



California State Board of Pharmacy
 1625 N. Market Blvd, N219, Sacramento, CA 95834
 Phone: (916) 574-7900
 Fax: (916) 574-8618
 www.pharmacy.ca.gov

BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
 DEPARTMENT OF CONSUMER AFFAIRS
 GOVERNOR EDMUND G. BROWN JR.

APPLICATION FOR VOLUNTARY SURRENDER OF PREMISES LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>Valley Pharmacy</u>	Case No. <u>AC 3853</u>
Address of Record: <u>1082 E. El Camino Real</u> <u>Sunnyvale, CA 94087</u>	

Pursuant to the terms and conditions of probation against my premises license with the California State Board of Pharmacy (Board) in Case No. AC 3853, I hereby request to surrender my premises license, License No. PHY 43889. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, the premises will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of the premises license history with the Board.

Upon the acceptance of the surrender, I shall relinquish my premises license to the Board within ten (10) days of notification by the Board that the surrender is accepted. I understand that I shall, among other things, submit a completed Discontinuance of Business form according to board guidelines and shall notify the board of the records inventory transfer. I may not reapply for any new licensure from the board for three (3) years from the effective date of the surrender. I further understand that I shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

[Signature]
 Applicant's Signature
[Signature]
 Executive Officer's Approval

Oct 1, 2014
 Date
10/21/14
 Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.



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BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
 DEPARTMENT OF CONSUMER AFFAIRS
 GOVERNOR EDMUND G. BROWN JR.

APPLICATION FOR VOLUNTARY SURRENDER OF PHARMACIST / INTERN LICENSE

PLEASE PRINT IN BLACK OR BLUE INK OR TYPE YOUR RESPONSES

Name: <u>YEON HYANG KIM</u>	Case No. <u>AC 3853</u>
Address of Record: <u>1740 OBSIDIAN CT</u> <u>CUPERTINO, CA 95014</u>	

Pursuant to the terms and conditions of my probation with the California State Board of Pharmacy (Board) in Case No. AC 3853, I hereby request to surrender my license, License No. RPH 44940. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, I will no longer be subject to the terms and conditions of probation. I understand that this surrender constitutes a record of discipline and shall become a part of my license history with the Board.

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

PLEASE BE ADVISED THAT YOU ARE NOT RELIEVED OF THE REQUIREMENTS OF YOUR PROBATION UNLESS THE BOARD NOTIFIES YOU THAT YOUR REQUEST TO SURRENDER YOUR LICENSE HAS BEEN ACCEPTED.

Yeonhyang Kim
 Applicant's Signature

Virginia Harold
 Executive Officer's Approval

5-19-14
 Date

5/29/14
 Date

All items on this application are mandatory in accordance with your probationary order and the Board's Disciplinary Guidelines as authorized by Title 16, California Code of Regulations section 1760. Failure to provide any of the requested information or providing unreadable information will result in the application being rejected as incomplete. The information provided on this form will be used to determine eligibility for surrender. The official responsible for information maintenance is the Executive Officer, telephone (916) 574-7900, 1625 N. Market Blvd., Suite N-219, Sacramento, CA 95834. The information you provide may also be disclosed in the following circumstances: (1) in response to a Public Records Act request; (2) to another government agency as required by state or federal law; or, (3) in response to a court or administrative order, a subpoena, or a search warrant. Each individual has the right to review the files or records maintained on them by our agency, unless the records are identified as confidential information and exempted by Section 1798.40 of the Civil Code.

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

In the Matter of the Accusation Against:

Case No. 3853

VALLEY PHARMCY
1082 E. El Camino Real, #2
Sunnyvale, CA 94807

Pharmacy License No. PHY 43889

and

YEON HYANG KIM
7740 Obsidian Court
Cupertino, CA 95014

Pharmacist License No. RPH 44940

Respondent.

DECISION AND ORDER

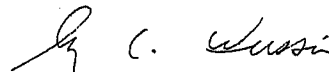
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on November 23, 2011.

It is so ORDERED on October 24, 2011.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By



STANLEY C. WEISSER
Board President

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
Deputy Attorney General
4 State Bar No. 214663
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
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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. 3853

11 **VALLEY PHARMACY**
12 **1082 E. El Camino Real, # 2**
13 **Sunnyvale, CA 94087**
Pharmacy License No. PHY 43889

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

14 **and**

15 **YEON HYANG KIM**
16 **7740 Obsidian Court**
Cupertino, CA 95014
17 **Pharmacist License No. RPH 44940**

18 Respondents.

19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
21 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
22 be submitted to the Board for approval and adoption as the final disposition of the Accusation.

23
24 PARTIES

25 1. Virginia Herold (Complainant), Executive Officer of the Board of Pharmacy, brought
26 this action solely in her official capacity and is represented in this matter by Kamala D. Harris,
27 Attorney General of the State of California, by Joshua A. Room, Deputy Attorney General.

28 ///

1 2. Yeon Hyang Kim dba Valley Pharmacy (Respondent Valley) and Yeon Hyang Kim
2 (Respondent Kim) (collectively, Respondents) are representing themselves in this proceeding and
3 have chosen not to exercise their rights to be represented by counsel.

4 3. On or about October 23, 1998, the Board of Pharmacy issued Pharmacy License No.
5 PHY 43889 to Yeon Hyang Kim dba Valley Pharmacy (Respondent Valley). The records of the
6 Board of Pharmacy show that Yeon Hyang Kim is and has been the Individual Licensed Owner
7 of Respondent Valley since on or about October 23, 1998, serving as Pharmacist in Charge since
8 on or about that date. The Pharmacy License was in full force and effect at all times relevant to
9 the charges in Accusation No. 3853 and will expire on October 1, 2011, unless renewed.

10 4. On or about October 18, 1991, the Board of Pharmacy issued Pharmacist License No.
11 RPH 44940 to Yeon Hyang Kim (Respondent Kim). The Pharmacist License was in full force
12 and effect at all times relevant to the charges brought in Accusation No. 3853 and will expire on
13 June 30, 2011, unless renewed.

14

15

JURISDICTION

16 5. Accusation No. 3853 was filed before the Board of Pharmacy (Board), Department of
17 Consumer Affairs, and is currently pending against Respondents. The Accusation and all other
18 statutorily required documents were properly served on Respondents on March 9, 2011. Both
19 Respondents timely filed Notices of Defense contesting the Accusation. A copy of Accusation
20 No. 3853 is attached as exhibit A and incorporated herein by reference.

21

22

ADVISEMENT AND WAIVERS

23 6. Respondents have carefully read, and understand, the charges and allegations in
24 Accusation No. 3853. Respondents have also carefully read, and understand, the effects of this
25 Stipulated Settlement and Disciplinary Order.

26

27

28

7. Respondents are fully aware of their legal rights in this matter, including the right to a
hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
their own expense; the right to confront and cross-examine the witnesses against them; the right

1 to present evidence and to testify on their own behalf; the right to the issuance of subpoenas to
2 compel the attendance of witnesses and the production of documents; the right to reconsideration
3 and court review of an adverse decision; and all other rights accorded by the California
4 Administrative Procedure Act and other applicable laws.

5 8. Respondents voluntarily, knowingly, and intelligently waive and give up each and
6 every right set forth above.

7
8 CULPABILITY

9 9. Respondents admit the truth of each and every charge and allegation in Accusation
10 No. 3853. Respondent Valley agrees that its Pharmacy License is subject to discipline and
11 Respondent Kim agrees that her Pharmacist License is subject to discipline; each agrees to be
12 bound by the Board's probationary terms as set forth in the Disciplinary Order below.

13
14 RESERVATION

15 10. Admissions made by Respondents herein are only for the purposes of this proceeding,
16 or any other proceedings in which the Board of Pharmacy or other professional licensing agency
17 is involved, and shall not be admissible in any other criminal or civil proceeding.

18
19 CONTINGENCY

20 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondents
21 understand and agree that counsel for Complainant and the staff of the Board of Pharmacy may
22 communicate directly with the Board regarding this stipulation and settlement, without notice to
23 or participation by Respondents. By signing the stipulation, Respondents understand and agree
24 that they may not withdraw this agreement or seek to rescind the stipulation prior to the time the
25 Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and
26 Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for
27 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall
28 not be disqualified from further action by having considered this matter.

1 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
2 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
3 effect as the originals.

4 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
5 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
6 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
7 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
8 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
9 writing executed by an authorized representative of each of the parties.

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

12
13 **DISCIPLINARY ORDER**

14 IT IS HEREBY ORDERED that Pharmacy License No. PHY 43889, issued to Yeon Hyang
15 Kim dba Valley Pharmacy (Respondent Valley), is revoked, and Pharmacist License No. RPH
16 44940, issued to Yeon Hyang Kim (Respondent Kim), is revoked, with each revocation stayed
17 and each license placed on probation for three (3) years on the following terms and conditions.

18
19 **TERMS APPLICABLE TO BOTH RESPONDENTS**

20 **1. Obey All Laws**

21 Each Respondent shall obey all state and federal laws and regulations.

22 Each Respondent shall report any of the following occurrences to the board, in writing,
23 within seventy-two (72) hours of such occurrence:

- 24
- 25 • an arrest or issuance of a criminal complaint for violation of any provision of the
26 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
27 substances laws
 - 28 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
criminal complaint, information or indictment
 - a conviction of any crime

- discipline, citation, or other administrative action filed by any state or federal agency which involves either of Respondents' licenses or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device or controlled substance.

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

2. **Report to the Board**

Each Respondent shall report to the board quarterly, on a schedule as directed by the Board or its designee. The report shall be made either in person or in writing, as directed. Among other requirements, each Respondent shall state in each report under penalty of perjury whether there has been compliance with all the terms and conditions of probation. Failure to submit timely reports in a form as directed shall be considered a violation of probation. Any period(s) of delinquency in submission of reports as directed may be added to the total period of probation. Moreover, if the final probation report is not made as directed, probation shall be automatically extended until such time as the final report is made and accepted by the Board.

3. **Interview with the Board**

Upon receipt of reasonable prior notice, each Respondent¹ shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to Board staff, or failure to appear for two (2) or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

4. **Cooperate with Board Staff**

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

5. **Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, each Respondent shall be jointly and severally liable to pay to the Board its costs of investigation and prosecution pursuant to Business and Professions Code section 125.3, in the amount of \$3,526.00.

¹ Appearances by Respondent Valley shall be made by an owner or officer.

1 Absent prior written approval by the Board or its designee, neither Respondent Valley nor
2 Respondent Kim may successfully complete probation until this amount is paid in full. Each
3 Respondent shall be responsible for payment of the full amount and neither may claim to owe
4 only a portion or a share thereof. Respondents shall be permitted to pay these costs in a payment
5 plan approved by the Board or its designee, so long as full payment is completed no later than
6 thirty (30) months after the effective date of this decision. There shall be no deviation from this
7 schedule absent prior written approval by the Board or its designee. Failure to pay costs by the
8 deadline(s) as directed shall be considered a violation of probation.

9 The filing of bankruptcy by either or both Respondents shall not relieve either Respondent
10 of its or her responsibility to reimburse the board its costs of investigation and prosecution.

11 **6. Probation Monitoring Costs**

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

16 **7. Status of License**

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

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

24 **8. License Surrender While on Probation/Suspension**

25 Following the effective date of this decision, should either Respondent cease practice due to
26 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, that
27 Respondent may tender its or her license for surrender. The Board or its designee shall have the
28 discretion to grant the request for surrender or take any other appropriate and reasonable action.

1 Upon formal acceptance of the surrender of the license, that Respondent will no longer be
2 subject to the terms and conditions of probation. This surrender constitutes a record of discipline
3 and shall become a part of the Respondent's license history with the board.

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

9 **9. Violation of Probation**

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

15 If either Respondent violates probation in any respect, the Board, after giving Respondent
16 notice and an opportunity to be heard, may revoke probation as to that Respondent and carry out
17 the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed
18 during probation, the Board shall have continuing jurisdiction and the period of probation shall be
19 automatically extended until the petition to revoke probation or accusation is heard and decided.

20 **10. Completion of Probation**

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

23 **TERMS APPLICABLE ONLY TO RESPONDENT VALLEY**

24 **11. Notice to Employees**

25 Respondent Valley shall, on or before the effective date of this decision, ensure that all
26 employees are made aware of the terms and conditions of probation, either by posting a notice of
27 the terms and conditions, circulating such notice, or both. If the notice is posted, it shall be posted
28 in a prominent place and shall remain posted throughout the probation period.

1 Respondent shall ensure that any employees hired or used after the effective date of this
2 decision are made aware of the terms and conditions of probation by posting a notice, circulating
3 a notice, or both. Respondent shall submit written notification to the Board, within fifteen (15)
4 days of the effective date of this decision, that this term has been satisfied. Failure to timely post
5 or provide notice or submit notification to the Board shall be considered a violation of probation.

6 "Employees" as used in this provision includes all full-time, part-time, volunteer, temporary
7 and relief employees or independent contractors employed or hired at any time during probation.

8 **12. Owners and Officers: Knowledge of the Law**

9 Respondent Valley shall provide, within thirty (30) days after the effective date of this
10 decision, signed and dated statements from its owners, including any owner or holder of ten
11 percent (10%) or more of the interest in Respondent or Respondent's stock, and any officer,
12 stating under penalty of perjury that said individuals have read and are familiar with state and
13 federal laws and regulations governing the practice of pharmacy. The failure to timely provide
14 said statements under penalty of perjury shall be considered a violation of probation.

15 **13. Posted Notice of Probation**

16 Respondent Valley shall prominently post a probation notice provided by the Board in a
17 place conspicuous and readable to the public. The probation notice shall remain posted during
18 the entire period of probation.

19 Respondents shall not, directly or indirectly, engage in any conduct or make any statement
20 which is intended to mislead or is likely to have the effect of misleading any patient, customer,
21 member of the public, or other person(s) as to the nature of and reason for the probation of the
22 licensed entity. Failure to timely post such notice shall be considered a violation of probation.

23 **TERMS APPLICABLE ONLY TO RESPONDENT KIM**

24 **14. Continuing Education**

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

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28 ///

1 15. **Notice to Employers**

2 During the period of probation, Respondent Kim shall notify all present and prospective
3 employers of the decision in case number 3853 and the terms, conditions and restrictions imposed
4 on Respondent Kim by the decision, as follows:

5 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
6 Respondent Kim undertaking any new employment, Respondent Kim shall cause her direct
7 supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during
8 Respondent's tenure of employment) and owner to report to the Board in writing acknowledging
9 that the listed individual(s) has/have read the decision in case number 3853, and terms and
10 conditions imposed thereby. It shall be Respondent Kim's responsibility to ensure that her
11 employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

12 If Respondent Kim works for or is employed by or through a pharmacy employment
13 service, Respondent Kim must notify her direct supervisor, pharmacist-in-charge, and owner at
14 every entity licensed by the Board of the terms and conditions of the decision in case number
15 3853 in advance of Respondent Kim commencing work at each licensed entity. A record of this
16 notification must be provided to the Board upon request.

17 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
18 (15) days of Respondent Kim undertaking any new employment by or through a pharmacy
19 employment service, Respondent Kim shall cause her direct supervisor with the pharmacy
20 employment service to report to the Board in writing acknowledging he/she has read the decision
21 in case number 3853 and terms and conditions imposed thereby. It shall be Respondent Kim's
22 responsibility to ensure her employer(s) and supervisor(s) submit timely acknowledgment(s).

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

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

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1 **16. No Additional Ownership of Licensed Premises**

2 Respondent Kim shall not acquire any new ownership, legal or beneficial interest in, nor
3 serve as a manager, administrator, member, officer, director, trustee, associate, or partner of, any
4 additional business, firm, partnership, or corporation licensed by the board. If Respondent Kim
5 currently owns or has any legal or beneficial interest in, or serves as a manager, administrator,
6 member, officer, director, trustee, associate, or partner of, any business, firm, partnership, or
7 corporation now or hereinafter licensed by the board, Respondent may continue to serve in such
8 capacity or hold that interest, but only to the extent of that position or interest as of the effective
9 date of this decision. Violation of this restriction shall be considered a violation of probation.

10 **17. Limitations on Supervision, Being Pharmacist-in-Charge, and Consultancy**

11 During the period of probation, Respondent Kim shall not supervise any intern pharmacist,
12 be the designated representative-in-charge of any entity licensed by the Board, nor serve as a
13 consultant to any entity licensed by the Board. Assumption of any such unauthorized supervision
14 responsibilities shall be considered a violation of probation.

15 Respondent may be a pharmacist-in-charge. However, if Respondent Kim is a pharmacist-
16 in-charge during the period of probation, Respondent shall retain an independent consultant at her
17 own expense who shall be responsible for reviewing pharmacy operations on a quarterly basis for
18 compliance with state and federal laws and regulations governing the practice of pharmacy and
19 for compliance with the obligations of a pharmacist-in-charge. The consultant shall be a
20 pharmacist licensed by and not on probation with the Board and whose name shall be submitted
21 to the Board or its designee, for prior approval, within thirty (30) days of the effective date of this
22 decision. Respondent shall not be a pharmacist-in-charge at more than one pharmacy or at any
23 pharmacy of which he is not an owner (10% or more). Failure to timely retain, seek approval of,
24 or ensure timely reporting by the consultant shall be considered a violation of probation.

25 **18. Notification of a Change in Employment, Name, Address(es), or Phone(s)**

26 Respondent Kim shall notify the board in writing within ten (10) days of any change of
27 employment. Said notification shall include the reasons for leaving, the address of the new
28 employer, the name of the supervisor and owner, and the work schedule if known.

1 Respondent Kim shall further notify the board in writing within ten (10) days of a change in
2 name, residence address, mailing address, or phone number.

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

5 **19. Tolling of Probation**

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

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

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

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

25 **20. Community Service Program**

26 Within sixty (60) days of the effective date of this decision, Respondent Kim shall submit
27 to the Board or its designee, for prior approval, a community service program in which she shall
28 provide free health-care related services on a regular basis to a community or charitable facility or
agency for a total of fifty (50) hours per year for the first two (2) years of probation, for a total of
one hundred (100) hours to be completed by the conclusion of the second year of probation.

1 Within thirty (30) days of approval thereof by the Board or its designee, Respondent Kim
2 shall submit documentation to the Board demonstrating commencement of the community service
3 program. Respondent Kim shall timely report on progress with the approved community service
4 program in the quarterly reports. Failure to timely submit, commence, report on, or comply with
5 the community service program shall be considered a violation of probation.

6 **21. Remedial Education**

7 Within ninety (90) days of the effective date of this decision, Respondent Kim shall submit
8 to the Board or its designee, for prior approval, an appropriate program of remedial education
9 related to self-assessments, handling of expired drugs, pharmacy record-keeping, and CURES
10 reporting. The program of remedial education shall consist of at least fifteen (15) hours per year
11 for each year of probation, which shall be completed at Respondent Kim's expense. All remedial
12 education shall be in addition to, and shall not be credited toward, continuing education (CE)
13 courses used for license renewal purposes.

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

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

23 **22. Complete Quarterly Self-Assessment**

24 Each quarter of probation, Respondent Kim shall complete a pharmacy self-assessment for
25 Valley Pharmacy. Each such completed self-assessment shall be submitted to the Board with the
26 quarterly reports submitted by Respondents, and a copy shall be retained in the pharmacy records
27 and be produced upon request by the Board or its designee. Failure to timely complete or submit,
28 or to retain, any quarterly self-assessment, shall be considered a violation of probation.

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23. **Ethics Course**

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

Respondent shall submit a certificate of completion to the Board or its designee within five (5) days after completing the course.

ACCEPTANCE

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacy 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: 8/15/2011 *Yeonhyang Kim*
YEON HYANG KIM DBA VALLEY PHARMACY
Respondent

I have carefully read the Stipulated Settlement and Disciplinary Order. 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: 8/15/2011 *Yeonhyang Kim*
YEON HYANG KIM
Respondent

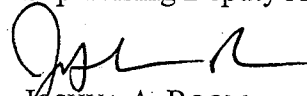
ENDORSEMENT

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

Dated: 8/24/2011

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General



JOSHUA A. ROOM
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 3853

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JOSHUA A. ROOM
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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. 3853

11 **VALLEY PHARMACY**
12 **1082 E. El Camino Real, # 2**
13 **Sunnyvale, CA 94087**
Pharmacy License No. PHY 43889

ACCUSATION

14 **and**

15 **YEON HYANG KIM**
16 **7740 Obsidian Court**
Cupertino, CA 95014
17 **Pharmacist License No. RPH 44940**

18 Respondents.

19 Complainant alleges:

20 **PARTIES**

- 21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 23 2. On or about October 23, 1998, the Board of Pharmacy issued Pharmacy License No.
24 PHY 43889 to Yeon Hyang Kim dba Valley Pharmacy (Respondent Valley). The records of the
25 Board of Pharmacy show that Yeon Hyang Kim is and has been the Individual Licensed Owner
26 of Respondent Valley since on or about October 23, 1998, and has also served as Pharmacist in
27 Charge since on or about that date. The License was in full force and effect at all times relevant
28 to the charges brought herein and will expire on October 1, 2011, unless renewed.

1 3. On or about October 18, 1991, the Board of Pharmacy issued Pharmacist License No.
2 RPH 44940 to Yeon Hyang Kim (Respondent Kim). The License was in full force and effect at
3 all times relevant to the charges brought herein and will expire on June 30, 2011, unless renewed.

4 JURISDICTION

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

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

11 6. Section 4300(a) of the Code provides that every license issued by the Board may be
12 suspended or revoked.

13 7. Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,
14 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
15 disciplinary action during the period within which the license may be renewed, restored, reissued
16 or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not
17 renewed within three years following its expiration may not be renewed, restored, or reinstated
18 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of
19 the Code provides that any other license issued by the Board may be canceled by the Board if not
20 renewed within 60 days after its expiration, and any license canceled in this fashion may not be
21 reissued but will instead require a new application to seek reissuance.

22 STATUTORY AND REGULATORY PROVISIONS

23 8. Section 4301 of the Code provides, in pertinent part, that the Board shall take action
24 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but
25 not be limited to, any of the following:

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

28 ///

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
2 violation of or conspiring to violate any provision or term of this chapter or of the applicable
3 federal and state laws and regulations governing pharmacy, including regulations established by
4 the board or by any other state or federal regulatory agency.

5 9. Section 4113, subdivision (b) of the Code states:

6 “The pharmacist-in-charge shall be responsible for a pharmacy's compliance with all state
7 and federal laws and regulations pertaining to the practice of pharmacy.”

8 10. Section 4169, subdivision (a)(4) of the Code provides, in pertinent part, that a person
9 or entity may not purchase, trade, sell, or transfer dangerous drugs or dangerous devices after the
10 beyond use date [also known as expiration date] on the label.

11 11. Section 4342, subdivision (a) of the Code provides, in pertinent part, that the Board of
12 Pharmacy may exercise its discretion to institute any action provided by law that is necessary to
13 prevent the sale of pharmaceutical preparations and drugs that do not conform to the standard and
14 tests as to quality and strength, provided in the latest edition of the United States Pharmacopoeia
15 or the National Formulary, or that violate any provision of the Sherman Food, Drug and Cosmetic
16 Law (Part 5 [commencing with section 109875] of Division 104 of the Health and Safety Code).

17 12. California Code of Regulations, title 16, section 1714, subdivision (b) provides that
18 each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment
19 so that drugs are safely and properly prepared, maintained, secured and distributed.

20 13. California Code of Regulations, title 16, section 1715, subdivision (a) requires that
21 the pharmacist-in-charge of each pharmacy shall complete a self-assessment of the pharmacy's
22 compliance with federal and state pharmacy law before July 1 of every odd-numbered year, and
23 subdivision (d) requires that each self-assessment shall be kept for three years after completion.

24 14. California Code of Regulations, title 16, section 1716.2, subdivision (a) provides that
25 where a pharmacy compounds for future furnishing upon receipt of a prescription, the pharmacy
26 shall maintain records that include, but are not limited to: the date of preparation; lot numbers;
27 the expiration date of the finished product; the signature or initials of the pharmacist performing
28 the compounding; a formula for the compounded product; and other pertinent information.

1 15. Health and Safety Code section 11165 provides, in pertinent part, for establishment
2 and maintenance of a Controlled Substance Utilization Review and Evaluation System (CURES)
3 for the electronic monitoring of prescribing and dispensing of Schedule II, III, and IV controlled
4 substances, and requires, in pertinent part, that for each prescription for a Schedule II, III, or IV
5 controlled substance, the dispensing pharmacy or clinic transmit a report with certain information
6 on the patient, prescriber, controlled substance, and prescription, to the California Department of
7 Justice, on a weekly basis in a format prescribed by the California Department of Justice.¹

8 16. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licensee found to have committed a violation of the licensing
10 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

11 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

12 17. Section 4021 of the Code states:

13 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section
14 11053) of Division 10 of the Health and Safety Code.”

15 18. Section 4022 of the Code states, in pertinent part:

16 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,
17 except veterinary drugs that are labeled as such, and includes the following:

18 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without
19 prescription,’ ‘Rx only,’ or words of similar import.

20 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on
21 prescription or furnished pursuant to Section 4006.”

22 19. **Procardia** is a brand name for **nifedipine**, a dangerous drug as designated by
23 Business and Professions Code section 4022. It is a drug used to treat hypertension.

24 20. **Paxil** is a brand name for **paroxetine**, a dangerous drug as designated by Business
25 and Professions Code section 4022. It is a drug used to treat depression.

26
27 ¹ Health and Safety Code section 11165 was first amended to impose CURES reporting
28 requirements effective January 1, 2005. As of that date prescriptions for Schedule II and III drugs
had to be reported. Effective January 1, 2007, Schedule IV prescriptions also had to be reported.

1 FACTUAL BACKGROUND

2 21. On or about October 15, 2003, Respondent Valley was the subject of an inspection by
3 Board Inspector(s). Respondent Kim participated in that inspection as pharmacist-in-charge. The
4 inspection revealed deficiencies that were discussed with Respondent Kim, including that:

- 5 a. No pharmacy self-assessment had been completed and/or retained in pharmacy files;
- 6 b. Numerous expired medications were found in the pharmacy's active inventory; and
- 7 c. The pharmacy had pre-packaged liquids and tablets in unlabeled containers without
8 any record of drugs pre-packaged for future use, expiration date(s), etc.

9 22. On or about September 26, 2006, Respondent Valley was the subject of an inspection
10 by Board Inspector(s). Respondent Kim participated in that inspection as pharmacist-in-charge.
11 The inspection revealed deficiencies that were discussed with Respondent Kim, including that:

- 12 a. The pharmacy self-assessment in the pharmacy records was dated October 16, 2003,
13 and was more than two years old – the self-assessment due by July 1, 2005 was not performed;
- 14 b. Numerous expired medications were found in the pharmacy's active inventory; and
- 15 c. The pharmacy had failed to transmit any data to CURES for Schedule III controlled
16 substance prescriptions that had been filled on various dates in 2006.

17 23. On or about June 25, 2010, Respondent Valley was again the subject of an inspection
18 by Board Inspector(s). Respondent Kim participated in that inspection as pharmacist-in-charge.
19 The inspection revealed deficiencies that were discussed with Respondent Kim, including that:

- 20 a. The pharmacy self-assessment in the pharmacy records was dated June 30, 2007, and
21 was more than two years old – the self-assessment due by July 1, 2009 was not performed;
- 22 b. Numerous expired medications were found in the pharmacy's active inventory;
- 23 c. On at least three occasions the pharmacy dispensed medications to patients on dates
24 that were beyond the expiration/beyond use dates on the medication labels – **Nifedipine** ER 90mg
25 tablets with a labeled expiration date of January 1, 2010 were dispensed to a patient on or about
26 May 4, 2010, and **Paroxetine** 10mg tablets with a labeled expiration date of November 30, 2009
27 were dispensed to a patient on or about January 12, 2010 and/or February 18, 2010;

28 ///

1 d. The pharmacy had pre-packaged liquids and tablets in unlabeled containers without
2 any record of drugs pre-packaged for future use, expiration date(s), etc.; and

3 e. The pharmacy had not transmitted any dispensing data to CURES for Schedule III
4 and IV controlled substances that were dispensed between January 1, 2009 and June 25, 2010.

5 **CAUSES FOR DISCIPLINE, AS TO BOTH RESPONDENTS**

6 FIRST CAUSE FOR DISCIPLINE

7 (Failure to Complete Timely Pharmacy Self-Assessment)

8 24. Respondent Valley and Respondent Kim are each and severally subject to discipline
9 under section(s) 4301, 4301(j), 4301(o), and/or 4113(b) of the Code, and/or California Code of
10 Regulations, title 16, section 1715(a), in that as described in paragraph 23 above, in the period
11 prior to June 25, 2010, Respondent(s) failed to complete a timely pharmacy self-assessment.

12 SECOND CAUSE FOR DISCIPLINE

13 (Expired Drugs in Active Inventory)

14 25. Respondent Valley and Respondent Kim are each and severally subject to discipline
15 under section(s) 4301, 4301(j), 4301(o), 4113(b), and/or 4342 of the Code, and/or California
16 Code of Regulations, title 16, section 1714(b), in that as described in paragraph 23 above, in the
17 period prior to June 25, 2010, expired medications were commingled with the active inventory.

18 THIRD CAUSE FOR DISCIPLINE

19 (Dispensing Expired Drugs to Patients)

20 26. Respondent Valley and Respondent Kim are each and severally subject to discipline
21 under section(s) 4301, 4301(j), 4301(o), and/or 4169(a)(4) of the Code, in that as described in
22 paragraph 23 above, on at least three occasions the pharmacy dispensed medications to patients
23 on dates that were beyond the expiration/beyond use dates on the medication labels.

24 FOURTH CAUSE FOR DISCIPLINE

25 (Failure to Keep Records of Unlabeled Pre-Packaged Drugs)

26 27. Respondent Valley and Respondent Kim are each and severally subject to discipline
27 under section(s) 4301, 4301(j), 4301(o), and/or 4113(b) of the Code, and/or California Code of
28 Regulations, title 16, section 1716.2(a), in that as described in paragraph 23 above, in the period

1 prior to June 25, 2010 Respondent(s) compounded and/or pre-packaged medications for future
2 furnishing without keeping records of such activities, including expiration date(s), etc.

3 FIFTH CAUSE FOR DISCIPLINE

4 (Failure to Report Controlled Substance Prescriptions to CURES)

5 28. Respondent Valley and Respondent Kim are each and severally subject to discipline
6 under section(s) 4301, 4301(j), 4301(o), and/or 4113(b) of the Code, and/or Health and Safety
7 Code section 11165, in that as described in paragraph 23 above, in the period prior to June 25,
8 2010, the pharmacy had not transmitted any dispensing data to CURES for Schedule III and IV
9 controlled substances that were dispensed between January 1, 2009 and June 25, 2010.

10
11 PRAYER

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

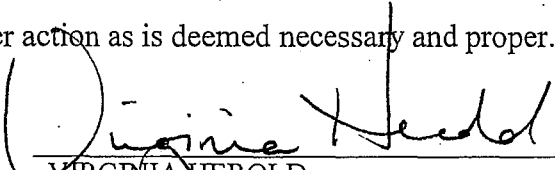
14 1. Revoking or suspending Pharmacy License No. PHY 43889, issued to Yeon Hyang
15 Kim dba Valley Pharmacy (Respondent Valley);

16 2. Revoking or suspending Pharmacist License No. RPH 44940, issued to Yeon Hyang
17 Kim (Respondent Kim);

18 3. Ordering Respondent Valley and Respondent Kim (Respondents) to be jointly and
19 severally responsible to pay the Board of Pharmacy the reasonable costs of the investigation and
20 enforcement of this case, pursuant to Business and Professions Code section 125.3;

21 4. Taking such other and further action as is deemed necessary and proper.

22 DATED: 3/4/11

23 
24 VIRGINIA HEROLD
25 Executive Officer
26 Board of Pharmacy
27 Department of Consumer Affairs
28 State of California
Complainant

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