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6 Attorneys for Complainant

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

10 In the Matter of the Accusation and First
Amended Petition to Revoke Probation Against:

Case No. 2514

OAH No. L-2000204587

12 CARE PHARMACY
MY-HUONG THI HOANG, Owner
13 14150 Brookhurst Street
Garden Grove, CA 92843

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 Original Pharmacy Permit No. PHY 44624

15 and

16 MY-HUONG THI HOANG
17 10201 Malinda Lane
Garden Grove, CA 92840

18 Original Pharmacist License No. RPH 48215

19 Respondents.

20
21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
23 above-entitled proceedings that the following matters are true:

24 PARTIES

25 1. Patricia F. Harris (Complainant) is the Executive Officer of the Board of
26 Pharmacy. She brought this action solely in her official capacity and is represented in this matter
27 by Bill Lockyer, Attorney General of the State of California, by Gus Gomez, Deputy Attorney
28 General.

1 Petition to Revoke Probation; the right to be represented by counsel at their own expense; the
2 right to confront and cross-examine the witnesses against them; the right to present evidence and
3 to testify on their own behalf; the right to the issuance of subpoenas to compel the attendance of
4 witnesses and the production of documents; the right to reconsideration and court review of an
5 adverse decision; and all other rights accorded by the California Administrative Procedure Act
6 and other applicable laws.

7 8. Respondents voluntarily, knowingly, and intelligently waive and give up
8 each and every right set forth above.

9 CULPABILITY

10 9. Respondents understand and agree that the charges and allegations in
11 Accusation and First Amended Petition to Revoke Probation No. 2514, if proven at a hearing,
12 constitute cause for imposing discipline upon Original Pharmacy Permit No. PHY 44624 and
13 Original Pharmacist License No. RPH 48215, respectively.

14 10. For the purpose of resolving the Accusation and First Amended Petition to
15 Revoke Probation without the expense and uncertainty of further proceedings, each Respondent
16 agrees that, at a hearing, Complainant could establish a factual basis for the charges in the
17 Accusation and First Amended Petition to Revoke Probation, and that each Respondent hereby
18 gives up the right to contest those charges.

19 11. Respondent Care Pharmacy agrees that Original Pharmacist License is
20 subject to discipline and agrees to be bound by the Board of Pharmacy (Board) 's imposition of
21 discipline as set forth in the Disciplinary Order below.

22 12. Respondent Hoang agrees that her Original Pharmacist License is subject
23 to discipline and she agrees to be bound by the Board of Pharmacy (Board) 's imposition of
24 discipline as set forth in the Disciplinary Order below.

25 RESERVATION

26 13. The admissions made by Respondents herein are only for the purposes of
27 this proceeding, or any other proceedings in which the Board of Pharmacy or other professional
28 licensing agency is involved, and shall not be admissible in any other criminal or civil

1 proceeding.

2 CONTINGENCY

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

13 15. The parties understand and agree that facsimile copies of this Stipulated
14 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
15 force and effect as the originals.

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

19 DISCIPLINARY ORDER

20 IT IS HEREBY ORDERED that Original Pharmacy License No. No. PHY 44624
21 issued to Care Pharmacy, with My-Huong Thi Hoang as owner, is revoked.

22 IT IS HEREBY ORDERED that Original Pharmacist License No. RPH 48215
23 issued to Respondent My-Huong Thi Hoang is revoked. However, the revocation is stayed and
24 Respondent Hoang is placed on probation for three (3) years on the following terms and
25 conditions.

26 1. **Actual Suspension - Pharmacist.** License number RPH 48215, issued to
27 Respondent My-Huong Thi Hoang is suspended for a period of one hundred twenty (120) days
28 beginning the effective date of this decision.

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

9 Respondent Hoang shall not engage in any activity that requires the professional
10 judgment of a pharmacist. Respondent Hoang shall not direct or control any aspect of the
11 practice of pharmacy. Respondent Hoang shall not perform the duties of a pharmacy technician
12 or an exemptee for any entity licensed by the Board. Subject to the above restrictions, she may
13 continue to own or hold an interest in any pharmacy in which she holds an interest at the time
14 this decision becomes effective unless otherwise specified in this order.

15 2. **Obey All Laws.** Respondent Hoang shall obey all state and federal laws
16 and regulations substantially related to or governing the practice of pharmacy.

17 Respondent Hoang shall report any of the following occurrences to the Board, in
18 writing, within 72 hours of such occurrence:

- 19 • an arrest or issuance of a criminal complaint for violation of any provision of the
20 Pharmacy Law, state and federal food and drug laws, or state and federal
21 controlled substances laws
- 22 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to
23 any criminal complaint, information or indictment
- 24 • a conviction of any crime
- 25 • discipline, citation, or other administrative action filed by any state and federal
26 agency which involves Respondent Hoang's license or which is related to the
27 practice of pharmacy or the manufacturing, obtaining, handling or distribution
28 or billing or charging for any drug, device or controlled substance.

1 3. **Reporting to the Board.** Respondent Hoang shall report to the Board
2 quarterly. The report shall be made either in person or in writing, as directed. Respondent
3 Hoang shall state under penalty of perjury whether there has been compliance with all the
4 terms and conditions of probation. If the final probation report **is not** made as directed,
5 probation shall be extended automatically until such time as the final report is made and
6 accepted by the Board.

7 4. **Interview with the Board.** Upon receipt of reasonable notice,
8 Respondent Hoang shall appear in person for interviews with the Board upon request at
9 various intervals at a location to be determined by the Board. Failure to appear for a
10 scheduled interview without prior notification to Board staff shall be considered a violation of
11 probation.

12 5. **Cooperation with Board Staff.** Respondent Hoang shall cooperate
13 with the Board's inspectional program and in the Board's monitoring and investigation of
14 Respondent Hoang's compliance with the terms and conditions of Respondent Hoang's
15 probation. Failure to comply shall be considered a violation of probation.

16 6. **Continuing Education.** Respondent Hoang shall provide evidence of
17 efforts to maintain skill and knowledge as a pharmacist as directed by the Board.

18 7. **Notice to Employers.** Respondent Hoang shall notify all present and
19 prospective employers of the decision in case number 2514 and the terms, conditions and
20 restrictions imposed on Respondent Hoang by the decision during the term of her probation.
21 Within 30 days of the effective date of this decision, and within 15 days of Respondent Hoang
22 undertaking new employment, Respondent Hoang shall cause her direct supervisor,
23 pharmacist-in-charge and/or owner to report to the Board in writing acknowledging the
24 employer has read the decision in case number 2514 during the term of her probation during
25 the term of her probation.

26 If Respondent Hoang works for or is employed by or through a pharmacy
27 employment service, Respondent Hoang must notify the direct supervisor, pharmacist-in-
28 charge, and/or owner at every pharmacy of the and terms conditions of the decision in case

1 number 2514 in advance of the Respondent Hoang commencing work at each pharmacy
2 during the term of her probation.

3 "Employment" within the meaning of this provision shall include any full-time, part-
4 time, temporary, relief or pharmacy management service as a pharmacist, whether
5 Respondent Hoang is considered an employee or independent contractor.

6 8. **No Preceptorships, Supervision of Interns, Being Pharmacist-in-
7 Charge (PIC), or Serving as a Consultant.** Respondent Hoang shall not supervise any
8 intern pharmacist or perform any of the duties of a preceptor, nor shall Respondent Hoang be
9 the pharmacist-in-charge of any entity licensed by the Board unless otherwise specified in this
10 order during the term of her probation. On or after two (2) years from the effective date of this
11 decision, Respondent Hoang may petition the Board for reduction of penalty, to allow
12 Respondent Hoang to be pharmacist-in-charge. Said petition may be denied at the Board's
13 discretion.

14 9. **Reimbursement of Board Costs.** Respondent Hoang shall pay to the
15 Board its costs of investigation and prosecution in the amount of \$9,000.00. Respondent
16 Hoang shall pay the sum of \$2,000.00 no later than the effective date of the decision, and the
17 balance in 7 equal quarterly installments.

18 The filing of bankruptcy by Respondent Hoang shall not relieve Respondent
19 Hoang of her responsibility to reimburse the Board its costs of investigation and prosecution.

20 10. **Probation Monitoring Costs.** Respondent Hoang shall pay the costs
21 associated with probation monitoring as determined by the Board each and every year of
22 probation. Such costs shall be payable to the Board at the end of each year of probation.
23 Failure to pay such costs shall be considered a violation of probation.

24 11. **Status of License.** Respondent Hoang shall, at all times while on
25 probation, maintain an active current license with the Board, including any period during
26 which suspension or probation is tolled.

27 If Respondent Hoang's license expires or is cancelled by operation of law or
28 otherwise, upon renewal or reapplication, Respondent Hoang's license shall be subject to all

1 terms and conditions of this probation not previously satisfied.

2 12. **License Surrender while on Probation/Suspension.** Following the
3 effective date of this decision, should Respondent Hoang cease practice due to retirement or
4 health, or be otherwise unable to satisfy the terms and conditions of probation, Respondent
5 Hoang may tender her license to the Board for surrender. The Board shall have the discretion
6 whether to grant the request for surrender or take any other action it deems appropriate and
7 reasonable. Upon formal acceptance of the surrender of the license, Respondent Hoang will
8 no longer be subject to the terms and conditions of probation.

9 Upon acceptance of the surrender, Respondent Hoang shall relinquish her
10 pocket license to the Board within 10 days of notification by the Board that the surrender is
11 accepted. Respondent Hoang may not reapply for any license from the Board for three years
12 from the effective date of the surrender. Respondent Hoang shall meet all requirements
13 applicable to the license sought as of the date the application for that license is submitted to
14 the Board.

15 13. **Notification of Employment/Mailing Address Change.** Respondent
16 Hoang shall notify the Board in writing within 10 days of any change of employment. Said
17 notification shall include the reasons for leaving and/or the address of the new employer,
18 supervisor or owner and work schedule if known. Respondent Hoang shall notify the Board in
19 writing within 10 days of a change in name, mailing address or phone number.

20 14. **Tolling of Probation.** Should Respondent Hoang, regardless of
21 residency, for any reason cease practicing pharmacy for a minimum of 40 hours per calendar
22 month in California, Respondent Hoang must notify the Board in writing within 10 days of
23 cessation of the practice of pharmacy or the resumption of the practice of pharmacy. Such
24 periods of time shall not apply to the reduction of the probation period. It is a violation of
25 probation for Respondent Hoang's probation to remain tolled pursuant to the provisions of this
26 condition for a period exceeding three years.

27 "Cessation of practice" means any period of time exceeding 30 days in which
28 Respondent Hoang is not engaged in the practice of pharmacy as defined in Section 4052 of

1 the Business and Professions Code.

2 15. **Violation of Probation.** If Respondent Hoang violates probation in
3 any respect, the Board, after giving Respondent Hoang notice and an opportunity to be heard,
4 may revoke probation and carry out the disciplinary order which was stayed. If a petition to
5 revoke probation or an accusation is filed against Respondent Hoang during probation, the
6 Board shall have continuing jurisdiction and the period of probation shall be extended, until
7 the petition to revoke probation or accusation is heard and decided.

8 If Respondent Hoang has not complied with any term or condition of
9 probation, the Board shall have continuing jurisdiction over Respondent Hoang, and probation
10 shall automatically be extended until all terms and conditions have been satisfied or the Board
11 has taken other action as deemed appropriate to treat the failure to comply as a violation of
12 probation, to terminate probation, and to impose the penalty which was stayed.

13 16. **Completion of Probation.** Upon successful completion of probation,
14 Respondent Hoang's license will be fully restored.

15 17. **No Ownership of Premises.** Respondent Hoang shall not own, have
16 any legal or beneficial interest in, or serve as a manager, administrator, member, officer,
17 director, associate, or partner of any business, firm, partnership, or corporation currently or
18 hereinafter licensed by the Board. Respondent Hoang shall sell or transfer any legal or
19 beneficial interest in any entity licensed by the Board within 90 days following the effective
20 date of this decision and shall immediately thereafter provide written proof thereof to the
21 Board during the term of her probation.

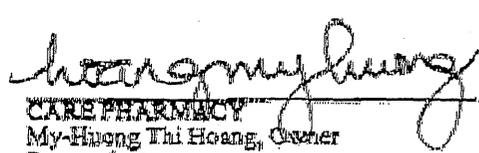
22 18. **Tolling of Suspension.** If Respondent Hoang leaves California to
23 reside or practice outside this state, for any period exceeding 10 days (including vacation),
24 Respondent Hoang must notify the Board in writing of the dates of departure and return.
25 Periods of residency or practice outside the state - or any absence exceeding a period of 10
26 days shall not apply to the reduction of the suspension period.

27 Respondent Hoang shall not practice pharmacy upon returning to this state
28 until notified by the Board that the period of suspension has been completed.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Original Pharmacy License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

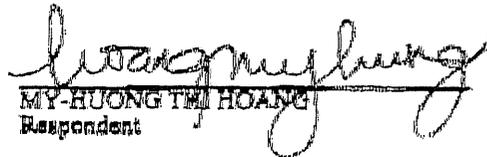
DATED: 2/5/03


CARE PHARMACY
My-Huong Thi Hoang, Owner
Respondent

ACCEPTANCE

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

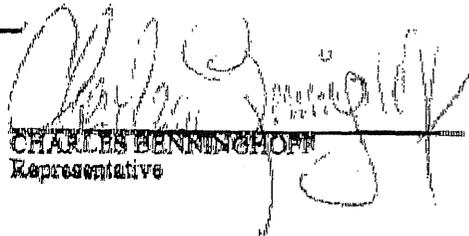
DATED: 2/5/03


MY-HUONG THI HOANG
Respondent

STATEMENT OF REPRESENTATIVE

The undersigned, Charles Benninghoff, respondent's Representative herein, has afforded his client a full, and complete, explanation of the within Stipulation, and believes that her execution thereof, in these circumstances, is advisable.

DATED: 2/6/03


CHARLES BENNINGHOFF
Representative

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

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

Case No. 2514

OAH No. L-2000204587

CARE PHARMACY
MY-HUONG THI HOANG, Owner
14150 Brookhurst Street
Garden Grove, CA 92843

Original Pharmacy Permit No. PHY 44624

and

MY-HUONG THI HOANG
10201 Malinda Lane
Garden Grove, CA 92840

Original Pharmacist License No. RPH 48215

Respondents.

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 May 2, 2003.

It is so ORDERED April 3, 2003.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



JOHN D. JONES
Board President

Exhibit A

Accusation and First Amended Petition to Revoke Probation No. 2514

1 BILL LOCKYER, Attorney General
of the State of California
2 GUS GOMEZ, State Bar No. 146845
Deputy Attorney General
3 California Department of Justice
300 So. Spring Street, Suite 1702
4 Los Angeles, CA 90013
Telephone: (213) 897-2563
5 Facsimile: (213) 897-2804

6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PHARMACY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2514

11 CARE PHARMACY
12 MY-HUONG THI HOANG, Owner
14150 Brookhurst Street
13 Garden Grove, CA 92843

**ACCUSATION AND FIRST
AMENDED PETITION TO REVOKE
PROBATION**

14 Original Pharmacy Permit No. PHY 44624

15 and

16 MY-HUONG THI HOANG
10201 Malinda Lane
17 Garden Grove, CA 92840

18 Original Pharmacist License No. RPH 48215

19 Respondents.

20
21 Complainant alleges:

22 PARTIES

23 1. Patricia F. Harris (Complainant) brings this Accusation solely in her
24 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
25 Affairs.

26 2. On or about April 24, 2000, the Board of Pharmacy issued Original
27 Pharmacy Permit Number PHY 44624 to My-Huong Thi Hoang, to do business as Care
28 Pharmacy (Respondent Pharmacy). The Original Pharmacy Permit was in full force and effect

1 until October 12, 2001, when a discontinuance of business was filed.

2 My-Huong Hoang, RPH 48215 was the Pharmacist-in-Charge effective April 24,
3 2000.

4 3. On or about August 14, 1995, the Board of Pharmacy issued Original
5 Pharmacist License Number RPH 48215 to My-Huong Thi Hoang (Respondent Hoang). The
6 Original Pharmacist License was in full force and effect at all times relevant to the charges
7 brought herein. Said license is on probation and will expire on May 31, 2003, unless renewed.

8 JURISDICTION

9 4. This Accusation is brought before the Board of Pharmacy (Board), under
10 the authority of the following sections of the Business and Professions Code (Code).

11 5. Section 810 of the Code states in relevant part:

12 “(a) It shall constitute unprofessional conduct and grounds for disciplinary action,
13 including suspension or revocation of a license or certificate, for a health care professional to do
14 any of the following in connection with his or her professional activities:

15 (1) Knowingly present or cause to be presented any false or fraudulent claim for
16 the payment of a loss under a contract of insurance.

17 (2) Knowingly prepare, make, or subscribe any writing, with intent to present or
18 use the same, or to allow it to be presented or used in support of any false or fraudulent claim.”

19 6. Section 4300 of the Code permits the Board to take disciplinary action to
20 suspend or revoke a license issued by the Board.

21 7. Section 4301 of the Code states:

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

26

27 “(f) The commission of any act involving moral turpitude, dishonesty, fraud,
28 deceit, or corruption, whether the act is committed in the course of relations as a licensee or

1 otherwise, and whether the act is a felony or misdemeanor or not.

2

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

7 8. Section 4059 of the Code states, in pertinent part, that a person may not
8 furnish any dangerous drug except upon the prescription of a physician, dentist, podiatrist,
9 optometrist, or veterinarian. A person may not furnish any dangerous device, except upon the
10 prescription of a physician, dentist, podiatrist, optometrist, or veterinarian.

11 9. Section 4080 of the Code states:

12 “All stock of any dangerous drug or dangerous device or of shipments through a
13 customs broker or carrier shall be, at all times during business hours, open to inspection by
14 authorized officers of the law.”

15 10. Section 4081 of the Code states:

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

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

1 11. Section 4105(a) of the Code states that all records or other documentation
2 of the acquisition and disposition of dangerous drugs and dangerous devices by any entity
3 licensed by the board shall be retained on the licensed premises in a readily retrievable form.

4 12. Section 4113 of the Code states:

5 “(a) Every pharmacy shall designate a pharmacist-in-charge and within 30 days
6 thereof, shall notify the Board in writing of the identity and license number of that
7 pharmacist and the date he or she was designated.

8 “(b) The pharmacist-in-charge shall be responsible for a pharmacy’s compliance
9 with all state and federal laws and regulations pertaining to the practice of pharmacy.

10 “(c) Every pharmacy shall notify the Board within 30 days of the date when a
11 pharmacist ceases to be a pharmacist-in-charge.”

12 13. Section 4333 of the Code states, in pertinent part, that all prescriptions
13 filled by a pharmacy and all other records required by Section 4081 shall be maintained on the
14 premises and available for inspection by authorized officers of the law for a period of at least
15 three years. In cases where the pharmacy discontinues business, these records shall be
16 maintained in a board-licensed facility for at least three years.

17 14. California Code of Regulations, title 16, section 1708.2 states that any
18 permit holder shall contact the board prior to transferring or selling any dangerous drugs, devices
19 or hypodermics inventory as a result of termination of business or bankruptcy proceedings and
20 shall follow official instructions given by the board applicable to the transaction.

21 15. California Code of Regulations, title 16, section 1709, states, in pertinent
22 part that:

23

24 (b) Any transfer, in a single transaction or in a series of transactions, of 10 percent
25 or more of the beneficial interest in a business entity licensed by the board to a person or entity
26 who did not hold a beneficial interest at the time the original permit was issued, shall require
27 written notification to the board within 30 days.

28 (c) The following shall constitute a transfer of permit and require application for a

1 change of ownership; any transfer of a beneficial interest in a business entity licensed by the
2 board, in a single transaction or in a series of transactions, to any person or entity, which transfer
3 results in the transferee's holding 50% or more of the beneficial interest in that license.

4 16. California Code of Regulations, title 16, section 1718 states:

5 "Current Inventory" as used in Section 4081 of the Business and Professions
6 Code shall be considered to include complete accountability for all dangerous drugs
7 handled by every licensee enumerated in Section 4081.

8 17. California Code of Regulations, title 16, section 1773, subdivision (a)(1)
9 provides that unless otherwise directed by the Board in its sole discretion, any pharmacist who is
10 serving a period of probation shall obey all laws and regulations substantially related to the
11 practice of pharmacy.

12 18. Section 118, subdivision (b), of the Code provides that the expiration of a
13 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the
14 period within which the license may be renewed, restored, reissued or reinstated.

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

19 20. DANGEROUS DRUGS

20 a. "Accutane", a brand name for Isotretinoin, is categorized as a dangerous
21 drug pursuant to section 4022 of the Code.

22 b. "Claritin", a brand name for Loratadine, is categorized as a dangerous drug
23 pursuant to section 4022 of the Code.

24 c. "Diflucan", a brand name for Fluconazole, is categorized as a dangerous
25 drug pursuant to section 4022 of the Code.

26 d. "Dovonex cream", a brand name for Calcipotriene, is categorized as a
27 dangerous drug pursuant to section 4022 of the Code.

28 e. "Doxycycline", an antibiotic, is categorized as a dangerous drug pursuant

1 to section 4022 of the Code.

2 f. "Flonase", a brand name for fluticasone propionate, a synthetic steroid, is
3 categorized as a dangerous drug pursuant to section 4022 of the Code.

4 g. "Lotrisone Cream", consisting of clotrimazole and betamethasone
5 dipropionate, is categorized as a dangerous drug pursuant to section 4022 of the Code.

6 h. "Myphetane", a brand name for brompheniramine, phenylpropanolamine,
7 and Codeine, is categorized as a dangerous drug pursuant to section 4022 of the Code.

8 i. "Nestab FA", a brand name for Multivitamine with folic acid, is
9 categorized as a dangerous drug pursuant to section 4022 of the Code.

10 j. "Pediapred, a brand name for Prednisolone, classified as a corticosteroid,
11 is categorized as a dangerous drug pursuant to section 4022 of the Code.

12 k. "Phenergan", a brand name for Promethazine, classified as a
13 antihistamine, is categorized as a dangerous drug pursuant to section 4022 of the Code.

14 l. "Phenergan DM, a brand name for Promethazine with Dextromethorphan,
15 is categorized as a dangerous drug pursuant to section 4022 of the Code.

16 m. "Phenergan VC Plain", a brand name for Promethazine with Codeine, is
17 categorized as a dangerous drug pursuant to section 4022 of the Code.

18 n. "Regranex", a brand name for Becaplermin, is categorized as a dangerous
19 drug pursuant to section 4022 of the Code.

20 o. "Soriantane", a brand name for Acitretin, is categorized as a dangerous
21 drug pursuant to section 4022 of the Code.

22 p. "Tazorac", a brand name for Tazarotene, is categorized as a dangerous
23 drug pursuant to section 4022 of the Code.

24 q. "Tussionex", a brand name for hydrocodone, is categorized as a dangerous
25 drug pursuant to section 4022 of the Code and is categorized as a schedule III controlled
26 substance pursuant to section 11056(e)(2) of the Health and Safety Code.

27 r. "Zyprexa", a brand name for Olanzapine, is categorized as a dangerous
28 drug pursuant to section 4022 of the Code.

1 the patient's physician.

2 3. From on or about December 27, 2000 to on or about April 12, 2001, thirty-
3 three prescriptions were billed for Tan V., using DEA numbers of physicians other than the
4 patient's physician.

5 b. From on or about April 6, 2001 to on or about April 11, 2001,
6 Respondents billed Blue Cross/Blue Shield Minnesota for controlled substances not actually
7 prescribed by doctors, as follows:

- 8 1. On April 6, 2001, five prescriptions were billed for Lam D.
- 9 2. On April 9, 2001, one prescription was billed for Chieu D.
- 10 3. On April 10, 2001, four prescriptions were billed for Khanh L.
- 11 4. On April 11, 2001, two prescriptions were billed for Nhat T.

12 SECOND CAUSE FOR DISCIPLINE

13 (Furnishing Dangerous Drugs Without a Prescription)

14 23. Respondents Pharmacy and Hoang are subject to disciplinary action under
15 section 4300 and 4301(f) and (o) of the Code, and Respondent My-Huong Thi Hoang's probation
16 is subject to termination and the disciplinary order that was stayed may be imposed, on the
17 grounds of unprofessional conduct for violating section 4059 of the Code in that Respondents
18 furnished dangerous drugs without a prescription, as follows:

19 a. From on or about December 27, 2000 to on or about February 19, 2001,
20 prescriptions were filled by Respondents for patient Ty N. for drugs allegedly prescribed by Dr.
21 Thuy Bui. However, Ty N. was not a patient of Dr. Bui and was never seen by Dr. Bui. Further
22 patient Ty N. did not in fact receive any prescriptions from Respondent Pharmacy.

23 b. On or about January 27, 2001 and on or about February 7, 2001,
24 prescriptions were filled by Respondents for patient Don V. for drugs allegedly prescribed by Dr.
25 Dong. However, Don V. was not a patient of Dr. Dong and was never seen by Dr. Dong.
26 Further Don V. did not in fact receive any prescriptions from Respondent Pharmacy.

27 c. On or about February 8, 2001, February 19, 2001, and March 7, 2001,
28 prescriptions were filled by Respondents for patient Don V. for drugs allegedly prescribed by Dr.

1 Hoa Hung. However, Don V. was not a patient of Dr. Hung and was never seen by Dr. Hung.
2 Further Don V. did not in fact receive any prescriptions from Respondent Pharmacy.

3 d. From on or about December 27, 2000 to on or about February 19, 2001,
4 prescriptions were filled by Respondents for patient Tan V. for drugs allegedly prescribed by Dr.
5 Richard Hochberg. However, Tan V. was not a patient of Dr. Hochberg and was never seen by
6 Dr. Hochberg. Further Tan V. did not actually receive any prescriptions from Respondent
7 Pharmacy.

8 e. From on or about February 8, 2001 to on or about February 28, 2001,
9 prescriptions were filled by Respondents for patient Tan V. for drugs allegedly prescribed by Dr.
10 Hoa Hung. However, Tan V. was not a patient of Dr. Hung and was never seen by Dr. Hung.
11 Further Tan V. did not actually receive any prescriptions from Respondent Pharmacy.

12 THIRD CAUSE FOR DISCIPLINE

13 (Maintain Complete and Accurate Record of Dangerous Drugs)

14 24. Respondents Pharmacy and Hoang are subject to disciplinary action under
15 sections 4300, 4301(f) and (j) on the grounds of unprofessional conduct for violating section
16 4081, 4105 and 4333 of the Code and California Code of Regulations, title 16, section 1718, and
17 Respondent My-Huong Thi Hoang's probation is subject to termination and the disciplinary
18 order that was stayed may be imposed, in that Respondents failed to maintain records, sales and
19 acquisition of dangerous drugs on the licensed premises. The circumstances are as follows:

20 a. On August 8, 2001, an inspector for the Board visited Respondent
21 Pharmacy's address of record. He observed that Respondent Pharmacy was vacant and was
22 informed it had been vacated about two to four months earlier. On August 14, 2001, another
23 inspector for the Board inspected Respondent Pharmacy. The suite was vacant with only two
24 chairs and two bookshelves.

25 b. On or about August 17, 2002, an inspector for the Board spoke with
26 Respondent Hoang. Respondent Hoang indicated that when she sold the pharmacy in December
27 2000, the drugs were left in the pharmacy. Respondent Hoang did not know the location of the
28 records and stock of drugs purchased by Respondent Pharmacy and did not know the location of

1 the records of acquisition, disposition and destruction by Respondent Pharmacy.

2 FOURTH CAUSE FOR DISCIPLINE

3 (Failed to Designate a Pharmacist-in-Charge)

4 25. Respondents are subject to disciplinary action under section 4300 and
5 4301(o) on the grounds of unprofessional conduct for violating section 4113 of the Code, and
6 Respondent My-Huong Thi Hoang's probation is subject to termination and the disciplinary
7 order that was stayed may be imposed, in that they failed to notify the Board in writing of the
8 identity and license number of the pharmacist-in-charge within 30 days thereof. The
9 circumstances are as follows:

10 a. On or about August 17, 2001, Respondent Hoang notified the Board that
11 she was disassociating herself as the Pharmacist-in-Charge of Respondent Pharmacy and
12 indicated that she had sold the pharmacy in December 2000.

13 FIFTH CAUSE FOR DISCIPLINE

14 (Failure to Notify Board Of Sale of Pharmacy)

15 26. Respondents are subject to disciplinary action under section 4300 and
16 4301(o) of the Code on the grounds of unprofessional conduct for violating California Code of
17 Regulations, title 16, section 1708.2, and Respondent My-Huong Thi Hoang's probation is
18 subject to termination and the disciplinary order that was stayed may be imposed, in that they
19 failed to contact the Board prior to transferring or selling Respondent Pharmacy. On or about
20 August 17, 2001, Respondent Hoang informed an inspector for the Board that in December
21 2000, she sold Respondent Pharmacy and the drugs on hand to a Huong Le.

22 SIXTH CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct)

24 27. Respondents are subject to disciplinary action under section 4300 and
25 4301(o) of the Code, and Respondent My-Huong Thi Hoang's probation is subject to termination
26 and the disciplinary order that was stayed may be imposed, on the grounds of unprofessional
27 conduct for violating California Code of Regulations, title 16, section 1709, subdivision (b) and
28 (c). The circumstances are as follows:

1 a. On or about December 2000, Respondent Hoang transferred or sold 10
2 percent or more of the beneficial interest in the business without notifying the Board.

3 b. On or about December 2000, Respondent Hoang transferred 50% or more
4 of the beneficial interest and failed to submit a change in ownership to the Board.

5 SEVENTH CAUSE FOR DISCIPLINE

6 (Probation Violation)

7 28. Respondent Hoang is subject to disciplinary action under section 4300 and
8 4301(f) of the Code, and Respondent My-Huong Thi Hoang's probation is subject to termination
9 and the disciplinary order that was stayed may be imposed, on the grounds of unprofessional
10 conduct for violating California Code of Regulations, title 16, section 1773(a) in that she violated
11 the terms of her probation, as more fully set forth in paragraph 19 through 24 above.

12 DISCIPLINE CONSIDERATIONS (ACCUSATION)

13 29. To determine the degree of discipline, if any, to be imposed on Care
14 Pharmacy, with My-Huong Thi Hoang as owner, and My-Huong Thi Hoang, Complainant
15 alleges that on March 6, 2001, in a prior disciplinary action entitled In the Matter of the
16 Accusation Against My-Huong Thi Hoang, before the Board of Pharmacy (Case Number 2514)
17 Respondent Hoang's Original Pharmacy License was suspended for a period of ninety (90) days.
18 However, the suspension was stayed and placed on probation for a period of one (1) year. That
19 decision is final and is incorporated by reference as if fully set forth.

20 PRAYER

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

23 First Amended Petition to Revoke Probation

24 1. Revoking the probation that was granted by the Board of Pharmacy in
25 Case Number 2183 and imposing the disciplinary order that was stayed on Original Pharmacist
26 License Number RPH 48215 issued to MY-HUONG THI HOANG;

27 2. Taking such other and further action as deemed necessary and proper.

28 //

1 Accusation

2 1. Revoking or suspending Original Pharmacy Permit Number PHY 44624,
3 issued to Care Pharmacy, with My-Huong Hoang as owner;

4 2. Revoking or suspending Original Pharmacist License Number RPH
5 48215, issued to My-Huong Thi Hoang;

6 3. Ordering Care Pharmacy and My-Huong Thi Hoang to pay the Board of
7 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
8 Business and Professions Code section 125.3;

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

10 DATED: 12/30/02

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12
13 P. F. Harris
14 PATRICIA F. HARRIS
15 Executive Officer
16 Board of Pharmacy
17 Department of Consumer Affairs
18 State of California
19 Complainant
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