

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

In the Matter of the Accusation Against:

CLIVE L. LIN
1571 North Easthill Drive
Bountiful, UT 84010

Pharmacist License No. RPH 41552,

Respondent.

Case No. 5487

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

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 at 5:00 p.m. on June 30, 2017.

It is so ORDERED on May 31, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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2 FRANK H. PACOE
Supervising Deputy Attorney General
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Attorneys for Complainant
7

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

10
11 In the Matter of the Accusation Against:

Case No. 5487

12 **CLIVE L. LIN**
1571 North Easthill Drive
13 Bountiful, UT 84010

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

14 **Pharmacist License No. RPH 41552**

15 Respondent.
16

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

20 PARTIES

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


25 2. Clive L. Lin (Respondent) is represented in this proceeding by attorney M. Bradley
26 Wishek, whose address is 765 University Avenue, Sacramento, California 95825.

27 3. On or about April 23, 1988, the Board issued Pharmacist License No. RPH 41552 to
28 Respondent. The Pharmacist License was in full force and effect at all times relevant to the
charges brought in Accusation No. 5487 and will expire on August 31, 2017, unless renewed.


1 other proceeding seeking to deny or restrict licensure.

2 ACCEPTANCE

3 I have carefully read the above Stipulated Surrender of License and Order and have fully
4 discussed it with my attorney, M. Bradley Wishek. I understand the stipulation and the effect it
5 will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order
6 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
7 Board of Pharmacy.

8 DATED: 3/14/2017 
9 CLIVE L. LIN
Respondent

10 I have read and fully discussed with my client, Respondent Clive L. Lin, the terms and
11 conditions and other matters contained in this Stipulated Surrender of License and Order. I
12 approve its form and content.

13 DATED: 3/15/17 
14 M. BRADLEY WISHEK
Attorney for Respondent

15
16 ENDORSEMENT

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

19 Dated: 5/8/17 Respectfully submitted,
20 KAMALA D. HARRIS
21 Attorney General of California
22 FRANK H. PACOE
Supervising Deputy Attorney General

23 
24 LESLIE E. BRAST
25 Deputy Attorney General
Attorneys for Complainant

1 KAMALA D. HARRIS
Attorney General of California
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Supervising Deputy Attorney General
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Attorneys for Complainant

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

10 In the Matter of the Accusation Against:

Case No. 5487

11 **CLIVE L. LIN**
12 **601 Toscanna Court**
13 **Brentwood, CA 94513**

A C C U S A T I O N

14 **Pharmacist License No. RPH 41552**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about April 23, 1988, the Board of Pharmacy issued Pharmacist License
21 Number RPH 41552 to Clive L. Lin (Respondent). The Pharmacist License was in full force and
22 effect at all times relevant to the charges brought herein and will expire on August 31, 2017, unless
23 renewed.

24 **JURISDICTION**

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

28 ///

1 "This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician
2 assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

3 "

4 8. Code section 4301 states:

5 "The board shall take action against any holder of a license who is guilty of unprofessional
6 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.

7 Unprofessional conduct shall include, but is not limited to, any of the following:

8 "...

9 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
10 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
11 whether the act is a felony or misdemeanor or not.

12 "(g) Knowingly making or signing any certificate or other document that falsely represents
13 the existence or nonexistence of a state of facts.

14 "...

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

17 "...

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

22 "..."

23 9. Health and Safety Code section 11170 provides that no person shall prescribe,
24 administer, or furnish a controlled substance for himself.

25 10. Health and Safety Code section 11173 states, in pertinent part, that:

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

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15. Mupirocin is an antibiotic that is a dangerous drug per Business and Professions Code section 4022.

16. Remeron is a brand name for Mirtazapine, an antidepressant used to treat major depressive disorder, and is a dangerous drug per Business and Professions Code section 4022.

17. Robaxin is a brand name for methocarbamol, a muscle relaxer used to treat pain or injury, and is a dangerous drug per Business and Professions Code section 4022.

18. Septra DS is a brand name for sulfamethoxazole with trimethoprim, an antibiotic and is a dangerous drugs per Business and Professions Code section 4022.

19. Seroquel is a brand name for quetiapine, an antipsychotic medication used to treat schizophrenia and bipolar disorder, and is a dangerous drug per Business and Professions Code section 4022.

20. Zoloft is a brand name for sertraline, an antidepressant used to treat major depressive disorder, and is a dangerous drug per Business and Professions Code section 4022.

COST RECOVERY

21. Code section 125.3 states, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.

FACTS

22. Between approximately October 17, 2005 and September 5, 2014, Respondent served as the Pharmacist in Charge (PIC) at Raley's Pharmacy #336, in Brentwood, California.

23. On or about September 4, 2014, Respondent admitted to Raley's Pharmacy staff that he had been taking Zaleplon from the pharmacy without having a prescription on file and without paying for the product.

24. An audit summary revealed that from May 2013 to September 30, 2014, Raley's Pharmacy had a shortage of approximately 5,119 dosage units of Zaleplon 10mg.

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1 substances and/or dangerous drugs from pharmacy to himself or another, as described in
2 paragraphs, 25-26, above.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 (Failure to Maintain Adequate Security of Controlled Substances)

5 31. Respondent is subject to disciplinary action under Code section 4301, subdivisions (j)
6 and/or (o), and/or California Code of Regulations, title 16, section 1714, subdivision (d), in that
7 Respondent, while acting as Pharmacist in charge, failed to maintain adequate security at the
8 managed pharmacy, as described in paragraphs 22-26, above.

9 **DISCIPLINARY CONSIDERATIONS**

10 32. To determine the degree of discipline, if any, to be imposed on Respondent,
11 Complainant alleges that:

12 a. On or about November 7, 2014, Complainant issued Respondent Citation No. C1
13 2014 63189 for violating Code section 4301, subdivision (g) (knowingly making/signing certificate
14 or document that falsely represents facts-altered controlled substances log to appear balanced
15 owed on two prescriptions were received and dispensed within required 72 hours); Health &
16 Safety Code section 11200, subdivision (c) (refilling Schedule II prescription); and California Code
17 of Regulations, title 16, sections 1714 (violating operational standards- allowing staff to store food
18 in refrigerator with hazardous drugs/vaccines); 1745, subdivision (d) (partial filling of Schedule II
19 prescription); and 1716 (deviating from requirements of a prescription). This citation is now final
20 and is incorporated by reference as if fully stated herein.

21 b. On or about November 28, 2011, Complainant issued Respondent Citation No. C1
22 2011 50404, for violating California Code of Regulations, title 16, section 1711, subdivisions (d),
23 (e) and (f), when Respondent failed to initiate a quality assurance report after the discovery of two
24 medication errors at the pharmacy he was in charge of. This citation is now final and is
25 incorporated by reference as if fully stated herein.

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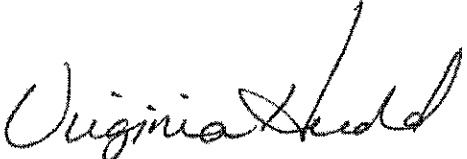
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PRAYER

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

1. Revoking or suspending Pharmacist License Number RPH 41552, issued to Clive L. Lin;
2. Ordering Clive L. Lin 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: 6/10/16



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

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