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

11 In the Matter of the Accusation Against:

Case No. 6178

12 **PHARMACY 9,**
13 **JULIE TRAN, OWNER**
14 **122 N. Euclid No. A**
Santa Ana, CA 92703

A C C U S A T I O N

15 **Pharmacy Permit No. PHY 40841**

16 **DUYEN THI TRAN**
17 **122 No. Euclid, No. A**
Santa Ana, CA 92703

18 **Pharmacist License No. RPH 45895**

19 Respondents.

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21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about June 21, 1995, the Board of Pharmacy issued Pharmacy Permit Number
26 PHY 40841 to Pharmacy 9 (Pharmacy 9). The Pharmacy Permit was in full force and effect at all
27 times relevant to the charges and allegations brought herein and will expire on June 1, 2018,
28 unless renewed.

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10. Section 4040(a)(2) of the Code states:

'Prescription' means an oral, written, or electronic transmission order that is both of the following:

Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7 or, if a drug order is used pursuant to Section 2746.51, 2836.1, 3502.1 or 3460.5, by a certified nurse-midwife, nurse practitioner, physician assistant or naturopathic doctor licensed in this state, or pursuant to Section 4052.1, 4052.2, or 4052.6 by a pharmacist licensed in this state.

11. Section 4113(c) of the Code states:

The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

12. Section 4301 of the Code states in pertinent part:

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

...

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

...

13. Section 4307(a) of the Code states that:

Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner member, officer, director, associate, or partner of any partnership, corporation, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manger, administrator, owner, member, officer, director, associate, or partner had knowledge or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manger, administrator, owner, member, officer, director, associate, or partner of a licensee as follows:

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

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

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14. Section 1707.5(d) of California Code of Regulations, title 16 states:

The pharmacy shall have policies and procedures in place to help patients with limited or no English proficiency understand the information on the label as specified in subdivision (a) in the patient's language. The pharmacy's policies and procedures shall be specified in writing and shall include, at minimum, the selected means to identify the patient's language and to provide interpretative services in the patient's language. The pharmacy shall, at minimum, provide interpretive services in the patient's language, if interpretative services in such language are available, during all hours that the pharmacy is open, either in person by pharmacy staff or by use of a third-party interpretive service available by telephone at or adjacent to the pharmacy counter.

COST RECOVERY

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

FACTUAL ALLEGATIONS

16. Since on or about June 21, 1995, Duyen Tran was the Pharmacist-in-Charge and fifty percent shareholder of Pharmacy 9, and Julie Tran was the other fifty percent owner of Pharmacy 9.

17. On or about January 12, 2006, Julie Tran became licensed as a physician assistant by the Physician Assistant Board and authorized to write prescriptions.

18. Subsequently, Pharmacy 9 submitted renewal applications for its permit but never disclosed that Julie Tran had become licensed as a physician assistant.

19. On June 23, 2016, a Board inspector informed Julie Tran and Duyen Tran that Julie Tran could not be an owner of Pharmacy 9 because Julie Tran was licensed as a physician assistant who could prescribe controlled substances and dangerous drugs. Julie Tran informed the inspector that she would relinquish ownership of Pharmacy 9. The inspector further informed them to submit change of ownership paperwork immediately. The Board then issued a notice of non-compliance. However, Respondents did not remove Julie Tran from the ownership of the pharmacy.

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1 20. On September 28, 2016, a Board inspector again informed Julie Tran and Duyen Tran
2 that Julie Tran could not be an owner of Pharmacy 9 because Julie Tran was licensed as a
3 physician assistant who could prescribe drugs. The Board issued yet another notice of non-
4 compliance. However, Respondents did not remove Julie Tran from the ownership of the
5 pharmacy.

6 21. Respondents did not possess policies and procedures in place for interpretative
7 services despite being advised to obtain them by the Board.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Illegal Prescriber Ownership of Pharmacy)**

10 22. Respondents are subject to disciplinary action under Code section 4301(o), for
11 violating Business and Professions Code section 4111(a)(1), in that the fifty percent owner, Julie
12 Tran was a prescriber who was restricted from owning Pharmacy 9, but failed to relinquish her
13 ownership, as set forth in paragraphs 15 through 21, which are incorporated herein by reference.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Failure to Possess Interpretative Services Policies and Procedures)**

16 23. Respondents are subject to disciplinary action under Code section 4301(o), for
17 violating title 16, California Code of Regulations, section 1707.5(d), in that they did not have
18 policies and procedures in place for interpretative services, as set forth in paragraphs 15 through
19 21, which are incorporated herein by reference.

20 **THIRD CAUSE FOR DISCIPLINE**

21 **(Unprofessional Conduct)**

22 24. Respondents are subject to disciplinary action under Code section 4301, for
23 unprofessional conduct in that they engaged in the activities described in paragraphs 15 through
24 21 above, which are incorporated herein by reference.

25 **OTHER MATTERS**

26 25. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
27 PHY 40841 issued to Pharmacy 9, Pharmacy 9 shall be prohibited from serving as a manager,
28 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if

1 Pharmacy Permit Number PHY 40841 is placed on probation or until Pharmacy Permit Number
2 PHY 40841 is reinstated if it is revoked.

3 26. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit
4 Number PHY 40841 issued to Pharmacy 9 while Julie Tran and/or Duyen Tran have been an
5 officer and owner and had knowledge of or knowingly participated in any conduct for which the
6 licensee was disciplined, Julie Tran and Duyen Tran shall be prohibited from serving as a
7 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
8 five years if Pharmacy Permit Number PHY 40841 is placed on probation or until Pharmacy
9 Permit Number PHY 40841 is reinstated if it is revoked.

10 27. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
11 No. RPH 45895 issued to Duyen Tran, Duyen Tran shall be prohibited from serving as a manager,
12 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
13 Pharmacist License Number RPH 45895 is placed on probation or until Pharmacist License
14 Number RPH 45895 is reinstated if it is revoked.

15 **PRAYER**

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

18 1. Revoking or suspending Pharmacy Permit Number PHY 40841, issued to Pharmacy
19 9;

20 2. Revoking or suspending Pharmacist License Number RPH 45895, issued to Duyen
21 Thi Tran;

22 3. Prohibiting Pharmacy 9. from serving as a manager, administrator, owner, member,
23 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number
24 PHY 40841 is placed on probation or until Pharmacy Permit Number PHY 40841 is reinstated if
25 Pharmacy Permit Number 40841 issued to Pharmacy 9 is revoked;

26 4. Prohibiting Julie Tran from serving as a manager, administrator, owner, member,
27 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number

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PHY 40841 is placed on probation or until Pharmacy Permit Number PHY 40841 is reinstated if Pharmacy Permit Number 40841 issued to Pharmacy 9 is revoked;

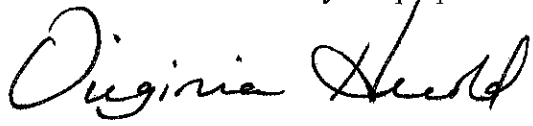
5. Prohibiting Duyen Thi Tran from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 40841 is placed on probation or until Pharmacy Permit Number PHY 40841 is reinstated if Pharmacy Permit Number PHY 40841 issued to Pharmacy 9 is revoked;

6. Prohibiting Duyen Thi Tran from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 45895 is placed on probation or until Pharmacist License Number RPH 45895 is reinstated if Pharmacist License Number RPH 45895 issued to Duyen Thi Tran is revoked;

7. Ordering Pharmacy 9 and Duyen Thi Tran 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,

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

DATED: 2/1/18



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

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