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

In the Matter of the Accusation Against: **WEST COAST PHARMACY, INC.,** **dba WEST COAST PHARMACY** **LOAN MONG LE, PRES./SECY.** **KIM NGUYEN** **aka KIM KHANH NGUYEN, PIC** **5731 Watt Avenue** **North Highlands, CA 95660** **Pharmacy Permit No. PHY 50531** **KIM KHANH NGUYEN** **9642 McKenna Drive** **Elk grove, CA 95757** **Pharmacist License No. RPH 54305** **and** **LOAN MONG LE** **3760 Monteverde Drive** **Lincoln, CA 95648** **Pharmacist License No. RPH 50209** Respondents.	Case No. 5610 OAH No. 2016051143 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER AS TO RESPONDENT LOAN MONG LE 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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IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings, as specified below, that the following matters are true:

PARTIES

1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy ("Board"). She brought this action solely in her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of the State of California, by Malissa N. Siemantel, Deputy Attorney General.

2. Respondent Loan Mong Le ("Respondent Le") is represented in this proceeding by attorney Paul Chan, whose address is: 2311 Capitol Avenue, Sacramento, CA 95816.

3. On or about August 18, 1998, the Board issued Pharmacist License Number RPH 50209 to Respondent Le. The pharmacist license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2018, unless renewed.

JURISDICTION

4. Accusation No. 5610 was filed before the Board, and is currently pending against Respondents. The Accusation and all other statutorily required documents were properly served on Respondents on February 19, 2016. Respondents timely filed their Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 5610 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent Le has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 5610. Respondent Le has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent Le is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of

documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent Le voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

9. Respondent Le admits the truth of each and every charge and allegation in Accusation No. 5610.

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

CONTINGENCY

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

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

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

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 50209 issued to Respondent Loan Mong Le is revoked. However, the revocation is stayed and Respondent Le is placed on probation for five (5) years on the following terms and conditions.

1. **Obey All Laws**

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

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
- a plea of guilty or nolo contendre in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- discipline, citation, or other administrative action filed by any state or federal agency which involves Respondent Le's pharmacist license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

2. **Report to the Board**

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

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

3. **Interview with the Board**

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

4. **Cooperate with Board Staff**

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

5. **Continuing Education**

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

6. **Notice to Employers**

During the period of probation, Respondent Le shall notify all present and prospective employers of the decision in case number 5610 and the terms, conditions and restrictions imposed on Respondent Le by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of Respondent Le undertaking any new employment, Respondent Le shall cause her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during Respondent Le'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 5610, and

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terms and conditions imposed thereby. It shall be Respondent Le's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

If Respondent Le works for or is employed by or through a pharmacy employment service, Respondent Le must notify her 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 5610 in advance of the Respondent Le 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 Le undertaking any new employment by or through a pharmacy employment service, Respondent Le shall cause her direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that they have read the decision in case number 5610 and the terms and conditions imposed thereby. It shall be Respondent Le's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

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

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

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

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

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8. **Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, Respondent Le shall pay to the Board its costs of investigation and prosecution in the amount of $9,000.00. Respondent Le shall be jointly and severally liable with Respondent West Coast Pharmacy for payment of those costs. Respondent Le shall be permitted to make payments on a plan approved by the Board or its designee, with payments to be completed no later than six (6) months prior to the end of the probation term.

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

The filing of bankruptcy by Respondent Le shall not relieve Respondent Le of her responsibility to reimburse the Board its costs of investigation and prosecution.

9. **Probation Monitoring Costs**

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

10. **Status of License**

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

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

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

Following the effective date of this decision, should Respondent Le cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,

Respondent Le may tender her license to the Board for surrender. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, Respondent Le will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the Respondent Le's license history with the Board.

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

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

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

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

13. **Tolling of Probation**

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

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

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

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

14. **Violation of Probation**

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

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

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15. **Completion of Probation**

Upon written notice by the Board or its designee indicating successful completion of probation, Respondent Le's license will be fully restored.

16. **Remedial Education**

Within sixty (60) days of the effective date of this decision, Respondent Le shall submit to the Board or its designee, for prior approval, an appropriate program of remedial education related to pharmacy law and operations. The program of remedial education shall consist of at least twelve (12) hours, which shall be completed within three (3) years at Respondent Le's own expense. All remedial education shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes.

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

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

17. **No Ownership of Licensed Premises**

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

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18. **Ethics Course**

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

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Paul Chan. 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: 10/30/16

LOAN MONG LE
Respondent

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

DATED: 10/30/16

PAUL CHAN
Attorney for Respondent Loan Mong Le

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ENDORSEMENT

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

Dated: 10/31/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General

MALISSA N. SIEMANTEL
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5610

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Complainant alleges:

PARTIES

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

2. On or about January 19, 2011, the Board issued Pharmacy Permit Number PHY 50531 to West Coast Pharmacy, Inc., doing business as West Coast Pharmacy ("Respondent West Coast Pharmacy"), with Loan Mong Le ("Respondent Le") as president and secretary. On or about July 7, 2014, Kim Nguyen, also known as Kim Khanh Nguyen ("Respondent Nguyen"), became the pharmacist-in-charge. Respondent West Coast Pharmacy filed a discontinuance of business that became effective on November 16, 2015. The pharmacy permit was cancelled on December 16, 2015. The pharmacy permit was in full force and effect at all times relevant to the charges brought herein.

3. On or about April 15, 2003, the Board issued Pharmacist License Number RPH 54305 to Respondent Nguyen. The pharmacist license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2017, unless renewed.

4. On or about August 18, 1998, the Board issued Pharmacist License Number RPH 50209 to Respondent Le. The pharmacist license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2018, unless renewed.

JURISDICTION

5. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

6. Section 4300 states, in pertinent part:

> (a) Every license issued may be suspended or revoked.
>
> (b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:
>
> (1) Suspending judgment.
>
> (2) Placing him or her upon probation.

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

(4) Revoking his or her license.

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

7. Section 4300.1 states:

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

STATUTORY AND REGULATORY PROVISIONS

8. Section 4301 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:

. . . .

(b) Incompetence.

(c) Gross negligence.

. . . .

(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 . . . .

9. Section 4081 states, in pertinent part:

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

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

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

10. Section 4105, subdivision (a), states:

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

11. Section 4113, subdivision (c), states that "[t]he pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy."

12. Section 4115 states, in pertinent part:

(a) A pharmacy technician may perform packaging, manipulative, repetitive, or other nondiscretionary tasks, only while assisting, and while under the direct supervision and control of a pharmacist. The pharmacist shall be responsible for the duties performed under his or her supervision by a technician.

. . . .

(d) The board shall adopt regulations to specify tasks pursuant to subdivision (a) that a pharmacy technician may perform under the supervision of a pharmacist. Any pharmacy that employs a pharmacy technician shall do so in conformity with the regulations adopted by the board.

. . . .

(f)(1) A pharmacy with only one pharmacist shall have no more than one pharmacy technician performing the tasks specified in subdivision (a). The ratio of pharmacy technicians performing the tasks specified in subdivision (a) to any additional pharmacist shall not exceed 2:1, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117. This ratio is applicable to all practice settings, except for an inpatient of a licensed health facility, a patient of a licensed home health agency, as specified in paragraph (2), an inmate of a correctional facility of the Department of Corrections and Rehabilitation, and for a person receiving treatment in a facility operated by the State Department of State Hospitals, the State Department of Developmental Services, or the Department of Veterans Affairs.

(2) The board may adopt regulations establishing the ratio of pharmacy technicians performing the tasks specified in subdivision (a) to pharmacists applicable to the filling of prescriptions of an inpatient of a licensed health facility and for a patient of a licensed home health agency. Any ratio established by the board pursuant to this subdivision shall allow, at a minimum, at least one pharmacy technician for a

single pharmacist in a pharmacy and two pharmacy technicians for each additional pharmacist, except that this ratio shall not apply to personnel performing clerical functions pursuant to Section 4116 or 4117 . . .

13. Section 4156 states:

A pharmacy corporation shall not do, or fail to do, any act where doing or failing to do the act would constitute unprofessional conduct under any statute or regulation. In the conduct of its practice, a pharmacy corporation shall observe and be bound by the laws and regulations that apply to a person licensed under this chapter

14. Section 4306.5 states, in pertinent part:

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

. . . .

(b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement his or her best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services . . .

15. Section 4342, subdivision (a), states:

The board may institute any action or actions as may be provided by law and that, in its discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not conform to the standard and tests as to quality and strength, provided in the latest edition of the United States Pharmacopoeia or the National Formulary, or that violate any provision of the Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division 104 of the Health and Safety Code).

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

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

17. Health and Safety Code section 111295 states that "[i]t is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is adulterated."

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18. Title 21, Code of Federal Regulations ("CFR"), section 1301.75, subdivision (b), states that "[c]ontrolled substances listed in Schedules II, III, IV, and V shall be stored in a securely locked, substantially constructed cabinet. However, pharmacies and institutional practitioners may disperse such substances throughout the stock of noncontrolled substances in such a manner as to obstruct the theft or diversion of the controlled substances."

19. Title 16, California Code of Regulations ("CCR"), section 1707.2 states, in pertinent part:

> (a) A pharmacist shall provide oral consultation to his or her patient or the patient's agent in all care settings:
>
> (1) upon request; or
>
> (2) whenever the pharmacist deems it warranted in the exercise of his or her professional judgment.
>
> (b)(1) In addition to the obligation to consult set forth in subsection (a), a pharmacist shall provide oral consultation to his or her patient or the patient's agent in any care setting in which the patient or agent is present:
>
> (A) whenever the prescription drug has not previously been dispensed to a patient; or
>
> (B) whenever a prescription drug not previously dispensed to a patient in the same dosage form, strength or with the same written directions, is dispensed by the pharmacy . . .

20. Title 16, CCR, section 1711 states, in pertinent part:

> (a) Each pharmacy shall establish or participate in an established quality assurance program which documents and assesses medication errors to determine cause and an appropriate response as part of a mission to improve the quality of pharmacy service and prevent errors.
>
> (b) For purposes of this section, "medication error" means any variation from a prescription or drug order not authorized by the prescriber, as described in Section 1716. Medication error, as defined in the section, does not include any variation that is corrected prior to furnishing the drug to the patient or patient's agent or any variation allowed by law.
>
> (c)(1) Each quality assurance program shall be managed in accordance with written policies and procedures maintained in the pharmacy in an immediately retrievable form.
>
> (2) When a pharmacist determines that a medication error has occurred, a pharmacist shall as soon as possible:

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(A) Communicate to the patient or the patient's agent the fact that a medication error has occurred and the steps required to avoid injury or mitigate the error.

(B) Communicate to the prescriber the fact that a medication error has occurred.

. . . .

(d) Each pharmacy shall use the findings of its quality assurance program to develop pharmacy systems and workflow processes designed to prevent medication errors. An investigation of each medication error shall commence as soon as is reasonably possible, but no later than 2 business days from the date the medication error is discovered. All medication errors discovered shall be subject to a quality assurance review.

(e) The primary purpose of the quality assurance review shall be to advance error prevention by analyzing, individually and collectively, investigative and other pertinent data collected in response to a medication error to assess the cause and any contributing factors such as system or process failures. A record of the quality assurance review shall be immediately retrievable in the pharmacy. The record shall contain at least the following:

1. the date, location, and participants in the quality assurance review;

2. the pertinent data and other information relating to the medication error(s) reviewed and documentation of any patient contact required by subdivision (c);

3. the findings and determinations generated by the quality assurance review; and,

4. recommend changes to pharmacy policy, procedure, systems, or processes, if any.

The pharmacy shall inform pharmacy personnel of changes to pharmacy policy, procedure, systems, or processes made as a result of recommendations generated in the quality assurance program.

(f) The record of the quality assurance review, as provided in subdivision (e) shall be immediately retrievable in the pharmacy for at least one year from the date the record was created . . .

21. Title 16, CCR, section 1714 states, in pertinent part:

. . . .

(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 . . .

22. Title 16, CCR, section 1715.6 states that "[t]he owner shall report to the Board within thirty (30) days of discovery of any loss of the controlled substances, including their amounts and strengths."

23. Title 16, CCR, section 1735.2 states, in pertinent part:

. . . .

(g) All chemicals, bulk drug substances, drug products, and other components used for drug compounding shall be stored and used according to compendial and other applicable requirements to maintain their integrity, potency, quality, and labeled strength.

(h) Every compounded drug product shall be given an expiration date representing the date beyond which, in the professional judgment of the pharmacist performing or supervising the compounding, it should not be used. This "beyond use date" of the compounded drug product shall not exceed 180 days from preparation or the shortest expiration date of any component in the compounded drug product, unless a longer date is supported by stability studies of finished drugs or compounded drug products using the same components and packaging. Shorter dating than set forth in this subsection may be used if it is deemed appropriate in the professional judgment of the responsible pharmacist.

. . . .

(j) Prior to allowing any drug product to be compounded in a pharmacy, the pharmacist-in-charge shall complete a self-assessment for compounding pharmacies developed by the board. (Incorporated by reference is "Community Pharmacy & Hospital Outpatient Pharmacy Compounding Self-Assessment" Form 17M-39 Rev. 02/12.) That form contains a first section applicable to all compounding, and a second section applicable to sterile injectable compounding. The first section must be completed by the pharmacist-in-charge before any compounding is performed in the pharmacy. The second section must be completed by the pharmacist-in-charge before any sterile injectable compounding is performed in the pharmacy. The applicable sections of the self-assessment shall subsequently be completed before July 1 of each odd-numbered year, within 30 days of the start of a new pharmacist-in-charge, and within 30 days of the issuance of a new pharmacy license. The primary purpose of the self-assessment is to promote compliance through self-examination and education.

24. Title 16, CCR, section 1761 states:

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

(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense a controlled substance prescription where the pharmacist

knows or has objective reason to know that said prescription was not issued for a legitimate medical purpose.

25. Title 16, CCR, section 1793.2 states, in pertinent part:

"Nondiscretionary tasks" as used in Business and Professions Code section 4115, include:

(a) removing the drug or drugs from stock . . .

COST RECOVERY

26: Section 125.3 provides, in pertinent part, that a 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.

DRUG CLASSIFICATIONS

27. "Guaifenesin with codeine syrup" is a Schedule V controlled substance as designated by Health and Safety Code section 11058, subdivision (c)(1), and is used to treat cough.

28. "Percolone/Roxicodone" are brand names for oxycodone. Oxycodone is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(M). Oxycodone is used to treat pain.

29. "Phenergan" is a brand name for promethazine. Promethazine with codeine syrup is a Schedule V controlled substance as designated by Health and Safety Code section 11058, subdivision (c)(1), and is used to treat cough.

30. "Norco" is a brand name for hydrocodone bitartrate and acetaminophen and is used to treat pain. Norco is a Schedule II controlled substance pursuant to Title 21, CFR, section 1308.12.

31. "Xanax," a brand name for alprazolam, is a Schedule IV controlled substance as designated by Health and Safety Code section 11057, subdivision (d)(1). Xanax is used to treat anxiety.

32. "Dolophine", a brand name for methadone, is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (c)(14). Dolophine is used to treat pain.

33. "Soma", a brand name for carisoprodol, is a Schedule IV Controlled Substance as designated by Title 21, CFR, section 1308.14, subdivision (c)(6), and is used to treat muscle spams.

34. All of the above controlled substances are dangerous drugs pursuant to section 4022.

STATEMENT OF FACTS

35. On or about June 2, 2015, a Board inspector went to West Coast Pharmacy to conduct an inspection. There were several employees working in the pharmacy at that time, including pharmacy technicians, TCH K., TCH O.G., TCH S., and TCH J.G. Respondent Nguyen was the only pharmacist on duty.

36. The inspector observed two large safes located near the south side counter. The left safe contained Schedule III to V controlled substances and certain expensive non-controlled medications; the right safe contained Schedule II controlled substances. The doors to both safes were unlocked during the entire inspection. The inspector observed TCH K. remove controlled substances from the safes, take them to the front filling counter, and replace drugs in the safes throughout the inspection. The safes were not visible from the front filling counter where Respondent Nguyen was working. Respondent Nguyen admitted that the safes were unlocked while she was in the pharmacy and that the technicians had access to them. On two occasions, the inspector observed delivery drivers enter the pharmacy (the drivers collected prescriptions for delivery) and visit with pharmacy employees. One of the drivers walked past the drug safes and entered the bathroom.

37. The inspector asked Respondent Nguyen if there were ever any prescription errors made in the pharmacy. Respondent Nguyen admitted that some prescription errors had occurred within the last year, that the most recent error had occurred within the last month, and that she did not document the error.

38. TCH S. was working next to the cash register and handled almost all of the transactions. The inspector observed TCH S. repeatedly ask patients who were picking up medications whether they had any questions for the pharmacist. TCH S. told the inspector later that she was trained to ask the question on new prescriptions, which had an "N" on the receipt.

After each transaction, TCH S. put a portion of the receipt in the trash. The inspector retrieved 15 receipts, 14 of which were marked with an "N", indicating that they were new prescriptions. The inspector did not see Respondent Nguyen consult any patients during the entire inspection.

39. TCH K. was working at the front counter, filling prescriptions and placing the baskets to her left or on the floor for Respondent Nguyen to verify. On multiple occasions, the inspector observed TCH O.G. pull drugs from the drug shelves or the drug order delivery totes and place them in prescription baskets. TCH O.G. would then take the baskets to the front filling counter and place them on the counter or on the floor between Respondent Nguyen and TCH K.

40. The inspector reviewed various prescription documents on file at the pharmacy, including prescription number 228880, dated May 26, 2015, which had been written for 100 tablets of oxycodone 30 mg. Respondent Nguyen told the inspector that she filled the prescription and that it was dispensed to the patient. Respondent Nguyen stated that she did not fill all controlled substance prescriptions. Respondent Nguyen retrieved a copy of a prescription dated May 7, 2015, that she refused to fill after calling the prescriber and determining that it had been forged. The forged prescription matched prescription number 228880 in several respects. Respondent Nguyen admitted that she should have verified the prescription.

41. The inspector examined the compounding area and found that there was no compounding self assessment in the pharmacy. There were also expired drugs and drug products above and below the compounding counter, which the inspector later determined had been used in the preparation of certain compounded prescriptions and dispensed to patients. Several expired drugs were labeled with a retest date.[1] The inspector asked Respondent Nguyen if any of the drugs which were past their retest date had been tested. Respondent Nguyen admitted that they had not been tested.

42. When the pharmacy was closed, the inspector had Respondent Nguyen complete a count of the stock on hand of four drugs, methadone 10 mg, hydrocodone/APAP 10/325 mg, oxycodone 30 mg and alprazolam 2 mg. Respondent Nguyen counted the pharmacy's inventory

[1] Drugs which are labeled with a retest date must be tested for stability before the retest date is reached. Without a stability test, the drugs are not assured to be of suitable integrity.

of the drugs and noted them on a form provided by the inspector. Respondent Nguyen gave the inspector a controlled substance inventory dated May 29, 2014. The inspector requested the pharmacy's disposition records for the period from May 29, 2014 to June 2, 2015.

43. On or about June 3, 2015, the inspector called Respondent Nguyen and requested copies of two completed Report of Theft or Loss of Controlled Substances (DEA 106) forms which he found during the inspection. Respondent Nguyen faxed the inspector copies of both forms, one dated September 4, 2014, and the other dated October 9, 2014. The forms indicated that the pharmacy had been broken into at night and that certain controlled substances, guaifenesin/codeine syrup, promethazine/codeine syrup, carisoprodol 350 mg, and alprazolam (in various doses), had been stolen. Respondent Nguyen told the inspector she completed the DEA forms and estimated the total loss on each form. Respondent Nguyen admitted that she did not conduct a subsequent inventory to determine the exact amount of the losses or report the thefts to the Board. That same day, Respondent Nguyen provided the inspector with the pharmacy's disposition records, an invoice for controlled substances received on June 3, 2015, a drug inventory conducted by Respondent Nguyen on June 3, 2015, and a dispensing record for June 3, 2015. Respondent Nguyen admitted the thefts were not reported to the Board.

44. In or about June 2015, the inspector requested and obtained sales and credit information from three of the pharmacy's wholesalers.

45. On or about July 27, 2015, the inspector received an email from Respondent Nguyen, admitting that minor errors had occurred in the pharmacy, such as miscounts, "wrong NDC's" or wrong sizes, and that she had not completed incident reports of the errors.

46. The inspector determined based on the dispensing records, the records provided by the wholesalers, the drug inventories, the DEA 106 forms, and the June 3, 2015 invoice that the pharmacy had significant shortages of 5 of 12 controlled substances and notable overages of 5 of the 12 drugs for the audit period from May 29, 2014 to June 3, 2015, as set forth below in paragraph 49, subparagraph (b).

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FIRST CAUSE FOR DISCIPLINE

(Failure to Maintain Pharmacy, Fixtures, and Equipment so that Drugs Were Safely and Properly Secured)

47. Respondents West Coast Pharmacy, Nguyen and Le are subject to disciplinary action pursuant to section 4301, subdivisions (o) and (j), for unprofessional conduct, in that Respondents failed to maintain the pharmacy and its facilities, space, fixtures and/or equipment so that drugs were safely and properly secured, in violation of Title 16, CCR, section 1714, subdivision (b), and failed to store Schedule II, III, IV, and V Controlled Substances in securely locked, substantially constructed cabinets, in violation of Title 21, CFR, section 1301.75, subdivision (b), as follows:

a. On or about September 4, 2014, Respondent Nguyen completed a DEA 106 form, indicating that the pharmacy had been broken into at night and that 2,365 milliliters (ml) of guaifenesin/codeine syrup and 6,622 ml of promethazine/codeine syrup had been taken. Further, Respondents failed to safely and properly secure the pharmacy to prevent additional thefts of controlled substances, as follows: On or about October 9, 2014, Respondent Nguyen completed a DEA 106 form, indicating that the pharmacy had once again been broken into at night and that 500 tablets of alprazolam 0.25 mg, 500 tablets of alprazolam 0.5 mg, 2,000 tablets of alprazolam 1 mg, 500 tablets of alprazolam 2 mg, 1,000 tablets of carisoprodol 350 mg, and 1,892 ml of guaifenesin/codeine syrup had been taken.

b. Respondents stored their complete inventory of controlled substances in two safes which were unlocked, as set forth in paragraph 35 above, and placed the safes in a location or position, enabling pharmacy technicians to access the controlled substances without being observed and supervised by a pharmacist. Further, on two occasions during the inspection of June 2, 2015, delivery drivers entered the pharmacy and had access to the drug stock area and safes without supervision by the pharmacist.

c. On and between May 29, 2014 and June 3, 2015, Respondents failed to maintain their premises so that drugs were secured from theft or other types of losses, resulting in significant shortages of the following controlled substances:

Drug	Units	Shortage
alprazolam 0.25 mg	Tablets	-258
alprazolam 0.5 mg	Tablets	-1,537
alprazolam 2 mg	Tablets	-855
oxycodone 30 mg	Tablets	-30
	Total	**- 2,680**
promethazine/codeine liquid	ml	-10,381
	Total	**-10,381**

SECOND CAUSE FOR DISCIPLINE

(Failure to Report Loss of Controlled Substances)

48. Respondents West Coast Pharmacy, Nguyen and Le are subject to disciplinary action pursuant to section 4301, subdivision (o), for unprofessional conduct, in that Respondents violated Title 16, CCR, section 1715.6 by failing to report to the Board the thefts or losses of the controlled substances guaifenesin/codeine syrup, promethazine/codeine syrup, carisoprodol 350 mg, and alprazolam (various doses), as documented on the DEA 106 forms, within thirty (30) days of discovery of the losses.

THIRD CAUSE FOR DISCIPLINE

(Failure to Maintain a Current Inventory of All Dangerous Drugs)

49. Respondents West Coast Pharmacy, Nguyen and Le are subject to disciplinary action pursuant to section 4301, subdivision (o), for unprofessional conduct, in that Respondents violated sections 4081, subdivision (a), and 4105, subdivision (o), by failing to maintain an accurate or current inventory of all dangerous drugs in the pharmacy, as follows:

a. Respondents failed to conduct an inventory of their drug stock following the thefts of the controlled substances documented on the DEA 106 forms, as set forth in paragraph 43 above.

b. On and between May 29, 2014 and June 3, 2015, Respondents failed to maintain an accurate or current inventory of all dangerous drugs in the pharmacy, resulting in significant shortages and overages of the following controlled substances:

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Drug	Shortage or Overage
alprazolam 0.25 mg	-258 tablets
alprazolam 0.5 mg	-1,537 tablets
alprazolam 1 mg	261 tablets
alprazolam 2 mg	-855 tablets
guaifenesin/codeine liquid	2,636 ml
hydrocodone/APAP 10/325 mg	441 tablets
hydrocodone/APAP 5/325 mg	755 tablets
methadone 10 mg	120 tablets
oxycodone 30 mg	-30 tablets
promethazine/codeine liquid	-10,381 ml

FOURTH CAUSE FOR DISCIPLINE

(Failure to Provide Oral Consultation to Patients)

50. Respondents West Coast Pharmacy, Nguyen and Le are subject to disciplinary action pursuant to section 4301, subdivision (o), for unprofessional conduct, in that Respondents violated Title 16, CCR, section 1707.2, subdivisions (a)(1) and (2) and (b)(1)(A) and (B), as follows: On or about June 2, 2015, during the inspection of West Coast Pharmacy, Respondent Nguyen failed to provide any oral consultations to patients despite the fact that at least 14 patients had picked up prescriptions which had been marked as new, as set forth in paragraph 38 above. Further, TCH S. was observed screening patients with new prescriptions by asking if they had any questions for the pharmacist..

FIFTH CAUSE FOR DISCIPLINE

(Failure to Comply with Quality Assurance Program)

51. Respondents West Coast Pharmacy, Nguyen and Le are subject to disciplinary action pursuant to section 4301, subdivision (o), for unprofessional conduct, in that Respondents violated Title 16, CCR, section 1711, as follows: Respondents failed to complete or have available at the pharmacy any records pertaining to medication errors, quality assurance reports or quality assurance reviews despite the fact that prescription errors had occurred in the pharmacy during the year prior to June 2, 2015, including miscounts, "wrong NDC's" or wrong sizes.

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SIXTH CAUSE FOR DISCIPLINE

(Violation of the Pharmacy Law/Pharmacy Technician to Pharmacist Ratio)

52. Respondents West Coast Pharmacy, Nguyen and Le are subject to disciplinary action pursuant to section 4301, subdivision (o), for unprofessional conduct, in that Respondents violated section 4115, subdivisions (d) and (f)(1), as follows: On or about June 2, 2015, during the inspection of West Coast Pharmacy, Respondents authorized or allowed TCH K. and TCH O.G. to perform pharmacy technician duties at the same time (TCH K. was observed filling prescriptions while TCH O.G. was removing dangerous drugs from the drug stock to be used for filling prescriptions) when, in fact, Respondent Nguyen was the only pharmacist on duty.

SEVENTH CAUSE FOR DISCIPLINE

(Failure to Exercise Corresponding Responsibility with Regard to the Dispensing or Furnishing of Controlled Substances)

53. Respondents West Coast Pharmacy, Nguyen and Le are subject to disciplinary action pursuant to sections 4301 and 4306.5 for unprofessional conduct in that Respondents failed to exercise or implement their best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances and dangerous drugs, as follows: On or about May 26, 2015, Respondents dispensed prescription number 228880 for 100 tablets of oxycodone for a patient without verifying the legitimacy of the prescription or ensuring that it was issued for a legitimate medical purpose despite irregularities in the prescription, including the distance from the prescriber and the patient to the pharmacy and the similarity between the prescription and the forged prescription dated May 7, 2015, identified in paragraph 40 above. The two prescriptions had the same pre-printed prescriber information, general format, prescription pad identifying number, drug, quantity, strength, and general directions. Further, the handwriting and signatures appeared the same.

EIGHTH CAUSE FOR DISCIPLINE

(Dispensing a Prescription Containing Significant Error, Omission, Irregularity, etc.)

54. Respondents West Coast Pharmacy, Nguyen and Le are subject to disciplinary action pursuant to section 4301, subdivision (o), for unprofessional conduct, in that Respondents

violated Title 16, CCR, section 1761, subdivision (a), as follows: Respondents dispensed a prescription containing significant irregularities without contacting the prescriber to obtain the information needed to validate the prescription, as set forth in paragraph 53 above.

NINTH CAUSE FOR DISCIPLINE

(Failure to Complete Compounding Self-Assessment)

55. Respondents West Coast Pharmacy, Nguyen and Le are subject to disciplinary action pursuant to section 4301, subdivision (o), for unprofessional conduct, in that Respondents violated Title 16, CCR, section 1735.2, subdivision (j), as follows: Respondents failed to complete or have available at the pharmacy a compounding self assessment, as set forth in paragraph 41 above.

TENTH CAUSE FOR DISCIPLINE

(Compounding Prescription Drug Preparations Using Expired Drugs)

56. Respondents West Coast Pharmacy, Nguyen and Le are subject to disciplinary action pursuant to section 4301, subdivision (o), for unprofessional conduct, in that Respondents violated Health and Safety Code section 111295 and Title 16, CCR, section 1735.2, subdivision (h), as follows:

a. Respondents and/or their pharmacy technicians compounded the following prescription drug preparations using drugs that were beyond their expiration date. Consequently, the drugs were adulterated and unsafe for patient use. Further, Respondents failed to test the expired drugs for stability, dispensed the prescriptions to patients, and gave the drugs a longer beyond use date than the expired components used in the drug preparations.

Date	Ingredient	Lot No.	Documented expiration date	Beyond use date given for prescription
03/27/2015	estriol powder	11151225	11/23/2014	09/27/2015
03/27/2015	testosterone powder	1302190904	06/08/2014	09/27/2015
04/23/2015	testosterone cypionate powder	1210010079	06/19/2014	None documented
05/08/2015	testosterone powder	1302190904	06/08/2014	11/08/2015
05/15/2015	estriol powder	11151225	11/23/2014	10/2015
05/15/2015	testosterone powder	1302190904	06/08/2014	10/2015
05/18/2015	testosterone cypionate powder	1210010079	06/19/2014	10/2015

b. Respondents and/or their pharmacy technicians prepared 13 compounded prescription preparations and stored them for future use in jars that were labeled for individual patients, some of which were dated as far back as June 22, 2011 (the beyond use dates on the prescription labels were handwritten). Further, some of these labeled compounded prescriptions had the date changed several times with progressively longer dates, and five of the products were expired past the last handwritten date. In addition, Respondents failed to conduct any stability studies to extend the beyond use dates of these compounded drug products.

ELEVENTH CAUSE FOR DISCIPLINE

(Failure to Store Drugs/Components Used in Compounding in a Manner to Maintain their Integrity, Potency, Quality, and Labeled Strength)

57. Respondents West Coast Pharmacy, Nguyen and Le are subject to disciplinary action pursuant to section 4301, subdivision (o), for unprofessional conduct, in that Respondents violated section 4342, subdivision (a), Health and Safety Code section 111295, and Title 16, CCR, section 1735.2, subdivision (g), as follows:

a. Respondents stored the following expired drugs, commonly used in compounding prescription preparations, on the drug stock shelves intermingled with non-expired drugs. Further, Respondents failed to test any drugs for stability in order to extend the manufacturer's labeled expiration dates.

Drug	Package Size	Expiration or retest date
cyclobenzaprine HCL	25 grams	Exp. 08/2014
testosterone cypionate	25 grams	Retest 06/19/2014
testosterone micronized	100 grams	Retest 06/08/2014
7-keto DHEA micronized	25 grams	Retest 06/05/2014
lidocaine HCL	100 grams	Retest 12/27/2014
liothyronine sodium	250 milligrams	Retest 05/31/2014
nifedipine	5 grams	Retest 03/30/2014
methyltestosterone	5 grams	Exp. 12/2014
amitriptyline HCL	25 grams	Retest 03/2015

b. Respondents and/or their employees prepared 13 compounded prescription preparations and stored them for future use in jars that were labeled for individual patients, some of which were dated as far back as June 22, 2011. Further, five of the products were expired past

the last handwritten date on the prescription label.

c. Respondents stored a 30 gram size jar in the compounding area that was labeled "Biest" without any indication on the label as to the active ingredients, manufacturer, lot number or expiration date of the prescription drugs it contained. Further, on or about May 18, 2015, Respondents' employee, TCH J.G., used the "Biest" to compound a prescription preparation.

TWELFTH CAUSE FOR DISCIPLINE

(Incompetence)

58. Respondents West Coast Pharmacy, Nguyen and Le are subject to disciplinary action pursuant to section 4301, subdivision (b), for unprofessional conduct, in that Respondents committed acts or omissions constituting incompetence, as set forth in paragraphs 47 to 57 above.

THIRTEENTH CAUSE FOR DISCIPLINE

(Gross Negligence)

59. Respondents West Coast Pharmacy, Nguyen and Le are subject to disciplinary action pursuant to section 4301, subdivision (c), for unprofessional conduct, in that Respondents committed acts or omissions constituting gross negligence, as set forth in paragraphs 47 to 57 above.

PRAYER

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

1. Revoking or suspending Pharmacy Permit Number PHY 50531, issued to West Coast Pharmacy, Inc., doing business as West Coast Pharmacy;

2. Revoking or suspending Pharmacist License Number RPH 54305, issued to Kim Nguyen, also known as Kim Khanh Nguyen;

3. Revoking or suspending Pharmacist License Number RPH 50209, issued to Loan Mong Le;

4. Ordering West Coast Pharmacy, Inc., doing business as West Coast Pharmacy, Kim Nguyen, also known as Kim Khanh Nguyen, and Loan Mong Le to pay the Board of Pharmacy

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the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED: 2/5/16

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

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