

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

In the Matter of the Accusation Against:

Case No. 3425

KIM N. VU
8361 Garden Grove Blvd. #6
Garden Grove, CA 92844

Pharmacy Technician License No. TCH 45621

Respondent.

DECISION AND ORDER

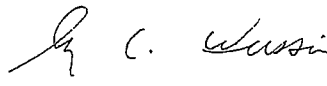
The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on August 25, 2010.

It is so ORDERED on July 26, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
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Attorneys for Complainant

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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

STIPULATED SURRENDER OF
LICENSE AND ORDER

15 Respondent.

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this
18 proceeding that the following matters are true:

19 **PARTIES**

20 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
21 She brought this action solely in her official capacity and is represented in this matter by Edmund
22 G. Brown Jr., Attorney General of the State of California, by Kimberley J. Baker-Guillemet,
23 Deputy Attorney General.

24 2. Kim N. Vu (Respondent) is representing herself in this proceeding and has chosen not
25 to exercise her right to be represented by counsel.

26 3. On or about March 27, 2003, the Board of Pharmacy issued Pharmacy Technician
27 Registration No. TCH 45621 to Respondent. The was in full force and effect at all times relevant
28 to the charges brought in Accusation No. 3425 and will expire on February 28, 2011, unless
renewed.

1 JURISDICTION

2 4. Accusation No. 3425 was filed before the Board of Pharmacy (Board) , Department
3 of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
4 statutorily required documents were properly served on Respondent on February 2, 2010.
5 Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation
6 No. 3425 is attached as exhibit A and incorporated herein by reference.

7 ADVISEMENT AND WAIVERS

8 5. Respondent has carefully read, and understands the charges and allegations in
9 Accusation No. 3425. Respondent also has carefully read, and understands the effects of this
10 Stipulated Surrender of License and Order.

11 6. Respondent is fully aware of her legal rights in this matter, including the right to a
12 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
13 her own expense; the right to confront and cross-examine the witnesses against her; the right to
14 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
15 compel the attendance of witnesses and the production of documents; the right to reconsideration
16 and court review of an adverse decision; and all other rights accorded by the California
17 Administrative Procedure Act and other applicable laws.

18 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
19 every right set forth above.

20 CULPABILITY

21 8. Respondent admits the truth of each and every charge and allegation in Accusation
22 No. 3425, agrees that cause exists for discipline and hereby surrenders her Pharmacy Technician
23 Registration No. TCH 45621 for the Board's formal acceptance.

24 9. Respondent understands that by signing this stipulation she enables the Board to issue
25 an order accepting the surrender of her Pharmacy Technician Registration without further
26 process.

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CONTINGENCY

1
2 10. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
3 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
4 communicate directly with the Board regarding this stipulation and surrender, without notice to or
5 participation by Respondent. By signing the stipulation, Respondent understands and agrees that
6 she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board
7 considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order,
8 the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
9 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
10 be disqualified from further action by having considered this matter.

11 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of
12 License and Order, including facsimile signatures thereto, shall have the same force and effect as
13 the originals.

14 12. This Stipulated Surrender of License and Order is intended by the parties to be an
15 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
16 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
17 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
18 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
19 executed by an authorized representative of each of the parties.

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

ORDER

22
23 IT IS HEREBY ORDERED that Pharmacy Technician Registration No. TCH 45621, issued
24 to Respondent Kim N. Vu is surrendered and accepted by the Board of Pharmacy.

25 14. The surrender of Respondent's Pharmacy Technician Registration and the acceptance
26 of the surrendered license by the Board shall constitute the imposition of discipline against
27 Respondent. This stipulation constitutes a record of the discipline and shall become a part of
28 Respondent's license history with the Board.

1 15. Respondent shall lose all rights and privileges as a Pharmacy Technician in California
2 as of the effective date of the Board's Decision and Order.

3 16. Respondent shall cause to be delivered to the Board both her wall license certificate
4 and, if one was issued, pocket license on or before the effective date of the Decision and Order.

5 17. Upon acceptance of the surrender, respondent shall relinquish her pharmacy
6 technician license to the Board within ten (10) days of notification by the Board that the surrender
7 is accepted. Respondent may not reapply for any license, permit, or registration from the Board
8 for three (3) years from the effective date of the surrender. Respondent shall meet all
9 requirements applicable to the license sought as of the date the application for that license is
10 submitted to the Board.

11 18. If she ever applies for licensure or petitions for reinstatement in the State of
12 California, the Board shall treat it as a new application for licensure. Respondent must comply
13 with all the laws, regulations and procedures for licensure in effect at the time the application or
14 petition is filed, and all of the charges and allegations contained in Accusation No. 3425 shall be
15 deemed to be true, correct and admitted by Respondent when the Board determines whether to
16 grant or deny the application or petition.

17 19. Should Respondent ever apply or reapply for a new license or certification, or petition
18 for reinstatement of a license, by any other health care licensing agency in the State of California,
19 all of the charges and allegations contained in Accusation, No. 3425 shall be deemed to be true,
20 correct, and admitted by Respondent for the purpose of any Statement of Issues or any other
21 proceeding seeking to deny or restrict licensure.

22 20. Respondent shall pay the Board its costs of investigation and enforcement in the
23 amount of twelve thousand four hundred thirty-eight dollars and fifty cents (\$12,438.50) prior to
24 issuance of a new or reinstated license.

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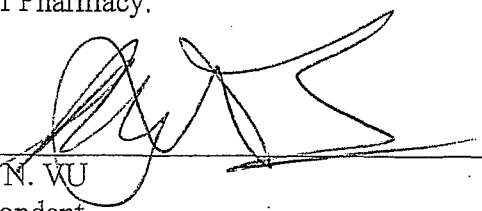
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ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 5-4-10



KIM N. WU
Respondent

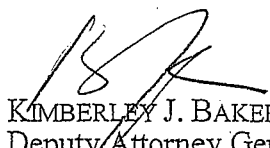
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: April 21, 2010

Respectfully submitted,

EDMUND G. BROWN JR.
Attorney General of California
MARC D. GREENBAUM
Supervising Deputy Attorney General


KIMBERLEY J. BAKER-GUILLEMET
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3425

1 EDMUND G. BROWN JR.
Attorney General of California
2 MARC D. GREENBAUM
Supervising Deputy Attorney General
3 KIMBERLEY J. BAKER-GUILLEMET
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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.

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1 9. Hydrocodone/ Acetaminophen (APAP) (generic for Vicodin, Norco and/or Lortab) is
2 a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4)
3 and is categorized as a dangerous drug pursuant to Business and Professions Code section 4022.

4 10. Triazolam (generic for Halcion) is a Schedule I controlled substance as designated by
5 Health and Safety Code section 11057(d)(30) and is categorized as a dangerous drug pursuant to
6 Business and Professions Code section 4022.

7 11. Atenolol (generic for Tenormin) is categorized as a dangerous drug pursuant to
8 Business and Professions Code section 4022.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Furnished Dangerous Drug Without a Prescription)**

11 12. Respondent is subject to disciplinary action under section 4059, subdivision (a) in
12 that she furnished dangerous drugs without valid prescriptions. The circumstances are as follows:

13 13. From on or about May 5, 2007, through January 6, 2009, Respondent, while
14 employed at CVS Pharmacy as a pharmacy technician, furnished drugs to herself and to her
15 mother, Dang Nguyen, without a valid prescription. Specifically, during that time period, 30
16 prescriptions were filled for patient Dang Nguyen and patient Kim Vu. The prescribing medical
17 doctor was represented to be R. Bob Sankaram, M.D.

18 14. Respondent was employed as a medical assistant in Dr. Sankaram's office from
19 December 12, 2005, through October 28, 2006. Respondent resumed employment in Dr.
20 Sankaram's office on October 8, 2007, and was terminated on March 3, 2008. In March 2009, a
21 Board inspector sent a letter to Dr. Sankaram requesting confirmation that he had prescribed
22 Halcion to Respondent on May 5, 2007. In addition, the inspector requested confirmation that Dr.
23 Sankaram had prescribed the following drugs to Dang Nguyen: Halcion on August 6, 2007,
24 Hydrocodone/APAP on August 23, 2007, Xanax on September 14, 2007, Hydrocodone/APAP on
25 October 19, 2007, Xanax on October 22, 2007, Xanax on December 10, 2007,
26 Hydrocodone/APAP on December 28, 2007, and Hydrocodone/APAP on January 25, 2008.

27 15. In his written response, Dr. Sankaram stated that the prescription for Respondent was
28 not prescribed by and was not authorized by him. He further stated that Dang Nguyen had never

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.

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PRAYER

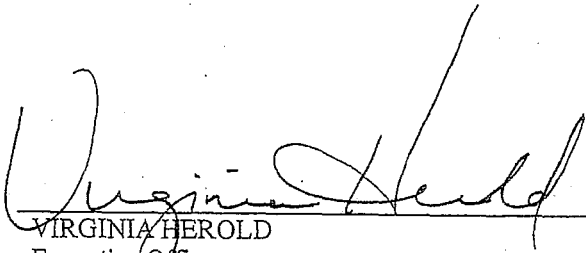
WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

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

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

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

DATED: 1/19/10



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

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