

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

In the Matter of the Accusation Against:

**TRINITY MISSION PHARMACY, INC.,
TRINA TRINH TRAN AND NGOC MINH
HO, OWNERS
16569 Brookhurst St.
Fountain Valley, CA 92708**

Pharmacy Permit No. PHY 50434

**JOEL BERNARD SOBURN
27122 Ocean Vista Drive, A
Laguna Beach, CA 92651**

Pharmacist License No. RPH 26296

Respondents.

Case No. 5558

OAH No. 2016040064

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO JOEL
BERNARD SOBURN ONLY**

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 January 11, 2017.

It is so ORDERED on December 12, 2016.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Amy Gutierrez, Pharm.D.
Board President

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15 **Pharmacy Permit No. PHY 50434**

16 **JOEL BERNARD SOBURN**
17 **27122 Ocean Vista Drive, A**
Laguna Beach, CA 92651

18 **Pharmacist License No. RPH 26296**

19 Respondents.
20

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

24 PARTIES

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

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 5558, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist
4 License.

5 10. For the purpose of resolving the Accusation without the expense and uncertainty of
6 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
7 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
8 those charges.

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

11 CONTINGENCY

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

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

24 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
25 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
26 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
27 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
28

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
2 writing executed by an authorized representative of each of the parties.

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

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Pharmacist License No. RPH 26296 issued to Respondent
8 Joel Bernard Soburn is revoked. However, the revocation is stayed and Respondent is placed on
9 probation for five (5) years on the following terms and conditions.

10 1. **Obey All Laws**

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

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

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

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

25 2. **Report to the Board**

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

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

6 **3. Interview with the Board**

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

12 **4. Cooperate with Board Staff**

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

16 **5. Continuing Education**

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

19 **6. Notice to Employers**

20 During the period of probation, respondent shall notify all present and prospective
21 employers of the decision in case number 5558 and the terms, conditions and restrictions imposed
22 on respondent by the decision, as follows:

23 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
24 respondent undertaking any new employment, respondent shall cause his direct supervisor,
25 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
26 tenure of employment) and owner to report to the board in writing acknowledging that the listed
27 individual(s) has/have read the decision in case number 5558, and terms and conditions imposed
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1 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
2 submit timely acknowledgment(s) to the board.

3 If respondent works for or is employed by or through a pharmacy employment service,
4 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
5 licensed by the board of the terms and conditions of the decision in case number 5558 in advance
6 of the respondent commencing work at each licensed entity. A record of this notification must be
7 provided to the board upon request.

8 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
9 (15) days of respondent undertaking any new employment by or through a pharmacy employment
10 service, respondent shall cause his direct supervisor with the pharmacy employment service to
11 report to the board in writing acknowledging that he has read the decision in case number 5558
12 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
13 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

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

1 **8. Reimbursement of Board Costs**

2 As a condition precedent to successful completion of probation, respondent shall pay to the
3 board its costs of investigation and prosecution in the amount of \$3,775.35. Respondent shall
4 make said payments in a payment plan to be approved by the Board.

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

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

10 **9. Probation Monitoring Costs**

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

15 **10. Status of License**

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

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

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

24 Following the effective date of this decision, should respondent cease practice due to
25 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
26 respondent may tender his license to the board for surrender. The board or its designee shall have
27 the discretion whether to grant the request for surrender or take any other action it deems
28 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent

1 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
2 record of discipline and shall become a part of the respondent's license history with the board.

3 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
4 the board within ten (10) days of notification by the board that the surrender is accepted.
5 Respondent may not reapply for any license from the board for three (3) years from the effective
6 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
7 of the date the application for that license is submitted to the board, including any outstanding
8 costs.

9 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
10 **Employment**

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

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

18 **13. Tolling of Probation**

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

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

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

6 "Cessation of practice" means any calendar month during which respondent is
7 not practicing as a pharmacist for at least 40 hours, as defined by Business and
8 Professions Code section 4000 et seq. "Resumption of practice" means any calendar
9 month during which respondent is practicing as a pharmacist for at least 40 hours as a
10 pharmacist as defined by Business and Professions Code section 4000 et seq.

11 **14. Violation of Probation**

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

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

24 **15. Completion of Probation**

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

27 **16. Remedial Education**

28 Within sixty (60) days of the effective date of this decision, respondent shall submit to the

1 board or its designee, for prior approval, an appropriate program of remedial education related to
2 pharmacy security, recordkeeping, inventory reconciliation, role of a pharmacist-in-charge and
3 Pharmacy Law. The program of remedial education shall consist of at least 6 hours per year of
4 probation at respondent's own expense in the area of pharmacy security, recordkeeping, inventory
5 reconciliation, role of a pharmacist-in-charge and Pharmacy Law. All remedial education shall be
6 in addition to, and shall not be credited toward, continuing education (CE) courses used for
7 license renewal purposes.

8 Failure to timely submit or complete the approved remedial education shall be considered a
9 violation of probation. The period of probation will be automatically extended until such
10 remedial education is successfully completed and written proof, in a form acceptable to the board,
11 is provided to the board or its designee.

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

17 **17. No Ownership of Licensed Premises**

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

25 **18. Ethics Course**

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

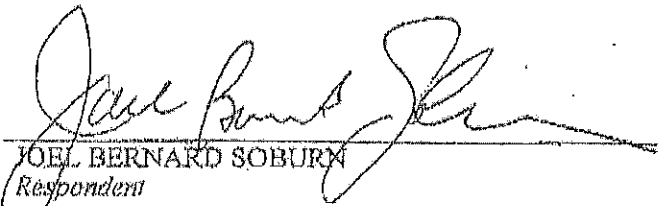
1 year of probation, is a violation of probation.

2 Respondent shall submit a certificate of completion to the board or its designee within five
3 days after completing the course. The ethics course shall be in addition to, and shall not be
4 credited toward, continuing education (CE) courses used for license renewal purposes.

5 ACCEPTANCE

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

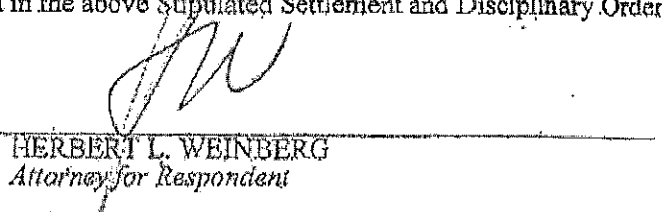
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12 DATED: 10/21/2016



JOEL BERNARD SOBURN
Respondent

14 I have read and fully discussed with Respondent Joel Bernard Soburn the terms and
15 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
16 I approve its form and content.

17 DATED: 10/21/2016



HERBERT L. WEINBERG
Attorney for Respondent

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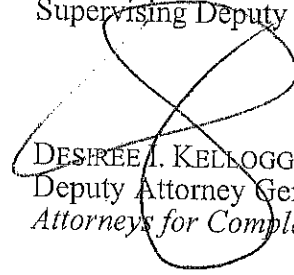
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ENDORSEMENT

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

DATED: 10/21/16

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General


DESHREE L. KELLOGG
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5558

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
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17 **27122 Ocean Vista Drive, A**
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18 **Pharmacist License No. RPH 26296**

19
20 Respondents.

ACCUSATION

21
22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about December 22, 2010, the Board of Pharmacy issued Pharmacy Permit
27 Number PHY 50434 to Trinity Mission Pharmacy, Inc. with Joel Bernard Soburn designated as
28 the Pharmacist-in-Charge from February 1, 2012 to July 12, 2014. Trina Trinh Tran as the

1 President and the owner of fifty percent of the outstanding shares and Ngoc Minh Ho as the Vice
2 President and owner of fifty percent of the outstanding shares (Respondent Trinity Mission
3 Pharmacy.) The Pharmacy Permit was in full force and effect at all times relevant to the charges
4 brought herein and will expire on December 1, 2015. unless renewed.

5 3. On or about August 5, 1969, the Board of Pharmacy issued Pharmacist License
6 Number RPH 26296 to Joel Bernard Soburn (Respondent Joel Soburn). The Pharmacist License
7 was in full force and effect at all times relevant to the charges brought herein and will expire on
8 July 31, 2017, unless renewed.

9 JURISDICTION

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

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

16 6. Section 4300(a) of the Code provides that every license issued by the Board may be
17 suspended or revoked.

18 7. Section 4300.1 of the Code states:

19 The expiration, cancellation, forfeiture, or suspension of a board-issued license
20 by operation of law or by order or decision of the board or a court of law, the
21 placement of a license on a retired status, or the voluntary surrender of a license by a
22 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.

23 STATUTORY AND REGULATORY PROVISIONS

24 8. Section 4081 of the Code states in pertinent part:

25 (a) All records of manufacture and of sale, acquisition, or disposition of dangerous
26 drugs or dangerous devices shall be at all times during business hours open to
27 inspection by authorized officers of the law, and shall be preserved for at least
28 three years from the date of making. A current inventory shall be kept by every
manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer,
physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution,
or establishment holding a currently valid and unrevoked certificate, license,

1 permit, registration, or exemption under Division 2 (commencing with Section
2 1200) of the Health and Safety Code or under Part 4 (commencing with Section
3 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock
4 of dangerous drugs or dangerous devices.

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

9 9. Section 4105(a) of the Code states:

10 All records or other documentation of the acquisition and disposition of
11 dangerous drugs and dangerous devices by any entity licensed by the board shall be
12 retained on the licensed premises in a readily retrievable form.

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

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

16 11. Section 4301 of the Code states in pertinent part:

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

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.

...

12. 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.

....

13. Sections 1714(b) and (d) of title 16, California Code of Regulations state:

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

...

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

14. Section 1715(a) of title 16, California Code of Regulations states:

The pharmacist-in-charge of each pharmacy as defined under section 4029 or section 4037 of the Business and Professions Code shall complete a self-assessment of the pharmacy's compliance with federal and state pharmacy law. The assessment shall be performed before July 1 of every odd-numbered year. The primary purpose of the self-assessment is to promote compliance through self-examination and education.

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

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

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

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

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

17. Section 11165(d) of the Health & Safety Code states in part:

For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the Department of Justice as soon

1 as reasonably possible, but not more than seven days after the date a controlled
2 substance is dispensed, in a format specified by the Department of Justice:

3 (1) Full name, address, and, if available, telephone number of the ultimate
4 user or research subject, or contact information as determined by the Secretary of the
5 United States Department of Health and Human Services, and the gender, and date of
6 birth of the ultimate user.

7 (2) The prescriber's category of licensure, license number, national provider
8 identifier (NPI) number, if applicable, the federal controlled substance registration
9 number, and the state medical license number of any prescriber using the federal
10 controlled substance registration number of a government-exempt facility.

11 (3) Pharmacy prescription number, license number, NPI number, and
12 federal controlled substance registration number.

13 (4) National Drug Code (NDC) number of the controlled substance
14 dispensed.

15 (5) Quantity of the controlled substance dispensed.

16 (6) International Statistical Classification of Diseases, 9th revision (ICD-9)
17 or 10th revision (ICD-10) Code, if available.

18 (7) Number of refills ordered.

19 (8) Whether the drug was dispensed as a refill of a prescription or as a first-
20 time request.

21 (9) Date of origin of the prescription.

22 (10) Date of dispensing of the prescription.

23 COST RECOVERY

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

28 DRUGS

19. Adipex P is the brand name for phentermine, a Schedule IV controlled substance
pursuant to Health and Safety Code section 11057(f) and a dangerous drug pursuant to Business
and Professions Code section 4022.

1 20. Ambien is the brand name for zolpidem, a Schedule IV controlled substance pursuant
2 to Health and Safety Code section 11057(d) and a dangerous drug pursuant to Business and
3 Professions Code section 4022.

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

7 22. Tramadol is a Schedule IV controlled substance pursuant to the Controlled
8 Substances Act and a dangerous drug pursuant to Business and Professions Code section 4022.

9 23. Xanax is the brand name for alprazolam, a Schedule IV controlled substance pursuant
10 to Health and Safety Code section 11057(d)(1) and a dangerous drug pursuant to Business and
11 Professions Code section 4022.

12 **FACTUAL ALLEGATIONS**

13 24. From February 1, 2012 to July 12, 2012, Respondent Joel Soburn was the
14 Pharmacist-in-Charge of Trinity Mission Pharmacy. From December 22, 2010, Trina Trinh Tran
15 was the President and the owner of fifty percent of the outstanding shares of Trinity Mission
16 Pharmacy, Inc. and Ngoc Minh Ho was the Vice President and the owner of fifty percent of the
17 outstanding shares of Trinity Mission Pharmacy, Inc.

18 25. From September 5, 2012 until December 17, 2014, Trinity Mission Pharmacy did not
19 maintain adequate security for controlled substances. For example, multiple individuals were
20 allowed to order controlled substances from wholesalers and there were no security cameras in
21 the pharmacy. As a result, there was a loss in Trinity Mission Pharmacy's inventory of 4,538
22 tablets of zolpidem 10 mg, 7,291 tablets of phentermine 37.5 mg, 42,760 tablets of Norco 10/325
23 mg and 45,019 of alprazolam 2 mg in Trinity Mission Pharmacy's drug inventory.

24 26. In or about July 2014, the losses were discovered by the pharmacist-in-charge. The
25 owners admitted to diverting controlled substances from Trinity Mission Pharmacy and to
26 ordering controlled substances on days when the pharmacist-in-charge was not on duty.
27 Additionally, a bottle of 1000 tablets of Tramadol 50 mg was stored in a desk drawer, rather than
28 in Trinity Mission Pharmacy's shelves with the drug inventory.

1 27. In August 2014, Respondent Trinity Mission Pharmacy failed to have its new
2 pharmacist-in-charge complete a self assessment within 30 days of the change in the pharmacist-
3 in-charge. Respondent Trinity Mission Pharmacy also failed to submit prescription data to the
4 Controlled Substance Utilization Review and Evaluation System (CURES) on a weekly basis
5 from July 30, 2014 through December 18, 2014.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Failure to Maintain Current Inventory of Controlled Substances against Respondents**

8 **Trinity Mission Pharmacy and Joel Soburn)**

9 28. Respondents Trinity Mission Pharmacy and Joel Soburn are subject to disciplinary
10 action under Code section 4301(o), for violating title 16, California Code of Regulations, section
11 1718, in that they did not maintain a current inventory of controlled substances, Norco 10/325,
12 zolpidem 10mg, alprazolam 2 mg and phentermine 37.5 mg and suffered losses in their inventory
13 of those controlled substances, as set forth in paragraphs 24 through 27 above, which are
14 incorporated herein by reference.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Failure to Provide Adequate Security for Controlled Substances**

17 **against Respondent Trinity Mission Pharmacy and Joel Soburn)**

18 29. Respondents Trinity Mission Pharmacy and Joel Soburn are subject to disciplinary
19 action under Code section 4301(o), for violating title 16, California Code of Regulations, sections
20 1714(b) and 1714(d), in that they did not provide adequate security for zolpidem 10mg,
21 phentermine 37.5 mg, Norco 10/325 mg and alprazolam 2 mg, as set forth in paragraphs 24
22 through 27 above, which are incorporated herein by reference.

23 **THIRD CAUSE FOR DISCIPLINE**

24 **(Failure to Maintain Records of Acquisition and Disposition against Respondents Trinity**

25 **Mission Pharmacy and Joel Soburn)**

26 30. Respondents Trinity Mission Pharmacy and Joel Soburn are subject to disciplinary
27 action under Code section 4301(o), for violating Code sections 4081(a) and 4105(a), in that they
28 failed to maintain all the records of acquisition and disposition for the controlled substances.

1 alprazolam 2mg, zolpidem 10 mg, phentermine 37.5 mg and Norco 10/325 mg, as set forth in
2 paragraphs 24 through 27, which are incorporated herein by reference.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Failure to Complete Self-Assessment against Respondent Trinity Mission Pharmacy)**

5 31. Respondent Trinity Mission Pharmacy is subject to disciplinary action under Code
6 section 4301(o), for violating California Code of Regulations, title 16, 1715(a), in that it failed to
7 complete a self-assessment upon the change of the pharmacist-in-charge in or about August 2014,
8 as set forth in paragraphs 24 through 27, which are incorporated herein by reference.

9 **FIFTH CAUSE FOR DISCIPLINE**

10 **(Failure to Report Prescription Information to CURES against Respondent Trinity Mission**
11 **Pharmacy)**

12 32. Respondent Trinity Mission Pharmacy is subject to disciplinary action under Code
13 section 4301(j), for violating Health & Safety Code section 11165(d), in that it failed to report
14 prescription information to CURES, as set forth in paragraphs 24 through 27, which are
15 incorporated herein by reference.

16 **SIXTH CAUSE FOR DISCIPLINE**

17 **(Unprofessional Conduct against Respondents)**

18 33. Respondents are subject to disciplinary action under Code section 4301 for
19 unprofessional conduct in that they engaged in the activities described in paragraphs 24 through
20 27 above, which are incorporated herein by reference.

21 **OTHER MATTERS**

22 34. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
23 PHY 50434 issued to Trinity Mission Pharmacy, Inc., Trinity Mission Pharmacy, Inc. shall be
24 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
25 or partner of a licensee for five years if Pharmacy Permit Number PHY 50434 is placed on
26 probation or until Pharmacy Permit Number PHY 50434 is reinstated if it is revoked.

27 35. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit
28 Number PHY 50434 issued to Trinity Mission Pharmacy, Inc. while Trina Trinh Tran and/or

1 Ngoc Minh Ho have been an officer and owner and had knowledge of or knowingly participated
2 in any conduct for which the licensee was disciplined, Trina Trinh Tran and Ngoc Minh Ho shall
3 be prohibited from serving as a manager, administrator, owner, member, officer, director,
4 associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50434 is
5 placed on probation or until Pharmacy Permit Number PHY 50434 is reinstated if it is revoked.

6 **DISCIPLINARY CONSIDERATIONS**

7 36. To determine the degree of discipline, if any, to be imposed on Respondents,
8 Complainant alleges that on or about November 11, 1993, Joel Soburn's pharmacist license was
9 revoked, the revocation stayed and his license placed on probation for unprofessional conduct
10 including the failure to keep records of the acquisition and disposition of dangerous drugs, the
11 holding of misbranded drugs and the commission of acts which constitutes adulterated drugs.

12 **PRAYER**

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

- 15 1. Revoking or suspending Pharmacist License Number PHY 50434, issued to Trinity
16 Mission Pharmacy, Inc.;
- 17 2. Revoking or suspending Pharmacist License Number RPH 26296, issued to Joel
18 Bernard Soburn;
- 19 3. Prohibiting Trinity Mission Pharmacy, Inc. from serving as a manager, administrator,
20 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
21 Permit Number PHY 50434 is placed on probation or until Pharmacy Permit Number PHY
22 50434 is reinstated if Pharmacy Permit Number 50434 issued to Trinity Mission Pharmacy, Inc.
23 is revoked;
- 24 4. Prohibiting Trina Trinh Tran from serving as a manager, administrator, owner,
25 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
26 Number PHY 50434 is placed on probation or until Pharmacy Permit Number PHY 50434 is
27 reinstated if Pharmacy Permit Number 50434 issued to Trinity Mission Pharmacy, Inc. is
28 revoked;

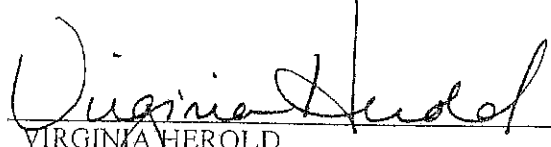
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5. Prohibiting Ngoc Minh Ho from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50434 is placed on probation or until Pharmacy Permit Number PHY 50434 is reinstated if Pharmacy Permit Number PHY 50434 issued to Trinity Mission Pharmacy, Inc. is revoked:

6. Ordering Trinity Mission Pharmacy, Inc. and Joel Bernard Soburn 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;

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

DATED: 3/2/16



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

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