

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

In the Matter of the Accusation Against:

**CV HEALTH SERVICES, INC. DBA RXN  
THINGS**

5123 E. Beverly Blvd  
Los Angeles, CA 90022

Pharmacy Permit No. PHY 50157

and

**JOSEPH VIVO**  
5123 E. Beverly Blvd  
Los Angeles, CA 90022

Original Pharmacist License No. RPH 30634

Respondents.

Case No. 4576

OAH No. 2014060698

**STIPULATED SURRENDER OF  
LICENSE AND ORDER AS TO CV  
HEALTH SERVICES, INC. DBA  
RXNTHINGS**

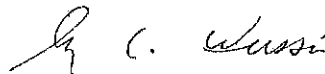
**DECISION AND ORDER**

The attached Stipulated Surrender of License and 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 March 4, 2015.

It is so ORDERED on February 25, 2015.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
STAN C. WEISSER, Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 LESLIE A. WALDEN  
Deputy Attorney General  
4 State Bar No. 196882  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
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*Attorneys for Complainant*

7  
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9 **DEPARTMENT OF CONSUMER AFFAIRS**  
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**LICENSE AND ORDER AS TO CV**  
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**RXNTHINGS**

14 Pharmacy Permit No. PHY 50157

15 and

16 **JOSEPH VIVO**  
17 5123 E. Beverly Blvd  
Los Angeles, CA 90022

18 Original Pharmacist License No. RPH 30634

19 Respondents.  
20

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

24 PARTIES

25 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.  
26 She brought this action solely in her official capacity and is represented in this matter by Kamala  
27 D. Harris, Attorney General of the State of California, by Leslie A. Walden, Deputy Attorney  
28 General.





1 ORDER

2 IT IS HEREBY ORDERED that Permit No. PHY 50157, issued to Respondent CV Health  
3 Services, Inc. dba Rxn Things; Joseph Vivo is surrendered and accepted by the Board of  
4 Pharmacy.

5 1. The surrender of Respondent's Permit and the acceptance of the surrendered license  
6 by the Board shall constitute the imposition of discipline against Respondent. This stipulation  
7 constitutes a record of the discipline and shall become a part of Respondent's license history with  
8 the Board of Pharmacy.

9 2. Respondent shall lose all rights and privileges as a licensed Pharmacy in California as  
10 of the effective date of the Board's Decision and Order.

11 3. Respondent shall cause to be delivered to the Board its Permit and, if one was issued,  
12 its wall certificate on or before the effective date of the Decision and Order.

13 4. If Respondent ever files an application for licensure or a petition for reinstatement in  
14 the State of California, the Board shall treat it as an application for a new license. Respondent  
15 must comply with all the laws, regulations and procedures for reinstatement of a revoked license  
16 in effect at the time the petition is filed, and all of the charges and allegations contained in  
17 Accusation No. 4576 shall be deemed to be true, correct and admitted by Respondent when the  
18 Board determines whether to grant or deny the petition.


19 5. If Respondent should ever apply or reapply for a new license or certification, or  
20 petition for reinstatement of a license, by any other health care licensing agency in the State of  
21 California, all of the charges and allegations contained in Accusation, No. 4576 shall be deemed  
22 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any  
23 other proceeding seeking to deny or restrict licensure.

24  
25 ACCEPTANCE

26 I have carefully read the above Stipulated Surrender of License and Order and have fully  
27 discussed it with my attorney, Noah Jussim. I understand the stipulation and the effect it will  
28 have on my Permit. I enter into this Stipulated Surrender of License and Order voluntarily,


1 knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of  
2 Pharmacy.

3  
4 DATED: 1-14-2015

  
CV HEALTH SERVICES, INC. DBA RXN  
THINGS; JOSEPH VIVO  
Respondent

7 I have read and fully discussed with Respondent CV Health Services, Inc. dba Rxn Things,  
8 Joseph Vivo the terms and conditions and other matters contained in this Stipulated Surrender of  
9 License and Order. I approve its form and content.

10 DATED: 1/14/15

  
NOAH JUSSIM  
Attorney for Respondent

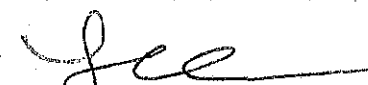
13 ENDORSEMENT

14 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted  
15 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

16 Dated: 1/15/15

17 Respectfully submitted,

18 KAMALA D. HARRIS  
Attorney General of California  
19 MARC D. GREENBAUM  
Supervising Deputy Attorney General

  
21 LESLIE A. WALDEN  
22 Deputy Attorney General  
23 Attorneys for Complainant

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**Exhibit A**

**Accusation No. 4576**

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 LESLIE A. WALDEN  
Deputy Attorney General  
4 State Bar No. 196882  
300 So. Spring Street, Suite 1702  
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Telephone: (213) 897-3465  
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9 **DEPARTMENT OF CONSUMER AFFAIRS**  
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10 In the Matter of the Accusation Against:

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13 5123 E. Beverly Blvd  
Los Angeles, CA 90022

**ACCUSATION**

14 Pharmacy Permit No. PHY 50157

15 and

16 **JOSEPH VIVO**  
17 5123 E. Beverly Blvd  
Los Angeles, CA 90022

18 Original Pharmacist License No. RPH 30634

19 Respondents.

20  
21  
22  
23 Complainant alleges:

24 **PARTIES**

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

27 2. On or about September 14, 2010, the Board of Pharmacy issued Original Pharmacy  
28 Permit Number PHY 50157 to CV Health Services, Inc. dba RxnThings (Rxn). The Permit was



1 in full force and effect at all times relevant to the charges brought herein and will expire on  
2 September 1, 2013, unless renewed. On or about September 27, 1976, the Board of Pharmacy  
3 issued Original Pharmacist License Number RPH 30634 to Joseph Vivo (Vivo). The License was  
4 in full force and effect at all times relevant to the charges brought herein and will expire on April  
5 30, 2015, unless renewed.

### 6 JURISDICTION

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

10 4. California Code of Regulations, title 16, section 1770, states:

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

17 5. Section 4300 of the Code states:

18 "(a) Every license issued may be suspended or revoked.

19 "(b) The board shall discipline the holder of any license issued by the board, whose default  
20 has been entered or whose case has been heard by the board and found guilty, by any of the  
21 following methods:

22 "(1) Suspending judgment.

23 "(2) Placing him or her upon probation.

24 "(3) Suspending his or her right to practice for a period not exceeding one year.

25 "(4) Revoking his or her license.

26 "(5) Taking any other action in relation to disciplining him or her as the board in its  
27 discretion may deem proper.

28 ...

1           "(e) The proceedings under this article shall be conducted in accordance with Chapter 5  
2 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board  
3 shall have all the powers granted therein. The action shall be final, except that the propriety of  
4 the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of  
5 Civil Procedure."

6           6. Section 4081 of the Code states:

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

16           ..."

17           7. Section 4110, subdivision (a) of the Code states:

18           "(a) No person shall conduct a pharmacy in the State of California unless he or she has  
19 obtained a license from the board. A license shall be required for each pharmacy owned or  
20 operated by a specific person. A separate license shall be required for each of the premises of any  
21 person operating a pharmacy in more than one location. The license shall be renewed annually.  
22 The board may, by regulation, determine the circumstances under which a license may be  
23 transferred."

24           ...."

25           8. Section 4116, subdivision (a) of the Code states:

26           "(a) No person other than a pharmacist, an intern pharmacist, an authorized officer of the  
27 law, or a person authorized to prescribe shall be permitted in that area, place, or premises  
28 described in the license issued by the board wherein controlled substances or dangerous drugs or

1 dangerous devices are stored, possessed, prepared, manufactured, derived, compounded,  
2 dispensed, or repackaged. However, a pharmacist shall be responsible for any individual who  
3 enters the pharmacy for the purposes of receiving consultation from the pharmacist or performing  
4 clerical, inventory control, housekeeping, delivery, maintenance, or similar functions relating to  
5 the pharmacy if the pharmacist remains present in the pharmacy during all times as the authorized  
6 individual is present.”

7 ....”

8 9. Section 4117 of the Code states:

9 “No person other than a pharmacist, an intern pharmacist, a pharmacy technician, an  
10 authorized officer of the law, a person authorized to prescribe, a registered nurse, a licensed  
11 vocational nurse, a person who enters the pharmacy for purposes of receiving consultation from a  
12 pharmacist, or a person authorized by the pharmacist in charge to perform clerical, inventory  
13 control, housekeeping, delivery, maintenance, or similar functions relating to the pharmacy shall  
14 be permitted in that area, place, or premises described in the license issued by the board to a  
15 licensed hospital wherein controlled substances, dangerous drugs, or dangerous devices are  
16 stored, possessed, prepared, manufactured, derived, compounded, dispensed, or repackaged.”

17 10. Section 4040, subdivision (b) of the Code states:

18 (b) “... a written order of the prescriber for a dangerous drug, except for any Schedule II  
19 controlled substance, that contains at least the name and signature of the prescriber, the name and  
20 address of the patient in a manner consistent with paragraph (2) of subdivision (a) of Section  
21 11164 of the Health and Safety Code, the name and quantity of the drug prescribed, directions for  
22 use, and the date of issue may be treated as a prescription by the dispensing pharmacist as long as  
23 any additional information required by subdivision (a) is readily retrievable in the pharmacy. In  
24 the event of a conflict between this subdivision and Section 11164 of the Health and Safety Code,  
25 Section 11164 of the Health and Safety Code shall prevail.”

26 ....”

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11. California Code of Regulations, title 16, section 1717, states:

"...

"(c) Promptly upon receipt of an orally transmitted prescription, the pharmacist shall reduce it to writing, and initial it, and identify it as an orally transmitted prescription. If the prescription is then dispensed by another pharmacist, the dispensing pharmacist shall also initial the prescription to identify him or herself.

"All orally transmitted prescriptions shall be received and transcribed by a pharmacist prior to compounding, filling, dispensing, or furnishing.

"Chart orders as defined in Section 4019 of the Business and Professions Code are not subject to the provisions of this subsection."

..."

12. California Code of Regulations, title 16, section 1714, subdivision (b) states:

"...

"(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of dangerous drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist."

...."

**COSTS RECOVERY**

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

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1 **STATEMENT OF FACTS**

2 14. On or about July 13, 2012, the Board conducted a routine inspection of Rxn located at  
3 5123 E. Beverly Blvd., Los Angeles, California. The following violations were found by the  
4 Board:

5 (a) Rxn pharmacy doors were found unlocked with controlled substances located  
6 inside and without a pharmacist present. Pharmacist in Charge (PIC) Vivo allowed Rxn to be  
7 accessed through a common adjoining door leading to an establishment called Atlantic Pharmacy.  
8 PIC Vivo allowed employees of Atlantic Pharmacy access to Rxn, which had controlled  
9 substances located inside and no pharmacist present. Atlantic Pharmacy employees were  
10 observed moving in and out of Rxn.

11 (b) PIC Vivo failed to make Rxn's records regarding the manufacture, sale,  
12 acquisition or disposition of dangerous drugs available for inspection in the pharmacy during  
13 business hours.

14 15. On or about July 23, 2012, The Board conducted a routine inspection of Medical  
15 Group Pharmacy (MGP) (PHY 50157) located at 14860 Roscoe Blvd., Suite 102, Panorama City,  
16 California. The following violations were found by the Board:

17 (a) PIC Vivo had been operating Rxn as a pharmacy out of MGP without a valid  
18 license from approximately March 2012 through July 13, 2012. Thirty-four patient profiles  
19 representing 488 prescriptions were filled during this time frame.

20 (b) Original oral prescription records for prescriptions previously filled by Rxn  
21 were found and were not reduced to writings, initialed or identified as orally transmitted  
22 prescriptions.

23 **FIRST CAUSE FOR DISCIPLINE**

24 (Lack of Operational Standards and Security)

25 16. Respondents Rxn and Vivo are subject to disciplinary action under California Code of  
26 Regulations, title 16, section 1714, subdivision (b) in that Respondents failed to be maintain the  
27 security of the prescription department for effective control against theft or diversion of  
28 dangerous drugs and devices, and records for such drugs and devices. The circumstances

1 surrounding these violations are set forth in paragraph 14(a) above, and are incorporated herein as  
2 though set forth in full.

3 **SECOND CAUSE FOR DISCIPLINE**

4 (Failure to Maintain Security of are where Drugs are Stored)

5 17. Respondents Rxn and Vivo are subject to disciplinary action under section 4116,  
6 subdivision (a) of the Code in that Respondents failed to maintain security of the area where  
7 controlled substances, dangerous drugs, or dangerous devices were stored. The circumstances  
8 surrounding these violations are set forth in paragraph 14(a) above, and are incorporated herein as  
9 though set forth in full.

10 **THIRD CAUSE FOR DISCIPLINE**

11 (Failure to Restrict Admission to Area where Drugs are Stored)

12 18. Respondents Rxn and Vivo are subject to disciplinary action under section 4117 of  
13 the Code in that Respondents failed to restrict access to authorized individuals to that area where  
14 controlled substances, dangerous drugs, or dangerous devices are stored. The circumstances  
15 surrounding these violations are set forth in paragraph 14(a) above, and are incorporated herein as  
16 though set forth in full.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 (Oral Prescriptions Not Reduced to Writing)

19 19. Respondents Rxn and Vivo are subject to disciplinary action under section 4040,  
20 subdivision (b) of the Code in conjunctions with California Code of Regulations, title 16, section  
21 1717, subdivision (c) in that Respondents, upon receipt of transmitted of prescriptions, failed to  
22 reduce oral prescriptions to writings, initial them or indentify them as orally transmitted  
23 prescriptions. The circumstances surrounding these violations are set forth in paragraph 15(b)  
24 above, and are incorporated herein as though set forth in full.

25 **FIFTH CAUSE FOR DISCIPLINE**

26 (Failure to Operate Pharmacy with a Valid License)

27 20. Respondents Rxn and Vivo are subject to disciplinary action under section 4110,  
28 subdivision (a) of the Code in that Respondents failed to conduct a pharmacy in the State of

1 California with a valid license issued by the Board. The circumstances surrounding these  
2 violations are set forth in paragraph 15(a) above, and are incorporated herein as though set forth  
3 in full.

4 **SIXTH CAUSE FOR DISCIPLINE**

5 (Failure to Maintain Records of Dangerous Drugs)

6 21. Respondents Rxn and Vivo are subject to disciplinary action under section 4081,  
7 subdivision (a) of the Code in that Respondent's records of manufacture and of sale, acquisition,  
8 or disposition of dangerous drugs or dangerous devices were not held open for inspection by  
9 authorized officers of the law during business hours. The circumstances surrounding these  
10 violations are set forth in paragraph 14(b) above, and are incorporated herein as though set forth  
11 in full.

12 **DISCIPLINE CONSIDERATIONS**

13 22. To determine the degree of discipline, if any, to be imposed on Respondent Vivo,  
14 Complainant alleges that on or about December 20, 2012, the Board of Pharmacy issued to Vivo  
15 Citation No. CI 2012 55043 for a violation of section 4005 of the Code and California Code of  
16 Regulations, title 16, section 1701.4, subdivision (a)(4), and ordered Vivo to pay a fine in the  
17 amount of \$1000.00. The circumstances surrounding this citation were such that on or about July  
18 23, 2012, the Board conducted a routine inspection of Medical Group Pharmacy (PHY 50157)  
19 located at 14860 Roscoe Blvd., Suite 102, Panorama City, California, where Respondent Vivo  
20 transferred prescription refills to Rxn without maintaining documentation of the transfers. That  
21 Citation is now final and is incorporated by reference as if fully set forth.

22 **PRAYER**

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

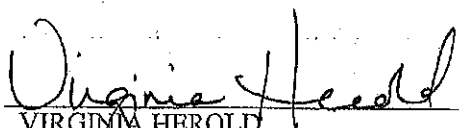
25 1. Revoking or suspending Pharmacy Permit Number PHY 50157, issued to CV Health  
26 Services, Inc. dba Rxn Things; and Original Pharmacist License Number RPH 30634 issued to  
27 Joseph Vivo:  
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2. Ordering CV Health Services, Inc. dba Rxn Things and Joseph Vivo 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: 9/19/13



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

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