

1 EDMUND G. BROWN JR.  
Attorney General of California  
2 MARC D. GREENBAUM  
Supervising Deputy Attorney General  
3 KIMBERLEY J. BAKER-GUILLEMET  
Deputy Attorney General  
4 State Bar No. 242920  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2533  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 3425

11 **KIM N. VU**  
12 **8361 Garden Grove Blvd. #6**  
13 **Garden Grove, CA 92844**  
14 **Pharmacy Technician Registration No. TCH**  
**45621**

**A C C U S A T I O N**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

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

21 2. On or about March 27, 2003, the Board of Pharmacy issued Pharmacy Technician  
22 Registration Number TCH 45621 to Kim N. Vu (Respondent). The Pharmacy Technician  
23 Registration was in full force and effect at all times relevant to the charges brought herein and  
24 will expire on February 28, 2011, unless renewed.

25 **JURISDICTION**

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

1 4. Section 4059 of the Code states, in pertinent part that:

2 "(a) A person may not furnish any dangerous drug, except upon the prescription of a  
3 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
4 3640.7. A person may not furnish any dangerous device, except upon the prescription of a  
5 physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section  
6 3640.7."

7 5. Section 4301 of the Code states, in pertinent part that:

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

11 ...

12 "(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the  
13 board."

14 6. Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
15 surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
16 disciplinary action during the period within which the license may be renewed, restored, reissued  
17 or reinstated.

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

22 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

23 8. Alprazolam (generic for Xanax) is a Schedule IV controlled substance as designated  
24 by Health and Safety Code section 11057(d)(1) and is categorized as a dangerous drug pursuant  
25 to Business and Professions Code section 4022.

26 ///

27 ///

28 ///



1 been seen by him and was not his patient. He concluded that none of the prescriptions for  
2 Respondent and Nguyen had been authorized by him or given to them by him.

3 16. Respondent's initials were written on 24 of the 30 prescription forms for the above-  
4 referenced prescriptions indicating that she was the pharmacy technician who had filled the  
5 prescriptions. The total amounts of tablets dispensed were as follows: 2490 Hydrocodone/APAP  
6 tablets, 630 Xanax tablets and 150 Halcion tablets.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct)**

9 17. Respondent is subject to disciplinary action under section 4301, subdivision (q) in  
10 that she subverted or attempted to subvert an investigation. The circumstances are as follows:

11 18. On November 24, 2008, a Board inspector met with Respondent to conduct an  
12 interview. During the meeting, the inspector requested a written statement from Respondent.  
13 Respondent gave the inspector her e-mail address so that the inspector could e-mail her the  
14 statement form. The inspector e-mailed Respondent the form. Respondent failed to submit a  
15 written statement to the Board at that time.

16 19. On January 28, 2009, the inspector went to the CVS Pharmacy where Respondent  
17 worked. Respondent happened to be there at that time. The inspector again requested a written  
18 statement from Respondent. Respondent stated that she did not receive an e-mail from the  
19 investigator. The inspector gave Respondent another copy of the request for a written statement.  
20 The inspector had Respondent sign that she had received this second request for a statement.  
21 Respondent again failed to submit a written statement to the Board after that meeting with the  
22 inspector.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 **PRAYER**

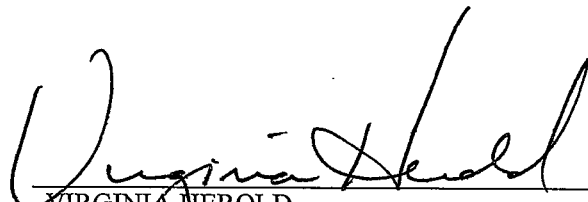
2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Board of Pharmacy issue a decision:

4 1. Revoking or suspending Pharmacy Technician Registration Number TCH 45621,  
5 issued to Kim N. Vu.

6 2. Ordering Kim N. Vu to pay the Board of Pharmacy the reasonable costs of the  
7 investigation and enforcement of this case, pursuant to Business and Professions Code section  
8 125.3;

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

10  
11  
12 DATED: 1/19/10



13 VIRGINIA HEROLD  
14 Executive Officer  
15 Board of Pharmacy  
16 Department of Consumer Affairs  
17 State of California  
18 Complainant

19  
20  
21  
22  
23  
24  
25  
26  
27  
28 LA2009603873  
accusation.rtf