

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

In the Matter of the Accusation Against:

**VAN NHU NGUYEN  
P.O. Box 1602  
Yucaipa, CA 92399  
Pharmacist License No. RPH 66262**

Respondent.

Case No. 5493

OAH No. 2015080702

**DECISION AND ORDER**

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

This Decision shall become effective on February 19, 2016.

It is so ORDERED on January 20, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 GILLIAN E. FRIEDMAN  
Deputy Attorney General  
4 State Bar No. 169207  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2564  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

10 In the Matter of the Accusation Against:

Case No. 5493

11 **VAN NHU NGUYEN**  
12 **P.O. Box 1602**  
13 **Yucaipa, CA 92399**  
**Pharmacist License No. RPH 66262**

OAH No. 2015080702

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

14 Respondent.  
15  
16

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

19 **PARTIES**

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

24 2. Respondent Van Nhu Nguyen ("Respondent") is represented in this proceeding by  
25 attorney Nathan Mubasher, whose address is: The Law Offices of Nathan Mubasher  
26 2621 Green River Rd, Ste 105 PMB 403, Corona, CA 92882.

27 ///

28



1 CULPABILITY

2 10. Respondent admits the truth of each and every charge and allegation in Accusation  
3 No. 5493.

4 11. Respondent agrees that his Pharmacist License is subject to discipline and he agrees  
5 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

6 CONTINGENCY

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

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

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

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

28 ///

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Pharmacist License No. RPH 66262 issued to Respondent  
3 Van Nhu Nguyen is revoked. However, the revocation is stayed and Respondent is placed on  
4 probation for five (5) years on the following terms and conditions.

5 **1. Suspension**

6 As part of probation, respondent is suspended from the practice of pharmacy as of the  
7 effective date of this decision until such time as he is notified in writing by the board or its  
8 designee that he has been deemed fit to practice pharmacy safely, and the board or its designee  
9 has approved said recommendation.

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

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

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

23 **2. Obey All Laws**

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

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

27 ///

28 ///

- 1 • an arrest or issuance of a criminal complaint for violation of any provision of the
- 2 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
- 3 substances laws
- 4 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
- 5 criminal complaint, information or indictment
- 6 • a conviction of any crime
- 7 • discipline, citation, or other administrative action filed by any state or federal agency
- 8 which involves Respondent's Pharmacist license or which is related to the practice of
- 9 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging
- 10 for any drug, device or controlled substance.

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

12 **3. Report to the Board**

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

21 **4. Interview with the Board**

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

27 ///

28 ///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**5. Cooperate with Board Staff**

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

**6. Continuing Education**

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

**7. Notice to Employers**

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 5493 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 5493, and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions of the decision in case number 5493 in advance of the respondent commencing work at each licensed entity. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that he has read the decision in case number 5493

1 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
2 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

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

16 **9. Reimbursement of Board Costs**

17 As a condition precedent to successful completion of probation, respondent shall pay to the  
18 board its costs of investigation and prosecution in the amount of \$5,500. Respondent shall make  
19 said payment on a payment plan approved by the board.

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

23 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to  
24 reimburse the board its costs of investigation and prosecution.

25 **10. Probation Monitoring Costs**

26 Respondent shall pay any costs associated with probation monitoring as determined by the  
27 board each and every year of probation. Such costs shall be payable to the board on a schedule as  
28



1 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
2 be considered a violation of probation.

3 **11. Status of License**

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

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

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

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

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

21 Respondent may not reapply for any license from the board for three (3) years from the effective  
22 date of the surrender. Respondent shall meet all requirements applicable to the license sought as  
23 of the date the application for that license is submitted to the board, including any outstanding  
24 costs.

25 **13. Notification of a Change in Name, Residence Address, Mailing Address or**  
26 **Employment**

27 Respondent shall notify the board in writing within ten (10) days of any change of  
28 employment. Said notification shall include the reasons for leaving, the address of the new

1 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
2 shall further notify the board in writing within ten (10) days of a change in name, residence  
3 address, mailing address, or phone number.

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

#### 6 14. Tolling of Probation

7 Except during periods of suspension, respondent shall, at all times while on probation, be  
8 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any  
9 month during which this minimum is not met shall toll the period of probation, i.e., the period of  
10 probation shall be extended by one month for each month during which this minimum is not met.  
11 During any such period of tolling of probation, respondent must nonetheless comply with all  
12 terms and conditions of probation.

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

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

21 "Cessation of practice" means any calendar month during which respondent is  
22 not practicing as a pharmacist for at least 40 hours, as defined by Business and  
23 Professions Code section 4000 et seq. "Resumption of practice" means any calendar  
24 month during which respondent is practicing as a pharmacist for at least 40 hours as a  
25 pharmacist as defined by Business and Professions Code section 4000 et seq.

#### 26 15. Violation of Probation

27 If a respondent has not complied with any term or condition of probation, the board shall  
28 have continuing jurisdiction over respondent, and probation shall automatically be extended, until

1 all terms and conditions have been satisfied or the board has taken other action as deemed  
2 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
3 to impose the penalty that was stayed.

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

#### 11 16. **Completion of Probation**

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

#### 14 17. **Pharmacists Recovery Program (PRP)**

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

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

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

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

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

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

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

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

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

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

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

#### 24 **18. Random Drug Screening**

25 Respondent, at his own expense, shall participate in random testing, including but not  
26 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug  
27 screening program as directed by the board or its designee. Respondent may be required to  
28 participate in testing for the entire probation period and the frequency of testing will be

1 determined by the board or its designee. At all times, respondent shall fully cooperate with the  
2 board or its designee, and shall, when directed, submit to such tests and samples for the detection  
3 of alcohol, narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its  
4 designee may direct. Failure to timely submit to testing as directed shall be considered a violation  
5 of probation. Upon request of the board or its designee, respondent shall provide documentation  
6 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is  
7 a necessary part of the treatment of the respondent. Failure to timely provide such documentation  
8 shall be considered a violation of probation. Any confirmed positive test for alcohol or for any  
9 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment  
10 shall be considered a violation of probation and shall result in the automatic suspension of  
11 practice of pharmacy by respondent. Respondent may not resume the practice of pharmacy until  
12 notified by the board in writing.

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

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

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

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

1           **19. Abstain from Drugs and Alcohol Use**

2           Respondent shall completely abstain from the possession or use of alcohol, controlled  
3 substances, dangerous drugs and their associated paraphernalia except when the drugs are  
4 lawfully prescribed by a licensed practitioner as part of a documented medical treatment. Upon  
5 request of the board or its designee, respondent shall provide documentation from the licensed  
6 practitioner that the prescription for the drug was legitimately issued and is a necessary part of the  
7 treatment of the respondent. Failure to timely provide such documentation shall be considered a  
8 violation of probation. Respondent shall ensure that he is not in the same physical location as  
9 individuals who are using illicit substances even if respondent is not personally ingesting the  
10 drugs. Any possession or use of alcohol, controlled substances, or their associated paraphernalia  
11 not supported by the documentation timely provided, and/or any physical proximity to persons  
12 using illicit substances, shall be considered a violation of probation.

13           **20. Prescription Coordination and Monitoring of Prescription Use**

14           Within thirty (30) days of the effective date of this decision, respondent shall submit to the  
15 board, for its prior approval, the name and qualifications of a single physician, nurse practitioner,  
16 physician assistant, or psychiatrist of respondent's choice, who shall be aware of the respondent's  
17 history with the use of controlled substances, and/or dangerous drugs, and who will coordinate  
18 and monitor any prescriptions for respondent for dangerous drugs, controlled substances or mood-  
19 altering drugs. The approved practitioner shall be provided with a copy of the board's accusation  
20 and decision. A record of this notification must be provided to the board upon request.  
21 Respondent shall sign a release authorizing the practitioner to communicate with the board about  
22 respondent's treatment(s). The coordinating physician, nurse practitioner, physician assistant, or  
23 psychiatrist shall report to the board on a quarterly basis for the duration of probation regarding  
24 respondent's compliance with this condition. If any substances considered addictive have been  
25 prescribed, the report shall identify a program for the time limited use of any such substances.  
26 The board may require that the single coordinating physician, nurse practitioner, physician  
27 assistant or psychiatrist be a specialist in addictive medicine, or consult a specialist in addictive  
28 medicine. Should respondent, for any reason, cease supervision by the approved practitioner,

1 respondent shall notify the board immediately and, within thirty (30) days of ceasing treatment,  
2 submit the name of a replacement physician, nurse practitioner, physician assistant, or psychiatrist  
3 of respondent's choice to the board or its designee for its prior approval. Failure to timely submit  
4 the selected practitioner or replacement practitioner to the board for approval, or to ensure the  
5 required reporting thereby on the quarterly reports, shall be considered a violation of probation.

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

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

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

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

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

27 ///

28 ///

1           **21. Community Services Program**

2           Within sixty (60) days of the effective date of this decision, respondent shall submit to the  
3 board or its designee, for prior approval, a community service program in which respondent shall  
4 provide free health-care related services on a regular basis to a community or charitable facility or  
5 agency for at least 100 hours for the term of probation. Within thirty (30) days of board approval  
6 thereof, respondent shall submit documentation to the board demonstrating commencement of the  
7 community service program. A record of this notification must be provided to the board upon  
8 request. Respondent shall report on progress with the community service program in the  
9 quarterly reports. Failure to timely submit, commence, or comply with the program shall be  
10 considered a violation of probation.

11           **22. Supervised Practice**

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

17           Continuous – At least 75% of a work week

18           Substantial - At least 50% of a work week

19           Partial - At least 25% of a work week

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

21           Within thirty (30) days of the effective date of this decision, respondent shall have his  
22 supervisor submit notification to the board in writing stating that the supervisor has read the  
23 decision in case number 5493 and is familiar with the required level of supervision as determined  
24 by the board or its designee. It shall be the respondent's responsibility to ensure that his  
25 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the  
26 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely  
27 acknowledgements to the board shall be considered a violation of probation.

28           If respondent changes employment, it shall be the respondent's responsibility to ensure that



1 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to  
2 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment  
3 commences, submit notification to the board in writing stating the direct supervisor and  
4 pharmacist-in-charge have read the decision in case number 5493 and is familiar with the level of  
5 supervision as determined by the board. Respondent shall not practice pharmacy and his license  
6 shall be automatically suspended until the board or its designee approves a new supervisor.

7 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely  
8 acknowledgements to the board shall be considered a violation of probation.

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

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

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

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

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

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

27       Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
28 administrator, member, officer, director, trustee, associate, or partner of any business, firm,

1 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell  
2 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)  
3 days following the effective date of this decision and shall immediately thereafter provide written  
4 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide  
5 documentation thereof shall be considered a violation of probation.

6 **24. Tolling of Suspension**

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

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

19 **25. Ethics Course**

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

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

26 ///

27 ///

28 ///

1 ACCEPTANCE


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

7  
8 DATED: 12/3/15

  
9 VAN NHU NGUYEN  
Respondent

10 I have read and fully discussed with Respondent Van Nhu Nguyen the terms and conditions  
11 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve  
12 its form and content.

13 DATED: 12/3/15

  
14 Nathan Mubasher  
Attorney for Respondent

15  
16 ENDORSEMENT

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

19 Dated:

Respectfully submitted,

20 KAMALA D. HARRIS  
Attorney General of California  
21 MARC D. GREENBAUM  
Supervising Deputy Attorney General

22  
23 GILLIAN E. FRIEDMAN  
Deputy Attorney General  
24 *Attorneys for Complainant*

25  
26  
27 LA2015501104  
28 61736202.doc

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ACCEPTANCE**

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Nathan Mubasher. 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: \_\_\_\_\_  
VAN NHU NGUYEN  
Respondent

I have read and fully discussed with Respondent Van Nhu Nguyen the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: \_\_\_\_\_  
Nathan Mubasher  
Attorney for Respondent

**ENDORSEMENT**

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

Dated: 12/4/15

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
MARC D. GREENBAUM  
Supervising Deputy Attorney General



GILLIAN E. FRIEDMAN  
Deputy Attorney General  
*Attorneys for Complainant*

**Exhibit A**

**Accusation No. 5493**

1 KAMALA D. HARRIS  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 GILLIAN E. FRIEDMAN  
Deputy Attorney General  
4 State Bar No. 169207  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2564  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*  
7

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

10 In the Matter of the Accusation Against:

Case No. 5493

11 **VAN NHU NGUYEN**  
12 **P.O. Box 1602**  
13 **Yucaipa, CA 92399**

**ACCUSATION**

14 **Pharmacist License No. RPH 66262**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about October 13, 2011, the Board of Pharmacy issued Pharmacist License  
22 Number RPH 66262 to Van Nhu Nguyen (Respondent). The Pharmacist License was in full force  
23 and effect at all times relevant to the charges brought herein and will expire on October 31, 2015,  
24 unless renewed.

25 **JURISDICTION**

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



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

9. Section 4301 of the Code states in pertinent part:

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

.....

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

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

"(h) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, to a person holding a license under this chapter, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license.

....

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

....

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

10. Section 4323 of the Code states:

"Every person who, in order to obtain any drug, falsely represents himself or herself to be a physician or other person who can lawfully prescribe the drug, or falsely represents that he or she is acting on behalf of a person who can lawfully prescribe the drug, in a telephone or electronic communication with a pharmacist, shall be punished by imprisonment in the county jail for not more than one year."

11. Section 4324 subdivision (a) of the Code states:

"(a) Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

...

///



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

12. Section 4327 of the Code states:

“Any person who, while on duty, sells, dispenses or compounds any drug while under the influence of any dangerous drug or alcoholic beverages shall be guilty of a misdemeanor.”

13. Section 11157 of the Health and Safety Code states:

“No person shall issue a prescription that is false or fictitious in any respect.”

14. Section 11170 of the Health and Safety Code states:

“No person shall prescribe, administer, or furnish a controlled substance for himself.”

15. Section 11171 of the Health and Safety Code states:

“No person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by this division.”

16. Health & Safety Code section 11350 states:

“Except as otherwise provided in this division, every person who possesses (1) any controlled substance specified in subdivision (b) or (c), or paragraph (1) of subdivision (f) of Section 11054, specified in paragraph (14), (15), or (20) of subdivision (d) of Section 11054, or specified in subdivision (b) or (c) of Section 11055, or specified in subdivision (h) of Section 11056, or (2) any controlled substance classified in Schedule III, IV, or V which is a narcotic drug, unless upon the written prescription of a physician, dentist, podiatrist, or veterinarian licensed to practice in this state, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code.”

....

**COST RECOVERY**

17. Section 125.3 of the Code provides, 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, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

///  
///  
///

DRUGS

1  
2           18.     Xanax [generic: Alprazolam 0.5mg, 1mg & 2mg] is a Schedule IV controlled  
3 substance pursuant to Health and Safety Code section 11057(d) and dangerous drug pursuant to  
4 Business and Professions Code section 4022. Indications for use: Anxiety.

5           19.     Soma [generic: Carisoprodol 350mg] is a Schedule IV controlled substance  
6 pursuant to Health and Safety Code section 11057(g) and dangerous drug pursuant to Business  
7 and Professions Code section 4022. Indications for use: Muscle Pain.

8           20.     Klonopin [generic: Clonazepam] is a Schedule IV controlled substance pursuant to  
9 Health and Safety Code section 11057(d) and dangerous drug pursuant to Business and  
10 Professions Code section 4022. Indications for use: Anxiety/Seizures.

11          21.     Ativan [generic: Lorazepam] is a Schedule IV controlled substance pursuant to  
12 Health and Safety Code section 11057(d) and dangerous drug pursuant to Business and  
13 Professions Code section 4022. Indications for use: Anxiety/Seizures.

14          22.     Fiorinal w/codeine [generic: ASA/butalbital/caffeine and codeine] is a Schedule III  
15 controlled substance pursuant to Health and Safety Code section 11056(e)(2) and dangerous drug  
16 pursuant to Business and Professions Code section 4022. Indications for use: Tension headache.

17          23.     Pepcid [generic: Famotidine 20mg &40mg] is a dangerous drug pursuant to  
18 Business and Professions Code section 4022. Indications for use: Stomach Acid.

19          24.     Prilosec [generic: Omeprazole 20mg] is a dangerous drug pursuant to Business and  
20 Professions Code section 4022. Indications for use: Stomach Acid.

21          25.     Voltaren Gel [generic: Diclofenac Gel 1%] is a dangerous drug pursuant to  
22 Business and Professions Code section 4022. Indications for use: Arthritis.

23          26.     Valtrex [generic: Valacyclovir 1gm] is a dangerous drug pursuant to Business and  
24 Professions Code section 4022. Indications for use: Antiviral.

25          27.     Denavir Cream is a dangerous drug pursuant to Business and Professions Code  
26 section 4022. Indications for use: Antiviral.

27          28.     Cipro [generic: Ciprofloxacin 500mg] is a dangerous drug pursuant to Business  
28 and Professions Code section 4022. Indications for use: Antibiotic.



36. A review of Respondent's prescription profile at Highland Springs Pharmacy revealed that on December 21, 2012, January 24, 2013, April 25, 2013, January 12, 2014, April 11, 2014, June 6, 2014 and December 2, 2014, Respondent transcribed the following prescriptions for dangerous drugs to himself using his name or the name of pharmacist in charge D.C.'s name as the prescriber as described below:

| Date       | Rx#   | Drug                   | Quantity | Prescriber     |
|------------|-------|------------------------|----------|----------------|
| 12/21/2012 | 4001  | Famotidine 20mg        | #100     | D.C. RPH       |
| 1/24/2013  | 6122  | Omeprazole 20mg        | #30      | Van Nguyen RPH |
| 4/25/2013  | 11559 | Voltaren 1%Gel         |          | D.C. RPH       |
| 4/25/2013  | 11560 | Valacyclovir 1gm       | #4       | D.C. RPH       |
| 4/25/2013  | 11561 | Denavir Cream 1%       |          | D.C. RPH       |
| 1/12/2014  | 25777 | Ciprofloxacin 500mg    | #6       | Van Nguyen RPH |
| 4/11/2014  | 31974 | Ipratrop/Albuterol Sol |          | Van Nguyen RPH |
| 6/6/2014   | 35611 | Valacyclovir 1gm       | #30      | D.C. RPH       |
| 12/2/2014  | 45851 | Famotidine 40mg        | #100     | D.C. RPH       |

**FIRST CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct - Dishonesty)**

37. Respondent is subject to disciplinary action under section 4301 of the Business and Professions Code subdivisions (f) and (j) in that while working as a pharmacist at Highland Springs Pharmacy and CVS Pharmacy, Respondent engaged in acts involving moral turpitude, dishonesty and fraud. The circumstances are set forth above in paragraphs 30 through 36, which are incorporated herein by reference.

**SECOND CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct - Danger to the Public)**

38. Respondent is subject to disciplinary action under section 4301, subdivision (h), of the Business and Professions Code in that Respondent self-administered controlled substances/dangerous drugs to the extent that it impaired his ability to the practice of pharmacy

1 with safety to the public. The circumstances are set forth above in paragraphs 30 through 36,  
2 which are incorporated herein by reference.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(Prescribing Controlled Substance for Self)**

5 39. Respondent is subject to disciplinary action under sections 9301 subdivision (j) and  
6 4059 of the Code Business and Professions Code for violating sections 11170 and 11171 of the  
7 Health & Safety Code in that Respondent prescribed, administered, or furnished controlled  
8 substances to himself without authorization to do so. The circumstances are set forth above in  
9 paragraphs 30 through 35, which are incorporated herein by reference.

10 **FOURTH CAUSE FOR DISCIPLINE**

11 **(Unprofessional Conduct - Functioning Under the Influence of Dangerous Drugs)**

12 40. Respondent is subject to disciplinary action under sections 4301 subdivision (o) and  
13 4327 of the Business and Profession Code in that while on duty as a pharmacist at Highland  
14 Springs Pharmacy and CVS Pharmacy, Respondent sold, dispensed and/or compounded drugs  
15 while under the influence of dangerous drugs. The circumstances are set forth above in  
16 paragraphs 30 through 36, which are incorporated herein by reference.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **(Unlawful Possession of a Controlled Substance)**

19 41. Respondent is subject to disciplinary action under sections 4301 subdivision (o) and  
20 4060 of the Business and Profession Code in that while employed as a pharmacist at Highland  
21 Springs Pharmacy and CVS Pharmacy, Respondent possessed controlled substances without a  
22 prescription. The circumstances are set forth above in paragraphs 30 through 35, which are  
23 incorporated herein by reference.

24 **SIXTH CAUSE FOR DISCIPLINE**

25 **(False Representation of Self as Physician or Agent of Physician to Obtain Drug)**

26 42. Respondent is subject to disciplinary action under sections 4301 subdivision (o) and  
27 4323 of the Business and Profession Code in that while employed as a pharmacist at Highland  
28 Springs Pharmacy, Respondent obtained drugs by falsely represented himself to be a physician or

1 other person who can lawfully prescribe the drug, or falsely represented that he is acting on behalf  
2 of a person who can lawfully prescribe the drug. The circumstances are set forth above in  
3 paragraphs 30 and 36, which are incorporated herein by reference.

4 **SEVENTH CAUSE FOR DISCIPLINE**

5 **(Possession of Drugs Obtained Through Forged Prescription )**

6 43. Respondent is subject to disciplinary action under sections 4301 subdivision (o), 4323  
7 subdivision (a) and 4324 of the Business and Profession Code and section 11157 of the Health  
8 and Safety Code in that while on duty as a pharmacist at Highland Springs Pharmacy, Respondent  
9 signed the name of another, and falsely represented the authenticity of prescriptions, when he  
10 transcribed prescriptions to himself using his name or pharmacist D.C.'s name as the prescriber.  
11 The circumstances are set forth above in paragraphs 30 and 36, which are incorporated herein by  
12 reference.

13 **EIGHTH CAUSE FOR DISCIPLINE**

14 **(Unprofessional Conduct - Falsely Representing Facts )**

15 44. Respondent is subject to disciplinary action under section 4301 subdivision (g) of the  
16 Business and Profession Code in that while on duty as a pharmacist at Highland Springs  
17 Pharmacy, Respondent knowingly made or signed documents that falsely represents the existence  
18 or nonexistence of facts, in that he transcribed the following prescriptions to himself using his  
19 name or pharmacist D.C.'s name as the prescriber. The circumstances are set forth above in  
20 paragraphs 30 and 36, which are incorporated herein by reference.

21 **PRAYER**

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

- 24 1. Revoking or suspending Pharmacist License Number RPH 66262, issued to Van Nhu  
25 Nguyen  
26 2. Ordering Van Nhu Nguyen to pay the Board of Pharmacy the reasonable costs of the  
27 investigation and enforcement of this case, pursuant to Business and Professions Code section  
28 125.3;

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

DATED: 7/21/15

*Virginia Herold*

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

LA2015501104  
51832227.doc