

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

In the Matter of the Accusation Against:

Case No. 4185

THUY VO-NGUYEN
15111 Bushard Street #9
Westminster, CA 92683

Pharmacist License No. RPH 60854

Respondent.

DECISION AND ORDER

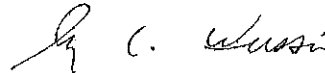
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on October 15, 2012.

It is so ORDERED on September 14, 2012.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

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

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12 In the Matter of the Accusation Against:

Case No. 4185

13 **THUY VO-NGUYEN**
14 **15111 Bushard Street #9**
Westminster, CA 92683

OAH No. 2012060287

15 **Pharmacist License No. RPH 60854**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Respondent.

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

20 **PARTIES**

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

25 2. Respondent Thuy Vo-Nguyen (Respondent) is represented in this proceeding by
26 attorney Herbert L. Weinberg, whose address is McGuire Woods LLP, 1800 Century Park East,
27 8th Floor, Los Angeles, CA 90067.

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 60854 issued to Respondent
3 Thuy Vo-Nguyen (Respondent) is revoked. However, the revocation is stayed and Respondent is
4 placed on probation for five (5) years on the following terms and conditions.

5 **1. Suspension**

6 As part of probation, respondent is suspended from the practice of pharmacy for sixty (60)
7 days beginning the effective date of this decision. Respondent will be permitted to use the
8 suspension already served in the Pharmacist Recovery Program to satisfy this term.

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

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

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

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

25 **2. Tolling of Suspension**

26 During the period of suspension, respondent shall not leave California for any period
27 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
28 of ten (10) days during suspension shall be considered a violation of probation. Moreover, any

1 absence from California during the period of suspension exceeding ten (10) days shall toll the
2 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
3 respondent is absent from California. During any such period of tolling of suspension, respondent
4 must nonetheless comply with all terms and conditions of probation.

5 Respondent must notify the board in writing within ten (10) days of departure, and must
6 further notify the board in writing within ten (10) days of return. The failure to provide such
7 notification(s) shall constitute a violation of probation. Upon such departure and return,
8 respondent shall not return to work until notified by the board that the period of suspension has
9 been satisfactorily completed.

10 3. Obey All Laws

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

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

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

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

25 4. Report to the Board

26 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
27 designee. The report shall be made either in person or in writing, as directed. Among other
28 requirements, respondent shall state in each report under penalty of perjury whether there has

1 been compliance with all the terms and conditions of probation. Failure to submit timely reports
2 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
3 in submission of reports as directed may be added to the total period of probation. Moreover, if
4 the final probation report is not made as directed, probation shall be automatically extended until
5 such time as the final report is made and accepted by the board.

6 **5. Interview with the Board**

7 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews
8 with the board or its designee, at such intervals and locations as are determined by the board or its
9 designee. Failure to appear for any scheduled interview without prior notification to board staff,
10 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
11 the period of probation, shall be considered a violation of probation.

12 **6. Cooperate with Board Staff**

13 Respondent shall cooperate with the board's inspection program and with the board's
14 monitoring and investigation of respondent's compliance with the terms and conditions of her
15 probation. Failure to cooperate shall be considered a violation of probation.

16 **7. Continuing Education**

17 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
18 pharmacist as directed by the board or its designee.

19 **8. Notice to Employers**

20 During the period of probation, respondent shall notify all present and prospective
21 employers of the decision in case number 4185 and the terms, conditions and restrictions imposed
22 on respondent by the decision, as follows:

23 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
24 respondent undertaking any new employment, respondent shall cause her direct supervisor,
25 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
26 tenure of employment) and owner to report to the board in writing acknowledging that the listed
27 individual(s) has/have read the decision in case number 4185, and terms and conditions imposed
28 thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s)

1 submit timely acknowledgment(s) to the board.

2 If respondent works for or is employed by or through a pharmacy employment service,
3 respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
4 licensed by the board of the terms and conditions of the decision in case number 4185 in advance
5 of the respondent commencing work at each licensed entity. A record of this notification must be
6 provided to the board upon request.

7 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
8 (15) days of respondent undertaking any new employment by or through a pharmacy employment
9 service, respondent shall cause her direct supervisor with the pharmacy employment service to
10 report to the board in writing acknowledging that she has read the decision in case number 4185
11 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
12 that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

20 **9. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC),**
21 **Serving as Designated Representative-in-Charge, or Serving as a Consultant**

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

26 **10. Reimbursement of Board Costs**

27 As a condition precedent to successful completion of probation, respondent shall pay to the
28 board its costs of investigation and prosecution in the amount of \$7,569.50 in a payment plan

1 approved by the Board. Failure to pay costs by the deadline(s) as directed shall be considered a
2 violation of probation.

3 The filing of bankruptcy by respondent shall not relieve respondent of her responsibility to
4 reimburse the board its costs of investigation and prosecution.

5 **11. Probation Monitoring Costs**

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

10 **12. Status of License**

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

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

18 **13. License Surrender While on Probation/Suspension**

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

26 Upon acceptance of the surrender, respondent shall relinquish her pocket and wall license to
27 the board within ten (10) days of notification by the board that the surrender is accepted.

28 Respondent may not reapply for any license from the board for three (3) years from the effective

1 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
2 of the date the application for that license is submitted to the board, including any outstanding
3 costs.

4 **14. Notification of a Change in Name, Residence Address, Mailing**
5 **Address or Employment**

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

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

13 **15. Tolling of Probation**

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

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

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

28 ///

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

6 **16. Violation of Probation**

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

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

19 **17. Completion of Probation**

20 Upon written notice by the board or its designee indicating successful completion of
21 probation, respondent's license will be fully restored.

22 **18. Mental Health Examination**

23 Within thirty (30) days of the effective date of this decision, and on a periodic basis as may
24 be required by the board or its designee, respondent shall undergo, at her own expense,
25 psychiatric evaluation(s) by a board-appointed or board-approved licensed mental health
26 practitioner. The approved evaluator shall be provided with a copy of the board's Accusation and
27 decision. Respondent shall sign a release authorizing the evaluator to furnish the board with a
28 current diagnosis and a written report regarding the respondent's judgment and ability to function

1 independently as a pharmacist with safety to the public. Respondent shall comply with all the
2 recommendations of the evaluator if directed by the board or its designee.

3 If the evaluator recommends, and the board or its designee directs, respondent shall
4 undergo psychotherapy. Within thirty (30) days of notification by the board that a
5 recommendation for psychotherapy has been accepted, respondent shall submit to the board or its
6 designee, for prior approval, the name and qualification of a licensed mental health practitioner of
7 respondent's choice. Within thirty (30) days of approval thereof by the board, respondent shall
8 submit documentation to the board demonstrating the commencement of psychotherapy with the
9 approved licensed mental health practitioner. Should respondent, for any reason, cease treatment
10 with the approved licensed mental health practitioner, respondent shall notify the board
11 immediately and, within thirty (30) days of ceasing treatment therewith, submit the name of a
12 replacement licensed mental health practitioner of respondent's choice to the board for its prior
13 approval. Within thirty (30) days of approval thereof, respondent shall submit documentation to
14 the board demonstrating the commencement of psychotherapy with the approved replacement.
15 Failure to comply with any requirement or deadline stated by this paragraph shall be considered a
16 violation of probation.

17 Upon approval of the initial or any subsequent licensed mental health practitioner,
18 respondent shall undergo and continue treatment with that therapist, at respondent's own expense,
19 until the therapist recommends in writing to the board, and the board or its designee agrees by
20 way of a written notification to respondent, that no further psychotherapy is necessary. Upon
21 receipt of such recommendation from the treating therapist, and before determining whether to
22 accept or reject said recommendation, the board or its designee may require respondent to
23 undergo, at respondent's expense, a mental health evaluation by a separate board-appointed or
24 board-approved evaluator. If the approved evaluator recommends that respondent continue
25 psychotherapy, the board or its designee may require respondent to continue psychotherapy.

26 Psychotherapy shall be at least once a week unless otherwise approved by the board.
27 Respondent shall provide the therapist with a copy of the board's Accusation and decision no
28 later than the first therapy session. Respondent shall take all necessary steps to ensure that the

1 treating therapist submits written quarterly reports to the board concerning respondent's fitness to
2 practice, progress in treatment, and other such information as may be required by the board or its
3 designee.

4 If at any time the approved evaluator or therapist determines that respondent is unable to
5 practice safely or independently as a pharmacist, the licensed mental health practitioner shall
6 notify the board immediately by telephone and follow up by written letter within three (3)
7 working days. Upon notification from the board or its designee of this determination, respondent
8 shall be automatically suspended and shall not resume practice until notified by the board that
9 practice may be resumed.

10 19. **Psychotherapy**

11 If recommended by the evaluator after a mental health examination, within thirty (30) days
12 of the effective date of this decision, respondent shall submit to the board or its designee, for prior
13 approval, the name and qualifications of a licensed mental health practitioner of respondent's
14 choice. Within thirty (30) days of approval thereof, respondent shall submit documentation to the
15 board demonstrating the commencement of psychotherapy with the approved licensed mental
16 health practitioner. Should respondent, for any reason, cease treatment with the approved
17 licensed mental health practitioner, respondent shall notify the board immediately and, within
18 thirty (30) days of ceasing treatment, submit the name of a replacement psychotherapist or
19 licensed mental health practitioner of respondent's choice to the board for its prior approval.
20 Within thirty (30) days of approval thereof, respondent shall submit documentation to the board
21 demonstrating the commencement of psychotherapy with the approved replacement. Failure to
22 comply with any requirement or deadline stated by this paragraph shall be considered a violation
23 of probation.

24 Upon approval of the initial or any subsequent licensed mental health practitioner,
25 respondent shall undergo and continue treatment with that therapist, at respondent's own expense,
26 until the therapist recommends in writing to the board, and the board or its designee agrees by
27 way of a written notification to respondent, that no further psychotherapy is necessary. Upon
28 receipt of such recommendation from the treating therapist, and before determining whether to

1 accept or reject said recommendation, the board or its designee may require respondent to
2 undergo, at respondent's own expense, a mental health evaluation by a board-appointed or board-
3 approved psychiatrist or psychologist. If the approved evaluator recommends that respondent
4 continue psychotherapy, the board or its designee may require respondent to continue
5 psychotherapy.

6 Psychotherapy shall be at least once a week unless otherwise approved by the board.
7 Respondent shall provide the therapist with a copy of the board's Accusation and decision no
8 later than the first therapy session. Respondent shall take all necessary steps to ensure that the
9 treating therapist submits written quarterly reports to the board concerning respondent's fitness to
10 practice, progress in treatment, and such other information as may be required by the board or its
11 designee.

12 If at any time the treating therapist determines that respondent cannot practice safely or
13 independently, the therapist shall notify the board immediately by telephone and follow up by
14 written letter within three (3) working days. Upon notification from the board or its designee of
15 this determination, respondent shall be automatically suspended and shall not resume practice
16 until notified by the board that practice may be resumed.

17 During suspension, respondent shall not enter any pharmacy area or any portion of the
18 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
19 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
20 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
21 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
22 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
23 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
24 and controlled substances. Respondent shall not resume practice until notified by the board.

25 During suspension, respondent shall not engage in any activity that requires the
26 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
27 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
28 designated representative for any entity licensed by the board.

1 Subject to the above restrictions, respondent may continue to own or hold an interest in any
2 licensed premises in which she holds an interest at the time this decision becomes effective unless
3 otherwise specified in this order.

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

5 **20. Pharmacists Recovery Program (PRP)**

6 Within thirty (30) days of the effective date of this decision, respondent shall contact the
7 Pharmacists Recovery Program (PRP) for evaluation, and shall immediately thereafter enroll,
8 successfully participate in, and complete the treatment contract and any subsequent addendums as
9 recommended and provided by the PRP and as approved by the board or its designee. The costs
10 for PRP participation shall be borne by the respondent.

11 If respondent is currently enrolled in the PRP, said participation is now mandatory and as of
12 the effective date of this decision is no longer considered a self-referral under Business and
13 Professions Code section 4362(c)(2). Respondent shall successfully participate in and complete
14 her current contract and any subsequent addendums with the PRP.

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

17 Probation shall be automatically extended until respondent successfully completes the PRP.
18 Any person terminated from the PRP program shall be automatically suspended by the board.
19 Respondent may not resume the practice of pharmacy until notified by the board in writing.

20 Any confirmed positive test for alcohol or for any drug not lawfully prescribed by a
21 licensed practitioner as part of a documented medical treatment shall result in the automatic
22 suspension of practice by respondent and shall be considered a violation of probation.

23 Respondent may not resume the practice of pharmacy until notified by the board in writing.

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

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

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

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

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

12 Respondent shall pay administrative fees as invoiced by the PRP or its designee. Fees not
13 timely paid to the PRP shall constitute a violation for probation. The board will collect unpaid
14 administrative fees as part of the annual probation monitoring costs if not submitted to the PRP.

15 **21. Random Drug Screening**

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

1 shall be considered a violation of probation and shall result in the automatic suspension of
2 practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until
3 notified by the board in writing.

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

12 During suspension, respondent shall not engage in any activity that requires the
13 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
14 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
15 designated representative for any entity licensed by the board.

16 Subject to the above restrictions, respondent may continue to own or hold an interest in any
17 licensed premises in which she holds an interest at the time this decision becomes effective unless
18 otherwise specified in this order.

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

20 **22. Abstain from Drugs and Alcohol Use**

21 Respondent shall completely abstain from the possession or use of alcohol, controlled
22 substances, dangerous drugs and their associated paraphernalia except when the drugs are
23 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon
24 request of the board or its designee, respondent shall provide documentation from the licensed
25 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the
26 treatment of the respondent. Failure to timely provide such documentation shall be considered a
27 violation of probation. Respondent shall ensure that she is not in the same physical location as
28 individuals who are using illicit substances even if respondent is not personally ingesting the

1 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia
2 not supported by the documentation timely provided, and/or any physical proximity to persons
3 using illicit substances, shall be considered a violation of probation.

4 **23. Prescription Coordination and Monitoring of Prescription Use**

5 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
6 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,
7 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's
8 history with the use of controlled substances and/or dangerous drugs, and who will coordinate and
9 monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-
10 altering drugs. The approved practitioner shall be provided with a copy of the board's Accusation
11 and decision. A record of this notification must be provided to the board upon request.

12 Respondent shall sign a release authorizing the practitioner to communicate with the board about
13 respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or
14 psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding
15 respondent's compliance with this condition. If any substances considered addictive have been
16 prescribed, the report shall identify a program for the time limited use of any such substances.

17 The board may require that the single coordinating physician, nurse practitioner, physician
18 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive
19 medicine. Should respondent, for any reason, cease supervision by the approved practitioner,
20 respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment,
21 submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist
22 of respondent's choice to the board or its designee for its prior approval. Failure to timely submit
23 the selected practitioner or replacement practitioner to the board for approval, or to ensure the
24 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

25 If at any time an approved practitioner determines that respondent is unable to practice
26 safely or independently as a pharmacist, the practitioner shall notify the board immediately by
27 telephone and follow up by written letter within three (3) working days. Upon notification from
28 the board or its designee of this determination, respondent shall be automatically suspended and

1 shall not resume practice until notified by the board that practice may be resumed.

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

10 During suspension, respondent shall not engage in any activity that requires the
11 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
12 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
13 designated representative for any entity licensed by the board.

14 Subject to the above restrictions, respondent may continue to own or hold an interest in any
15 licensed premises in which she holds an interest at the time this decision becomes effective unless
16 otherwise specified in this order.

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

18 **24. Community Services Program**

19 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
20 board or its designee, for prior approval, a community service program in which respondent shall
21 provide free health-care related services on a regular basis to a community or charitable facility or
22 agency for at least eighty (80) hours per year while on probation. Within thirty (30) days of board
23 approval thereof, respondent shall submit documentation to the board demonstrating
24 commencement of the community service program. A record of this notification must be
25 provided to the board upon request. Respondent shall report on progress with the community
26 service program in the quarterly reports. Failure to timely submit, commence, or comply with the
27 program shall be considered a violation of probation.

28 ///

1 25. **Supervised Practice**

2 During the period of probation, respondent shall practice only under the supervision of a
3 licensed pharmacist not on probation with the board. Upon and after the effective date of this
4 decision, respondent shall not practice pharmacy and her license shall be automatically suspended
5 until a supervisor is approved by the board or its designee. The supervision shall be, as required
6 by the board or its designee, either:

7 Continuous – At least 75% of a work week

8 Substantial - At least 50% of a work week

9 Partial - At least 25% of a work week

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

11 Within thirty (30) days of the effective date of this decision, respondent shall have her
12 supervisor submit notification to the board in writing stating that the supervisor has read the
13 decision in case number 4185 and is familiar with the required level of supervision as determined
14 by the board or its designee. It shall be the respondent's responsibility to ensure that her
15 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
16 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
17 acknowledgements to the board shall be considered a violation of probation.

18 If respondent changes employment, it shall be the respondent's responsibility to ensure that
19 her employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
20 the board. Respondent shall have her new supervisor, within fifteen (15) days after employment
21 commences, submit notification to the board in writing stating the direct supervisor and
22 pharmacist-in-charge have read the decision in case number 4185 and is familiar with the level of
23 supervision as determined by the board. Respondent shall not practice pharmacy and her license
24 shall be automatically suspended until the board or its designee approves a new supervisor.
25 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
26 acknowledgements to the board shall be considered a violation of probation.

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

28 During suspension, respondent shall not enter any pharmacy area or any portion of the

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

8 During suspension, respondent shall not engage in any activity that requires the
9 professional judgment of a pharmacist. Respondent shall not direct or control any aspect of the
10 practice of pharmacy. Respondent shall not perform the duties of a pharmacy technician or a
11 designated representative for any entity licensed by the board.

12 Subject to the above restrictions, respondent may continue to own or hold an interest in any
13 licensed premises in which she holds an interest at the time this decision becomes effective unless
14 otherwise specified in this order.

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

16 **26. No Ownership of Licensed Premises**

17 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
18 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
19 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
20 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
21 days following the effective date of this decision and shall immediately thereafter provide written
22 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
23 documentation thereof shall be considered a violation of probation.

24 **27. Ethics Course**

25 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
26 in a course in ethics, at respondent's expense, approved in advance by the board or its designee.
27 Failure to initiate the course during the first year of probation, and complete it within the second
28 year of probation, is a violation of probation.

Attn: Mr. Weinberg.

1 Respondent shall submit a certificate of completion to the board or its designee within five
2 days after completing the course.

3 ACCEPTANCE

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

9
10 DATED: 8/3/12 
11 THUY VO-NGUYEN
12 Respondent

13 I have read and fully discussed with Respondent Thuy Vo-Nguyen the terms and conditions
14 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
15 its form and content.

16 DATED: 8/3/12 
17 HERBERT L. WEINBERG
18 Attorney for Respondent

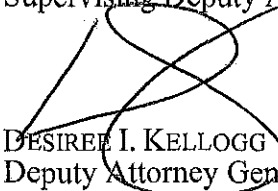
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ENDORSEMENT

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

Dated: 8/8/12

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
JAMES L. LEDAKIS
Supervising Deputy Attorney General



DESIREE I. KELLOGG
Deputy Attorney General
Attorneys for Complainant

SD2011801276

Exhibit A

Accusation No. 4185

1 KAMALA D. HARRIS
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2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
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6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

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

11 In the Matter of the Accusation Against:

Case No. 4185

12 **THUY VO-NGUYEN**
13 **15111 Bushard Street #9**
14 **Westminster, CA 92683**

A C C U S A T I O N

15 **Pharmacist License No. RPH 60854**

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about March 28, 2008, the Board of Pharmacy issued Pharmacist License
22 Number RPH 60854 to Thuy Vo-Nguyen (Respondent). The Pharmacist License was in full
23 force and effect at all times relevant to the charges brought herein and will expire on August 31,
24 2013, unless renewed.

25 **JURISDICTION**

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

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

3 (b) Any device that bears the statement: "Caution: federal law restricts this
4 device to sale by or on the order of a _____," "Rx only," or words of similar
5 import, the blank to be filled in with the designation of the practitioner licensed to use
6 or order use of the device.

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

9 8. Section 4059 of the Code states, in pertinent part, that a person may not furnish any
10 dangerous drug except upon the prescription of a physician, dentist, podiatrist, optometrist,
11 veterinarian, or naturopathic doctor pursuant to Section 3640.7. A person may not furnish any
12 dangerous device, except upon the prescription of a physician, dentist, podiatrist, optometrist,
13 veterinarian, or naturopathic doctor pursuant to Section 3640.7.

14 9. Section 4060 of the Code states, in pertinent part, that "No person shall possess any
15 controlled substance, except that furnished to a person upon the prescription of a physician,
16 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor."

17 10. Section 4324 of the Code states:

18 (a) Every person who signs the name of another, or of a fictitious person, or
19 falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine,
20 any prescription for any drugs is guilty of forgery and upon conviction thereof shall
21 be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal
22 Code, or by imprisonment in a county jail for not more than one year.

23 (b) Every person who has in his or her possession any drugs secured by a
24 forged prescription shall be punished by imprisonment pursuant to subdivision (h) of
25 Section 1170 of the Penal Code, or by imprisonment in the county jail for not more
26 than one year.

27 11. Section 11170 of the Health and Safety Code states that "No person shall prescribe,
28 administer, or furnish a controlled substance for himself."

12. Section 11173 of the Health and Safety Code states:

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

(b) No person shall make a false statement in any prescription, order, report,
or record, required by this division.

1 (c) No person shall, for the purpose of obtaining controlled substances, falsely
2 assume the title of, or represent himself to be, a manufacturer, wholesaler,
3 pharmacist, physician, dentist, veterinarian, registered nurse, physician's assistant, or
4 other authorized person.

(d) No person shall affix any false or forged label to a package or receptacle
containing controlled substances.

5 13. United States Code, title 21, section 843 states:

6 (a) Unlawful acts

7 It shall be unlawful for any person knowingly or intentionally --

8

9 (3) to acquire or obtain possession of a controlled substance by
10 misrepresentation, fraud, forgery, deception, or subterfuge;

11

12 **REGULATORY PROVISIONS**

13 14. California Code of Regulations, title 16, section 1770 states:

14 For the purpose of denial, suspension, or revocation of a personal or facility
15 license pursuant to Division 1.5 (commencing with Section 475) of the Business and
16 Professions Code, a crime or act shall be considered substantially related to the
17 qualifications, functions or duties of a licensee or registrant if to a substantial degree
it evidences present or potential unfitness of a licensee or registrant to perform the
functions authorized by his license or registration in a manner consistent with the
public health, safety, or welfare.

18 **COST RECOVERY**

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

23 **DRUGS**

24 16. Temazepam, sold commercially as Restoril, is a Schedule IV controlled substance as
25 designated by Health and Safety Code section 11057, subdivision (d)(29), and is a dangerous
26 drug pursuant to Business and Professions Code section 4022.

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1 17. Triazolam, sold commercially as Halcion, is a Schedule IV controlled substance
2 pursuant to Health and Safety Code section 11057, subdivision (d)(30), and is a dangerous drug
3 pursuant to Business and Professions Code section 4022.

4 18. Olanzapine, sold commercially as Zyprexa, is a dangerous drug pursuant to Business
5 and Professions Code section 4022.

6 **FACTUAL ALLEGATIONS**

7 19. Respondent began employment as a pharmacist with a Visalia, California Wal-Mart
8 on April 5, 2010. In a letter to the Board received on April 26, 2011, the pharmacist in charge
9 (PIC) of the Wal-Mart advised the Board that Respondent's employment had been terminated for
10 "gross misconduct/integrity" on March 29, 2011. Based on an internal investigation conducted
11 by Wal-Mart, it was determined that Respondent forged "phoned-in" prescriptions and
12 fraudulently obtained controlled substances over a five-month period. The circumstances are as
13 follows:

14 20. On October 10, 2010, Respondent filled a "phoned-in" prescription for herself for 30
15 tablets of Restoril 30 mg. (It is Wal-Mart policy that pharmacists are not permitted to fill their
16 own prescriptions.) Respondent prepared a Telephone Prescription form and entered the name of
17 a Visalia physician as the authorizing prescriber. Respondent obtained four refills of the
18 prescription on November 7, 2010, December 10, 2010, January 8, 2011, and February 21, 2011.
19 Respondent diverted a total 150 tablets of Restoril 30 mg.

20 21. On November 7, 2010, Respondent filled a phoned-in prescription for herself for 30
21 tablets of Halcion .25 mg. Respondent prepared a Telephone Prescription form and used the
22 name of the same Visalia physician to authorize the prescription. Respondent refilled the
23 prescription on December 18, 2010. Respondent diverted a total 60 tablets of Halcion .25 mg.

24 22. On March 25, 2011, Respondent prepared a Telephone Prescription form for 30
25 tablets of Zyprexa 20 mg., and 60 tablets of Halcion .25 mg. and made an entry in the pharmacy
26 computer for the order. A pharmacy technician who intercepted the order did not feel the
27 prescription made sense and refused to fill it. The pharmacy technician notified the PIC of the

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1 discrepancy. The PIC attempted to locate the suspect prescriptions, but found that the original
2 prescription copy was missing and the computer entry had been deleted.

3 23. On March 28, 2011, the PIC spoke to the doctor whose name Respondent used to
4 authorize her prescriptions. In a letter dated March 29, 2011, the doctor confirmed that he had
5 never written or approved any prescriptions for Respondent, and that she was never a patient at
6 his clinic.

7 24. On March 29, 2011, Respondent met with Wal-Mart management and she was
8 questioned about the prescriptions. Respondent admitted she forged prescriptions to obtain
9 controlled substances for her own use. Respondent also admitted that she had never been a
10 patient of the physician whose name she used to authorize the prescriptions.

11 25. An investigator from the Board contacted Respondent by telephone on May 17, 2011,
12 identified himself, and explained that he was conducting the interview as part of his investigation.
13 Respondent denied doing anything illegal. Respondent stated that the prescriptions for herself
14 were all authorized by the Visalia physician and that she was his legitimate patient. Respondent
15 stated that she had been terminated based on false information. In a subsequent interview,
16 Respondent recanted her earlier statement and told the Board investigator that she had created
17 fraudulent prescriptions in order to obtain the controlled substances for sleep and stress.

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Unprofessional Conduct - Commission of Acts Involving**
20 **Dishonesty, Fraud & Deceit)**

21 26. Respondent is subject to disciplinary action under section 4301, subdivision (f) of the
22 Code in that on or about and between October 10, 2010 and March 25, 2011, Respondent
23 diverted, or attempted to divert controlled substances and dangerous drugs from her employer
24 using fraud, deceit, and dishonesty, as detailed in paragraphs 19-25, above.

25 **SECOND CAUSE FOR DISCIPLINE**

26 **(Unprofessional Conduct – Knowingly Making a False Document)**

27 27. Respondent is subject to disciplinary action under section 4301, subdivision (g) of the
28 Code in that on or about and between October 10, 2010 and March 25, 2011, Respondent

1 knowingly made and signed fraudulent documents and made computer entries that she knew to be
2 false in order to create prescriptions for controlled substances and dangerous drugs, as detailed in
3 paragraphs 19-25, above.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct - Violation of California & Federal Statutes Regulating**
6 **Controlled Substances & Dangerous Drugs)**

7 28. Respondent is subject to disciplinary action under section 4301, subdivision (j) of the
8 Code in that on or about and between October 10, 2010 and March 25, 2011, Respondent
9 knowingly violated Business and Professions Code sections 4059, 4060, and 4324; Health and
10 Safety Code sections 11170 and 11173; and United States Code, title 21, section 843, subdivision
11 (a)(3) regulating controlled substances and dangerous drugs, as detailed in paragraphs 19-25,
12 above.

13 **FOURTH CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct – Attempting to Subvert an Investigation)**

15 29. Respondent is subject to disciplinary action under section 4301, subdivision (o) of the
16 Code in that on or about May 17, 2011, Respondent engaged in conduct that attempted to subvert
17 an investigation of the Board, as detailed in paragraph 25, above.

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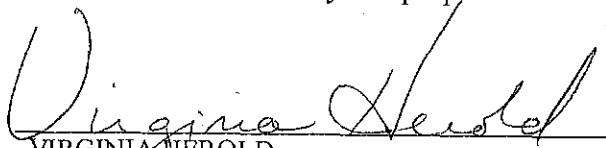
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PRAYER

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

1. Revoking or suspending Pharmacist License Number RPH 60854, issued to Thuy Vo-Nguyen;
2. Ordering Thuy Vo-Nguyen 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;
3. Taking such other and further action as deemed necessary and proper.

DATED: 1/2/12



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

SD2011801276