

ERRATA

Corrections to Stipulated Settlement and Disciplinary Order Case No. 5685

Stipulated Settlement and Disciplinary Order Case No. 5685, contains references to Stipulated Surrender in the underlying disciplinary action entitled “In the Matter of the Accusation against “TWB VENTURE, INC. DBA VALUE RX PHARMACY and THUY VU NGUYEN” which, pursuant to a decision of the Board of Pharmacy becomes effective September 6, 2017. The Decision and Order page mistakenly referenced Stipulated Surrender of License and Order as to Thuy Vu Nguyen Only rather than Stipulated Settlement of License and Order as to Thuy Vu Nguyen Only, and mistakenly referenced the effective date as September 6, 2017 rather than September 7, 2017. This clerical error is hereby corrected as part of the Board’s Stipulated Settlement and Disciplinary Order. This Errata page shall become part of Respondent’s disciplinary history with the Board. For the purposes of correcting the record, the following changes are hereby made to the Decision and Order:

Decision and Order:

Title of document: Substitute “Stipulated Surrender of License and Order as to Thuy Vu Nguyen Only” for Stipulated Settlement of License and Order as to Thuy Vu Nguyen Only”

Effective date: Substitute “September 6, 2017” for “September 7, 2017”

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

In the Matter of the Accusation
Against:

**TWB VENTURE, INC.
DBA VALUE RX PHARMACY, THUY VU
NGUYEN, CEO
22 Odyssey Suite 135
Irvine, CA 92618**

Pharmacy Permit No. PHY 51246

and

**THUY VU NGUYEN
8811 Hewitt Place
Garden Grove, CA 92844**

Pharmacy Technician License No. RPH 51877

Respondent.

Case No. 5685

OAH No. 2017010349

**STIPULATED SURRENDER OF
LICENSE AND ORDER AS TO
THUY VU NGUYEN ONLY**

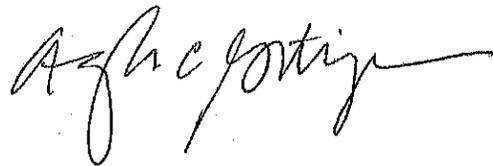
DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on September 6, 2017.

It is so ORDERED on August 7, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By _____

Amy Gutierrez, Pharm.D.
Board President

1 XAVIER BECERRA
Attorney General of California
2 ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
3 MARICHELLE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9435
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 **TWB VENTURE, INC., DBA VALUE RX**
13 **PHARMACY, THUY VU NGUYEN, CEO**
14 **22 Odyssey Suite 135**
Irvine, CA 92618

15 **Pharmacy Permit No. PHY 51246**

16 and

17 **THUY VU NGUYEN**
18 **8811 Hewitt Place**
Garden Grove, CA 92844

19 **Pharmacist License No. RPH 51877**

20 Respondents.

Case No. 5685

OAH No. 2017010349

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO THUY
VU NGUYEN ONLY**

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 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 Xavier Becerra, Attorney General of the State of California, by Marichelle S. Tahimic, Deputy
28 Attorney General.

1 CULPABILITY

2 9. Respondent understands and agrees that the charges and allegations in Accusation
3 No. 5685, 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 may communicate
14 directly with the Board regarding this stipulation and settlement, without notice to or participation
15 by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees
16 that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the
17 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
18 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
19 this paragraph; it shall be inadmissible in any legal action between the parties, and the Board shall
20 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 51877 issued to Respondent
8 Thuy Vu Nguyen 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 5685 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 5685, and terms and conditions imposed
28

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 5685 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 5685
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.

27 ///

28 ///

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 \$17,500.00. Respondent may
4 pay the Board's costs through a payment plan 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
28

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, and the charges
24 and allegations in the Accusation shall be deemed true and correct.

25 **15. Completion of Probation**

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

28 ///

1 **16. Suspension**

2 As part of probation, Respondent is suspended from the practice of pharmacy until
3 Respondent completes ten (10) hours of remedial education in corresponding responsibility and
4 prescription drug use; 50 percent of the hours must be "in person."

5 The remedial education required by this term may be completed between January 1, 2017,
6 and the effective date of this decision. Respondent shall timely submit to the Board or its designee
7 proof of completion of remedial education.

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

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

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

21 **17. Community Services Program**

22 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
23 board or its designee, for prior approval, a community service program in which respondent shall
24 provide free health-care related services on a regular basis to a community or charitable facility or
25 agency for at least 24 hours per year for each year of probation, for a total of 120 hours. Within
26 thirty (30) days of board approval thereof, respondent shall submit documentation to the board
27 demonstrating commencement of the community service program. A record of this notification
28 must be provided to the board upon request. Respondent shall report on progress with the

1 community service program in the quarterly reports. Failure to timely submit, commence, or
2 comply with the program shall be considered a violation of probation.

3 **18. Remedial Education**

4 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
5 board or its designee, for prior approval, an appropriate program of remedial education related to
6 corresponding responsibility and prescription drug abuse. The program of remedial education
7 shall consist of at least 34 hours, including the 10 hours required in Term 16 above, as follows:
8 10 hours to be completed within the first year of probation and, six hours to be completed within
9 each of the second through fifth years of probation. Fifty percent of the remedial education hours
10 shall be "in person" and shall be at Respondent's own expense. All remedial education shall be in
11 addition to, and shall not be credited toward, continuing education (CE) courses used for license
12 renewal purposes.

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

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

22 **19. Supervised Practice**

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

28 ///

1 Continuous – At least 75% of a work week

2 Substantial - At least 50% of a work week

3 Partial - At least 25% of a work week

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

5 Within thirty (30) days of the effective date of this decision, respondent shall have his
6 supervisor submit notification to the board in writing stating that the supervisor has read the
7 decision in case number 5685 and is familiar with the required level of supervision as determined
8 by the board or its designee. It shall be the respondent's responsibility to ensure that his
9 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
10 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
11 acknowledgements to the board shall be considered a violation of probation.

12 If respondent changes employment, it shall be the respondent's responsibility to ensure that
13 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
14 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
15 commences, submit notification to the board in writing stating the direct supervisor and
16 pharmacist-in-charge have read the decision in case number 5685 and is familiar with the level of
17 supervision as determined by the board. Respondent shall not practice pharmacy and his license
18 shall be automatically suspended until the board or its designee approves a new supervisor.
19 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
20 acknowledgements to the board shall be considered a violation of probation.

21 Within ten (10) days of leaving employment, respondent shall notify the board in writing.
22 During suspension, respondent shall not enter any pharmacy area or any portion of the licensed
23 premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of drugs
24 which is licensed by the board, or any manufacturer, or where dangerous drugs and devices or
25 controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
26 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
27 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the

28 ///

1 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
2 and controlled substances. Respondent shall not resume practice until notified by the board.

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

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

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

9 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,
10 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
11 partnership, or corporation currently or hereinafter licensed by the board.

12 **21. Tolling of Suspension**

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

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

25 **22. Ethics Course**

26 Within sixty (60) calendar days of the effective date of this decision, Respondent shall
27 enroll in a course in ethics, at Respondent's expense, approved in advance by the board or its
28 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 shall submit a certificate of completion to the board or its designee within five days after completing the course.

23. **Administrative Fine.** Respondent shall pay an administrative fine of \$10,000.00 to a non-profit organization approved by the Board that focuses on prescription drug abuse prevention or treatment of drug abuse. Payment shall be made by certified check or money order and shall be payable in five payments of \$2,000.00 on or before the end of each year of probation. Proof of payment shall be delivered or mailed to Board of Pharmacy, Attn: Susan Cappello, 1625 N. Market Blvd., Suite N219, Sacramento, CA 95834-1924. Failure to timely pay the administrative fine shall be considered unprofessional conduct pursuant to Business and Professions Code section 4301 and an Accusation or Petition to Revoke Probation may be filed by the Executive Officer of the Board for such unprofessional conduct. Failure to timely pay the fine may result in license discipline, including revocation of the Pharmacist License and/or the denial of any application for renewal or reinstatement of licensure.

ACCEPTANCE

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

DATED: 5/31/17


THUY VU NGUYEN
Respondent.

///

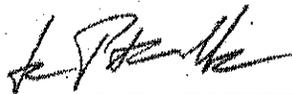
///

///

///

1 I have read and fully discussed with Respondent Thuy Vu Nguyen the terms and conditions
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
3 its form and content.

4
5 DATED: May 31, 2017


6 IVAN PETRZELKA
7 *Attorney for Respondent*

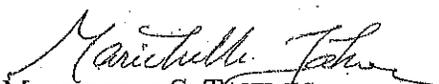
8 ENDORSEMENT

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

11
12 Dated: May 31, 2017

Respectfully submitted,

13 XAVIER BECERRA
14 Attorney General of California
15 ANTOINETTE B. CINCOTTA
16 Supervising Deputy Attorney General


17 MARICHELE S. TAHIMIC
18 Deputy Attorney General
19 *Attorneys for Complainant*

20
21 SD2015803097
22 81702484.docx

Exhibit A

Accusation No. 5685

1 KAMALA D. HARRIS
Attorney General of California
2 ANTOINETTE CINCOTTA
Supervising Deputy Attorney General
3 MARICHELE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-3154
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5685

12 **TWB VENTURE, INC., DBA VALUE RX**
PHARMACY, THUY VU NGUYEN, CEO
13 **22 Odyssey Suite 135**
Irvine, CA 92618

ACCUSATION

14
15 **Pharmacy Permit No. PHY 51246**

16 **and**

17 **THUY VU NGUYEN**
8811 Hewitt Place
18 **Garden Grove, CA 92844**

19 **Pharmacist License No. 51877**

20 Respondents.

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 April 16, 2013, the Board of Pharmacy issued Pharmacy Permit Number
27 PHY 51246 to TWB Venture, Inc., dba Value Rx Pharmacy (Respondent Pharmacy). Thuy Vu
28 Nguyen is the Chief Executive Officer and 100% shareholder of TWB Venture, Inc. The

1 Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein
2 and will expire on April 1, 2017, unless renewed. Thuy Vu Nguyen as been the Pharmacist-in-
3 Charge (PIC) since April 16, 2013.

4 3. On or about August 30, 2000, the Board of Pharmacy issued Original Pharmacist
5 License Permit Number PHY 51877 to Thuy Vu Nguyen (Respondent Nguyen). The Pharmacist
6 License was in full force and effect at all times relevant to the charges brought herein and will
7 expire on October 31, 2017, unless renewed.

8 **JURISDICTION**

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

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

15 6. Section 4300 of the Code states in part:

16 (a) Every license issued may be suspended or revoked.

17 ...

18 (e) The proceedings under this article shall be conducted in accordance with
19 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
20 Government Code, and the board shall have all the powers granted therein. The
21 action shall be final, except that the propriety of the action is subject to review by
22 the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

23 7. Section 4300.1 of the Code states:

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

26 ///

27 ///

28 ///

1 pharmacy technicians performing the tasks specified in subdivision (a) to any
2 additional pharmacist shall not exceed 2:1, except that this ratio shall not apply to
3 personnel performing clerical functions pursuant to Section 4116 or 4117. This
4 ratio is applicable to all practice settings, except for an inpatient of a licensed
5 health facility, a patient of a licensed home health agency, as specified in paragraph
6 (2), an inmate of a correctional facility of the Department of Corrections and
7 Rehabilitation, and for a person receiving treatment in a facility operated by the
8 State Department of State Hospitals, the State Department of Developmental
9 Services, or the Department of Veterans Affairs.

10 ...
11
12 10. Section 4301 of the Code states in part:

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

17 ...
18 (c) Gross negligence.

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

21 (e) The clearly excessive furnishing of controlled substances in violation of
22 subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be
23 considered in determining whether the furnishing of controlled substances is
24 clearly excessive shall include, but not be limited to, the amount of controlled
25 substances furnished, the previous ordering pattern of the customer (including size
26 and frequency of orders), the type and size of the customer, and where and to
27 whom the customer distributes its product.

28 ...
29 (j) The violation of any of the statutes of this state, or any other state, or of the
30 United States regulating controlled substances and dangerous drugs.

31 ...
32 (o) Violating or attempting to violate, directly or indirectly, or assisting in or
33 abetting the violation of or conspiring to violate any provision or term of this
34 chapter or of the applicable federal and state laws and regulations governing
35 pharmacy, including regulations established by the board or by any other state or
36 federal regulatory agency.

37 ...
38 11. Section 4113(e) of the Code states, "The pharmacist-in-charge shall be responsible for
39 a pharmacy's compliance with all state and federal laws and regulations pertaining to the practice
40 of pharmacy."

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

12. Section 4306.5 states:

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.

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

(d) Acts or omissions that involve, in whole or in part, the failure to fully maintain and retain appropriate patient-specific information pertaining to the performance of any pharmacy function.

13. Section 4307 states:

(a) 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 manager, administrator, owner, member, officer, director, associate, or partner had knowledge of 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 manager, 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.

(b) "Manager, administrator, owner, member, officer, director, associate, or partner," as used in this section and Section 4308, may refer to a pharmacist or to any other person who serves in that capacity in or for a licensee.

(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. However, no order may be issued in that case except as to a person who is named in the caption, as to whom the pleading alleges the applicability of this section, and where the person has been given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision shall be in addition to the board's authority to proceed under Section 4339 or any other provision of law.

1 14. Health and Safety Code section 11153 states in pertinent part:

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

14 15. Title 16, California Code of Regulations ("CCR"), section 1761, states:

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

19 (b) Even after conferring with the prescriber, a pharmacist shall not compound or
20 dispense a controlled substance prescription where the pharmacist knows or has
21 objective reason to know that said prescription was not issued for a legitimate
22 medical purpose.

23 COST RECOVERY

24 16. Section 125.3 of the Code states, 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

17 17. Alprazolam, sold under the brand name Xanax, is a Schedule IV controlled substance
18 as pursuant to Health and Safety Code section 11057(d)(1) and is a dangerous drug pursuant to
19 Business and Professions Code section 4022. It is used for the management of anxiety disorder or
20 the short-term relief of symptoms of anxiety.

21 18. Calcium acetate, sold under the brand name PhosLo and Eliphos, is a dangerous drug
22 pursuant to Business and Professions Code section 4022. It is used in the treatment of
23 hyperphosphatemia.

24 ///

1 13653) and metoprolol (Rx No. 11080) after the medications were last delivered by Respondents
2 on August 12, 2014. Both prescriptions were for a 30-day supply of the drugs.

3 27. On January 30, 2015, Board inspectors conducted an inspection of Respondent
4 Pharmacy. While outside the pharmacy, Board inspectors observed multiple individuals in street
5 clothes filling prescriptions inside the pharmacy. The Board inspectors entered the pharmacy and
6 spoke with H.T., who was the only pharmacist present in the pharmacy at the time. There were
7 three clerks and two pharmacy technicians present. Two pharmacy technicians were packaging
8 drugs and filling prescriptions, which exceeded the ratio of pharmacy technicians allowed to
9 package or perform other nondiscretionary tasks. H.T. stated she was aware of the pharmacy law
10 regarding the required ratio of pharmacists to pharmacy technicians. H.T. was not the pharmacist
11 on duty regarding S.S.'s prescriptions and stated she would refer the matter to Respondent
12 Nguyen, who was not present at the time of the inspection.

13 28. Respondent Nguyen and documents obtained from the pharmacy confirmed that
14 S.S.'s prescriptions had not been delivered to him in October, 2014. Respondent Nguyen stated
15 pharmacy staff left a message at the patient's last known telephone number but did not get a
16 return call so the prescription was not filled. A.T. denied receiving any messages. After this
17 incident, A.T. terminated delivery service to S.S.

18 29. During the inspection on January 30, 2015, the Board inspectors also noted
19 irregularities in Respondents' dispensing practice, including dispensing to patients who resided
20 outside of Respondent's local trade area who filled controlled substance prescriptions at the
21 pharmacy totaling as much as \$750 per prescription; young patients who paid as much as \$600
22 cash for highly abused drugs; and patients with military identification who paid high cash prices
23 for controlled substances instead of using government issued insurance benefits.

24 30. On February 5, 2015, Board inspectors reviewed Respondent Pharmacy's dispensing
25 record from June 12, 2014 through January 30, 2015 obtained from the Controlled Substance
26 Utilization Review and Evaluation System ("CURES") and found the top three prescribers of
27 controlled substances dispensed at Respondent Pharmacy were:
28

1	Prescriber	# of Rxs filled at Value Rx	% of Cash vs. Insurance payments	Rx generally written for	Prescriber's office location
2	Dr. D.P.	245	53% cash 47% insurance	Oxycodone 30 mg; Hydrocodone 325/10; Carisoprodol 350 mg; Alprazolam 2; Dextroamphetamine 10 mg, 20 mg, 30 mg	Irvine
3	Dr. J.Y.	205	56% cash 44% insurance	Suboxone (buprenorphine)	Irvine
4	Dr. A.B.	184	92% cash 8% insurance	Oxycodone 30 mg; Hydrocodone 325/10mg; Carisoprodol 350 mg; Alprazolam 2mg; Fentanyl 100 mcg	Lake Forest

5
6
7
8
9
10 31. The disproportionate ratio of cash versus insurance payments made by patients filling
11 controlled substance prescriptions issued by Dr. A.B. was a factor of irregularity. All of the
12 prescriptions issued by Dr. A.B. was for controlled substances, which was unusual for a family
13 practice physician. Of the 184 prescriptions issued by Dr. A.B. and dispensed by Respondent,
14 35.87 percent of the prescriptions (or 66 of the 184) was for oxycodone HCL 30 mg, 30.98
15 percent (or 57) was for Fentanyl¹ Transdermal System 100 and 10.32 percent (or 19) was for
16 alprazolam. A review of these prescriptions revealed further irregularities in that most of the
17 patients began their treatment with the highest strength available for the medication instead of the
18 lowest strength. Furthermore, Dr. A.B.'s prescriptions did not reflect individualized therapy
19 because a majority of the patients received a similar combination of oxycodone and fentanyl. Dr.
20 A.B.'s prescribing practices should have been a red flag to Respondents that Dr. A.B.'s
21 prescriptions may not have been issued for a legitimate medical purpose and to inquire further
22 into their legitimacy.

23 32. Further investigation by Respondents would have revealed that almost all, if not all,
24 of the prescriptions were not written by Dr. A.B. In fact, most of the patients who presented with
25

26 ¹ On March 18, 2015, the United States Drug Enforcement Administration issued a
27 nationwide alert about the dangers of fentanyl and fentanyl compounds. Fentanyl is commonly
28 laced in heroin, causing significant problems across the country, particularly as heroin abuse has
increased. U.S. Drug Enforcement Administration, DEA News, March 18, 2015,
<http://www.dea.gov/divisions/hq/2015/hq031815.shtml>.

1 prescriptions issued by Dr. A.B. were not Dr. A.B.'s patients at all. Dr. A.B. previously filed
 2 numerous police reports regarding forged prescriptions.

3 33. According to Dr. A.B., there were 32 patients who had forged prescriptions under his
 4 name. They are D.A., K.B., M.B., R.B., T.B., A.B., C.B., B.C., M.C., T.C., D.C., K.F., R.G.,
 5 M.G., A.G., L.G., C.G., R.H., S.I., B.K., J.M., C.M., V.M., K.N., M.N., R.O., B.P., K.R., L.S.,
 6 Z.S., M.V., and M.W.

7 34. A summary of Respondents' dispensing history to these 32 patients whose
 8 prescriptions for controlled substances were alleged to have been forged follows:

9 Patient	Drug dispensed by Value Rx	Payment method	City of residence	Distance from Value Rx (1 way)	# of pharmacies used	Prescriber	Patient age
11 D.A.	Oxycodone 30 mg	Cash	San Clemente	22	2	Dr. A.B.	26
12 M.B.	Alprazolam 2 mg; fentanyl patch; oxymorphone ER 40 mg	Cash	Lake Forest	19	1	Dr. A.B. Dr. A.S.	30
14 R.B.	Alprazolam 2 mg; carisoprodol 350 mg; fentanyl patch; oxymorphone ER 40 mg	Cash	Foothill Ranch	7	5	Dr. A.B. Dr. G.V.D. Dr. M.B. Dr. M.B.	27
17 T.B.	Alprazolam 2mg; fentanyl patch; oxycodone 30 mg	Cash	Mission Viejo	8	4	Dr. A.B. Dr. G.V.D.	24
20 A.B.	Fentanyl patch; oxycodone 15 mg; oxycodone 30 mg	57% cash; 43% Insurance	Orange	12	10	Dr. A.B. Dr. B.L. Dr. B.P. Dr. M.C. Dr. M.G. Dr. N.S. Dr. B.R. Dr. G.V.D.	36
24 C.B.	Fentanyl patch; oxycodone 30 mg	54% cash; 46% insurance	Orange	12	8	Dr. A.B. Dr. L.L. Dr. M.B.	36
26 M.C.	Carisoprodol 350 mg; Fentanyl patch; Oxycodone 30 mg	Cash	Lake Forest	7	9	Dr. A.B. Dr. G.V.D. Dr. M.B.	34

Patient	Drug dispensed by Value Rx	Payment method	City of residence	Distance from Value Rx (1 way)	# of pharmacies used	Prescriber	Patient age
T.C.	Alprazolam 2mg; hydromorphone 4 mg; Hydromorphone 8 mg; Morphine sulfate ER 30 mg; oxycodone 15 mg; oxycodone 30 mg; oxymorphone ER 20 mg; oxymorphone ER 40 mg; Viagra	Cash	Lake Forest	7	16	Dr.A.B. Dr. D.Z. Dr. S.S. Dr. P.T. Dr. J. O. Dr. T.P. Dr. J.P. Dr. L.T. Dr. A.T. Dr. W.K. Dr. G.V.D. Dr. Y.G. Dr. A.L. Dr. J.H. Dr. J.C. Dr. J. A. Dr. M.B.S. Dr. M.H. Dr. J.L.	31
D.C.	Alprazolam 2mg; Fentanyl patch; oxycodone 30 mg	Cash	Dana Point	18	5	Dr. A.B. Dr. G.V.D.	50
K.F.	Carisoprodol 350 mg; Fentanyl patch; oxycodone 30 mg	Cash	Lake Forest	6	6	Dr. A.B. Dr. P.C. Dr. H.M.	31
R.G.	Alprazolam 2mg; Fentanyl patch; oxycodone 30 mg	Cash	Laguna Beach	14	11	Dr. A.B. Dr. G.V.D. Dr. Y.Z.	59
M.G.	Alprazolam 2mg; Fentanyl patch; oxycodone 30 mg	Cash	Camp Pendleton	42	7	Dr. A.B.	25
A.G.	Alprazolam 2mg; oxycodone 30 mg	Cash	Hollywood	49	2	Dr. A.B.	29
L.G.	Alprazolam 2mg; Amphetamine 30 mg; Hydrocodone/apap 10/325; oxycodone 30 mg	Cash	Laguna Niguel	13	1	Dr. A.B. Dr. G.V.D.	37
C.G.	Carisoprodol 350 mg; Fentanyl patch; oxycodone 30 mg	Cash	Saint Albans, VT	2916	2	Dr. A.B.	25
R.H.	Fentanyl patch; oxycodone 30 mg	Cash	San Clemente	26	2	Dr. A.B.	32
S.L.	Alprazolam 2mg; Hydrocodone/apap oxycodone 30 mg	Cash	Long Beach	25	5	Dr. A.B.	24
B.K.	oxycodone 30 mg	Cash	Westminster, CA	18	3	Dr. A.B.	22
J.M.	Fentanyl patch; oxycodone 30 mg	Cash	Mission Viejo	9	6	Dr. A.B.	27
C.M.	Carisoprodol 350 mg; Fentanyl patch; oxycodone 30 mg	Cash	Laguna Hills	8	3	Dr. A.B. Dr. A.A.	22

Patient	Drug dispensed by Value Rx	Payment method	City of residence	Distance from Value Rx (1 way)	# of pharmacies used	Prescriber	Patient age
V.M.	Alprazolam 2 mg; Fentanyl patch; oxycodone 30 mg; oxymorphone ER 40 mg	cash	Aliso Viejo	5	2	Dr. A.B. Dr. G.J.	31
K.N.	Carisoprodol 350 mg; Fentanyl patch; oxymorphone ER 40 mg	cash	Mission Viejo	10	12	Dr. A.B. Dr. G.V.D. Dr. J.O. Dr. D.R. Dr. A.B. Dr. W.C. Dr. M.F. Dr. T.R. Dr. A.P. Dr. S.B.; Dr. L.V.	24
M.N.	Alprazolam 2 mg; Carisoprodol 350 mg; Fentanyl patch; oxycodone 30 mg; oxymorphone ER 40 mg	Cash	Foothill, CA	7	9	Dr. A.B.	26
R.O.	Fentanyl patch; oxycodone 30 mg	Cash	Lake Forest	7	4	Dr. A.B. Dr. M.B.	35
B.P.	Fentanyl patch; oxycodone 30 mg	Cash	Rancho Santa Margarita	12	3	Dr. A.B. Dr. L.H. Dr. R.G. Dr. S.C. Dr. A.E.	24
K.R.	Amphetamine 30 mg; Fentanyl patch; oxycodone 30 mg	Cash	Corona	28	12	Dr. A.B. Dr. G.V.D. Dr. D.H.	64
L.S.	Alprazolam 2 mg; Fentanyl patch; oxycodone 30 mg	Cash	Santa Ana	10	5	Dr. A.B. Dr. G.V.D. Dr. L.B.	71
Z.S.	Fentanyl patch; oxycodone 30 mg	Cash	Irvine	4	6	Dr. A.B.	24
M.V.	Carisoprodol 350 mg; Fentanyl patch; oxycodone 30 mg	Cash	Laguna Hills	4	7	Dr. A.B.	24

35. On March 17, 2015, Board inspectors conducted an inspection at Respondent Pharmacy. During the inspection, Respondent Nguyen stated that the pharmacists at the pharmacy did not document communication with prescribers or their offices regarding prescriptions for controlled substances either on the prescription itself or in the pharmacy's

1 computer. None of the 69 prescriptions issued by Dr. A.B. and collected during this inspection
2 had a notation by pharmacy staff regarding verification of the prescription.

3 36. The following examples are prescriptions with irregularities on the face of the
4 prescriptions that should have alerted Respondents that the prescriptions may not have been
5 issued for a legitimate medical purpose:

6 a. Rx No. 37660 – This prescription was written for R.B. by a dentist, Dr. M.B., for
7 fentanyl transdermal patches 100 mcg. Fentanyl is a strong opioid used to manage severe pain
8 requiring around-the-clock, long-term treatment. Respondents filled the prescription on February
9 4, 2015. Prescribing fentanyl patches is typically outside a dentist's scope of practice and
10 necessitated further inquiry by Respondents into the legitimacy of the prescription. There was no
11 documentation on the prescription indicating Dr. M.B. was contacted to verify the prescription.
12 Dr. M.B. denied issuing this prescription to M.B. Of note, on the same day, February 4, 2015,
13 Respondent noted that a prescription issued by the same dentist, Dr. M.B. for oxycodone 30 mg
14 for M.C. was a "fake."

15 b. Rx Nos. 39559 and 39558 – The prescription was written for D.W. by Dr. M.G. for
16 carisoprodol 350 mg and oxycodone 30 mg, respectively. The prescription document did not
17 have a watermark printed on the reverse of the prescription blank stating "California Security
18 Prescription." The patient's address was in Long Beach, California, which is outside the
19 pharmacy's local trade area. In addition, the patient paid in cash for all medications, including
20 \$600 cash for oxycodone.

21 c. Rx Nos. 39218, 39222, 39869, 39870 – These prescriptions were written by Dr.
22 G.V.D. for three individuals, R.B., T.C and M.V. and were filled by Respondents on February 17,
23 2015 and February 20, 2015. The signatures for Dr. G.V.D. in the three prescriptions varied. In
24 addition, these individuals were identified by Dr. A.B. as having forged prescriptions under Dr.
25 A.B.'s name.

26 37. According to Respondents, Respondents dispensed drugs to patients outside of
27 Orange County if the patients were terminally ill, home-bound or non-ambulatory. At the request
28 of the Board inspectors, Respondents provided a list consisting of 17 pages of patients who

1 resided outside of Orange County. Respondents identified two patients from the list who were
2 residents of a nursing home where Dr. A.B. was the attending physician and who received non-
3 controlled substance prescriptions issued by Dr. A.B. All others were dispensed highly abusive
4 drugs such as oxycodone, alprazolam, fentanyl, oxymorphone, carisoprodol, morphine sulfate,
5 hydromorphone and amphetamine.

6 38. In addition to irregularities on the face of prescriptions that should have alerted
7 Respondents that prescriptions may not have been issued for a legitimate medical purpose,
8 examples of other irregularities include:

9 a. Military personnel paying cash for controlled substances when, according to the
10 website for military health insurance, active duty service members and their families are provided
11 comprehensive health insurance including prescription drug coverage. Examples of such
12 prescriptions are prescriptions issued to D.A., Z.S., B.K., M.G., C.G., R.H. and T.C.

13 b. Controlled substance prescriptions dispensed under Dr. A.B.'s name for the same
14 drug therapy to patients with the same address. For example:

15 i) Respondent dispensed the same drug therapy to C.B. and A.B., which were
16 oxycodone 30 mg tablets and fentanyl 100 mcg transdermal patches. Both patients received the
17 highest strength of oxycodone for their first prescription dispensed by Respondent.

18 ii) Respondent dispensed the same drug therapy to R.B. and T.B., which were
19 oxycodone 30 mg tablets, alprazolam 2 mg tablets, oxymorphone ER 40 mg tablets and fentanyl
20 100 mcg transdermal patches. R.B. also received carisoprodol 350 mg tablets, which in
21 combination with the pain relievers and alprazolam, constitutes what is referred to as the "Holy
22 Trinity."

23 39. A review of prescription documents for drugs dispensed by Respondents,
24 Respondent's Patient Medication Information and CURES reports for the period March 17, 2014
25 to March 14, 2015 revealed the following sample of irregularities, in addition to those set forth
26 above, that should have alerted Respondents that the prescriptions may not have been issued for a
27 legitimate medical purpose:
28

1 a. Patient A.B. - This patient was identified by Dr. A.B. as having a forged prescription
2 issued in his name. This patient's first prescription, dispensed by Respondent on or about
3 September 19, 2013, was for oxycodone 30 mg and was for the highest strength of oxycodone
4 immediate release tablets. Payments for prescriptions were made in cash although this patient had
5 insurance. Prescriptions for oxycodone in the 14 months that followed, and that were filled by
6 Respondent, were issued by four different prescribers, which is indicative of doctor shopping.
7 The directions on the prescription issued on July 18, 2014, for fentanyl patch stated, "1 patch q 48
8 hrs," that is, apply 1 patch to the skin every 48 hours. Respondent dispensed Rx 18017 with the
9 directions to apply the patch every 72 hours. The prescription issued on July 18, 2014, has an
10 irregularity that should have alerted Respondents that the prescriptions may not have been issued
11 for a legitimate medical purpose because one fentanyl transdermal patch is indicated to be
12 changed every 72 hours. Between September, 2014 and November, 2014, A.B. filled
13 prescriptions for oxycodone 30 mg and fentanyl patch from Tower Pharmacy, CVS Pharmacy and
14 Dial Pharmacy, alternating between cash and insurance payments.

15 b. Patient C.B. - This patient was identified by Dr. A.B. as having a forged prescription
16 issued in his name. This patient's first prescription from Respondent for oxycodone 30 mg was
17 dispensed on or about October 1, 2013 and was for the highest strength of oxycodone immediate
18 release tablets. Payments for prescriptions were made in cash although this patient had insurance;
19 this patient paid up to \$600 in cash for oxycodone 30 mg. Subsequent prescriptions for
20 oxycodone 30 mg were issued by two different prescribers.

21 c. Patient R.B. - This patient was identified by Dr. A.B. as having a forged prescription
22 issued in his name. This patient's first prescription, dispensed by Respondent on or about July 19,
23 2014, was for oxycodone 30 mg tablets, alprazolam 2 mg tablets, oxymorphone ER 40 mg tablets
24 and fentanyl 100 mcg transdermal patches. R.B. received the highest strength of fentanyl
25 transdermal patch and alprazolam for his first prescriptions. R.B.'s prescription for fentanyl patch
26 was written with directions to use 1 patch every 48 hours, which represented a factor of
27 irregularity since the drug was indicated to be used every 72 hours and the prescription was
28 written for the highest dose. This prescription was irregular on its face because of duplicative

1 therapy provided by oxymorphone ER at the highest strength and fentanyl transdermal patches,
2 which is another extended release opioid product. There was no documentation Respondents
3 verified this prescription with the prescriber. This patient paid with cash, including a cash
4 payment of \$720.00 on July 19, 2014. Review of CURES reports would have shown that T.B.
5 obtained early refills of controlled substances by using multiple pharmacies.

6 d. Patient T.B. - This patient was identified by Dr. A.B. as having a forged prescription
7 issued in his name. This patient's first prescription, dispensed by Respondent on or about April
8 14, 2014, was for oxycodone 30 mg and fentanyl transdermal patch 100 mcg. It was for the
9 highest strength of fentanyl patch and oxycodone tablets. This patient paid with cash, including
10 cash payments of \$480.00 and \$380.00 on April 14, 2014 for these drugs. Review of CURES
11 reports would have shown that T.B. obtained early refills of controlled substances by using
12 multiple pharmacies. Notes on a prescription purportedly issued by Dr. G.V.D. on January 26,
13 2015, indicated the prescription was a fake. This should have alerted Respondents that other
14 prescriptions issued to this patient may not have been issued for a legitimate medical purpose.

15 e. Patient M.V. - This patient was identified by Dr. A.B. as having a forged prescription
16 issued in his name. This patient's first prescription, dispensed by Respondent on or about
17 December 12, 2013, was for oxycodone 30 mg and was for the highest strength of oxycodone
18 tablets. This patient was 22 years old at the time and paid with cash. This patient continued to
19 obtain controlled substances from Respondent and paid cash in increasing amounts. For example,
20 on January 10, 2015, this patient paid \$600.00 in cash for oxycodone 30 mg in the same quantity.
21 On the same day, this patient paid \$750.00 in cash for fentanyl. A review of CURES would have
22 revealed that this patient had insurance, obtained early refills and engaged in doctor- and
23 pharmacy-shopping activities. This patient also picked up prescriptions for Z.S. and J.M. as their
24 prescription documents showed. All three patients were purportedly prescribed oxycodone 30 mg
25 and fentanyl patches by Dr. A.B. Respondent's prescription document showed that cash was the
26 form of payment used. The documentation for Rx 22999 and 23000 indicated that M.V. picked
27 up Z.S.'s prescription and that M.V. was Z.S.'s roommate although Respondent's records show
28 these patients had different addresses.

1 f. Patient M.B. -- This patient was identified by Dr. A.B. as having a forged prescription
 2 issued in his name. This patient's first prescription, dispensed by Respondent on or about
 3 October 24, 2014, was for oxymorphone ER 40 mg, fentanyl patches 100 mcg, and alprazolam 2
 4 mg tablets. All these drugs were for the highest strengths available. The oxymorphone and
 5 fentanyl prescriptions were prescribed to be used more often than their indicated uses. There was
 6 duplication in therapy with the prescribing of long-acting oxymorphone with long-acting fentanyl
 7 patches. This patient paid \$1,300.00 cash for oxymorphone 30 mg and \$750 cash for fentanyl
 8 transdermal patch 100 mcg.

9 g. Patient T.C. -- This patient used many different prescribers to obtain prescriptions for
 10 controlled substances, primarily opioids, dispensed by Respondent. The prescriptions were for
 11 duplicative therapy. The first nine prescriptions dispensed by Respondent were from nine
 12 different prescribers. This patient provided military identification but paid for the controlled
 13 substances with cash. Respondent's patient profile showed the following drugs dispensed by
 14 Respondent:

Date dispensed	Drug	Prescriber	Comments
8/6/2013	Oxycodone 30 mg #90 for a 30-day supply	Dr. J.A.	
8/19/2013	Oxycodone 30 mg #120 for a 30-day supply	Dr. M.S.	Early refill
8/26/2013	Oxycodone/acetaminophen 7.5/500 mg #60 for a 30-day supply	Dr. B.S.	Early refill
9/9/2013	Oxycodone 30 mg #50 for a 30-day supply	Dr. H.L.	Early refill
9/17/2014	Oxymorphone 20 mg #60 for a 30-day supply	Dr. G.V.D.	
9/17/2014	Oxycodone 30 mg #100 for a 30-day supply	Dr. G.V.D.	
9/23/2014	Hydromorphone 4 mg, #120 for a 30-day supply	Dr. A.B.	
9/23/2014	Oxycodone/acetaminophen 10/325 mg #60 for a 30-day supply	Dr. A.B.	
11/3/2014	Oxycodone 30 mg #90 for a 30-day supply	Dr. Y.G.	
11/5/2014	Morphine sulfate 30 mg, ER, #60 for a 30-day supply	Dr. W.K.	

Date dispensed	Drug	Prescriber	Comments
11/6/2014	Oxymorphone 20 mg ER #60 for a 30-day supply	Dr. G.V.D.	
11/7/2014	Oxycodone/acetaminophen 10/325 mg #75 for a 25-day supply	Dr. G.V.D.	
12/3/2014	Oxycodone 30 mg #60 for a 30-day supply	Dr. Y.G.	
12/12/2014	Morphine sulfate 30 mg, ER, #60 for a 30-day supply	Dr. W.K.	
12/17/2014	Oxymorphone 20 mg #60 for a 30-day supply	Dr. Y.G.	
12/17/2014	Oxycodone 30 mg #60 for a 30-day supply	Dr. Y.G.	

h. Patient S.I. – This patient’s address is in Long Beach, which is approximately 25 miles driving distance away from Respondent Pharmacy and is therefore beyond Respondent’s local trade area. There were no notes for this patient indicating an inquiry was made about the reason this patient traveled to Respondent Pharmacy to obtain controlled substance prescriptions.

This patient was not identified as a home-bound or non-ambulatory patient. This patient received his first prescription from Respondent Pharmacy on or about September 24, 2013 for oxycodone 30 mg, immediate release tablets; the highest strength for this drug. This patient paid \$120 in cash for this prescription on September 24, 2013. On June 28, 2014, this patient used insurance to obtain two controlled substance prescriptions (alprazolam 2 mg and methylphenidate 20 mg) for a \$15.00 copay for each drug. On August 9, 2014 and September 12, 2014, this patient paid \$600 in cash for oxycodone 30 mg.

40. CURES data has been available to licensed pharmacists without cost since at least 2010, although pharmacists must register with the Department of Justice to access CURES. Respondent Nguyen and Pharmacist H.T. advised the Board’s inspector that the pharmacy checked CURES in their review of controlled substance prescriptions. The irregularities and red flags present in the prescriptions described above should have alerted Respondents to review CURES for additional patient information. Had Respondents done so, additional red flags would have alerted them to further investigate the legitimacy of the controlled substance prescriptions:

///

1 a. Patient R.B.'s CURES information:

2 DATE	PHARMACY	DRUG	COMMENTS
3 9/23/2014	Saddleback Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Should last patient until 10/23/2014
4 10/2/2014	Value Rx Pharmacy	Fentanyl patch, 100 mcg, #15 for a 30-day supply	Refilled too soon by 21 days

6 b. Patient T.B.'s CURES information:

7 DATE	PHARMACY	DRUG	COMMENTS
8 9/29/2014	Seena Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Should last patient until 10/29/2014
9 10/10/2014	Value Rx Pharmacy	Fentanyl patch, 100 mcg, #15 for a 30-day supply	Refilled too soon by 19 days

11 c. Patient A.B.'s CURES information:

12 DATE	PHARMACY	DRUG	COMMENTS
13 7/3/2014	Tower Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Should last patient until 8/3/2014
14 7/8/2014	Value Rx Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Refilled too soon by 25 days
15 DATE	PHARMACY	DRUG	COMMENTS
16 7/28/2014	Seena Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Should last patient until 8/28/2014
17 8/7/2014	Value Rx Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply.	Refilled too soon by 21 days
19 8/7/2014	Tower Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Should last patient until 9/7/2014
20 8/8/2014	Value Rx Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Refilled too soon by 29 days
21 11/23/2014	Dial Drug, Inc.	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Should last patient until 12/23/2014
22 12/3/2014	Value Rx Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Refilled too soon by 20 days
24 12/28/2014	CVS Pharmacy #9242	Fentanyl patch, 100 mcg, #30 for a 30-day supply	Should last patient until 1/28/2015
25 1/8/2015	Value Rx Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Refilled too soon by 20 days

27 ///

d. Patient M.V.'s CURES information:

DATE	PHARMACY	DRUG	COMMENTS
6/12/2014	CVS Pharmacy #9242	Fentanyl patch, 100 mcg, #10 for a 30-day supply	
6/21/2014	Foothill Ranch Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	
7/9/2014	CVS Pharmacy #9242	Fentanyl patch, 100 mcg, #10 for a 30-day supply	
7/19/2014	Foothill Ranch Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	The combined supplies on 6/12/2014, 6/21/2014, 7/9/2014 and 7/19/2014 should last patient until 10/12/2014.
8/16/2014	Value Rx Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Refilled too soon by 56 days
8/19/2014	Seena Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Should last patient until 9/19/2014
9/11/2014	Value Rx Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Refilled too soon by 8 days
9/20/2014	CVS Pharmacy #9485	Oxycodone 30 mg #120 for a 30-day supply	Should last patient until 10/20/2014
10/7/2014	Value Rx Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Refilled too soon by 13 days
9/20/2014	Sav-On Pharmacy #6517	Fentanyl patch, 100 mcg, #5 for a 10-day supply	
9/28/2014	CVS Pharmacy #9485	Fentanyl patch, 100 mcg, #10 for a 30-day supply	The combined supplies on 9/20/2014 and 9/28/2014 should last patient until 10/30/2014.
10/8/2014	Value Rx Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Refilled too soon by 22 days

e. Patient T.C.'s CURES information:

DATE	PHARMACY	DRUG	COMMENTS
7/21/2014	Super Rx Pharmacy #186	Oxycodone 30 mg #120 for a 30-day supply	Should last patient until 8/21/2014
8/4/2014	Value Rx Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Refilled too soon by 17 days; should last patient until 9/4/2014
8/25/2014	Value Rx Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Refilled too early by 9 days

DATE	PHARMACY	DRUG	COMMENTS
9/30/2014	Sav-On Pharmacy #6507	Oxycodone 30 mg #120 for a 30-day supply	Should last patient until 10/30/2014
10/13/2014	Value Rx Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Refilled too soon by 17 days
11/23/2017	Sav-On Pharmacy #6507	Oxycodone 30 mg #120 for a 30-day supply	Should last patient until 12/23/2014
12/3/2014	Value Rx Pharmacy	Oxycodone 30 mg #60 for a 30-day supply.	Refilled too soon by 20 days

f. Patient C.G.'s CURES information:

DATE	PHARMACY	DRUG	COMMENTS
9/22/2014	Foothill Ranch Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	
	Foothill Ranch Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	
10/18/2014	Foothill Ranch Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	
10/18/2014	Foothill Ranch Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	
11/15/2014	Foothill Ranch Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	The combined supplies of oxycodone 30 mg on 9/22/2014, 10/18/2014 and 11/15/2014 should last patient until 12/22/2014.
	Foothill Ranch Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	The combined supplies of fentanyl patch 100 mcg on 9/22/2014, 10/18/2014 and 11/15/2014 should last patient until 12/22/2014.
12/13/2014	Value Rx Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Refilled too soon by 9 days
	Value Rx Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Refilled too soon by 9 days

g. Patient S.L.'s CURES information:

DATE	PHARMACY	DRUG	COMMENTS
7/30/2014	Foothill Ranch Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Should last patient until 8/30/2014
8/9/2014	Value Rx Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Refilled too early by 19 days

///

h. Patient Z.S.'s CURES information:

DATE	PHARMACY	DRUG	COMMENTS
8/1/2014	Foothill Ranch Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Should last until 9/1/2014
8/18/2014	Value Rx Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Refilled too early by 13 days

i. Patient K.F.'s CURES information:

DATE	PHARMACY	DRUG	COMMENTS
8/5/2014	Seena Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Should last until 9/5/2014
8/13/2014	Value Rx Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Refilled too early by 23 days
9/8/2014	Seena Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Should last patient until 10/8/2014
9/18/2014	Value Rx Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Refilled too soon by 20 days

j. Patient R.L.G.'s CURES information:

DATE	PHARMACY	DRUG	COMMENTS
10/20/2014	Dial Drug, Inc.	Oxycodone 30 mg #120 for a 30-day supply	Should last until 11/20/2014
11/3/2014	Value Rx Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Refilled too early by 17 days

k. Patient L.G.'s CURES information:

DATE	PHARMACY	DRUG	COMMENTS
1/5/2015	Value Rx Pharmacy.	Oxycodone 30 mg #120 for a 60-day supply	Should last until 3/5/2015
1/23/2014	Value Rx Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Refilled too early by 42 days. Even if there was a change in instructions for 120 tablets to last 30 days, the refill would still be early by 12 days.

l. Patient M.N.'s CURES information:

DATE	PHARMACY	DRUG	COMMENTS
6/20/2014	Tower Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	

DATE	PHARMACY	DRUG	COMMENTS
6/27/2014	Foothill Ranch Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	The combined supplies of oxycodone 30 mg on 6/20/2014 and 6/27/2014 should last patient until 8/20/2014.
7/3/2014	Value Rx Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Refilled too soon by 47 days
9/16/2014	CVS Pharmacy #8882	Oxycodone 30 mg #120 for a 30-day supply	Should last patient until 10/16/2014
	CVS Pharmacy #8882	Fentanyl patch, 100 mcg, #15 for a 30-day supply	Should last patient until 10/16/2014
10/6/2014	Value Rx Pharmacy	Oxycodone 30 mg #120 for a 30-day supply	Refilled too soon by 10 days
	Value Rx Pharmacy	Fentanyl patch, 100 mcg, #10 for a 30-day supply	Refilled too soon by 10 days
10/14/2014	Saddleback Pharmacy	Oxymorphone 40 mg #90 for a 30-day supply	Should last patient until 11/14/2014
11/7/2014	Value Rx Pharmacy	Oxymorphone 40 mg #90 for a 30-day supply	Refilled too soon by 7 days

FIRST CAUSE FOR DISCIPLINE

AS TO VALUE RX PHARMACY AND THUY V. NGUYEN ONLY

(Obstructing Patient from Obtaining A Prescription Drug That was Legally Prescribed)

41. Respondents Value Rx Pharmacy and Thuy V. Nguyen are subject to discipline pursuant to Code section 733, subdivision (a) in that on or about October, 2014, Respondents failed to notify, or deliver to, S.S. his prescriptions for calcium acetate (Rx No. 13653) and metoprolol (Rx No. 11080) in a timely manner, as more fully set forth in paragraphs 26-28 above, and incorporated by this reference as though set forth in full herein.

SECOND CAUSE FOR DISCIPLINE

AS TO ALL RESPONDENTS

(Required Supervision of Pharmacy Technicians)

42. Respondents Value Rx Pharmacy and Thuy V. Nguyen are subject to discipline pursuant to Code section 4115, subdivision (a) in that on or about January 30, 2015, while H.T. was the only pharmacist on duty, Pharmacy Technicians C.N. and Z.A. were performing duties such as packaging and filling prescriptions without the required 1:1 pharmacist/pharmacy

1 technician ratio, as more fully set forth in paragraphs 26-28 above, and incorporated by this
2 reference as though set forth in full herein.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **AS TO ALL RESPONDENTS**

5 **(Failure to Comply with Corresponding Responsibility**
6 **for Legitimate Controlled Substance Prescriptions)**

7 43. Respondents Value Rx Pharmacy and Thuy V. Nguyen are subject to discipline
8 pursuant to Code section 4301, subdivision (j), in conjunction with Health and Safety Code
9 section 11153, subdivision (a), for unprofessional conduct in that Respondents failed to comply
10 with their corresponding responsibility to ensure that controlled substances are dispensed for a
11 legitimate medical purpose when between June 12, 2014 and January 30, 2015, Respondents
12 failed to evaluate the totality of the circumstances (information from the patient, physician and
13 other sources) to determine the prescription's legitimate medical purpose in light of information
14 showing that prescriptions for controlled substances were filled early, there was duplication of
15 therapy dispensed on the same day or soon thereafter, multiple patients received the same or
16 similar drug therapy with opioid medications, numerous patients paid with cash for controlled
17 substances, numerous patients initially presented prescriptions for the highest strengths available
18 for controlled substances, military personnel paid with cash, evidence of doctor shopping and
19 pharmacy shopping, younger patients on high dose of controlled substances, irregular dosing of
20 fentanyl transdermal patches and oxymorphone ER tablets, irregularities in prescribing pattern of
21 Dr. A.B., among other things, as more fully set forth in paragraphs 29-40 above, and incorporated
22 by this reference as though set forth in full herein.

23 **FOURTH CAUSE FOR DISCIPLINE**

24 **AS TO ALL RESPONDENTS**

25 **(Excessive Furnishing of Controlled Substances)**

26 44. Respondents Value Rx Pharmacy and Thuy V. Nguyen are subject to discipline
27 pursuant to Code section 4301, subdivision (d), for unprofessional conduct in that Respondents
28 excessively furnished controlled substances during the period June 12, 2014 to January 30 2015,

1 as more fully set forth in paragraphs 29-40 above, and incorporated by this reference as though set
2 forth in full herein.

3 **FIFTH CAUSE FOR DISCIPLINE**

4 **AS TO THUY V. NGUYEN ONLY**

5 **(Unprofessional Conduct - Failure to Exercise Professional Judgment)**

6 45. Respondent Thuy V. Nguyen is subject to discipline pursuant to Code section 4306,
7 subdivisions (c) and (d), for unprofessional conduct in that from June 12, 2014 to January 30,
8 2015, Respondent failed to exercise or implement his best professional judgment or
9 corresponding responsibility with regard to the dispensing or furnishing of controlled substances
10 and dangerous drugs, and/or failed to consult appropriate patient, prescription, and other records,
11 prior to dispensing, or allowing the dispensing of, controlled substances, as more fully set forth in
12 paragraphs 29-40 above, and incorporated by this reference as though set forth in full herein.

13 **SIXTH CAUSE FOR DISCIPLINE**

14 **AS TO THUY V. NGUYEN ONLY**

15 **(Unprofessional Conduct – Dispensing Prescriptions with Significant Irregularities)**

16 46. Respondent Thuy V. Nguyen is subject to discipline pursuant to title 16, CCR, section
17 1761, subdivisions (a) and (b), for unprofessional conduct in that from June 12, 2014 to January
18 30, 2015, Respondent dispensed, or allowed to be dispensed, prescriptions which contained
19 significant errors or irregularities, even after conferring with the prescriber, when Respondent
20 knew or should have known said prescriptions were not issued for a legitimate medical purpose,
21 as more fully set forth in paragraphs 29-40 above, and incorporated by this reference as though set
22 forth in full herein.

23 **SEVENTH CAUSE FOR DISCIPLINE**

24 **AS TO THUY V. NGUYEN ONLY**

25 **(Unprofessional Conduct – Gross Negligence)**

26 47. Respondent Thuy V. Nguyen is subject to discipline pursuant to Code section 4301,
27 subdivision (c) for gross negligence in that from June 12, 2014 to January 30, 2015, Respondent
28 knew or should have known that the prescriptions for controlled substances issued by Dr. A.B.

1 were likely to be diverted or used for other than a legitimate medical purpose. Respondent also
2 failed to take appropriate steps upon being presented with numerous prescriptions for the same
3 controlled substances to ensure they were issued for a legitimate medical purpose, as more fully
4 set forth in paragraphs 29-40 above, and incorporated by this reference as though set forth in full
5 herein.

6 **EIGHTH CAUSE FOR DISCIPLINE**

7 **AS TO THUY V. NGUYEN ONLY**

8 **(Unprofessional Conduct)**

9 48. Respondent Thuy V. Nguyen is subject to discipline pursuant to Code section 4301
10 for unprofessional conduct, as more fully set forth in paragraphs 26-40 above, and incorporated by
11 this reference as though set forth in full herein. Respondent Nguyen exhibited unprofessional
12 conduct in failing to notify, or deliver to, S.S. his prescriptions for calcium acetate (Rx No.
13 13653) and metoprolol (Rx No. 11080) in a timely manner. From June 12, 2014 to January 30,
14 2015, Respondent knew or should have known that the prescriptions for controlled substances
15 issued by Dr. A.B. were likely to be diverted or used for other than a legitimate medical purpose.
16 Respondent also failed to take appropriate steps upon being presented with numerous
17 prescriptions for the same controlled substances to ensure they were issued for a legitimate
18 medical purpose, as more fully set forth in paragraphs 26-40 above, and incorporated by this
19 reference as though set forth in full herein.

20 **OTHER MATTERS**

21 49. Pursuant to Section 4307, if Pharmacy Permit Number PHY 51246 issued to TWB
22 Venture, Inc., dba Value Rx Pharmacy is suspended, revoked or placed on probation, and
23 Respondent Nguyen, while acting as the manager, administrator, owner, member, officer, director,
24 associate, or partner, had knowledge of or knowingly participated in any conduct for which
25 Pharmacy Permit Number PHY 51246 was revoked, suspended, or placed on probation,
26 Respondent Nguyen shall be prohibited from serving as a manager, administrator, owner,
27 member, officer, director, associate, or partner of a licensee of the Board.

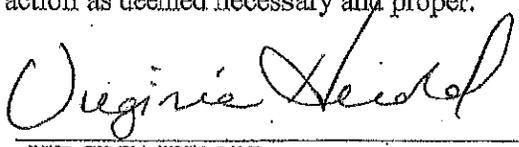
1 50. Pursuant to Section 4307, if Pharmacist License Number RPH 51877 issued to Thuy
2 Vu Nguyen is suspended or revoked, Respondent Nguyen shall be prohibited from serving as a
3 manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

4 **PRAYER**

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

- 7 1. Revoking or suspending Pharmacy Permit Number PHY 51246, issued to TWB
8 Venture, Inc., dba Value Rx Pharmacy, Thuy Vu Nguyen, CEO;
9 2. Revoking or suspending Pharmacist License Number RPH 51877 issued to Thuy Vu
10 Nguyen;
11 3. Prohibiting Thuy Vu Nguyen from serving as a manager, administrator, owner,
12 member, officer, director, associate, or partner of a licensee of the Board;
13 4. Ordering TWB Venture, Inc., dba Value Rx Pharmacy and Thuy V. Nguyen, jointly
14 and severally, to pay the Board of Pharmacy the reasonable costs of the investigation and
15 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
16 5. Taking such other and further action as deemed necessary and proper.

17
18 DATED: 8/11/16



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

19
20
21
22 SD2015803097/81326866.doc

23
24
25
26
27
28
