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

11
12 In the Matter of the Accusation Against:

Case No. 5283

13 **SCRIPT LIFE PHARMACY; KHOA TAN**
14 **HUYNH, PRESIDENT/PHARMACIST IN**
15 **CHARGE**

A C C U S A T I O N

16 **255 W. Herndon Ave., Suite 101**
17 **Clovis, CA 93612**

18 **Pharmacy Permit No. PHY 50069,**

19 **KHOA TAN HUYNH**
20 **Pharmacist-In-Charge**
21 **2629 Portland Ave.**
22 **Clovis, CA 93619**

23 **Pharmacist License No. RPH 56097,**

24 **and**

25 **JAMIE TRANG TA**
26 **255 W. Herndon Ave.**
27 **Clovis, CA 93612**

28 **Pharmacist License No. RPH 59312**

Respondents.

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1 Complainant alleges:

2 **PARTIES**

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

5 2. On or about August 25, 2009, the Board of Pharmacy issued Pharmacy Permit
6 Number PHY 50069 to Script Life Pharmacy; Khoa Tan Huynh, President/Pharmacist in Charge
7 (Respondent SLP). The Pharmacy Permit was in full force and effect at all times relevant to the
8 charges brought herein and will expire on August 1, 2015, unless renewed.

9 3. On or about August 26, 2004, the Board of Pharmacy issued Pharmacist License
10 Number RPH 56097 to Khoa Tan Huynh (Respondent Huynh). The Pharmacist License was in
11 full force and effect at all times relevant to the charges brought herein and will expire on August
12 31, 2016, unless renewed.

13 4. On or about February 1, 2007, the Board of Pharmacy issued Pharmacist License
14 Number RPH 59312 to Jamie Trang Ta (Respondent Ta). The Pharmacist License was in full
15 force and effect at all times relevant to the charges brought herein and will expire on January 31,
16 2015, unless renewed.

17 **STATUTORY REFERENCES**

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

21 6. Section 4300 of the Code states, in pertinent part:

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

23 (b) The board shall discipline the holder of any license issued by the board, whose
24 default has been entered or whose case has been heard by the board and found guilty...”

25 7. Section 4301 of the Code states:

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

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...

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

...

(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.

..."

8. Section 4113 of the Code states, in pertinent part:

“(a) Every pharmacy shall designate a pharmacist-in-charge ...

...

(c) The 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.

..."

HEALTH AND SAFETY CODE

9. Section 11153(a) of the Health and Safety Code 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.”

10. Section 11158(a) of the Health and Safety Code states, in pertinent part, that no controlled substance classified in Schedule II shall be dispensed without a prescription meeting the requirements of this chapter.

11. Section 11165(d) of the Health and Safety Code states, in pertinent part, that for each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the

1 controlled substances schedules in federal law and regulations, the dispensing pharmacy, clinic, or
2 other dispenser shall report specific information to the Department of Justice as soon as
3 reasonably possible, but not more than seven days after the date a controlled substance is
4 dispensed, in a format specified by the Department of Justice.

5 **REGULATIONS**

6 12. Section 1716 of title 16 of the California Code of Regulations states, in pertinent part,
7 that pharmacists shall not deviate from the requirements of a prescription except upon the prior
8 consent of the prescriber.

9 13. Section 1761(a) of title 16 of the California Code of Regulations states:

10 "No pharmacist shall compound or dispense any prescription which contains any
11 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of
12 any such prescription, the pharmacist shall contact the prescriber to obtain the information
13 needed to validate the prescription."

13 **COST RECOVERY**

14 14. Section 125.3 of the Code states, in pertinent part, that the Board may request the
15 administrative law judge to direct a licentiate found to have committed a violation or violations of
16 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
17 enforcement of the case.

18 **DRUGS**

19 15. Oxycodone is a Schedule II controlled substance as designated by Health and Safety
20 Code section 11055, subdivision (b)(1)(M).

21 16. Hydrocodone Bitartrate APAP is a Schedule III controlled substance as designated by
22 Health and Safety Code section 11056(e)(4). Hydrocodone Bitartrate, the generic name, is also
23 known as dihydrocodeinone.

24 17. Norco, a brand of hydrocodone bitartrate and acetaminophen, is a Schedule III
25 controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

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1 **CAUSES FOR DISCIPLINE**

2 ***A. Respondent Script Life Pharmacy (SLP)***

3 **FIRST CAUSE FOR DISCIPLINE**

4 (Failure to Transmit Required Information)

5 18. Respondent Script Life Pharmacy is subject to disciplinary action under section
6 11165(d) of the Health and Safety Code, by and through Code section 4301(j), in that Respondent
7 SLP failed to submit required information to the Department of Justice on a weekly basis. The
8 circumstances are as follows:

9 a. On or about February 18, 2010, and continuing until on or about May 26, 2011,
10 Respondent Huynh, while working as pharmacist-in-charge at SLP, failed to transmit the
11 required information for Schedule II, III, and IV prescriptions to the Department of Justice
12 on a weekly basis on behalf of SLP.

13 **SECOND CAUSE FOR DISCIPLINE**

14 (Dispensing Controlled Substance Without a Prescription)

15 19. Respondent Script Life Pharmacy is subject to disciplinary action under section
16 11158(a) of the Health and Safety Code, by and through Code section 4301(j), in that Respondent
17 SLP dispensed controlled substances without a valid prescription from a physician. The
18 circumstances are as follows:

19 a. On or about November 10, 2011, Respondent Ta, while working as a
20 pharmacist at SLP, dispensed prescription RX# N11510 for oxycodone 30 mg #150, with
21 directions to take 1 tablet 4-5 times a day, to patient YC without a valid prescription from
22 a physician.

23 b. On or about January 19, 2012, Respondent Huynh, while working as
24 pharmacist-in charge at SLP, dispensed prescription RX# 13176 for oxycodone 30 mg
25 #180, with directions to take 1 tablet 4 times a day, to patient MW without a valid
26 prescription from a physician.

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1 **THIRD CAUSE FOR DISCIPLINE**

2 (Dispensing Erroneous Prescriptions)

3 20. Respondent Script Life Pharmacy is subject to disciplinary action under section
4 1761(a) of title 16 of the California Code of Regulations, by and through Code section 4301(j), in
5 that Respondent SLP dispensed an erroneous prescription without contacting the prescriber to
6 obtain the information needed to validate the prescription. The circumstances are as follows:

7 a. On or about November 10, 2011, Respondent Ta, while working as a
8 pharmacist at SLP, dispensed prescription RX# N11510 for oxycodone to patient YC.
9 The prescription blank contained two prescriptions for Norco 10/325 mg, but no
10 prescription for oxycodone. The patient received Norco 10/325 mg and oxycodone. The
11 prescription was erroneous because it contained a significant error, omission, irregularity,
12 uncertainty, ambiguity or alteration in that it had two prescriptions for the same drug.
13 Respondent Ta did not contact the prescriber to obtain the information needed to validate
14 the erroneous prescription.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 (Deviating from Requirements of Prescription Without Consent of Prescriber)

17 21. Respondent Script Life Pharmacy is subject to disciplinary action under section 1716
18 of title 16 of the California Code of Regulations, by and through Code section 4301(j), in that
19 Respondent SLP deviated from the requirements of a prescription without the prior consent of the
20 prescriber. The circumstances are as follows:

21 a. On or about January 15, 2012, Respondent Ta, while working as a pharmacist at
22 SLP, dispensed to patient MW prescription Rx# 13192 for oxycodone 30 mg #180 with
23 directions to take 1 tablet 4 times a day, instead of the prescribed oxycodone 30 mg #180
24 with directions to take 1 tablet 4-6 times a day. Respondent Ta did not have the consent of
25 the prescriber to make this deviation from the prescription.

26 b. On or about January 18, 2012, Respondent Ta, while working as a pharmacist at
27 SLP, dispensed to patient MW prescription Rx# 12312 for oxycodone 30 mg #180 with
28 directions to take 1 tablet 4-6 times a day instead of the prescribed oxycodone 30 mg #180

1 with directions to take 1 tablet 4-8 times a day. Respondent Ta did not have the consent of
2 the prescriber to make this deviation from the prescription.

3 c. On or about January 13, 2012, Respondent Huynh, while working as
4 pharmacist-in-charge at SLP, dispensed to patient MW prescription Rx# 50239 for
5 hydrocodone/apap 10/325 mg #30 with directions to take 1 tablet 6 times a day instead of
6 the prescribed hydrocodone/apap 10/325 mg #180 with directions take 1 tablet 4-5 times a
7 day. Respondent Huynh did not have the consent of the prescriber to make this deviation
8 from the prescription.

9 d. On or about January 27, 2012, Respondent Huynh, while working as
10 pharmacist-in-charge at SLP, dispensed to patient MW a refill of prescription Rx# 50239
11 for hydrocodone/apap 10/325 mg #30 with directions to take 1 tablet 6 times a day instead
12 of the prescribed hydrocodone/apap 10/325 mg #180 with directions take 1 tablet 4-5
13 times a day. Respondent Huynh did not have the consent of the prescriber to make this
14 deviation from the prescription.

15 **FIFTH CAUSE FOR DISCIPLINE**

16 (Dispensing Controlled Substances Without a Legal Prescription)

17 22. Respondent Script Life Pharmacy is subject to disciplinary action under section
18 11153(a) of the Health and Safety Code, by and through Code section 4301(d), in that Respondent
19 SLP dispensed a controlled substance without a legal prescription. The circumstances are as
20 follows:

21 a. On or about September 12, 2011, Respondent Huynh, while working as
22 pharmacist-in-charge at SLP, dispensed two prescriptions to patient MW: RX# 42519 and
23 Rx# 44675. Both prescriptions were for hydrocodone/apap 10/325 mg #120 with
24 directions to take 1 tablet four times a day.

25 b. On or about January 15, 2012, Respondent Ta, while working as a pharmacist at
26 SLP, dispensed to patient MW prescription Rx# 13192 for oxycodone 30 mg #180. Rx#
27 13192 was for a 30-45 day supply.

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1 c. On or about January 18, 2012, Respondent Ta, while working as a pharmacist at
2 SLP, dispensed to patient MW prescription Rx# 12312 for oxycodone 30 mg #180. Rx#
3 12312 was for a 23-45 day supply.

4 d. On or about January 19, 2012, Respondent Huynh, while working as
5 pharmacist-in-charge at SLP, dispensed to patient MW prescription Rx# 13176 for
6 oxycodone 30 mg #180. There was no valid prescription for RX# 13176.

7 23. The prescriptions in subparagraph (a) of paragraph 22 totaled 240 tablets of
8 hydrocodone/apap dispensed in one day. The prescriptions in subparagraphs (b), (c), and (d) of
9 paragraph 22 totaled 540 tablets of oxycodone received by the patient over four days.

10 24. The prescriptions in subparagraphs (a), (b), (c), and (d) of paragraph 22 were not legal
11 prescriptions because they were not issued in the usual course of professional treatment or in
12 legitimate and authorized research. These prescriptions were issued by Dr. Jose Luis Flores,
13 whose license was suspended by the Medical Board in OAH case number 2013120385 on January
14 10, 2014, in part for excessive prescribing of drugs. Pharmacists have a corresponding
15 responsibility for the proper dispensing of controlled substances. This responsibility was not met
16 in this case because these prescriptions were clearly excessive.

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18 **B. Respondent Khoa Tan Huynh, Pharmacist-In-Charge**

19 25. Respondent Khoa Tan Huynh has been the designated Pharmacist-In-Charge for
20 Script Life Pharmacy under Code section 4113(a) since August 25, 2009. As pharmacist-in-
21 charge for SLP, Respondent Huynh was responsible for SLP's compliance with all state and
22 federal laws and regulations pertaining to the practice of pharmacy under Code section 4113(c).

23 **SIXTH CAUSE FOR DISCIPLINE**

24 (Failure to transmit required information on a weekly basis)

25 26. Respondent Khoa Tan Huynh is subject to disciplinary action under section 11165(d)
26 of the Health and Safety Code, by and through Code section 4301(j), in that Respondent Huynh,
27 as pharmacist-in-charge for SLP, failed to submit required information to the Department of
28 Justice on a weekly basis, as set forth in subparagraph (a) of paragraph 18 above.

1 dispensed a controlled substance without a legal prescription, as set forth in paragraphs 22-24
2 above. As Pharmacist-In-Charge for SLP, Respondent Huynh is also responsible under Code
3 section 4113(c) for the actions of Respondent Ta, as set forth in paragraphs 22-24 above.

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5 **C. Respondent Jamie Trang Ta**

6 **ELEVENTH CAUSE FOR DISCIPLINE**

7 (Dispensing Controlled Substance Without a Prescription)

8 31. Respondent Jamie Trang Ta is subject to disciplinary action under section 11158(a) of
9 the Health and Safety Code, by and through Code section 4301(j), in that Respondent Ta
10 dispensed controlled substances without a prescription, as set forth in subparagraph (a) of
11 paragraph 19 above.

12 **TWELFTH CAUSE FOR DISCIPLINE**

13 (Dispensing Erroneous Prescriptions)

14 32. Respondent Jamie Trang Ta is subject to disciplinary action under section 1761(a) of
15 title 16 of the California Code of Regulations, by and through Code section 4301(j), in that
16 Respondent Ta dispensed an erroneous prescription without contacting the prescriber to obtain the
17 information needed to validate the prescription, as set forth in subparagraph (a) of paragraph 20
18 above.

19 **THIRTEENTH CAUSE FOR DISCIPLINE**

20 (Deviating from Requirements of Prescription Without Consent of Prescriber)

21 33. Respondent Jamie Trang Ta is subject to disciplinary action under section 1716 of
22 title 16 of the California Code of Regulations, by and through Code section 4301(j), in that
23 Respondent Ta deviated from the requirements of a prescription without the prior consent of the
24 prescriber, as set forth in subparagraphs (a) and (b) of paragraph 21 above.

25 **FOURTEENTH CAUSE FOR DISCIPLINE**

26 (Dispensing Controlled Substance Without a Legal Prescription)

27 34. Respondent Jamie Trang Ta is subject to disciplinary action under section 11153(a) of
28 the Health and Safety Code, by and through Code section 4301(d), in that Respondent Ta

1 dispensed a controlled substance without a legal prescription, as set forth in paragraphs 22-24
2 above.

3 **PRAYER**

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

6 1. Revoking or suspending Pharmacy Permit Number PHY 50069, issued to Script Life
7 Pharmacy; Khoa Tan Huynh, President/Pharmacist in Charge;

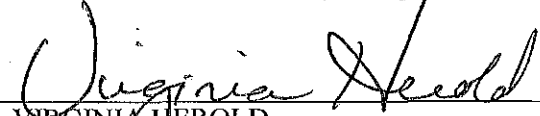
8 2. Revoking or suspending Pharmacist License Number RPH 56097, issued to Khoa Tan
9 Huynh;

10 3. Revoking or suspending Pharmacist License Number RPH 59312, issued to Jamie
11 Trang Ta;

12 4. Ordering Script Life Pharmacy, Khoa Tan Huynh and Jamie Trang Ta to pay the
13 Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,
14 pursuant to Business and Professions Code section 125.3; and

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

16 DATED: 7/22/15


17 VIRGINIA HEROLD
18 Executive Officer
19 Board of Pharmacy
20 Department of Consumer Affairs
21 State of California
22 Complainant

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