmacist Kim does not dispute the occurrence of the events alleged in the Accusation and deeply regrets her misguided actions. However, we believe that the penalty of Revocation sought by the complainant is disproportionately harsh to the charged violations for the following reasons:

Drugs were not taken for resale or personal gain.

While there is no excuse for her acts of unlawful removal of dangerous drugs from the pharmacy, the circumstances outlined even in the Board's own investigation report indicate that Pharmacist Kim's action were motivated, to a large part, by her altruistic desire to assist those who were unable to purchase their necessary medication. Thus, the absence of desire for personal profit should be considered as a mitigating factor when determining the severity of penalty assessed against Ms. Kim.

Prompt restitution.

Pharmacist Kim promptly provided restitution for the full value of all drugs removed from the pharmacy. Her full restitution was acknowledged in the Board's



investigation report as well. In fact, no criminal charges were filed against Pharmacist Kim.

Strong remedial and mitigation efforts.

Pharmacist Kim is consistently providing valuable professional services to her community and is continuously engaged in numerous mitigation efforts to demonstrate reformation and sincere remorse for the actions that led to these proceedings. Exhibit 2 is a supporting statement provided by Ms. Kim's current supervisor, Pharmacy Manager of Rite Aid Pharmacy in Blue Jay, CA, where she has been employed as a staff pharmacist since July of 2014. In it, her supervisor describes Ms. Kim's desire to ensure regulatory compliance, her personal conduct, and her work ethic as "beyond reproach."

Pharmacist Kim is also engaged in extensive volunteer work to improve the lives of those in need of assistance. Since November of 2014, Ms. Kim has been providing pharmacy consulting services at no cost to the Serenity Lodge Lake Arrowhead in Crest Park, CA (Exhibit 3).

Pharmacist Kim also voluntarily initiated a plan of structured financial donations to the Tree of Life Ministries for the purpose of providing medication to those who would otherwise be unable to obtain them (Exhibit 4). Ms. Kim will be continuing these donations regularly.

Ms. Kim is also actively involved in voluntary educational efforts to combat drug abuse by teens. She is donating her time and professional expertise to educate students at the Rim of The World High School in Lake Arrowhead, CA, about the dangers associated with improper use of prescription and non-prescription drugs as well as the abuse of illicit substances (Exhibit 5).

Settlement Proposal.

In summary, Pharmacist Kim acknowledges her mistakes and poor choices in her past, but is actively, earnestly, and generously giving her time, money, and effort to provide retribution to her community and her profession.

Based on the foregoing, we respectfully submit a settlement proposal wherein Pharmacist Kim admits to the truth of the violations alleged in the Accusation. While the seriousness of her offenses cannot be denied, we believe Ms. Kim's remedial and mitigation actions outlined above clearly point to her successful reformation and reestablishment of her good moral character.

We believe that the minimum Category II penalty, i.e., Stayed Revocation and three years' probation is more than adequate discipline for the infractions charged in the Accusation. The respondent hereby offers to stipulate to the following terms of a Stipulated Settlement Agreement:



STANDARD TERMS 1 THROUGH 15

1. Obey All Laws
2. Report to the Board
3. Interview with the Board
4. Cooperate with Board Staff
5. Continuing Education
6. Notice to Employers
7. No Supervision of Interns, Serving as PIC, or Serving as a Consultant
8. Reimbursement of Board Costs
9. Probation Monitoring Costs
10. Status of License
11. License Surrender While on Probation/Suspension
12. Notification of Change in Name, Residence Address, Mailing Address or Employment
13. Tolling of Probation
14. Violation of Probation
15. Completion of Probation

40. Ethics Course

Please feel free to contact me at your convenience for more information or any questions you may have. We thank you in advance for the opportunity to resolve this matter out of court.

Respectfully yours,

A handwritten signature in black ink, appearing to read 'Tony J. Park', written in a cursive style.

Tony J. Park, Pharm.D., J.D.
TPark@CAPharmacyLaw.com
(949) 336-7854

WALGREENS

AGREEMENT TO REPAY

PRINTED NAME: Eather Kim DATE: 10/24/12

DATE OF BIRTH: 6/19/79 859

ADDRESS: PO Box 3162 / Waldstrasse Wy

CITY: Big Bear City STATE: CA ZIP: 92314

FOR VALUE RECEIVED, I Eather Kim voluntarily promise to repay to WALGREENS, restitution in the sum of \$1564.48. I voluntarily agree to pay WALGREENS \$1564.48 in cash today. In addition, I agree to repay the remaining amount due (\$ 0). I understand that this amount does not include any sum that may be unpaid under related civil demand statutes as explained below. Payments shall be made to the Law Offices of Palmer, Reifler & Associates, P.O. Box 607774, Orlando, Florida 32860-7774.

I understand I will be receiving a letter from the Law Offices of Palmer, Reifler & Associates, on behalf of WALGREENS, in the near future, to make arrangements for the payment of this remaining amount due. In the event of my failure to pay the above stated sum, I also agree that I will pay all costs and charges of collection including a reasonable attorney's fee.

I sign this Agreement to Repay voluntarily, in recognition of my wrongful appropriation of money and/or property from WALGREENS. I understand that no promises of immunity from criminal prosecution or termination of employment have been made to me by officers or agents of WALGREENS. In the event any portion of this note shall be determined to be void for any reason, that shall not affect the remaining provisions of this note.

SIGNED: Eather Kim DATE: 10/24/12

HOME PHONE #: (702) 217 0944

WITNESS: John Palmer DATE: 10/24/12

WITNESS: Michelle K. Horn DATE: 10/24/12

NEAREST RELATIVE: Lydia Kim PHONE #: (702) 635 2533

LOCATION OF STORE: 4207 Big Bear Blvd STORE #: 10420
Big Bear City, CA 92314

Pending Requests - 10420

Help

WPOS

Receipt
SelectionReceipt
HeadersReceipt
Details**Paid In - Miscellaneous Income**

Manager ID : 130-HUGH

Cashier ID: 130-HUGH

Start Date : 10/24/2012 06:09PM

Terminal Number : 71

Cashier ID : 130-HUGH

End Date : 10/24/2012 06:10PM

Transaction
Number : 9899

Transaction Total : 7,564.48

[Prev Trans / Next Trans]

Time	Item Description	Item Number	Tax	Qty	Unit Price	Price	Final Price	Action	Reason	Spec Ind	NoF
06:09:53 PM	MISC INCOME	42200009382	0	1			7,564.48	Pay In	Miscellaneous Income		
						Sub Total	7,564.48				
						Total	7,564.48				

Time	Payment Type	Payment Details	Mode	Approved Amount
06:10:04 PM	BANK DEBIT	436618*****9294	EXP DATE 11/13 card swiped	7,564.48

Back

Cancel

Operator: PrLP

Store 10420

WPOS_10_0_

EXHIBIT 02

Deon Venter
Po Box 951
Blue Jay, CA
92617

To whom it may concern


I , Deon Venter , Pharmacy manager at Rite Aid in Blue Jay , California since July 2014 , would like to state the following regarding my Staff Pharmacist , Esther Kim.

I have known Esther since I started here at Rite Aid in July 2014 . I have observed in her a strict and uncompromising work ethic. She abides by all the rules and regulations that governs the pharmacy profession . Her personal conduct and the way she makes sure the rest of the pharmacy staff follows state law is beyond reproach .

Since this store had special challenges, Esther helped with setting up and implementing systems and procedures to ensure that all regulations regarding controlled substances are followed and ensures that all staff are in compliance with the law as well as the strict company regulations.

I have never observed any unlawful, unethical or unprofessional conduct by

Esther .


Deon Venter .

Serenity Lodge Lake Arrowhead
Addiction Treatment Center
985 Meadow Brook Rd.
Crest Park, CA 92326
(909) 742-9901

Re: Esther Kim, Pharmacist

This is a letter of recommendation for Esther Kim, pharmacist, and the work she has done for our center since November 2014.

~~I have known Esther since early 2014 as our center fills~~
the majority of the medications needed by our patients at Rite Aid Pharmacy in Blue Jay, CA, her place of employment. On November 3, 2014, she reached out to me, and offered to donate her time in assisting at the center in anything that may concern the patients and medication needs. Esther began her community work with us on November 12, 2014 and has been giving freely of her time every other Wed since then. Esther's work has included transitioning our patient records to a computer based record keeping system, assisting in patient in-take for our new arriving patients, attending group meetings to experience the environment to better relate to patients, and consulting patients on medication needs when needed. Having Esther at our facility has been a great advantage for us as it has helped us to become more knowledgeable in medications prescribed and has brought about a closer working relationship with the pharmacy. She has a good work ethic, and has great empathy for our patients as they go through the detoxification process. Esther's work throughout the year at Serenity Lodge has been appreciated and we look forward to our continued work with her.

Sincerely,

John M. Bitzer

John M. Bitzer
Director of Medical Services



EXHIBIT 05

May 20, 2015

My name is Yvonne Pantall, and I am the High School Guidance Counselor for Rim of The World High School in Lake Arrowhead, CA. This is a letter for and about Pharmacist, Esther Kim, and her contributions to our school over the last 6 months.

I met Esther in December of 2014 when she volunteered her time for an after school program we began in the beginning of the 2014-2015 school year called "Teens Against Drug Abuse." The program is designed to bring about awareness for teens and drug use in our small communities in and around Lake Arrowhead as the problem has risen over the last decade. Esther held an after school luncheon on January 28, 2015 for student members, and spoke about the practice of pharmacy and how we can all be more vigilant in bringing about awareness through knowledge. She has attended 3 of our monthly meetings and events since January and as our school year comes to an end, has expressed interest in working with us over the summer and throughout the next school year in assisting with ideas, and event planning.

Esther has been an asset to our program that is still very much in the beginning stages, and I look forward to continually working with her in the future.

Regards,



Yvonne Pantall
Rim of the World High School
Guidance Counselor, Grades 9-12
Lake Arrowhead, CA
(909) 547-6247

EXHIBIT 04

May 19, 2015

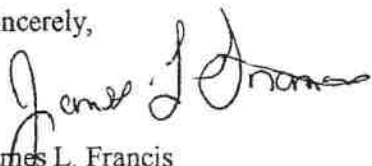
Tree of Life Ministries
PO Box 5625
Crestline, CA 92325
(909) 338-6016

Tree of Life Ministries is an organization that serves Crestline, Lake Arrowhead, and all other surrounding mountain communities. We largely help those less fortunate find food, shelter, employment, and medical assistance where needed.

This letter is to confirm that Esther Kim has donated five hundred dollars of her own funds to Tree of Life Ministries on May 19, 2015 for the use of medication purchase for those in need or less fortunate.

Esther Kim's donation will be of great assistance for those un-insured, and unemployed.

Sincerely,

A handwritten signature in black ink, appearing to read "James L. Francis". The signature is fluid and cursive, with the first name "James" being more prominent.

James L. Francis
Pastor
Tree of Life Ministries

EXHIBIT 04

Esther Kim, Pharm.D
(702) 217-0944
PO Box 3162
Big Bear City, CA 92314

94-169-1212
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5/19 20 15

Pay to the order of Tree of Life Ministries \$ 500.00
Five Hundred & no/100 Dollars

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USBANK.COM

For Esther Kim MP

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D. Morgan Licensed by eCollege Business Licensing, Springfield, RI

Deposited 5/21/15

Joan L. Jones