

UNITED STATES DEPARTMENT OF JUSTICE  
DRUG ENFORCEMENT ADMINISTRATION

In the Matter of

**PRONTO PHARMACY, LLC**

**Docket No. 19-42**

ADMINISTRATIVE LAW JUDGE

MARK M. DOWD

**GOVERNMENT'S PREHEARING STATEMENT**

John E. Beerbower  
Attorney  
Diversion and Regulatory Litigation  
Office of Chief Counsel  
8701 Morrisette Drive  
Springfield, Virginia 22152  
Office: (571) 362-7905

Dated: October 11, 2019

***notes: c+ refers to compounding statements are referred***



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Pursuant to the Administrative Law Judge's September 18, 2019 Order for Prehearing Statements and September 23, 2019 Order Granting Respondent's Unopposed Motion for Extension of Time, the Government submits its Prehearing Statement in the above-captioned matter.

### **ISSUE**

Whether the record as a whole establishes by a preponderance of the evidence that the DEA Certificate of Registration No. FP2302076 issued to Respondent should be revoked, and any pending applications for modification or renewal be denied, because its continued registration would be inconsistent with the public interest under 21 U.S.C. §§ 823(f) and 824(a)(4).

### **REQUESTED RELIEF**

The Government requests that the Tribunal recommend that Respondent's DEA Certificate of Registration No. FP2302076 be revoked, and any pending applications for renewal or modification be denied, on the grounds that its acts have rendered its continued registration inconsistent with the public interest under 21 U.S.C. §§ 823(f) and 824(a)(4).

### **PROPOSED STIPULATIONS OF FACT**

- Stipulation No. 1: Respondent is registered with the DEA to handle controlled substances in Schedules II through V under Certificate of Registration No. FP2302076.
- Stipulation No. 2: Respondent's registered address is 1461 West Busch Boulevard, Tampa, Florida 33612.
- Stipulation No. 3: Respondent's DEA Certificate of Registration expires by its own terms on March 31, 2022.

- Stipulation No. 4: Respondent is presently licensed in the State of Florida as a “community pharmacy” under license number PH24944.
- Stipulation No. 5: Respondent’s state pharmacy license expires by its own terms on February 28, 2021.
- Stipulation No. 6: Norman J. Clement, Sr. is the owner and pharmacist-in-charge at Respondent.
- Stipulation No. 7: Mr. Clement is registered in the State of Florida as a pharmacist under license number PS37644.
- Stipulation No. 8: Mr. Clement’s state pharmacist license expires by its own terms on September 30, 2019.
- Stipulation No. 9: Oxycodone is listed by the DEA as a Schedule II controlled substance.
- Stipulation No. 10: Hydromorphone is listed by the DEA as a Schedule II controlled substance.
- Stipulation No. 11: Alprazolam is listed by the DEA as a Schedule IV controlled substance.
- Stipulation No. 12: Morphine Sulfate is listed by the DEA as a Schedule II controlled substance.
- Stipulation No. 13: Methadone is listed by the DEA as a Schedule II controlled substance.
- Stipulation No. 14: Cape Coral, Florida is located approximately 140 miles from Respondent’s registered address.
- Stipulation No. 15: Fort Myers, Florida is located approximately 130 miles from Respondent’s registered address.
- Stipulation No. 16: Lehigh Acres, Florida is located approximately 145 miles from Respondent’s registered address.
- Stipulation No. 17: Immokalee, Florida is located approximately 160 miles from Respondent’s registered address.
- Stipulation No. 18: Opa-locka, Florida is located approximately 270 miles from Respondent’s registered address.

## **11 patients for discussion**

Stipulation No. 19: Pursuant to Fla. Admin. Code r. 64k-1.004, Respondent is required to report its controlled substance dispensing information to the Florida Prescription Drug Monitoring Database no later than 7 days after the controlled substance is dispensed.

Stipulation No. 20: Respondent reported the facts contained in Stipulations Nos. 21 through 194 to the Florida Prescription Drug Monitoring Program database pursuant to Fla. Admin. Code r. 64k-1.004.

### **1. Patient A.G. *jan 17, 2018 to april 12, 2019; No. 21 thru 47***

Stipulation No. 21: From January 17, 2018 through April 12, 2019, Patient A.G. resided in Cape Coral, Florida.

Stipulation No. 22: On or about January 17, 2018, Respondent dispensed 1 gram (a 28-day supply) of Hydromorphone HCL Powder to Patient A.G.

Stipulation No. 23: On or about January 25, 2018, Respondent dispensed 30 tablets (a 30-day supply) of Alprazolam 2 mg to Patient A.G.

Stipulation No. 24: On or about January 25, 2018, Respondent dispensed 140 tablets (a 30-day supply) of Oxycodone HCL 30 mg to Patient A.G.

Stipulation No. 25: On or about February 7, 2018, Respondent dispensed 1 gram (a 23-day supply) of Hydromorphone HCL Powder to Patient A.G.

Stipulation No. 26: On or about February 12, 2018, Respondent dispensed 4 grams (a 28-day supply) of Oxycodone HCL Powder to Patient A.G.

Stipulation No. 27: On or about February 21, 2018, Respondent dispensed 30 tablets (a 30-day supply) of Alprazolam 2 mg to Patient A.G.

Stipulation No. 28: On or about March 1, 2018, Respondent dispensed 30 tablets (a 30-day supply) of Alprazolam 2 mg to Patient A.G.

Stipulation No. 29: On or about March 1, 2018, Respondent dispensed 1 gram (a 30-day supply) of Hydromorphone HCL Powder to Patient A.G.

Stipulation No. 30: On or about March 8, 2018, Respondent dispensed 144 tablets (a 144-day supply) of Oxycodone HCL 30 mg to Patient A.G.

Stipulation No. 31: On or about April 12, 2018, Respondent dispensed 30 tablets (a 30-day supply) of Alprazolam 2 mg to Patient A.G.

- Stipulation No. 32: On or about April 12, 2018, Respondent dispensed 1 gram (a 28-day supply) of Hydromorphone HCL Powder to Patient A.G.
- Stipulation No. 33: On or about April 20, 2018, Respondent dispensed 144 tablets (a 28-day supply) of Oxycodone HCL 30 mg to Patient A.G.
- Stipulation No. 34: On or about May 8, 2018, Respondent dispensed 30 tablets (a 30-day supply) of Alprazolam 2 mg to Patient A.G.
- Stipulation No. 35: On or about May 8, 2018, Respondent dispensed 1.152 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient A.G.
- Stipulation No. 36: On or about May 16, 2018, Respondent dispensed 144 tablets of Oxycodone HCL 30 mg (a 30-day supply) to Patient A.G.
- Stipulation No. 37: On or about December 20, 2018, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient A.G.
- Stipulation No. 38: On or about December 20, 2018, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 30-day supply) to Patient A.G.
- Stipulation No. 39: On or about January 17, 2018, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient A.G.
- Stipulation No. 40: On or about January 17, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 28-day supply) to Patient A.G.
- Stipulation No. 41: On or about February 14, 2019, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient A.G.
- Stipulation No. 42: On or about February 14, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 28-day supply) to Patient A.G.
- Stipulation No. 43: On or about March 20, 2019, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient A.G.
- Stipulation No. 44: On or about March 20, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 28-day supply) to Patient A.G.
- Stipulation No. 45: On or about April 12, 2019, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient A.G.
- Stipulation No. 46: On or about April 12, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 28-day supply) to Patient A.G.

Stipulation No. 47: Patient A.G. paid cash for all of the prescriptions for controlled substances that he filled at Respondent.

**2. Patient A.H. febr 15, 2018 thru april 28, 2019; No. 48 to 64**

Stipulation No. 48: From February 15, 2018 through April 28, 2019, Patient A.H. resided in Cape Coral, Florida.

Stipulation No. 49: On or about February 15, 2018, Respondent dispensed 1.2 grams of Hydromorphone HCL powder (a 28-day supply) to Patient A.H.

Stipulation No. 50: On or about February 15, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient A.H.

Stipulation No. 51: On or about March 5, 2018, Respondent dispensed 1.2 grams of Hydromorphone HCL powder (a 28-day supply) to Patient A.H.

Stipulation No. 52: On or about March 5, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient A.H.

Stipulation No. 53: On or about April 3, 2018, Respondent dispensed 1.2 grams of Hydromorphone HCL powder (a 30-day supply) to Patient A.H.

Stipulation No. 54: On or about April 3, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient A.H.

Stipulation No. 55: On or about May 2, 2018, Respondent dispensed 1.2 grams of Hydromorphone HCL powder (a 25-day supply) to Patient A.H.

Stipulation No. 56: On or about May 2, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient A.H.

Stipulation No. 57: On or about September 11, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL powder (a 30-day supply) to Patient A.H.

Stipulation No. 58: On or about December 5, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL powder (a 28-day supply) to Patient A.H.

Stipulation No. 59: On or about January 22, 2019, Respondent dispensed 120 tablets of Hydromorphone 8 mg (a 30-day supply) to Patient A.H.

Stipulation No. 60: On or about February 15, 2019, Respondent dispensed 120 tablets of Hydromorphone 8 mg (a 30-day supply) to Patient A.H.

Stipulation No. 61: On or about February 27, 2019, Respondent dispensed 120 tablets of Hydromorphone 8 mg (a 30-day supply) to Patient A.H.

Stipulation No. 62: On or about March 14, 2019, Respondent dispensed 120 tablets of Hydromorphone 8 mg (a 28-day supply) to Patient A.H.

Stipulation No. 63: On or about April 18, 2019, Respondent dispensed 120 tablets of Hydromorphone 8 mg (a 30-day supply) to Patient A.H.

Stipulation No. 64: Patient A.H. paid cash for all of the prescriptions for controlled substances that he filled at Respondent.

**3. Patient B.S. *jan 29, 2018 thru April 22, 2018; No. 65- 83***

Stipulation No. 65: From January 29, 2018 through April 22, 2019, Patient B.S. resided in Fort Myers, Florida.

Stipulation No. 66: On or about January 29, 2018, Respondent dispensed 56 tablets of Alprazolam 2 mg (a 28-day supply) to Patient B.S.

Stipulation No. 67: On or about January 29, 2018, Respondent dispensed 1 gram of Hydromorphone HCL Powder (a 30-day supply) to Patient B.S.

Stipulation No. 68: On or about February 28, 2018, Respondent dispensed 1 gram of Hydromorphone HCL Powder (a 28-day supply) to Patient B.S.

Stipulation No. 69: On or about March 26, 2018, Respondent dispensed 1 gram of Hydromorphone HCL Powder (a 30-day supply) to Patient B.S.

Stipulation No. 70: On or about April 23, 2018, Respondent dispensed 1.184 grams of Hydromorphone HCL Powder (a 28-day supply) to Patient B.S.

Stipulation No. 71: On or about April 25, 2019, Respondent dispensed 56 tablets of Alprazolam 2 mg (a 28-day supply) to Patient B.S.

Stipulation No. 72: On or about May 22, 2018, Respondent dispensed 56 tablets of Alprazolam 2 mg (a 30-day supply) to Patient B.S.

Stipulation No. 73: On or about May 22, 2018, Respondent dispensed 1.184 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient B.S.

Stipulation No. 74: On or about December 20, 2018, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient B.S.

Stipulation No. 75: On or about December 20, 2018, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 30-day supply) to Patient B.S.

Stipulation No. 76: On or about January 31, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 30-day supply) to Patient B.S.

Stipulation No. 77: On or about February 5, 2019, Respondent dispensed 112 tablets of Hydromorphone 8 mg (a 28-day supply) to Patient B.S.

Stipulation No. 78: On or about February 28, 2019, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient B.S.

Stipulation No. 79: On or about February 28, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 30-day supply) to Patient B.S.

Stipulation No. 80: On or about March 26, 2019, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient B.S.

Stipulation No. 81: On or about March 26, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 28-day supply) to Patient B.S.

Stipulation No. 82: On or about April 22, 2019, Respondent dispensed 0.896 grams of Hydromorphone HCL Powder (a 28-day supply) to Patient B.S.

Stipulation No. 83: Patient B.S. paid cash for all of the prescriptions for controlled substances that she filled at Respondent.

**4. Patient C.R. *Mar 6, 2018 thru July 12, 2019; No. 84 to 92***

Stipulation No. 84: From March 6, 2018 through July 12, 2019, Patient C.R. resided in Fort Myers, Florida.

Stipulation No. 85: On or about March 6, 2018, Respondent dispensed 120 tablets of Oxycodone HCL 30 mg (a 30-day supply) to Patient C.R.

Stipulation No. 86: On or about March 6, 2018, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient C.R.

Stipulation No. 87: On or about April 19, 2018, Respondent dispensed 120 tablets of Oxycodone HCL 30 mg (a 30-day supply) to Patient C.R.



Stipulation No. 88: On or about April 19, 2018, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient C.R.

Stipulation No. 89: On or about July 12, 2018, Respondent dispensed 120 tablets of Oxycodone HCL 30 mg (a 30-day supply) to Patient C.R.

Stipulation No. 90: On or about July 12, 2018, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient C.R.

Stipulation No. 91: On or about July 12, 2018, Respondent dispensed 60 tablets of Morphine Sulfate ER 30 mg (a 30-day supply) to Patient C.R.

Stipulation No. 92: Patient C.R. paid cash for all of the prescriptions for controlled substances that she filled at Respondent.

**5. Patient J.D. *jan 15, 2018 thru jun30,2018; No. 93-103***

Stipulation No. 93: From January 15, 2018 through June 30, 2018, Patient J.D. resided in Cape Coral, Florida.

Stipulation No. 94: On or about January 15, 2018, Respondent dispensed 1.2 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient J.D.

Stipulation No. 95: On or about February 14, 2018, Respondent dispensed 1.2 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient J.D.

Stipulation No. 96: On or about March 14, 2018, Respondent dispensed 1.2 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient J.D.

Stipulation No. 97: On or about March 14, 2018, Respondent dispensed 180 tablets of Methadone HCL 10 mg (a 30-day supply) to Patient J.D.

Stipulation No. 98: On or about April 12, 2018, Respondent dispensed 1.2 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient J.D.

Stipulation No. 99: On or about May 10, 2018, Respondent dispensed 0.72 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient J.D.

Stipulation No. 100: On or about May 30, 2018, Respondent dispensed 0.72 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient J.D.

Stipulation No. 101: On or about June 15, 2018, Respondent dispensed 0.72 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient J.D.

Stipulation No. 102: On or about June 30, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient J.D.

Stipulation No. 103: Patient J.D. paid cash for all of the prescriptions for controlled substances that she filled at Respondent.

**6. Patient J.M. *jan 25,2018 thru aug 9, 2018; No. 104-116***

Stipulation No. 104: From January 25, 2018 through August 9, 2018, Patient J.M. resided in Lehigh Acres, Florida.

Stipulation No. 105: On or about January 25, 2018, Respondent dispensed 150 tablets of Oxycodone HCL 30 mg (a 30-day supply) to Patient J.M.

Stipulation No. 106: On or about January 25, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient J.M.

Stipulation No. 107: On or about March 1, 2018, Respondent dispensed 3.6 grams of Oxycodone HCL Powder (a 28-day supply) to Patient J.M.

Stipulation No. 108: On or about March 1, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient J.M.

Stipulation No. 109: On or about April 4, 2018, Respondent dispensed 120 tablets of Oxycodone 30 mg HCL (a 28-day supply) to Patient J.M.

Stipulation No. 110: On or about April 4, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient J.M.

Stipulation No. 111: On or about April 19, 2018, Respondent dispensed 3.6 grams of Oxycodone HCL Powder (a 20-day supply) to Patient J.M.

Stipulation No. 112: On or about April 19, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient J.M.

Stipulation No. 113: On or about May 16, 2018, Respondent dispensed 120 tablets of Oxycodone 30 mg HCL (a 28-day supply) to Patient J.M.

Stipulation No. 114: On or about May 16, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient J.M.

Stipulation No. 115: On or about August 9, 2018, Respondent dispensed 120 tablets of Oxycodone 30 mg HCL (a 28-day supply) to Patient J.M.

Stipulation No. 116: Patient J.M. paid cash for all of the prescriptions for controlled substances that she filled at Respondent.

**7. Patient M.M. *January 24, 2018 thru April 16, 2019; No. 117-129***

Stipulation No. 117: From January 24, 2018 through April 16, 2019, Patient M.M. resided in Lakeland, Florida.

Stipulation No. 118: On or about January 24, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient M.M.

Stipulation No. 119: On or about February 22, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient M.M.

Stipulation No. 120: On or about March 21, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL Powder (a 20-day supply) to Patient M.M.

Stipulation No. 121: On or about April 18, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient M.M.

Stipulation No. 122: On or about May 16, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient M.M.

Stipulation No. 123: On or about July 18, 2018, Respondent dispensed 0.72 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient M.M.

Stipulation No. 124: On or about January 3, 2019, Respondent dispensed 120 tablets of Hydromorphone 8 mg (a 28-day supply) to Patient M.M.

Stipulation No. 125: On or about January 24, 2019, Respondent dispensed 120 tablets of Hydromorphone 8 mg (a 30-day supply) to Patient M.M.

Stipulation No. 126: On or about February 19, 2019, Respondent dispensed 120 tablets of Hydromorphone 8 mg (a 30-day supply) to Patient M.M.

Stipulation No. 127: On or about March 15, 2019, Respondent dispensed 120 tablets of Hydromorphone 8 mg (a 28-day supply) to Patient M.M.

Stipulation No. 128: On or about April 16, 2019, Respondent dispensed 120 tablets of Hydromorphone 8 mg (a 30-day supply) to Patient M.M.

Stipulation No. 129: Patient M.M. paid cash for all of the prescriptions for controlled substances that she filled at Respondent.

**8. Patient R.B. *January 29, 2018 thru April 15, 2019; No.130 - 151***

Stipulation No. 130: From January 29, 2018 through April 15, 2019, Patient R.B. resided in Fort Myers, Florida.

Stipulation No. 131: On or about January 29, 2018, Respondent dispensed 1.2 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient R.B.

Stipulation No. 132: On or about January 29, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient R.B.

Stipulation No. 133: On or about February 23, 2018, Respondent dispensed 1.2 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient R.B.

Stipulation No. 134: On or about February 23, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient R.B.

Stipulation No. 135: On or about March 20, 2018, Respondent dispensed 1.2 grams of Hydromorphone HCL Powder (a 25-day supply) to Patient R.B.

Stipulation No. 136: On or about March 20, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient R.B.

Stipulation No. 137: On or about April 17, 2018, Respondent dispensed 1.2 grams of Hydromorphone HCL Powder (a 25-day supply) to Patient R.B.

- Stipulation No. 138: On or about April 17, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient R.B.
- Stipulation No. 139: On or about May 16, 2018, Respondent dispensed 1.2 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient R.B.
- Stipulation No. 140: On or about May 16, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient R.B.
- Stipulation No. 141: On or about September 12, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL Powder (a 120-day supply) to Patient R.B.
- Stipulation No. 142: On or about September 12, 2018, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient R.B.
- Stipulation No. 143: On or about January 22, 2019, Respondent dispensed 0.96 grams of Hydromorphone HCL Powder (a 31-day supply) to Patient R.B.
- Stipulation No. 144: On or about January 22, 2019, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient R.B.
- Stipulation No. 145: On or about February 18, 2019, Respondent dispensed 120 tablets of Hydromorphone 8 mg (a 28-day supply) to Patient R.B.
- Stipulation No. 146: On or about February 18, 2019, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient R.B.
- Stipulation No. 147: On or about March 18, 2019, 2019, Respondent dispensed 120 tablets of Hydromorphone 8 mg (a 30-day supply) to Patient R.B.
- Stipulation No. 148: On or about March 18, 2019, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient R.B.
- Stipulation No. 149: On or about April 15, 2019, Respondent dispensed 120 tablets of Hydromorphone 8 mg (a 30-day supply) to Patient R.B.
- Stipulation No. 150: On or about April 15, 2019, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient R.B.
- Stipulation No. 151: Patient R.B. paid cash for all of the prescriptions for controlled substances that she filled at Respondent.

**9. Patient N.B. *January 16, 2018 thru April 10, 2019; No. 152-167***

Stipulation No. 152: From January 16, 2018 through April 10, 2019, Patient N.B. resided in Cape Coral, Florida.

Stipulation No. 153: On or about January 16, 2018, Respondent dispensed 1.184 grams of Hydromorphone HCL Powder (a 28-day supply) to Patient N.B.

Stipulation No. 154: On or about February 8, 2018, Respondent dispensed 1.184 grams of Hydromorphone HCL Powder (a 28-day supply) to Patient N.B.

Stipulation No. 155: On or about March 6, 2018, Respondent dispensed 1.184 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient N.B.

Stipulation No. 156: On or about April 2, 2018, Respondent dispensed 1.184 grams of Hydromorphone HCL Powder (a 28-day supply) to Patient N.B.

Stipulation No. 157: On or about May 1, 2018, Respondent dispensed 1.184 grams of Hydromorphone HCL Powder (a 25-day supply) to Patient N.B.

Stipulation No. 158: On or about September 14, 2018, Respondent dispensed 0.896 grams of Hydromorphone HCL Powder (a 28-day supply) to Patient N.B.

Stipulation No. 159: On or about September 14, 2018, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient N.B.

Stipulation No. 160: On or about December 20, 2018, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 30-day supply) to Patient N.B.

Stipulation No. 161: On or about December 20, 2018, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 30-day supply) to Patient N.B.

Stipulation No. 162: On or about January 16, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 30-day supply) to Patient N.B.

Stipulation No. 163: On or about January 16, 2019, Respondent dispensed 30 tablets of Alprazolam 1 mg (a 16-day supply) to Patient N.B.

Stipulation No. 164: On or about February 22, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 28-day supply) to Patient N.B.

Stipulation No. 165: On or about March 13, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 28-day supply) to Patient N.B.

Stipulation No. 166: On or about April 10, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 28-day supply) to Patient N.B.

Stipulation No. 167: Patient N.B. paid cash for all of the prescriptions for controlled substances that she filled at Respondent.

**10. Patient R.G. *January 29, 2018 thru aug 10, 2018; No. 168-181***

Stipulation No. 168: From January 29, 2018 through August 10, 2018, Patient R.G. resided in Cape Coral, Florida.

Stipulation No. 169: On or about January 29, 2018, Respondent dispensed 4.5 grams of Oxycodone HCL Powder (a 30-day supply) to Patient R.G.

Stipulation No. 170: On or about January 29, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient R.G.

Stipulation No. 171: On or about February 21, 2018, Respondent dispensed 4.5 grams of Oxycodone HCL Powder (a 30-day supply) to Patient R.G.

Stipulation No. 172: On or about February 21, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient R.G.

Stipulation No. 173: On or about March 19, 2018, Respondent dispensed 4.5 grams of Oxycodone HCL Powder (a 30-day supply) to Patient R.G.

Stipulation No. 174: On or about March 19, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient R.G.

Stipulation No. 175: On or about April 17, 2018, Respondent dispensed 4.5 grams of Oxycodone HCL Powder (a 30-day supply) to Patient R.G.

Stipulation No. 176: On or about April 17, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient R.G.

Stipulation No. 177: On or about May 8, 2018, Respondent dispensed 4.5 grams of Oxycodone HCL Powder (a 30-day supply) to Patient R.G.

Stipulation No. 178: On or about May 8, 2018, Respondent dispensed 30 tablets of Alprazolam 2 mg (a 30-day supply) to Patient R.G.

Stipulation No. 179: On or about August 10, 2018, Respondent dispensed 2.1 grams of Oxycodone HCL Powder (an 11-day supply) to Patient R.G.

Stipulation No. 180: On or about August 10, 2018, Respondent dispensed 68 tablets of Oxycodone 30 mg (an 11-day supply) to Patient R.G.

Stipulation No. 181: Patient R.G. paid cash for all of the prescriptions for controlled substances that he filled at Respondent.

**11. Patient R.L. febr 1, 2018 thru april 16, 2019; No. 182-194**

Stipulation No. 182: From February 1, 2018 through April 16, 2019, Patient R.L. resided in Cape Coral, Florida.

Stipulation No. 183: On or about February 1, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient R.L.

Stipulation No. 184: On or about February 26, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient R.L.

Stipulation No. 185: On or about March 22, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient R.L.

Stipulation No. 186: On or about April 17, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient R.L.

Stipulation No. 187: On or about May 11, 2018, Respondent dispensed 0.96 grams of Hydromorphone HCL Powder (a 30-day supply) to Patient R.L.



Stipulation No. 188: On or about August 8, 2018, Respondent dispensed 0.896 grams of Hydromorphone HCL Powder (a 28-day supply) to Patient R.L.

Stipulation No. 189: On or about December 27, 2018, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 112-day supply) to Patient R.L.

Stipulation No. 190: On or about January 22, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 26-day supply) to Patient R.L.

Stipulation No. 191: On or about February 19, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 25-day supply) to Patient R.L.

Stipulation No. 192: On or about March 18, 2019, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 25-day supply) to Patient R.L.

Stipulation No. 193: On or about April 16, 2019, 2018, Respondent dispensed 112 tablets of Oxycodone HCL 30 mg (a 28-day supply) to Patient R.L.

Stipulation No. 194: Patient R.L. paid cash for all of the prescriptions for controlled substances that he filled at Respondent.

### **PROPOSED WITNESSES<sup>1</sup>**

1. DI Richard J. Albert, Drug Enforcement Administration – Tampa District Office,

4950 West Kennedy Boulevard, Tampa, Florida 33609

2. Jeffrey F. Shearer, Capstone Investigations, P.O. Box 4245, Clearwater, Florida

33758

3. Donald L. Sullivan, R.Ph., Ph.D., College of Pharmacy, The Ohio State

University, 500 West 12th Avenue, Columbus, Ohio 43210


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<sup>1</sup> The Government reserves the right to call rebuttal witnesses as well as any of the witnesses listed by Respondent, including Respondent's corporate representative, on matters identified by Respondent.


## SUMMARY OF TESTIMONY

### 1. Richard Albert

DI Albert will testify about his background, training, and experience as a Diversion Investigator with the DEA. He will testify that he was assigned to the Tampa District Office of the Miami Field Division of the DEA during the course of the investigation of Respondent and that he remains assigned there presently. He will testify that he is the lead Diversion Investigator assigned to the investigation of the Respondent.

DI Albert will testify he served an administrative subpoena, dated September 13, 2017, on Respondent, seeking the production of receiving and batch records for hydromorphone 8 mg and oxycodone 30 mg from January 1, 2017 through September 13, 2017.  DI Albert will authenticate copies of the batch records that were produced pursuant to the subpoena.

DI Albert will testify that, in June 2018, he conducted an analysis of information reported to the Florida Prescription Drug Monitoring Program (“PDMP”) by Respondent regarding Respondent’s dispensing of controlled substances from August 2017 to March 2018. DI Albert will testify that he identified approximately 600 patients that traveled in excess of two hours to fill their prescriptions for controlled substances at Respondent. He will further testify that all of those prescriptions were paid for in cash.

 DI Albert will also testify that, in June 2018, he conducted an analysis of the batch records for hydromorphone and oxycodone that were provided pursuant to the September 2017 subpoena. He will testify that the only ingredients identified in the

**C+** batch records for the compounding was the relevant controlled substance and “lactose.” DI Albert will testify that he spoke by telephone with a Senior Pharmacist at the Florida Department of Health who informed him that lactose **C+** would only be used as a “filler” ingredient in the compounding of capsules.

DI Albert will testify that DEA investigators executed an Administrative Inspection Warrant (“AIW”) at Respondent on or about September 10, 2018. DI Albert will describe the physical layout of the pharmacy, as he observed it in September 2018. DI Albert will testify that, during the execution of the AIW, he asked Respondent’s owner (Mr. Clement) several questions regarding Respondent’s compounding of controlled substances and procedures for resolving “red flags.” DI Albert will testify that Mr. Clement refused to answer these questions and referred investigators to his attorney. DI Albert will testify that, during the execution of the AIW, Mr. Clement was unfamiliar with the location of the records being sought or how they were maintained. DI Albert will testify that Mr. Clement’s son was contacted by telephone and, ultimately, was able to use the FaceTime feature on Mr. Clement’s iPad to direct DEA investigators to the locations of the records. DI Albert will testify that DEA investigators seized, among other things, records relating to the purchase of controlled substances by Respondent, dispensing logs, prescriptions logs, and patient records. DI Albert will authenticate copies of documents that were obtained during the execution of the AIW. DI Albert will testify that DEA investigators conducted an inventory of the hydrocodone and oxycodone present at Respondent on September 10, 2018. DI Albert will testify that

## ***Albert refers to capsules as being compounded***

C+ there were 3,546 capsules of compounded hydromorphone 8 mg; 470 tablets of commercially produced hydromorphone 8 mg; and 155.2 grams of hydromorphone powder present at Respondent. DI Albert will testify that there were 574 capsules of compounded oxycodone 30 mg; 204 tablets of commercially produced oxycodone 30 mg; and 26 grams of oxycodone powder present at Respondent. DI Albert will authenticate a copy of the inventory conducted on September 10, 2018.

C+ DI Albert will testify that he served Respondent with an Administrative Subpoena, dated May 10, 2019, seeking the complete “patient record system” for several identified patients; all records pertaining to those patients; copies all prescriptions for controlled substances filled for those patients; and the pharmacist notes for evaluating potential red flags raised by those prescriptions or patients. DI Albert will authenticate copies of documents produced in response to that subpoena.

DI Albert will testify that he accessed the Florida PDMP database and downloaded records of Respondent’s dispensing of controlled substances, as reported to the PDMP by Respondent. DI Albert will authenticate copies of those reports.

DI Albert will testify that members of the Tampa District Office served the Order to Show Cause/Immediate Suspension Order in this matter along with a criminal search warrant at Respondent’s registered address on August 29, 2019. He will testify that, during the execution of the warrant, DEA investigators searched a safe (located in the pharmacy’s private office) in which DEA investigators found numerous unlabeled pill bottles which contained capsules of hydromorphone or oxycodone. DI Albert will testify that the DEA seized approximately 990 capsules of

hydromorphone 8 mg and approximately 813 capsules of oxycodone 30 mg. He will testify that the DEA also seized one 100 gram bottle of oxycodone powder; one 100 gram bottle of hydromorphone powder; one partially-filled bottle of oxycodone powder weighing approximately 47.7 grams; and one partially-filled bottle of hydromorphone powder weighing approximately 45 grams.

## 2. Jeffrey Shearer

Mr. Shearer will testify that he was previously employed with the Tampa Police Department and previously served as a Task Force Officer with the DEA's Tampa Tactical Diversion Squad ("TDS"). He will about testify his background, training, and experience as a law enforcement officer.

Mr. Shearer will testify that, on or about May 1, 2012, the Tampa TDS executed a federal search warrant at Respondent's registered address. Mr. Shearer will testify that he conducted an interview with Respondent's owner (Mr. Clement). Mr. Shearer will testify that Mr. Clement was advised that he was free to leave at any time and was not in custody. He will testify that Mr. Clement remained in the customer waiting room at Respondent and agreed to be interviewed by investigators.

Mr. Shearer will testify that Mr. Clement explained to him that he was **C+** diligent in compounding the medication. Specifically, Mr. Clement explained that **C+** the formulation he used was "medically accurate" and that his compounding produced "the same dosage, same results" as the commercially available tablets and that "the only difference is the price." Mr. Clement confirmed that these medications were commercially available in tablet form, but that he had difficulty

obtaining them. Mr. Clement went on to explain that Respondent's "manufactured" capsules had the same "bio-availability" as the commercially produced tablets, but that Respondent manufactured the capsules because it was less expensive to produce them (than to purchase the tablets). Mr. Clement acknowledged that Respondent charged their patients the same price for capsules as they did for tablets.

Mr. Shearer will testify that he asked Mr. Clement how much is cost to produce the capsules and Mr. Clement responded that he had not calculated the cost. Mr. Shearer asked Mr. Clement what the cost of a 100 gram bottle of oxycodone powder would cost. Mr. Clement responded that it cost approximately \$1,100 for 100 grams of oxycodone and that he could produce approximately 6,000 dosage units from that bottle. Mr. Clement explained that it would take approximately 30 man hours to produce 6,000 dosage units and that the other associated costs of production were negligible. Mr. Clement went on to explain that distributors would not open an account for a pharmacy unless the pharmacy purchased a certain amount of non-controlled substances. Mr. Clement stated that the distributors had informed him that DEA "want a 30/70 percent ratio of controls." Mr. Clement explained that Respondent could not sell a sufficient amount of non-controlled substances to meet the ratio. As a result, Respondent would purchase non-controlled substances from distributors and then re-sell them on an internet-based marketplace to the pharmacies. Mr. Shearer asked when was the last time that a patient had filled a prescription for a non-controlled substance

at Respondent. Mr. Clement indicated that he did not recall such an occasion and stated: “We do controls here.” Mr. Clement explained that, because he had difficulty obtaining an account with a distributor, Respondent would be charged (by the distributor) as much as \$7.50 per dosage unit of oxycodone; whereas, Respondent could manufacture the same product for approximately \$0.31 per dosage unit (including labor costs).

C+ Mr. Shearer will testify that Mr. Clement explained the compounding process, including the use of batch records and the requirement that each step be initialed by the individual performing the process. When DEA investigators noted C+ that Respondent was compounding as many as 3,200 dosage units per batch, Mr. Clement explained that it would not be as cost-effective to wait to receive prescription orders before engaging in the compounding. Mr. Clement stated: “I can manufacture; I’m a pharmacist; I can make this.”

Mr. Shearer will testify that Mr. Clement told him that many of his customers want oxycodone in tablet form and have trouble accepting the capsules. Mr. Clement stated that he explains to customers that the medication is exactly the same whether it is dispensed in capsule or tablet form.

### 3. Donald L. Sullivan

Donald Sullivan will testify as an expert in pharmacy practice in the State of Florida and with respect to the federal regulations governing the dispensing of controlled substances by a pharmacy in the United States. He will testify regarding his background and experience in the field. He will authenticate a copy of his curriculum vitae.

Dr. Sullivan will testify that he reviewed dispensing and prescription logs and patient information maintained by Respondent and provided to him by DI Albert. He will testify that he also reviewed the Florida PDMP report of Respondent's dispensing behavior. He will testify that he concluded that Respondent repeatedly filled prescriptions for controlled substances without resolving obvious red flags of abuse and/or diversion and in violation of the pharmacist's "corresponding responsibility" under federal law. Dr. Sullivan will testify that Respondent violated the minimum standard of care for a Florida pharmacy and operated outside of the usual course of professional practice.

Dr. Sullivan will testify regarding the standard of care for a Florida pharmacy. He will testify regarding the requirements of Florida law for pharmacists, including the requirements imposed by Fla. Admin. Code r. 64B16-27.810, Fla. Admin. Code r. 64B16-27.800, Fla. Admin. Code r. 64B16-27.800 & Fla. Admin. Code r. 64B16-27.831. He will testify regarding a Florida pharmacist's responsibilities under federal law, including regarding a pharmacist's "corresponding responsibility" to ensure that a prescription for a controlled substance is legitimate prior to filling it. He will testify that a pharmacist has an affirmative obligation to identify and resolve various indicia of suspiciousness (i.e., certain "red flags") prior to dispensing controlled substances.

**THE RED FLAG DISCRIMINATION USED TO CRIMINALIZING A LEGAL OPERATION**

*It is clear these patients who are being targeted because of their social economic status and they are targeting me as a black man because my business is legitimate and the DOJ wants to target me as a criminal. Pronto Pharmacy doesn't dispense any medication without a prescriptions. The question of the red flag issue is non-issue to me because I don't challenge the Physician for diagnosing and writing prescriptions for the patients because i'm not authorized or qualified to challenge a physician diagnosis and treatment of his/her patients. Therefore, on the Red Flag issues the Questions, are they challenging me for filling the prescription or are they challenging the physician who wrote the prescription. Most notable criminalizing distant travel to have a prescription fill, their use of cash, debit or credit card another words. Some people travel the distant to get to their prescriptions filled because they are, "RED FLAG DISCRIMINATED AGAINST"*

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*While, it could therefore further be concluded no DEA Diversion Investigator Richard Albert of any kind is trained or authorize to challenge a physician diagnosis and treatment of a patient.*

*walt clement he will testify to*



### Cocktail Medications

Dr. Sullivan will testify that a common red flag of abuse or diversion is when a physician prescribes “cocktail medications,” which are combinations of controlled substances that are widely known to be abused or diverted, and which significantly increase a patient’s risk of morbidity or overdose. Dr. Sullivan will testify that Respondent repeatedly dispensed high doses of oxycodone or hydromorphone along with high dosages of other central nervous system depressant medications, such as benzodiazepines (e.g., alprazolam). Dr. Sullivan will testify that these controlled substances are dangerous when used in combination. For example, when opioids are combined with benzodiazepines, a patient’s risk of overdose by respiratory depression increases dramatically. Dr. Sullivan will testify that Respondent repeatedly filled prescriptions without resolving the red flag of “cocktail medications” for Patients A.G.; A.H.; B.S.; C.R.; J.M.; N.B.; and R.B.

### Early Refills

Dr. Sullivan will testify that filling prescriptions significantly or consistently early is a well-known red flag of diversion or abuse of controlled substances. Dr. Sullivan will testify that Respondent repeatedly filled prescriptions early and without resolving the red flag for Patients A.H., M.M., J.D., R.G., and R.L.

### Long Distances

Dr. Sullivan will testify that traveling long distances to obtain or fill controlled substances prescriptions is a well-known red flag of abuse or diversion. Dr. Sullivan will testify that Respondent nevertheless repeatedly dispensed

controlled substances to patients who had traveled such long distances to obtain or fill their prescriptions without addressing or resolving this red flag. Dr. Sullivan will testify that (according to the Florida PDMP data), between September 10, 2018 and May 6, 2019, Respondent filled:

- a. 86 prescriptions for patients with addresses in Cape Coral, Florida which is approximately 140 miles from Pronto Pharmacy;
- b. 145 prescriptions for patients with addresses in Fort Myers, Florida which is approximately 130 miles from Pronto Pharmacy;
- c. 41 prescriptions for patients with addresses in Lehigh Acres, Florida which is approximately 140 miles from Pronto Pharmacy;
- d. 15 prescriptions for patients with addresses in Immokalee, Florida which is approximately 150 miles from Pronto Pharmacy;
- e. 15 prescriptions for patients with addresses in Naples, Florida which is approximately 170 miles from Pronto Pharmacy; and
- f. 11 prescriptions for patients with addresses in Opa-locka, Florida which is approximately 270 miles from Pronto Pharmacy.

In addition, Dr. Sullivan will testify he looked at the long distances traveled by for Patients A.G.; A.H.; B.S.; C.R.; J.D.; J.M.; N.B; R.B.; R.G.; and R.L. and found that there was no justification for Respondent to fill these prescriptions for these patients who had traveled such long distances.

#### General Observations

Dr. Sullivan will testify that patients who pay exclusively cash for their controlled substances is a well-known red flag of diversion or abuse. Dr. Sullivan will testify that, on average, approximately 11 percent of all prescriptions filled by independently owned pharmacies in 2018 were paid for in cash nationally. Dr. Sullivan will testify that over 90 percent of the prescriptions for oxycodone 30 mg

***there is no such thing as price control in  
United States***

and hydromorphone 8 mg filled by Respondent were paid for with cash. Dr. Sullivan will testify that this is a significant red flag that the prescriptions being filled by Respondent were being abused and/or diverted and that a pharmacist who was properly exercising his corresponding responsibility would have recognized this and refused to fill most of these prescriptions.

Dr. Sullivan will further testify that prices charged by Respondent were excessive. Dr. Sullivan will testify that, according to the 2018 National Community Pharmacists Digest Financials, the average pharmacy makes a 22% gross margin (profit) on prescription drugs. According to their dispensing data, Respondent was making a 91% gross margin (profit) on every prescription it compounded and dispensed for hydromorphone 8mg capsules. Dr. Sullivan will testify that patients willing to pay such extremely inflated prices in cash for controlled substances are a potential red flag for abuse or diversion because customers taking prescriptions for legitimate medical needs would not pay such extreme prices for medication that can be purchased elsewhere for a fraction of the amount. Dr. Sullivan will testify that Respondent nevertheless repeatedly dispensed controlled substances to such cash-paying patients without resolving or addressing this red flag.

Dr. Sullivan will testify that it is a well-known red flag that the dispensing of a disproportionate number of prescriptions for the highest strength available for a particular controlled substance is a sign of illicit activity. Dr. Sullivan will testify that virtually all of the prescriptions for oxycodone and hydromorphone that Pronto Pharmacy “compounded” were for oxycodone 30 mg immediate release and

hydromorphone 8 mg immediate release (the highest strengths for these controlled substances). In addition, Dr. Sullivan will testify that, between January 11, 2018 and July 17, 2018, 100 percent of the oxycodone tablet prescriptions and 87 percent of the hydromorphone tablet prescriptions issued by a particular prescriber were for the highest strength available for those controlled substances. Dr. Sullivan will testify that a pharmacist who was properly exercising his corresponding responsibility would have recognized this and refused to fill most of these prescriptions.

**C+** Dr. Sullivan will testify that he reviewed Respondent's practice of "compounding" controlled substances, specifically hydromorphone and oxycodone.

**C+** Dr. Sullivan will opine that Respondent was "compounding" an unreasonably large quantity of oxycodone and hydromorphone capsules.

**C+** Dr. Sullivan will testify that "compounding" should be limited to individual patients who cannot be treated with a commercially available medication for an individualized reason, such as an allergy to a particular ingredient. Dr. Sullivan

**C+** will further testify that such allergies are rare and, as a result, "compounded" medications should not form a significant part of a pharmacy's dispensing. Dr.

**C+** Sullivan will testify that Respondent was "compounding" medication in quantities that far exceeded the amounts that would be expected from a legitimate retail pharmacy.

**C+** Dr. Sullivan will testify that a compounded capsule form of a controlled substance poses a heightened risk of abuse and/or diversion because capsules can

C+

more easily be converted into an injectable form (a preferred method of abuse) than a tablet can. As a result, a controlled substance should not be compounded when

there is a commercially available alternative that poses a lower risk of abuse and/or

C+

diversion. Dr. Sullivan will testify that both oxycodone 30 mg and hydromorphone 8 mg tablets are readily available from multiple commercial suppliers. As a result,

C+

Dr. Sullivan will testify that Respondent was not legitimately “compounding” these medications consistent with the standard of practice at a retail pharmacy.

### EXHIBITS

Government Exhibit No. 1	DEA Certificate of Registration No. FP2302076 (1 page)
Government Exhibit No. 2	DEA e222 Forms for Purchases from Auburn Pharmaceutical (52 pages)
Government Exhibit No. 3	Ordering Forms for Purchases from B&B Pharmaceuticals (5 pages)
Government Exhibit No. 4	Order Forms for Purchases from Fagron Inc. (5 pages)
Government Exhibit No. 5	Non-Sterile Manufacturing Batch Records for Hydromorphone (January 2017 to September 2017) (36 pages)
Government Exhibit No. 6	Non-Sterile Manufacturing Batch Records for Oxycodone (January 2017 to September 2017) (15 pages)
Government Exhibit No. 7	Respondent’s Closing Inventory (dated September 10, 2018) (1 page).
Government Exhibit No. 8	Florida PDMP Data from Respondent for September 10, 2018 to May 7, 2019
Government Exhibit No. 9	Florida PDMP Data from Respondent for January 9, 2018 to January 7, 2019

Government Exhibit No. 10	Florida PDMP Data from Respondent for September 21, 2016 to June 27, 2018
Government Exhibit No. 11	Respondent's Prescription Log for June 1, 2017 to September 7, 2018
Government Exhibit No. 12	Pronto "Three Month Dispensing Report" for November 2, 2015 to February 1, 2016
Government Exhibit No. 13	Respondent's Dispensing Report (September 2017 to September 2018)
Government Exhibit No. 14	PDMP Report for Patient A.G.
Government Exhibit No. 15	Patient Report for Patient A.G.
Government Exhibit No. 16	Dispensing Report for Patient A.G.
Government Exhibit No. 17	Prescription Log Report for Patient A.G.
Government Exhibit No. 18	Documents Produced for Patient A.G. in Response to May 2019 Subpoena (9 pages)
Government Exhibit No. 19	PDMP Report for Patient A.H
Government Exhibit No. 20	Patient Report for Patient A.H.
Government Exhibit No. 21	Prescription Log Report for Patient A.H.
Government Exhibit No. 22	PDMP Report for Patient B.S.
Government Exhibit No. 23	Patient Report for Patient B.S.
Government Exhibit No. 24	Prescription Log Report for Patient B.S.
Government Exhibit No. 25	PDMP Report for Patient C.R.
Government Exhibit No. 26	Patient Report for Patient C.R
Government Exhibit No. 27	Prescription Log Report for Patient C.R
Government Exhibit No. 28	PDMP Report for Patient J.D.
Government Exhibit No. 29	Patient Report for Patient J.D.
Government Exhibit No. 30	Prescription Log Report for Patient J.D.
Government Exhibit No. 31	PDMP Report for Patient J.M.

Government Exhibit No. 32	Patient Report for Patient J.M.
Government Exhibit No. 33	Prescription Log Report for Patient J.M.
Government Exhibit No. 34	PDMP Report for Patient M.M.
Government Exhibit No. 35	Patient Report for Patient M.M.
Government Exhibit No. 36	Prescription Log Report for Patient M.M.
Government Exhibit No. 37	PDMP Report for Patient N.B.
Government Exhibit No. 38	Patient Report for Patient N.B.
Government Exhibit No. 39	Prescription Log Report for Patient N.B.
Government Exhibit No. 40	PDMP Report for Patient R.B.
Government Exhibit No. 41	Patient Report for Patient R.B.
Government Exhibit No. 42	Dispensing Log for Patient R.B.
Government Exhibit No. 43	Prescription Log Report for Patient R.B.
Government Exhibit No. 44	Documents Produced for Patient R.B. in Response to May 2019 Subpoena (9 pages)
Government Exhibit No. 45	Dispensing log for Patient R.B. produced in Response to May 2019 Subpoena
Government Exhibit No. 46	PDMP Report for Patient R.G.
Government Exhibit No. 47	Patient Report for Patient R.G.
Government Exhibit No. 48	Dispensing Log for Patient R.G.
Government Exhibit No. 49	Prescription Log Report for Patient R.G.
Government Exhibit No. 50	PDMP Report for Patient R.L.
Government Exhibit No. 51	Patient Report for Patient R.L.
Government Exhibit No. 52	Prescription Log Report for Patient R.L.
Government Exhibit No. 53	Curriculum Vitae for Donald L. Sullivan (25 pages)

## **POSITION REGARDING HEARING SITUS**

The Government requests that the hearing take place at the DEA Hearing Facility in Arlington, Virginia.

## **OTHER MATTERS**

The Government reserves the opportunity to amend its Prehearing Statement at a time and date specified by this Tribunal.

The Government further requests that the starting date of any hearing commence on a Tuesday or a later date in the week to accommodate travel by its witnesses.

## **ESTIMATE OF TIME**

The Government estimates that it can present its case-in-chief in two days, exclusive of cross-examination.

Dated: October 11, 2019

Respectfully submitted,

/s/ John E. Beerbower  
John E. Beerbower  
Attorney  
Diversion and Regulatory Litigation  
Office of Chief Counsel  
8701 Morrisette Drive  
Springfield, Virginia 22152  
Office: 571-362-7905



## CERTIFICATE OF SERVICE

I hereby certify that on October 11, 2019, I caused the foregoing to be filed with the DEA Office of Administrative Law Judges by electronic mail at ECF-DEA@usdoj.gov, and I caused a copy of the same to be sent by electronic mail to Respondent's counsel Dale R. Sisco, Esq. at dsisco@sisco-law.com.

/s/ John E. Beerbower  
John E. Beerbower