

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

In the Matter of the Accusation Against:

Case No. 4981 and 5328

SOONG OK CHANG
6901 East Rutgers Drive
Anaheim Hills, CA 92807

Pharmacist License No. RPH 45540

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 at 5:00 p.m. on April 20, 2017.

It is so ORDERED on March 21, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

1 XAVIER BECERRA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
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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 Nos. 4981 and 5328

12 **GEE'S HEALTHCARE PHARMACY,**
13 **INC., DBA CABRILLO PARK**
PHARMACY
14 2212 East 4th Street #102
Santa Ana, CA 92705

OAH No. 2015100446

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER (SOONG OK
CHANG)

15 Pharmacy Permit No. PHY 50066

16 **GEE'S HEALTHCARE PHARMACY,**
17 **INC., DBA YORBA PARK PHARMACY**
2501 E. Chapman Blvd., No. 106
18 Orange, CA 92869

19 Pharmacy Permit No. PHY 45771

20 **JAMES YING-MING GEE**
220 Tall Oak
21 Irvine, CA 92603

22 Pharmacist License No. RPH 44796

23 **SOONG OK CHANG**
6901 East Rutgers Drive
24 Anaheim Hills, CA 92807

25 Pharmacist License No. RPH 45540
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1 ANH NGOC PHAN
2 11701 Steele Dr.
3 Garden Grove, CA 92840

4 Pharmacist License No. RPH 42197

5 Respondent.

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

9 PARTIES

10 1. Virginia K. Herold (Complainant) is the Executive Officer of the Board of Pharmacy
11 (Board). She brought this action solely in her official capacity and is represented in this matter by
12 Xavier Becerra, Attorney General of the State of California, by Desiree I. Kellogg, Deputy
13 Attorney General.

14 2. Respondent Soong Ok Chang (Respondent Soong Chang) is represented in this
15 proceeding by attorney Ivan Petrzelka, Pharm.D., J.D., of California Pharmacy Lawyers, 2855
16 Michelle Drive, Suite 180, Irvine, CA 92606-1027.

17 3. On or about August 14, 1992, the Board issued Pharmacist License Number RPH
18 45540 to Respondent Soong Chang. The Pharmacist License was in full force and effect at all
19 times relevant to the charges brought in Second Amended Accusation Nos. 4981 and 5328, and
20 will expire on September 30, 2017, unless renewed.

21 JURISDICTION

22 4. Second Amended Accusation Nos. 4981 and 5328 was filed before the Board, and is
23 currently pending against Respondent Soong Chang. The Second Amended Accusation and all
24 other statutorily required documents were properly served on Respondent Soong Chang on June
25 3, 2016. Respondent timely filed her Notice of Defense contesting the Second Amended
26 Accusation.

27 5. A copy of Second Amended Accusation Nos. 4981 and 5328 is attached as exhibit A
28 and incorporated herein by reference.

1 CONTINGENCY

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

12 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
13 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
14 signatures thereto, shall have the same force and effect as the originals.

15 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
16 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
17 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
18 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
19 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
20 writing executed by an authorized representative of each of the parties.

21 15. In consideration of the foregoing admissions and stipulations, the parties agree that
22 the Board may, without further notice or formal proceeding, issue and enter the following
23 Disciplinary Order:

24 DISCIPLINARY ORDER

25 IT IS HEREBY ORDERED that Pharmacist License No. RPH 45540 issued to Respondent
26 Soong Ok Chang is revoked. However, the revocation is stayed and Respondent Soong Chang is
27 placed on probation for five (5) years on the following terms and conditions.

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1. Suspension

As part of probation, respondent is suspended from the practice of pharmacy for sixty (60) days beginning the effective date of this decision.

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

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

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

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

2. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment

- 1 • a conviction of any crime
- 2 • discipline, citation, or other administrative action filed by any state or federal agency
- 3 which involves respondent's pharmacist license or which is related to the practice of
- 4 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
- 5 for any drug, device or controlled substance.

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

7 **3. Report to the Board**

8 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
9 designee. The report shall be made either in person or in writing, as directed. Among other
10 requirements, respondent shall state in each report under penalty of perjury whether there has
11 been compliance with all the terms and conditions of probation. Failure to submit timely reports
12 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
13 in submission of reports as directed may be added to the total period of probation. Moreover, if
14 the final probation report is not made as directed, probation shall be automatically extended until
15 such time as the final report is made and accepted by the board.

16 **4. Interview with the Board**

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

22 **5. Cooperate with Board Staff**

23 Respondent shall cooperate with the board's inspection program and with the board's
24 monitoring and investigation of respondent's compliance with the terms and conditions of their
25 probation. Failure to cooperate shall be considered a violation of probation.

26 **6. Continuing Education**

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

1 7. **Notice to Employers**

2 During the period of probation, respondent shall notify all present and prospective
3 employers of the decision in case numbers 4981 and 5328 and the terms, conditions and
4 restrictions imposed on respondent by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 respondent undertaking any new employment, respondent shall cause their direct supervisor,
7 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
8 tenure of employment) and owner to report to the board in writing acknowledging that the listed
9 individual(s) has/have read the decision in case numbers 4981 and 5328, and terms and conditions
10 imposed thereby. It shall be respondent's responsibility to ensure that their employer(s) and/or
11 supervisor(s) submit timely acknowledgment(s) to the board.

12 If respondent works for or is employed by or through a pharmacy employment service,
13 respondent must notify their direct supervisor, pharmacist-in-charge, and owner at every entity
14 licensed by the board of the terms and conditions of the decision in case numbers 4981 and 5328
15 in advance of the respondent commencing work at each licensed entity. A record of this
16 notification must be provided to the board upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
18 (15) days of respondent undertaking any new employment by or through a pharmacy employment
19 service, respondent shall cause their direct supervisor with the pharmacy employment service to
20 report to the board in writing acknowledging that they has read the decision in case numbers 4981
21 and 5328 and the terms and conditions imposed thereby. It shall be respondent's responsibility to
22 ensure that their employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

3 **8. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC),**
4 **Serving as Designated Representative-in-Charge, or Serving as a Consultant**

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

9 **9. Reimbursement of Board Costs**

10 As a condition precedent to successful completion of probation, respondent shall pay to the
11 board its costs of investigation and prosecution in the amount of \$16,983.00, in a payment plan to
12 be approved by the Board.

13 There shall be no deviation from this schedule absent prior written approval by the board or
14 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
15 probation.

16 The filing of bankruptcy by respondent shall not relieve respondent of their responsibility to
17 reimburse the board its costs of investigation and prosecution.

18 **10. Probation Monitoring Costs**

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

23 **11. Status of License**

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

27 If respondent's license expires or is cancelled by operation of law or otherwise at any time
28 during the period of probation, including any extensions thereof due to tolling or otherwise, upon

1 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
2 probation not previously satisfied.

3 **12. License Surrender While on Probation/Suspension**

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

11 Upon acceptance of the surrender, respondent shall relinquish their pocket and wall license
12 to the board within ten (10) days of notification by the board that the surrender is accepted,
13 Respondent may not reapply for any license from the board for three (3) years from the effective
14 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
15 of the date the application for that license is submitted to the board, including any outstanding
16 costs.

17 **13. Notification of a Change in Name, Residence Address, Mailing**
18 **Address or Employment**

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

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

26 **14. Tolling of Probation**

27 Except during periods of suspension, respondent shall, at all times while on probation, be
28 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any

1 month during which this minimum is not met shall toll the period of probation, i.e., the period of
2 probation shall be extended by one month for each month during which this minimum is not met.
3 During any such period of tolling of probation, respondent must nonetheless comply with all
4 terms and conditions of probation.

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

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

13 "Cessation of practice" means any calendar month during which respondent is
14 not practicing as a pharmacist for at least 40 hours, as defined by Business and
15 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
16 month during which respondent is practicing as a pharmacist for at least 40 hours as a
17 pharmacist as defined by Business and Professions Code section 4000 et seq.

18 15. Violation of Probation

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

24 If respondent violates probation in any respect, the board, after giving respondent notice
25 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
26 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
27 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
28 a petition to revoke probation or an accusation is filed against respondent during probation, the

1 board shall have continuing jurisdiction and the period of probation shall be automatically
2 extended until the petition to revoke probation or accusation is heard and decided, and the charges
3 and allegations in the Second Amended Accusation shall be deemed true and correct.

4 **16. Completion of Probation**

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

7 **17. Restricted Practice**

8 Respondent's practice of pharmacy shall be restricted from dispensing Schedule II and
9 Schedule III controlled substances, as defined in the controlled substances schedules in federal
10 law and regulations, for the first six (6) months of probation if twenty (20) hours of remedial
11 education is successfully completed by respondent, as set forth in paragraph 18 below, during the
12 first six (6) months of probation. If respondent does not complete twenty hours (20) of remedial
13 education as set forth in paragraph 18 below, respondent's practice of pharmacy shall be
14 restricted from dispensing Schedule II and Schedule III controlled substances, as defined in the
15 controlled substances schedules in federal law and regulations, for the first year of probation.
16 Respondent shall submit proof satisfactory to the board of compliance with this term of probation.

17 **18. Remedial Education**

18 Within thirty (30) days of the effective date of this decision, respondent shall submit to the
19 board or its designee, for prior approval, an appropriate program of remedial education related to
20 corresponding responsibility, drug thefts, pharmacy security and pharmacy law. The program of
21 remedial education shall consist of at least twenty (20) hours, with fifty (50) percent in-person,
22 which shall be completed within the first year at respondent's own expense. After the first year,
23 respondent shall complete ten (10) hours of such remedial education, with fifty (50) percent in-
24 person, each subsequent year of probation. All remedial education shall be in addition to, and
25 shall not be credited toward, continuing education (CE) courses used for license renewal
26 purposes.

27 Failure to timely submit or complete the approved remedial education shall be considered a
28 violation of probation. The period of probation will be automatically extended until such

1 remedial education is successfully completed and written proof, in a form acceptable to the board,
2 is provided to the board or its designee.

3 Following the completion of each course, the board or its designee may require the
4 respondent, at their own expense, to take an approved examination to test the respondent's
5 knowledge of the course. If the respondent does not achieve a passing score on the examination,
6 this failure shall be considered a violation of probation. Any such examination failure shall
7 require respondent to take another course approved by the board in the same subject area.

8 19. Supervised Practice

9 During the period of probation, respondent shall practice only under the supervision of a
10 licensed pharmacist not on probation with the board. Upon and after the effective date of this
11 decision, respondent shall not practice pharmacy and their license shall be automatically
12 suspended until a supervisor is approved by the board or its designee. The supervision shall be,
13 as required by the board or its designee, either:

14 Continuous - At least 75% of a work week

15 Substantial - At least 50% of a work week

16 Partial - At least 25% of a work week

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

18 Within thirty (30) days of the effective date of this decision, respondent shall have their
19 supervisor submit notification to the board in writing stating that the supervisor has read the
20 decision in case numbers 498 and 5328 and is familiar with the required level of supervision as
21 determined by the board or its designee. It shall be the respondent's responsibility to ensure that
22 their employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s)
23 to the board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
24 acknowledgements to the board shall be considered a violation of probation.

25 If respondent changes employment, it shall be the respondent's responsibility to ensure that
26 their employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s)
27 to the board. Respondent shall have their new supervisor, within fifteen (15) days after
28 employment commences, submit notification to the board in writing stating the direct supervisor

1 and pharmacist-in-charge have read the decision in case numbers 4981 and 5328 and is familiar
2 with the level of supervision as determined by the board. Respondent shall not practice pharmacy
3 and their license shall be automatically suspended until the board or its designee approves a new
4 supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
5 acknowledgements to the board shall be considered a violation of probation.

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

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

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

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

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

23 **20. No Ownership of Licensed Premises**

24 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
25 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
26 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
27 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
28 days following the effective date of this decision and shall immediately thereafter provide written

1 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
2 documentation thereof shall be considered a violation of probation.

3 **21. Tolling of Suspension**

4 During the period of suspension, respondent shall not leave California for any period
5 exceeding ten (10) days, regardless of purpose (including vacation). Any such absence in excess
6 of the (10) days during suspension shall be considered a violation of probation. Moreover, any
7 absence from California during the period of suspension exceeding ten (10) days shall toll the
8 suspension, i.e., the suspension shall be extended by one day for each day over ten (10) days
9 respondent is absent from California. During any such period of tolling of suspension,
10 respondent must nonetheless comply with all terms and conditions of probation.

11 Respondent must notify the board in writing within ten (10) days of departure, and must
12 further notify the board in writing within ten (10) days of return. The failure to provide such
13 notification(s) shall constitute a violation of probation. Upon such departure and return,
14 respondent shall not resume the practice of pharmacy until notified by the board that the period of
15 suspension has been satisfactorily completed.

16 **22. Ethics Course**

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

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

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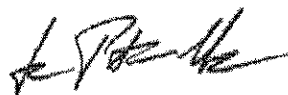
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Ivan Petrzelka. I understand the stipulation and the effect it will have on my 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.

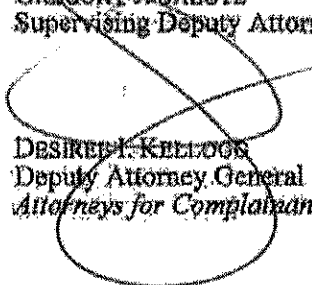
DATED: 1/31/2017 
SOONG OK CHANG
Respondent

I have read and fully discussed with Respondent Soong Ok Chang, the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: February 1, 2017 
IVAN PETRZELKA
Attorney for Respondent

ENDORSEMENT

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

DATED: 2/2/17 Respectfully submitted,
XAVIER BECERRA
Attorney General of California
GREGORY L. SALUTE
Supervising Deputy Attorney General

DESIRED KELLOOS
Deputy Attorney General
Attorneys for Complainant

SD2013706220
81576504.doc

Exhibit A

Second Amended Accusation Nos. 4981 and 5328

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
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5 San Diego, CA 92101
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6 San Diego, CA 92186-5266
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case Nos. 4981 and 5328

12 **GEE'S HEALTHCARE PHARMACY, INC.,**
13 **DBA CABRILLO PARK PHARMACY**
2212 East 4th Street #102
14 Santa Ana, CA 92705

**SECOND AMENDED
ACCUSATION**

15 Pharmacy Permit No. PHY 50066

16 **GEE'S HEALTHCARE PHARMACY, INC.,**
17 **DBA YORBA PARK PHARMACY**
2501 E. Chapman Blvd., No. 106
18 Orange, CA 92869

19 Pharmacy Permit No. PHY 45771

20 **JAMES YING-MING GEE**
220 Tall Oak
21 Irvine, CA 92603

22 Pharmacist License No. RPH 44796

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25 Pharmacist License No. RPH 45540
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1 ANH NGOC PHAN
2 11701 Steele Dr.
3 Garden Grove, CA 92840

4 Pharmacist License No. RPH 42197

5 Respondents.
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7
8 Complainant alleges:

9 **PARTIES**

10 1. Virginia Herold (Complainant) brings this Second Amended Accusation solely in her
11 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
12 Affairs.

13 2. On or about April 16, 2002, the Board of Pharmacy issued Pharmacy Permit Number
14 PHY 45771 to Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park Pharmacy
15 (Respondent Yorba Park Pharmacy). From April 16, 2002 through the present, Respondent
16 James Gee has been the President and fifty percent owner of Respondent Yorba Park Pharmacy.
17 The Pharmacy Permit was in full force and effect at all times relevant to the charges brought
18 herein and will expire on April 1, 2017, unless renewed.

19 3. On or about September 1, 2009, the Board of Pharmacy issued Pharmacy Permit
20 Number PHY 50066 to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park
21 Pharmacy (Respondent Cabrillo Park Pharmacy). From September 1, 2009, Respondent James
22 Gee has been the President and fifty percent owner of Cabrillo Park Pharmacy. The Pharmacy
23 Permit was in full force and effect at all times relevant to the charges brought herein and will
24 expire on September 1, 2016, unless renewed.

25 4. On or about August 26, 1991, the Board of Pharmacy issued Pharmacist License
26 Number RPH 44796 to James Ying-Ming Gee (Respondent James Gee.) The Pharmacist License
27
28

1 was in full force and effect at all times relevant to the charges brought herein and will expire on
2 April 30, 2017, unless renewed.

3 5. On or about August 14, 1992, the Board of Pharmacy issued Pharmacist License
4 Number RPH 45540 to Soong OK Chang (Respondent Soong Chang.) The Pharmacist License
5 was in full force and effect at all times relevant to the charges brought herein and will expire on
6 September 30, 2017, unless renewed.

7 6. On or about September 20, 1988, the Board of Pharmacy issued Pharmacist License
8 Number RPH 42197 to Anh Ngoc Phan (Respondent Anh Phan.) The Pharmacist License was in
9 full force and effect at all times relevant to the charges brought herein and will expire on May 31,
10 2016, unless renewed.

11 JURISDICTION

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

15 8. Section 4011 of the Code provides that the Board shall administer and enforce both
16 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
17 Act [Health & Safety Code, § 11000 et seq.].

18 9. Section 4300(a) of the Code provides that every license issued by the Board may be
19 suspended or revoked.

20 10. Section 4300.1 of the Code states:

21 The expiration, cancellation, forfeiture, or suspension of a board-issued license
22 by operation of law or by order or decision of the board or a court of law, the
23 placement of a license on a retired status, or the voluntary surrender of a license by a
24 licensee shall not deprive the board of jurisdiction to commence or proceed with any
investigation of, or action or disciplinary proceeding against, the licensee or to render
a decision suspending or revoking the license.

25 STATUTORY AND REGULATORY PROVISIONS

26 11. Section 4081 of the Code states in pertinent part:

27 (a) All records of manufacture and of sale, acquisition, or disposition of dangerous
28 drugs or dangerous devices shall be at all times during business hours open to
inspection by authorized officers of the law, and shall be preserved for at least

1 three years from the date of making. A current inventory shall be kept by every
2 manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer,
3 physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution,
4 or establishment holding a currently valid and unrevoked certificate, license,
5 permit, registration, or exemption under Division 2 (commencing with Section
6 1200) of the Health and Safety Code or under Part 4 (commencing with Section
7 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock
8 of dangerous drugs or dangerous devices.

9 (b) The owner, officer, and partner of any pharmacy, wholesaler, or veterinary
10 food-animal drug retailer shall be jointly responsible, with the
11 pharmacist-in-charge or representative-in-charge, for maintaining the records and
12 inventory described in this section.

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

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

18 ...

19 (d) The clearly excessive furnishing of controlled substances in violation of
20 subdivision (a) of Section 11153 of the Health and Safety Code.

21 ...

22 (j) The violation of any of the statutes of this state, or any other state, or of the
23 United States regulating controlled substances and dangerous drugs....

24 ...

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

...

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

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

14. Section 4306.5 of the Code states, in pertinent part:

Unprofessional conduct for a pharmacist may include any of the following:

Acts or omissions that involve, in whole or in part, the inappropriate exercise of
his or her education, training, or experience as a pharmacist, whether or not the act
or omission arises in the course of the practice of pharmacy or the ownership,
management, administration, or operation of a pharmacy or other entity licensed by

the board.

Acts or omissions that involve, in whole or in part, the failure to consult appropriate patient, prescription, and other records pertaining to the performance of any pharmacy function.

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

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

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

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

16. Health and Safety Code section 11153(a) states:

A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

17. Health and Safety Code section 11164(a)(1) states:

Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 and shall meet the following requirements: (1) the prescription shall be signed and dated by the prescriber in ink and shall contain the prescriber's address and telephone number; the name of the ultimate user or research subject, or contact information as determined by the Secretary of United States Department of Health and Human Services; refill information, such as the number of refills ordered and whether the prescription is a first-time request or a refill; and the name, quantity, strength, and directions for use of

1 the controlled substance prescribed.

2 18. Section 1707.3 of title 16, California Code of Regulations states:

3 Prior to consultation as set forth in section 1707.2, a pharmacist shall review a
4 patient's drug therapy and medication record before each prescription drug is
delivered. The review shall include screening for severe potential drug therapy
problems.

5 19. Sections 1714(b) and 1714(d) of title 16, California Code of Regulations states:

6 (b) Each pharmacy licensed by the board shall maintain its facilities, space,
7 fixtures, and equipment so that drugs are safely and properly prepared, maintained,
secured and distributed. The pharmacy shall be of sufficient size and unobstructed
8 area to accommodate the safe practice of pharmacy.

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

12 20. Section 1715.6 of title 16, California Code of Regulations states:

13 The owner shall report to the Board within thirty (30) days of discovery of any
14 loss of the controlled substances, including their amounts and strengths.

15 21. Section 1716 of title 16, California Code of Regulations states:

16 Pharmacists shall not deviate from the requirements of a prescription except
17 upon the prior consent of the prescriber or to select the drug product in accordance
18 with Section 4073 of the Business and Professions Code.

19 Nothing in this regulation is intended to prohibit a pharmacist from exercising
20 commonly accepted pharmaceutical practice in the compounding or dispensing of a
21 prescription.

22 22. Section 1718 of title 16, California Code of Regulations states:

23 "Current Inventory" as used in Section 4081 and 4332 of the Business and
24 Professions Code shall be considered to include complete accountability for all
25 dangerous drugs handled by every licensee enumerated in Section 4081 and 4332.

26 The controlled substances inventories required by Title 21, CFR, Section 1304
27 shall be available for inspection upon request for at least three years.

28 23. Section 1761 of title 16, California Code of Regulations states:

(a) No pharmacist shall compound or dispense any prescription which contains
any significant error, omission, irregularity, uncertainty, ambiguity or alteration.
Upon receipt of any such prescription, the pharmacist shall contact the prescriber to
obtain the information needed to validate the prescription.

(b) Even after conferring with the prescriber, a pharmacist shall not compound

1 or dispense a controlled substance prescription where the pharmacist knows or has
2 objective reason to know that said prescription was not issued for a legitimate
3 medical purpose.

4 COST RECOVERY

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

9 DRUGS

10 25. Dilaudid is the brand name for hydromorphone, a Schedule II controlled substance
11 pursuant to Health and Safety Code section 11054(b)(J) and a dangerous drug pursuant to
12 Business and Professions Code section 4022.

13 26. Norco is the brand name for hydrocodone/acetaminophen, a Schedule III controlled
14 substance pursuant to Health and Safety Code section 11056(e)(5) and a dangerous drug pursuant
15 to Business and Professions Code section 4022.

16 27. Opana is the brand name for oxymorphone hydrochloride, a Schedule II controlled
17 substance pursuant to Health and Safety Code section 11054(b)(N) and a dangerous drug pursuant
18 to Business and Professions Code section 4022.

19 28. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
20 section 11054(b)(M) and a dangerous drug pursuant to Business and Professions Code section
21 4022.

22 29. Phenergan with Codeine is the brand name for promethazine with codeine, a
23 Schedule V controlled substance pursuant to Health and Safety Code section 111058(c)(1) and is
24 a dangerous drug pursuant to Business and Professions Code section 4022.

25 30. Xanax is the brand name for alprazolam, a Schedule IV controlled substance pursuant
26 to Health and Safety Code section 11057(d)(1) and a dangerous drug pursuant to Business and
27 Professions Code section 4022.
28

1 **FACTUAL ALLEGATIONS**

2 31. From April 16, 2002 through the present, Respondent James Gee was the Pharmacist-
3 in-Charge of Respondent Yorba Park Pharmacy. From September 1, 2009 through the present,
4 Respondent James Gee was the Pharmacist-in-Charge of Respondent Cabrillo Park Pharmacy.
5 From September 2012 through January 2013, Respondent Soong Chang was a staff pharmacist at
6 Respondent Cabrillo Park Pharmacy. From June 21, 2012 through November 19, 2013,
7 Respondent Soong Chang was also a staff pharmacist at Respondent Yorba Park Pharmacy.
8 From June 21, 2012 through November 19, 2013, Respondent Anh Phan was a staff pharmacist at
9 Respondent Yorba Park Pharmacy.

10 32. Respondents Cabrillo Park Pharmacy, James Gee and Soong Chang filled
11 prescriptions for controlled substances which were written by Dr. M.S. from September 24, 2012
12 through January 11, 2013. Dr. M.S.'s address was listed on the prescriptions filled by
13 Respondents as being 53 miles away from Respondent Cabrillo Park Pharmacy. Respondent
14 Cabrillo Park Pharmacy was an average of 65 miles (one way) from the patients' addresses listed
15 on prescriptions written by Dr. M.S. who had a general practice with a secondary practice in
16 pediatrics and did not specialize in pain management. Patients paid for the controlled substance
17 prescriptions in cash at Respondent Cabrillo Park Pharmacy and did not seek reimbursement from
18 an insurance company or government agency. Patients filled prescriptions for controlled
19 substances prescribed by multiple physicians during the same time frame at multiple pharmacies.

20 33. Respondents Yorba Park Pharmacy, James Gee, Soong Chang and Anh Phan filled
21 prescriptions for controlled substances which were written by Dr. M.S. from June 21, 2012
22 through November 19, 2013. Dr. M.S.'s address was listed on the prescriptions filled by
23 Respondents as being 51 miles away from Respondent Yorba Park Pharmacy. Respondent Yorba
24 Park Pharmacy was an average of 55 miles (one way) from the patients' addresses listed on
25 prescriptions written by Dr. M.S. who had a general practice with a secondary practice in
26 pediatrics and did not specialize in pain management. Patients paid for the controlled substance
27 prescriptions in cash at Respondent Yorba Park Pharmacy and did not seek reimbursement from
28

1 an insurance company or government agency. Patients filled prescriptions for controlled
2 substances prescribed by multiple physicians during the same time frame at multiple pharmacies.

3 34. Dr. M.S.'s prescriptions for controlled substances were written in an identical fashion
4 for multiple patients as follows: (1) hydrocodone/APAP 10/325, with directions to take 1-2
5 tablets three times a day in a quantity of 90-100; (2) alprazolam 2 mg with directions to take 1
6 tablet three times a day in a quantity of 90; and (3) oxycodone 30mg with directions to take 1
7 tablet three times a day in a quantity of 90. There was no adjustment in the prescribing pattern
8 for sex, age, weight, renal or hepatic function, race, diagnosis, past medications used or any other
9 patient related factor. None of the "chronic pain patients" being treated by Dr. M.S. were
10 receiving a long acting pain medication to control their baseline pain. Certain prescriptions filled
11 by Respondents Cabrillo Park Pharmacy, James Gee, Soong Chang and Anh Phan were not
12 signed by Dr. M.S. and other prescriptions were filled by them even though they were signed by a
13 physician who was not the prescribing physician.

14 35. Additionally, drivers picked up the controlled substances for multiple patients from
15 Respondents Cabrillo Park Pharmacy, James Gee and Soong Chang, rather than the patients
16 themselves picking up their prescriptions. Respondents Cabrillo Park Pharmacy, James Gee and
17 Soong Chang did not possess written authorization allowing those drivers to pick up the
18 controlled substance prescriptions for patients. To facilitate the drug transactions with the
19 drivers, Respondents Cabrillo Park Pharmacy, James Gee and Soong Chang kept envelopes
20 which contained prescriptions for controlled substances to be filled, next to the cash register.
21 Respondents Cabrillo Park Pharmacy, James Gee and Soong Chang telephoned the drivers to
22 initiate a pick up when they had filled all the multiple prescriptions for controlled substances. In
23 that same drawer, Respondents Cabrillo Park Pharmacy, James Gee and Soong Chang kept a
24 pricing sheet for controlled substances and the telephone numbers of the drivers to further
25 facilitate these drug transactions with the drivers.

26 36. Respondents Cabrillo Park Pharmacy, Yorba Park Pharmacy and James Gee placed
27 orders for suspiciously large amounts of controlled substances with their drug wholesalers.
28 Notwithstanding those orders, Respondents Cabrillo Park Pharmacy and James Gee did not

1 dispense all the prescriptions for controlled substances in a timely manner as prescribed, because
2 they sought to avoid charges that they were excessively prescribing controlled substances from
3 the Drug Enforcement Administration and the Board.

4 37. Respondents Cabrillo Park Pharmacy, Yorba Park Pharmacy, James Gee, Soong
5 Chang and Anh Phan did not follow proper procedures for verifying if a prescription for a
6 controlled substance was written for a legitimate medical purpose. Indeed, Respondents Cabrillo
7 Park Pharmacy, Yorba Park Pharmacy, James Gee, Soong Chang and Anh Phan dispensed
8 prescriptions to patients who had lost their wallets or social security cards and had been victims
9 of identity theft. And, Respondents' furnishings of controlled substances was higher than
10 neighboring pharmacies during the same time frame.

11 38. On or about February 6, 2014, Dr. M.S. was arrested for violating Business and
12 Professions Code section 2052(b), Health and Safety Code section 11353(a), 11353(c) and 11354.
13 On or about February 10, 2014, a felony Complaint was filed against Dr. M.S. for violating those
14 code sections, among other violations. On or about March 12, 2015, in a criminal proceeding
15 entitled *People of the State of California vs. M.S., etc., et al.*, Superior Court of California for the
16 County of Ventura, case number 2014004170, Dr. M.S. pled guilty to a violation of Health and
17 Safety Code section 11154, subdivision (b), aiding unlawful prescription of a control substance, a
18 felony, and a violation of Health and Safety Code section 11352, subdivision (a), sale of a
19 controlled substance, also a felony. The factual circumstances of his conviction included
20 providing to his co-defendants numerous pads of blank controlled substance prescriptions, which
21 were pre-signed by him, and/or a Nurse Practitioner working under Dr. M.S.' direct supervision.
22 Patient information, various controlled substance names and amounts were later written on those
23 blank prescriptions by Dr. M.S.' associates, who were not licensed medical professionals, and
24 sold for cash to "patients" without any medical examination or medical indication whatsoever.

25 39. Respondents Cabrillo Park Pharmacy and James Gee also had discrepancies in their
26 drug inventory. Respondents Cabrillo Park Pharmacy and James Gee did not maintain a lockable
27 storage cabinet for controlled substances.. Instead, controlled substances were stored inside a
28 desk located in the pharmacy's offices. From June 2012 through January 2013, Respondents

1 Cabrillo Park Pharmacy and James Gee suffered the following losses of controlled substances:
2 734 tablets of hydrocodone/APAP 10mg/325mg and 20 tablets of hydromorphone 4mg. They did
3 not report those losses to the Board.

4 40. Respondents Cabrillo Park Pharmacy and James Gee's inventory contained overages
5 of 165 tablets of alprazolam 2mg and 152 tablets of oxycodone 30mg. Therefore, they did not
6 maintain complete records of acquisition for those controlled substances.

7 41. Respondents Yorba Park Pharmacy and James Gee also had discrepancies in their
8 drug inventory. From January 31, 2013 through December 3, 2013, Respondents Yorba Park
9 Pharmacy and James Gee suffered the following losses of controlled substances: 6,332 tablets of
10 alprazolam 2mg, 44,111 tablets of oxycodone 30mg, 14,183 of hydrocodone/APAP 10mg/325mg
11 and 49,855mls or 105 pints (bottles) of promethazine with codeine. They did not report those
12 losses to the Board until prompted to do so by a Board inspector.

13 42. Discrepancies in Respondent Yorba Park Pharmacy's inventory of controlled
14 substances continued. On April 7, 2015, the Board received a report of theft or loss of controlled
15 substances (211 tablets of acetaminophen/codeine #3), DEA Form 106 from Respondent Yorba
16 Park Pharmacy. On May 19, 2015, the Board conducted an inspection of Respondent Yorba Park
17 Pharmacy and observed that the pharmacy had a cabinet containing controlled substances which
18 was routinely kept unlocked during business hours, despite being advised by the pharmacy's
19 consultant to keep that cabinet locked when unattended by a pharmacist. The Board inspector
20 also advised Respondent James Gee to keep the cabinet containing controlled substances locked
21 when unattended. There was also no security camera recording activity around the cabinet
22 containing controlled substances or near the containers. The Board inspector conducted an audit
23 of Respondent Yorba Park Pharmacy's inventory of acetaminophen/codeine #3 and discovered a
24 shortage of 548 tablets of acetaminophen/codeine 300/30mg tablets from August 19, 2014
25 through April 11, 2015, rather than 211 tablets reported on the DEA Form 106.

26 43. Discrepancies in Respondent Yorba Park Pharmacy's inventory of controlled
27 substances continued. On February 26, 2016, the Board received a report of theft or loss of two
28 controlled substances (607ml of promethazine with codeine and 1,316ml Guaifenesin with

1 codeine syrup), DEA Form 106 from Respondent Yorba Park Pharmacy. On March 8, 2016, the
2 Board conducted an inspection of Respondent Yorba Park Pharmacy and observed that the
3 pharmacy had a cabinet containing controlled substances which was routinely kept unlocked
4 during business hours, despite the admonishments referenced in paragraph 41 to keep the cabinet
5 locked when unattended by a pharmacist. The Board inspector conducted an audit of Respondent
6 Yorba Park Pharmacy's inventory of oxycodone 30mg, hydrocodone/APAP 10mg/325mg,
7 alprazolam 2mg and promethazine with codeine and discovered an overage of promethazine with
8 codeine of 4,345mls and shortages of 250 tablets of oxycodone 30mg, 11,848 tablets of
9 hydrocodone/APAP 10mg/325mg and 271 tablets of alprazolam 2mg from December 3, 2013
10 through March 7, 2016. From April 11, 2015 through March 8, 2016, there was an overage of 41
11 tablets of alprazolam 2mg and losses of 1,052 tablets of hydrocodone/APAP 10mg/325mg and
12 197 mls of promethazine with codeine.

13 44. In March 2016, Respondents Yorba Park Pharmacy and James Gee also filled five
14 prescriptions for controlled substances which were not signed by the prescribers and dated in ink
15 in violation of Respondent Yorba Park Pharmacy's controlled substances policies and procedures.
16 Respondents Yorba Park Pharmacy and James Gee also failed to query the CURES database to
17 establish patients' utilization patterns for particular drugs, as required by Respondent Yorba Park
18 Pharmacy's controlled substances policies and procedures.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **(Failure to Maintain Current Inventory of Controlled Substance against Respondents**
21 **Yorba Park Pharmacy, Cabrillo Park Pharmacy and James Gee)**

22 45. Respondents Cabrillo Park Pharmacy, Yorba Park Pharmacy and James Gee are
23 subject to disciplinary action under Code section 4301(o), for violating Code section 4081(a) and
24 title 16, California Code of Regulations, section 1718, in that they did not maintain a current
25 inventory of controlled substances, alprazolam, oxycodone, hydrocodone/APAP, hydromorphone,
26 and promethazine with codeine and suffered losses in their inventory of alprazolam, oxycodone,
27 hydrocodone/APAP, hydromorphone, Guaifenesin with codeine syrup, acetaminophen/codeine
28

1 and promethazine with codeine, as set forth in paragraphs 31 through 44 above, which are
2 incorporated herein by reference.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Failure to Report Drug Losses against Respondents**

5 **Yorba Park Pharmacy, Cabrillo Park Pharmacy and James Gee)**

6 46. Respondents Cabrillo Park Pharmacy, Yorba Park Pharmacy and James Gee are
7 subject to disciplinary action under Code section 4301(o), for violating title 16, California Code
8 of Regulations, section 1715.6, in that Cabrillo Park Pharmacy and James Gee did not report the
9 losses of hydrocodone/APAP and hydromorphone and Yorba Park Pharmacy and James Gee did
10 not report the losses of alprazolam, oxycodone, hydrocodone/APAP and promethazine with
11 codeine to the Board, as set forth in paragraphs 31 through 44 above, which are incorporated
12 herein by reference.

13 **THIRD CAUSE FOR DISCIPLINE**

14 **(Failure to Provide Adequate Security for Controlled Substance**

15 **against Respondents Yorba Park Pharmacy, Cabrillo Park Pharmacy and James Gee)**

16 47. Respondents Cabrillo Park Pharmacy, Yorba Park Pharmacy and James Gee are
17 subject to disciplinary action under Code section 4301(o), for violating title 16, California Code
18 of Regulations, sections 1714(b) and (d), in that Cabrillo Park Pharmacy and James Gee did not
19 provide adequate security for hydrocodone/APAP and hydromorphone and Yorba Park Pharmacy
20 and James Gee did not provide adequate security for alprazolam, oxycodone,
21 hydrocodone/APAP, acetaminophen/codeine, Guaifenesin with codeine syrup and promethazine
22 with codeine, as set forth in paragraphs 31 through 44 above, which are incorporated herein by
23 reference.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Failure to Maintain Records of Acquisition against Respondents Cabrillo Park Pharmacy**
26 **and James Gee)**

27 48. Respondents Cabrillo Park Pharmacy and James Gee are subject to disciplinary action
28 under Code section 4301(o), for violating Code section 4081(a), in that they failed to maintain all

1 the records of acquisition for the controlled substances, alprazolam 2mg and oxycodone 30mg, as
2 set forth in paragraphs 31 through 44, which are incorporated herein by reference.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **(Failing to Comply with Corresponding Responsibility**

5 **for Legitimate Controlled Substance Prescriptions against Respondents)**

6 49. Respondents are subject to disciplinary action under Code section 4301(j), for
7 violating Health and Safety Code section 11153(a), in that they failed to comply with their
8 corresponding responsibility to ensure that controlled substances were dispensed for a legitimate
9 medical purpose when Respondents furnished prescriptions for controlled substances even though
10 "red flags" were present, indicating those prescriptions were not issued for a legitimate medical
11 purpose, as set forth in paragraphs 31 through 44 above, which are incorporated herein by
12 reference.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 **(Clearly Excessive Furnishing of Controlled Substances against Respondents)**

15 50. Respondents are subject to disciplinary action under Code section 4301(d), for the
16 clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section
17 11153 of the Health and Safety Code, as set forth in paragraphs 31 through 44 above, which are
18 incorporated herein by reference.

19 **SEVENTH CAUSE FOR DISCIPLINE**

20 **(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions,**

21 **Irregularities, Uncertainties, Ambiguities or Alterations against Respondents)**

22 51. Respondents are subject to disciplinary action under Code section 4301(o), for
23 violating title 16, California Code of Regulations, sections 1761(a) and (b) in that they dispensed
24 prescriptions for controlled substances, which contained significant errors, omissions,
25 irregularities, uncertainties, ambiguities or alterations, as set forth in paragraphs 31 through 44
26 above, which are incorporated herein by reference.

1 **EIGHTH CAUSE FOR DISCIPLINE**

2 **(Failure to Review Patients' Medication Record Before Prescription Drugs Delivered**
3 **against Respondents)**

4 52. Respondents are subject to disciplinary action under Code section 4301(o), for
5 violating title 16, California Code of Regulations, section 1707.3, in that they dispensed
6 prescriptions for drugs, without review of patients' medication records before each prescription
7 drug was delivered. Such a review would have revealed numerous "red flags," as set forth in
8 paragraphs 31 through 44 above, which are incorporated herein by reference.

9 **NINTH CAUSE FOR DISCIPLINE**

10 **(Dispensing Controlled Substances with Variations from Prescriptions against**
11 **Respondents Cabrillo Park Pharmacy and James Gee)**

12 53. Respondents Cabrillo Park Pharmacy and James Gee are subject to disciplinary action
13 under Code section 4301(o) for violating title 16, California Code of Regulations, section 1716, in
14 that they dispensed controlled substances which deviated from the requirements of the
15 prescriptions without the prior consent of the prescribers and dispensed controlled substances
16 when the prescriptions were prescribed by Dr. M.S. but signed by another physician, as set forth
17 in paragraphs 31 through 44, which are incorporated herein by reference.

18 **TENTH CAUSE FOR DISCIPLINE**

19 **(Dispensing Controlled Substances without Compliant Prescriptions against**
20 **Respondents Cabrillo Park Pharmacy and James Gee)**

21 54. Respondents Cabrillo Park Pharmacy and James Gee are subject to disciplinary action
22 under Code section 4301(j) for violating Health and Safety Code section 11164(a)(1), in that they
23 dispensed controlled substances which from prescriptions which lacked the signature of the
24 prescriber and the date in ink, as set forth in paragraphs 31 through 44, which are incorporated
25 herein by reference.
26
27
28

1 **ELEVENTH CAUSE FOR DISCIPLINE**

2 **(Failure to Exercise or Implement Best Professional Judgment or Corresponding**
3 **Responsibility when Dispensing Controlled Substances**
4 **against Respondents James Gee Soong Chang and Anh Phan)**

5 55. Respondents James Gee, Soong Chang and Anh Phan are subject to disciplinary
6 action under Code section 4301(o), for violating Business and Professions Code section 4306.5(a)
7 and (b), in that they failed to exercise or implement his or her best professional judgment or
8 corresponding responsibility when dispensing controlled substances, as set forth in paragraphs 31
9 through 44 above, which are incorporated herein by reference.

10 **TWELFTH CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct against Respondents)**

12 56. Respondents are subject to disciplinary action under Code section 4301 for
13 unprofessional conduct in that they engaged in the activities described in paragraphs 31 through
14 44 above, which are incorporated herein by reference.

15 **OTHER MATTERS**

16 57. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit
17 Numbers PHY 45771 issued to Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park
18 Pharmacy and PHY 50066 issued to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo
19 Park Pharmacy, Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park Pharmacy and
20 Cabrillo Park Pharmacy shall be prohibited from serving as a manager, administrator, owner,
21 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
22 Numbers PHY 45771 and PHY 50066 are placed on probation or until Pharmacy Permit
23 Numbers PHY 45771 and PHY 50066 are reinstated if they are revoked.

24 58. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit
25 Numbers PHY 45771 issued to Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park
26 Pharmacy and PHY 50066 issued to Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo
27 Park Pharmacy while James Ying-Ming Gee has been an officer and owner and had knowledge
28 of or knowingly participated in any conduct for which the licensee was disciplined, James Ying-

1 Ming Gee shall be prohibited from serving as a manager, administrator, owner, member, officer,
2 director, associate, or partner of a licensee for five years if Pharmacy Permit Numbers PHY
3 45771 and PHY 50066 are placed on probation or until Pharmacy Permit Numbers PHY 45771
4 and PHY 50066 are reinstated if they are revoked.

5 59. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
6 No. RPH 44796 issued to James Ying-Ming Gee, James Ying-Ming Gee shall be prohibited from
7 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
8 licensee for five years if Pharmacist License Number RPH 44796 is placed on probation or until
9 Pharmacist License Number RPH 44796 is reinstated if it is revoked.

10 DISCIPLINARY CONSIDERATIONS

11 60. To determine the degree of discipline, if any, to be imposed on Respondents,
12 Complainant alleges that on February 22, 2012, the Board issued Citation number CI 2011 49857
13 against Respondent Cabrillo Park Pharmacy for violating Business and Professions Code section
14 4126.5(a)(4) for improperly furnishing drugs to a wholesaler. The Board issued a fine which
15 Respondent paid.

16 PRAYER

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

- 19 1. Revoking or suspending Pharmacy Permit Number PHY 45771, issued to Gee's
20 Healthcare Pharmacy, Inc., doing business as Yórba Park Pharmacy;
- 21 2. Revoking or suspending Pharmacy Permit Number PHY 50066, issued to Gee's
22 Healthcare Pharmacy, Inc., doing business as Cabrillo Park Pharmacy;
- 23 3. Revoking or suspending Pharmacist License Number RPH 44796, issued to James
24 Ying-Ming Gee;
- 25 4. Revoking or suspending Pharmacist License Number RPH 45540, issued to Soong
26 OK Chang;
- 27 5. Revoking or suspending Pharmacist License Number RPH 42197, issued to Ang
28 Ngoc Phan;

1 6. Prohibiting Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park
2 Pharmacy and Yorba Park Pharmacy from serving as a manager, administrator, owner, member,
3 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Numbers
4 PHY 45771 and PHY 50066 are placed on probation or until Pharmacy Permit Numbers PHY
5 45771 and PHY 50066 are reinstated if Pharmacy Permit Numbers 45771 and 5006 issued to
6 Gee's Healthcare Pharmacy, Inc. doing business as Cabrillo Park Pharmacy and Yorba Park
7 Pharmacy are revoked;

8 7. Prohibiting James Ying-Ming Gee from serving as a manager, administrator, owner,
9 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
10 Numbers PHY 45771 and PHY 50066 are placed on probation or until Pharmacy Permit
11 Numbers PHY 45771 and PHY 50066 are reinstated if Pharmacy Permit Numbers 45771 and
12 5006 issued to Gee's Healthcare Pharmacy, Inc. doing business as Cabrillo Park Pharmacy and
13 Yorba Park Pharmacy are revoked;

14 8. Prohibiting James Ying-Ming Gee from serving as a manager, administrator, owner,
15 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
16 Number RPH 44796 is placed on probation or until Pharmacist License Number RPH 44796 is
17 reinstated if Pharmacist License Number RPH 44796 issued to James Ying-Ming Gee is
18 revoked;

19 9. Ordering Gee's Healthcare Pharmacy, Inc., doing business as Cabrillo Park
20 Pharmacy, Ordering Gee's Healthcare Pharmacy, Inc., doing business as Yorba Park Pharmacy
21 James Ying-Ming Gee, Soong OK Chang and Anh Ngoc Phan to pay the Board of Pharmacy the
22 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
23 Professions Code section 125.3;

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

DATED: 6/3/16

Virginia Herold

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

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VIC 19

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

In the Matter of the Accusation Against:

Case Nos. 4981 and 5328

**GEE'S HEALTHCARE PHARMACY,
INC., DBA CABRILLO PARK
PHARMACY
2212 East 4th Street #102
Santa Ana, CA 92705**

OAH No. 2015100446

Pharmacy Permit No. PHY 50066

**GEE'S HEALTHCARE PHARMACY,
INC., DBA YORBA PARK PHARMACY
2501 E. Chapman Blvd., No. 106
Orange, CA 92869**

Pharmacy Permit No. PHY 45771

**JAMES YING-MING GEE
220 Tall Oak
Irvine, CA 92603**

Pharmacist License No. RPH 44796

**SOONG OK CHANG
6901 East Rutgers Drive
Anaheim Hills, CA 92807**

Pharmacist License No. RPH 45540

**ANH NGOC PHAN
11701 Steele Dr.
Garden Grove, CA 92840**

Pharmacist License No. RPH 42197

Respondents.

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 _____.

It is so ORDERED _____.

FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS