

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

In the Matter of the Accusation Against:

**V & P PHARMACY  
4502 University Avenue, Suite 100  
San Diego, CA 92105**

**Pharmacy Permit No. PHY 50261**

**and**

**CHAU TRUNG VO  
11859 Trail Crest Drive  
San Diego, CA 92131**

**Pharmacist License No. RPH 55532**

Respondents.

Case No. 5040

OAH No. 2014060212

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER AS TO  
CHAU TRUNG VO ONLY**

**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 March 11, 2016.

It is so ORDERED on February 10, 2016.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 MARICHELLE S. TAHIMIC  
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8

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Case No. 5040

OAH No. 2014060212

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER AS TO CHAU  
TRUNG VO ONLY**

21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
22 entitled proceedings that the following matters are true:

23 PARTIES

24 1. Virginia Herold ("Complainant") is the Executive Officer of the Board of Pharmacy.  
25 She brought this action solely in her official capacity and is represented in this matter by Kamala  
26 D. Harris, Attorney General of the State of California, by Marichelle S. Tahimic, Deputy  
27 Attorney General.  
28





1 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary  
2 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
3 writing executed by an authorized representative of each of the parties.

4 ~~16. In consideration of the foregoing admissions and stipulations, the parties agree that~~  
5 the Board may, without further notice or formal proceeding, issue and enter the following  
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 IT IS HEREBY ORDERED that Pharmacist License No. RPH 55532 issued to Respondent  
9 Chau Trung Vo (Respondent) is revoked. However, the revocation is stayed and Respondent is  
10 placed on probation for five (5) years on the following terms and conditions.

11 **1. Obey All Laws**

12 Respondent shall obey all state and federal laws and regulations.

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

- 15 • an arrest or issuance of a criminal complaint for violation of any provision of the  
16 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
17 substances laws
- 18 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
19 criminal complaint, information or indictment
- 20 • a conviction of any crime
- 21 • discipline, citation, or other administrative action filed by any state or federal agency  
22 which involves respondent's pharmacist license or which is related to the practice of  
23 pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging  
24 for any drug, device or controlled substance.

25 Failure to timely report such occurrence shall be considered a violation of probation.

26 **2. Report to the Board**

27 Respondent shall report to the board quarterly, on a schedule as directed by the board or its  
28 designee. The report shall be made either in person or in writing, as directed. Among other

1 requirements, respondent shall state in each report under penalty of perjury whether there has  
2 been compliance with all the terms and conditions of probation. Failure to submit timely reports  
3 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency  
4 in submission of reports as directed may be added to the total period of probation. Moreover, if  
5 the final probation report is not made as directed, probation shall be automatically extended until  
6 such time as the final report is made and accepted by the board.

7 **3. Interview with the Board**

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

13 **4. Cooperate with Board Staff**

14 Respondent shall cooperate with the board's inspection program and with the board's  
15 monitoring and investigation of respondent's compliance with the terms and conditions of their  
16 probation. Failure to cooperate shall be considered a violation of probation.

17 **5. Continuing Education**

18 Respondent shall provide evidence of efforts to maintain skill and knowledge as a  
19 pharmacist as directed by the board or its designee.

20 **6. Notice to Employers**

21 During the period of probation, respondent shall notify all present and prospective  
22 employers of the decision in case number 5040 and the terms, conditions and restrictions imposed  
23 on respondent by the decision, as follows:

24 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
25 respondent undertaking any new employment, respondent shall cause their direct supervisor,  
26 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's  
27 tenure of employment) and owner to report to the board in writing acknowledging that the listed  
28 individual(s) has/have read the decision in case number 5040, and terms and conditions imposed

1 thereby. It shall be respondent's responsibility to ensure that their employer(s) and/or  
2 supervisor(s) submit timely acknowledgment(s) to the board.

3 If respondent works for or is employed by or through a pharmacy employment service,  
4 respondent must notify their direct supervisor, pharmacist-in-charge, and owner at every entity  
5 licensed by the board of the terms and conditions of the decision in case number 5040 in advance  
6 of the respondent commencing work at each licensed entity. A record of this notification must be  
7 provided to the board upon request.

8 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
9 (15) days of respondent undertaking any new employment by or through a pharmacy employment  
10 service, respondent shall cause their direct supervisor with the pharmacy employment service to  
11 report to the board in writing acknowledging that they has read the decision in case number 5040  
12 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure  
13 that their employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

14 Failure to timely notify present or prospective employer(s) or to cause that/those  
15 employer(s) to submit timely acknowledgments to the board shall be considered a violation of  
16 probation.

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

21 **7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as**  
22 **Designated Representative-in-Charge, or Serving as a Consultant**

23 During the period of probation, respondent shall not supervise any intern pharmacist, be the  
24 pharmacist-in-charge or designated representative-in-charge of any entity licensed by the board,  
25 nor serve as a consultant unless otherwise specified in this order. Assumption of any such  
26 unauthorized supervision responsibilities shall be considered a violation of probation.

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1           **8. Reimbursement of Board Costs**

2           As a condition precedent to successful completion of probation, Respondent Chau Trung  
3 Vo, and Respondent V&P Pharmacy, shall, jointly and severally, pay to the board its costs of  
4 investigation and prosecution in the amount of \$26,397.50. Respondent shall pay said costs  
5 within ninety (90) days of the effective date of this decision.

6           There shall be no deviation from this schedule absent prior written approval by the board or  
7 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of  
8 probation.

9           The filing of bankruptcy by respondent shall not relieve respondent of their responsibility to  
10 reimburse the board its costs of investigation and prosecution.

11           **9. Probation Monitoring Costs**

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

16           **10. Status of License**

17           Respondent shall, at all times while on probation, maintain an active, current license with  
18 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 respondent's license expires or is cancelled by operation of law or otherwise at any time  
21 during the period of probation, including any extensions thereof due to tolling or otherwise, upon  
22 renewal or reapplication respondent's license shall be subject to all terms and conditions of this  
23 probation not previously satisfied.

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

25           Following the effective date of this decision, should respondent cease practice due to  
26 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
27 respondent may tender their license to the board for surrender. The board or its designee shall  
28 have the discretion whether to grant the request for surrender or take any other action it deems



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

4 ~~Upon acceptance of the surrender, respondent shall relinquish their pocket and wall license~~  
5 ~~to the board within ten (10) days of notification by the board that 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 the application for that license is submitted to the board, including any outstanding  
9 costs.

10 **12. Notification of a Change in Name, Residence Address, Mailing Address or**  
11 **Employment**

12 Respondent shall notify the board in writing within ten (10) days of any change of  
13 employment. Said notification shall include the reasons for leaving, the address of the new  
14 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
15 shall further notify the board in writing within ten (10) days of a change in name, residence  
16 address, mailing address, or phone number.

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

19 **13. Tolling of Probation**

20 Except during periods of suspension, respondent shall, at all times while on probation, be  
21 employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any  
22 month during which this minimum is not met shall toll the period of probation, i.e., the period of  
23 probation shall be extended by one month for each month during which this minimum is not met.  
24 During any such period of tolling of probation, respondent must nonetheless comply with all  
25 terms and conditions of probation.

26 Should respondent, regardless of residency, for any reason (including vacation) cease  
27 practicing as a pharmacist for a minimum of 40 hours per calendar month in California,  
28 respondent must notify the board in writing within ten (10) days of the cessation of practice, and

1 must further notify the board in writing within ten (10) days of the resumption of practice. Any  
2 failure to provide such notification(s) shall be considered a violation of probation.

3 It is a violation of probation for respondent's probation to remain tolled pursuant to the  
4 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
5 exceeding thirty-six (36) months.

6 "Cessation of practice" means any calendar month during which respondent is  
7 not practicing as a pharmacist for at least 40 hours, as defined by Business and  
8 Professions Code section 4000 et seq. "Resumption of practice" means any calendar  
9 month during which respondent is practicing as a pharmacist for at least 40 hours as a  
10 pharmacist as defined by Business and Professions Code section 4000 et seq.

11 **14. Violation of Probation**

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

17 If respondent violates probation in any respect, the board, after giving respondent notice  
18 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
19 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a  
20 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If  
21 a petition to revoke probation or an accusation is filed against respondent during probation, the  
22 board shall have continuing jurisdiction and the period of probation shall be automatically  
23 extended until the petition to revoke probation or accusation is heard and decided.

24 If respondent violates probation in any respect, all of the charges and allegations contained  
25 in Accusation No. 5040 shall be deemed to be true, correct and admitted by respondent.

26 **15. Completion of Probation**

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

1           **16. Remedial Education**

2           Within sixty (60) days of the effective date of this decision, respondent shall submit to the  
3 board or its designee, for prior approval, an appropriate program of remedial education related to  
4 corresponding responsibility and prescription drug abuse. Respondent shall complete a program  
5 of remedial education consisting of at least 30 hours over the first three years of probation, at  
6 respondent's own expense, as follows: 10 hours per year for each of the first three years of  
7 probation, 50 percent of which shall be an in-person program. The minimum hourly requirement  
8 for remedial education may not be accelerated. All remedial education shall be in addition to, and  
9 shall not be credited toward, continuing education (CE) courses used for license renewal  
10 purposes.

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

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

20           **17. Supervised Practice**

21           During the period of probation, respondent shall practice only under the supervision of a  
22 licensed pharmacist not on probation with the board. Upon and after the effective date of this  
23 decision, respondent shall not practice pharmacy and their license shall be automatically  
24 suspended until a supervisor is approved by the board or its designee. The Board or its designee  
25 will review the proposed supervisor(s) for approval within five (5) days of receipt of the proposed  
26 supervisor(s) and will advise Respondent if the proposed supervisor(s) are accepted or denied  
27 within five (5) days of receipt. Approval will not be unreasonably withheld.

28           ///

1 The supervision shall be:

2 Substantial - At least 38% per month while working for Walgreens Store #13161 only. If  
3 Respondent changes employment, or if Respondent violates the terms of probation in any way,  
4 the Board or its designee may increase the level of supervision as it deems appropriate.

5 Within thirty (30) days of the effective date of this decision, respondent shall have their  
6 supervisor(s) submit notification to the board in writing stating that the supervisor(s) have read  
7 the decision in Accusation case number 5040 and is familiar with the required level of  
8 supervision as determined by the board or its designee. It shall be the respondent's responsibility  
9 to ensure that their employer(s), pharmacist-in-charge and/or supervisor(s) submit timely  
10 acknowledgement(s) to the board. Failure to cause the direct supervisor and the pharmacist-in-  
11 charge to submit timely acknowledgements to the board shall be considered a violation of  
12 probation.

13 If respondent changes employment, it shall be the respondent's responsibility to ensure that  
14 their employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s)  
15 to the board. Respondent shall have their new supervisor, within fifteen (15) days after  
16 employment commences, submit notification to the board in writing stating the direct supervisor  
17 and pharmacist-in-charge have read the decision in case number 5040 and is familiar with the  
18 level of supervision as determined by the board. Respondent shall not practice pharmacy and  
19 their license shall be automatically suspended until the board or its designee approves a new  
20 supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely  
21 acknowledgements to the board shall be considered a violation of probation.

22 Within ten (10) days of leaving employment, respondent shall notify the board in writing.

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

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

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

7 Subject to the above restrictions, respondent may continue to own or hold an interest in any  
8 licensed premises in which they holds an interest at the time this decision becomes effective  
9 unless otherwise specified in this order.

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

11 **18. No Ownership of Licensed Premises**

12 Respondent shall not own, have any legal or beneficial interest in, or serve as a manager,  
13 administrator, member, officer, director, trustee, associate, or partner of any business, firm,  
14 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell  
15 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)  
16 days following the effective date of this decision and shall immediately thereafter provide written  
17 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide  
18 documentation thereof shall be considered a violation of probation.

19 **19. Ethics Course**

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

24 Respondent shall submit a certificate of completion to the board or its designee within five  
25 days after completing the course.

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ACCEPTANCE


I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Howard F. Burns. I understand the stipulation and the effect it will have on my Pharmacy Permit, and 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: 10/20/2015

  
\_\_\_\_\_  
CHAU TRUNG VO  
Respondent

I have read and fully discussed with Respondent Chau Trung Vo the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 10/22/15

  
\_\_\_\_\_  
HOWARD F. BURNS  
Attorney for Respondent

ENDORSEMENT

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

Dated:

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General

MARICHELLE S. TAHIMIC  
Deputy Attorney General  
*Attorneys for Complainant*

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DATED: \_\_\_\_\_  
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DATED: \_\_\_\_\_  
HOWARD F. BURNS  
Attorney for Respondent

ENDORSEMENT

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

Dated: *Oct. 23, 2015*

Respectfully submitted,  
KAMALA D. HARRIS  
Attorney General of California  
JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
*Marichelle S. Tahmic*  
MARICHELE S. TAHMIC  
Deputy Attorney General  
Attorneys for Complainant

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**Exhibit A**  
**Accusation No. 5040**



1 KAMALA D. HARRIS  
Attorney General of California  
2 JAMES M. LEDAKIS  
Supervising Deputy Attorney General  
3 MARICHELLE S. TAHMIMIC  
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*Attorneys for Complainant*  
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**A C C U S A T I O N**

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and

**CHAU TRUNG VO**  
11859 Trail Crest Drive  
San Diego, CA 92131

Pharmacist License No. RPH 55532

Respondents.

Complainant alleges:

**PARTIES .**

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

2. On or about April 21, 2010, the Board of Pharmacy issued Original Pharmacy Permit Number PHY 50261 to V&P Pharmacy, Chau Trung Vo, owner (Respondents). The Pharmacy Permit was cancelled on September 23, 2013, pursuant to a Discontinuance of Business and has not been renewed.





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11. Section 4081 of the Code states:

(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

(b) The owner, officer, and partner of a pharmacy, wholesaler, or veterinary food-animal drug retailer shall be jointly responsible, with the pharmacist-in-charge or designated representative-in-charge, for maintaining the records and inventory described in this section.

.....

12. Section 4160, subdivision (a) of the Code states, "A person may not act as a wholesaler of any dangerous drug or dangerous device unless he or she has obtained a license from the board."

13. Title 16, California Code of Regulations, section 1714 states in part:

...

(b) Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice of pharmacy.

...

(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of dangerous drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist....

14. Title 16, California Code of Regulations, section 1716 states in part:

Pharmacists shall not deviate from the requirements of a prescription except upon the prior consent of the prescriber or to select the drug product in accordance with Section 4073 of the Business and Professions Code.

Nothing in this regulation is intended to prohibit a pharmacist from exercising commonly-accepted pharmaceutical practice in the compounding or dispensing of a prescription.

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15. Title 16, California Code of Regulations, section 1718 states:

"Current Inventory" as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.

The controlled substances inventories required by Title 21, CFR, Section 1304 shall be available for inspection upon request for at least 3 years after the date of the inventory.

16. Section 11153 of the Healthy and Safety Code provides in part:

(a) 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....

**COST RECOVERY**

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

**DRUGS**

18. Carisoprodol, sold under the brand name Soma, is a dangerous drug pursuant to Business and Professions Code section 4022. It is a muscle relaxer.

19. Hydrocodone with acetaminophen, sold under brand names including Lorcet, Lortab, Vicodin and Norco, is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (e), and a dangerous drug pursuant to Business and Professions Code section 4022. It is used to alleviate pain.

20. Oxycodone, sold under various brand names including Oxycontin and Roxicodone, is a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision

1 (b), and a dangerous drug pursuant to Business and Professions Code section 4022. It is used to  
2 alleviate pain.

3 21. Promethazine with codeine, sold under brand name Phenergan with codeine, is a  
4 Schedule V-controlled substance pursuant to Health and Safety Code section 11058, and a  
5 dangerous drug pursuant to Business and Professions Code section 4022. It is used for the  
6 temporary relief of coughs and symptoms associated with allergy or the common cold.

#### 7 FACTS

8 22. On January 15, 2013, inspectors from the Board of Pharmacy and the Department of  
9 Health Care Services conducted an inspection of Respondent pharmacy. During the inspection,  
10 multiple unlabeled bottles of random tablets were found. The medications had been taken back  
11 from the community and held by Respondents until "a prescription drug take back day." The  
12 bottles were not labeled and were not sequestered in an area marked for destruction, although they  
13 were not among the normal drug stock. Bottles of labeled medications were discovered in a  
14 different drawer. According to Respondent, the patient had returned these bottles of medication.  
15 These bottles were not in a designated area marked for destruction but were not among the normal  
16 drug stock.

17 23. Inspectors also observed medications that had been taken from the stock bottles and  
18 prepackaged in smaller prescription vials. The vials were not labeled but were arranged in front of  
19 the stock bottle. All of these prepackaged medications were for controlled substances, specifically  
20 hydrocodone/apap of various strengths (10/325 mg, 5/500 mg, 7.5/750 mg), alprazolam 2mg and  
21 carisoprodol 350 mg. The fact these medications were prepackaged indicated they were the most  
22 frequently dispensed medications by Respondent.

23 24. A survey of the pharmacy drug stock showed that promethazine with codeine  
24 manufactured by Actavis was placed on a shelf closer to the filling station of the pharmacy, while  
25 promethazine with codeine by other manufacturers were located among the other syrups.  
26 Respondent Vo explained that the Actavis brand of promethazine with codeine was located closer  
27 to the filling station because it was used more frequently. The Actavis brand of promethazine with  
28 codeine is also known to be popular among recreational drug users and diverters.

1 25. An audit revealed a shortage of 5674 tablets of hydrocodone/acetaminophen 10/325  
2 mg and a shortage of 11,531 ml, or 24.37 pints, of promethazine with codeine syrup between July  
3 26, 2011 and January 15, 2013. Respondents could not account for these shortages.

4 26. From January 1, 2013 to March 8, 2013, Respondent dispensed the most  
5 promethazine with codeine and guaifenesin with codeine in San Diego County:

6 Pharmacy	Total RXs filled	Total Quantity (ml)	Total Quantity (pints)
7 V&P	503	129,325	273
8 Viet Pharmacy and 9 Medical Supply	289	74,861	158
10 CVS #9138	376	71,727	151
11 CVS #9177	368	68,978	145
CVS #9479	338	61,300	129
CVS #9111	312	56,221	118

12 27. In terms of milliliters, Respondent dispensed 72% more promethazine with codeine  
13 and guaifenesin with codeine than the next highest dispenser of these drugs.

14 28. When the audit of promethazine with codeine and guaifenesin with codeine was  
15 expanded to include the previous year, January 1, 2012 to December 31, 2012, Respondent  
16 dispensed 200% more promethazine with codeine and guaifenesin with codeine (in milliliters) than  
17 the next highest dispenser of these drugs.

18 29. In or about March 2013, the Drug Enforcement Agency (hereinafter "DEA") actively  
19 investigated Respondent pharmacy relating to the unlawful distribution of promethazine with  
20 codeine. Respondent's involvement came to light when unlawful users flaunted bottles of  
21 promethazine with codeine bearing Respondent's prescription label on the Internet.

22 30. Between March 11, 2013 and April 9, 2013, Respondent sold its pharmacy files to  
23 another pharmacy. On May 13, 2013, the Board was advised that Respondent discontinued  
24 business on April 9, 2013. On or about April 30, 2013, Respondent Vo agreed to surrender his  
25 controlled substances privileges with the DEA.

26 31. A review of CURES (Controlled Substance Utilization Review and Evaluation  
27 System) reports and a sampling of Respondent's prescriptions and patient profiles from the period  
28 January 1, 2009 through June 7, 2013, revealed the following:

1 a. Prescription number 34088C5 for Phenergan with codeine (a brand name for  
 2 promethazine with codeine) was written with the directions "i t po q 6 8," which means "2  
 3 teaspoonfuls by mouth every 6 to 8 hours" but was filled and dispensed with the erroneous  
 4 directions of "take 1 to 2 teaspoonful by mouth every 6 to 8 hours as needed for pain, fever."

5 b. Pearleen A. - This patient regularly purchased promethazine with codeine from March  
 6 1, 2011 to March 23, 2013. According to the product insert, an unresponsive cough needs to be  
 7 re-evaluated in 5 days or sooner. This patient was not taking long acting medications indicative of  
 8 an underlying chronic respiratory tract disease, although she filled prescriptions for short acting  
 9 bronchodilators intermittently. The following excerpt shows this patient's history in obtaining  
 10 promethazine with codeine from March 1, 2011 to February 9, 2011:

11 Pharmacy	RX #	Drug	Quantity	Date filled	Comments
12 V&P	13155	Promethazine with codeine 480 ml	24 day supply	3/1/2011	
13	13155	Promethazine with codeine 480 ml	24 day supply	3/18/2011	Refilled too soon.
14	15081	Promethazine with codeine 480 ml	24 day supply	4/7/2011	
15	15081	Promethazine with codeine 480 ml	24 day supply	4/22/2011	Refilled too soon. Payment method changed from insurance to cash.
16	15081	Promethazine with codeine 480 ml	24 day supply	5/9/2011	Refilled too soon.
17	19201	Promethazine with codeine 480 ml	24 day supply	7/19/2011	
18	19201	Promethazine with codeine 480 ml	24 day supply	8/6/2011	Refilled too soon. Payment method changed from insurance to cash.
19	22626	Promethazine with codeine 480 ml	24 day supply	1/24/2012	
20	32905	Promethazine with codeine 480 ml	12 day supply	2/9/12	Refilled too soon. Payment method changed from insurance to cash. Written directions by prescriber of 2 teaspoonfuls (10
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					ml) four times a day exceeded maximum recommended dosage per product insert.
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c. Jacqueline G. – Between May 9, 2011 and May 30, 2013, this patient used 16 different prescribers and six different pharmacies to obtain controlled substances. The following excerpt shows this patient’s history in obtaining early refills of promethazine with codeine, hydrocodone/acetaminophen and carisoprodol from October 15, 2010 to July 27, 2012:

Pharmacy	RX #	Drug	Quantity	Date filed	Comments
V&P	5741	Promethazine with codeine 240 ml	48 day supply	10/15/2010	
V&P	2820	Promethazine with codeine 480 ml	12 day supply	10/16/2010	Refilled too soon.
Mercy Care Pharmacy		Promethazine with codeine 480 ml	20 day supply	6/7/2011	
V&P	18530	Promethazine with codeine 240 ml	6 day supply	6/17/2011	Refilled too soon.
Viet Medical Supply		Hydrocodone/ Acetaminophen 10/325 #90	30 day supply	9/19/2011	
V&P	24356	Hydrocodone/ Acetaminophen 10/325 #90	30 day supply	9/27/2011	Refilled too soon. This was a telephone transfer from Viet Medical Supply.
Viet Medical Supply		Hydrocodone/ Acetaminophen 10/325 #90	23 day supply	1/12/2012	
V&P	30780	Hydrocodone/ Acetaminophen 10/325 #90	22 day supply	1/24/2012	Refilled too soon.
Viet Medical Supply		Hydrocodone/ Acetaminophen 10/325 #90	30 day supply	1/27/2012	
V&P	33215	Hydrocodone/ Acetaminophen 10/325 #90	30 day supply	2/14/2012	Refilled too soon.
CVS #9121		Hydrocodone/	30 day	3/29/2012	

1			Acetaminophen 10/325 #9	supply		
2	V&P	33215	Hydrocodone/ Acetaminophen 10/325 #90	30 day supply	4/3/2012	Refilled too soon.
3						
4	CVS #9121		Carisoprodol 350 mg #60	30 day supply	3/30/2012	
5	Viet Medical Supply		Carisoprodol 350 mg #60	30 day supply	4/9/2012	Refilled too soon.
6						
7	V&P	37149	Carisoprodol 350 mg #60	30 day supply	4/12/2012	Refilled too soon. Taken as a telephone transfer from CVS.
8						
9	Viet Medical Supply		Carisoprodol 350 mg #60	30 day supply	4/27/2012	
10						
11	V&P	38731	Carisoprodol 350 mg #60	30 day supply	5/8/2012	Refilled too soon.
12	Viet Medical Supply		Promethazine with codeine 240 ml	12 day supply	7/23/2012	
13						
14	V&P	43964	Promethazine with codeine 480 ml	12 day supply	7/27/2012	Refilled too soon.

15

16 d. Marvin H. - This patient used 14 different prescribers and 16 different pharmacies to

17 obtain controlled substances. This patient regularly purchased promethazine with codeine from

18 July 16, 2012 to December 3, 2012. According to the product insert, an unresponsive cough

19 needs to be re-evaluated within 5 days. According to Respondent's Patient Profile, this patient

20 was not taking long acting medications indicative of an underlying chronic respiratory tract

21 disease, although he filled a prescription for Chantix, a drug to help stop smoking, on or about

22 October 10, 2012. The following excerpt shows this patient's history in obtaining promethazine

23 with codeine from July 16, 2012 to September 8, 2012:

24	Pharmacy	RX #	Drug	Quantity	Date filled	Comments
25	North Park Pharmacy		Promethazine with codeine 960 ml	20 day supply	7/16/2012	
26						
27	V&P	396631	Promethazine with codeine 720 ml	24 day supply	7/26/2012	Refilled too soon.
28						

1	V&P	45121	Promethazine with codeine 960 ml	32 day supply	8/13/2012	
2	V&P	45121	Promethazine with codeine 960 ml	32 day supply	9/8/2012	Refilled too soon.

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4 e. Joseph H. — This patient received duplicate therapy of hydrocodone/acetaminophen

5 from Respondent and another pharmacy. This information was available to Respondents and

6 should have alerted Respondents about the possibility that the prescriptions were not issued for a

7 legitimate medical purpose. An excerpt from this patient's medication history follows:

8	Pharmacy	RX #	Drug	Quantity	Date filled	Comments
9	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	1/25/2011	
10	V&P	11696	Hydrocodone/ Acetaminophen 7.5/750 mg, #100	16 day supply	1/28/2011	Duplicate therapy. Also, if taken as directed, patient would have taken 4500 mg of acetaminophen which may lead to hepatotoxicity.
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16	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	2/25/2011	
17	V&P	13717	Hydrocodone/ Acetaminophen 7.5/750 mg, #100	16 day supply	3/10/2011	Duplicate therapy and hepatotoxicity risk.
18						
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21	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	4/21/2011	
22	V&P	15409	Hydrocodone/ Acetaminophen 7.5/750 mg, #100	25 day supply	5/5/2011	Duplicate therapy.
23						
24	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	5/20/2011	
25	V&P	18088	Hydrocodone/ Acetaminophen 7.5/750 mg, #100	25 day supply	6/8/2011	Duplicate therapy.
26						
27	Sam's		Hydrocodone/	25 day	6/20/2011	
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1	Pharmacy		Acetaminophen 5/500 mg, #200	supply		
2	V&P	19257	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	25 day supply	7/1/2011	Duplicate therapy and hepatotoxicity risk
3						
4	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	7/22/2011	
5						
6	V&P	21065	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	25 day supply	8/1/2011	Duplicate therapy and hepatotoxicity risk.
7						
8	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply.	8/15/2011	
9						
10	V&P	22739	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	25 day supply	9/1/2011	Duplicate therapy and hepatotoxicity risk.
11						
12	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	9/19/2011	
13						
14	V&P	24607	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	36 day supply	9/30/2011	Duplicate therapy.
15						
16	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	11/12/2011	
17						
18	V&P	28335	Hydrocodone/ Acetaminophen 7.5/750 mg, #100	25 day supply	11/29/2011	Duplicate therapy.
19						
20	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	12/19/2011	
21						
22	V&P	28335	Hydrocodone/ Acetaminophen 7.5/750 mg, #100	25 day supply	12/23/2011	Duplicate therapy.
23						
24	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	1/11/2012	
25						
26	V&P	31261	Hydrocodone/ Acetaminophen 7.5/750 mg, #100	25 day supply	1/14/2012	Duplicate therapy.
27						
28	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	2/1/2012	

1	V&P	31261	Hydrocodone/ Acetaminophen 7.5/750 mg, #100	25 day supply	2/6/2012	Duplicate therapy
2	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	3/1/2012	
3						
4	V&P	34220	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	37 day supply	3/1/2012	<del>Duplicate therapy</del>
5						
6	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	3/28/2012	
7						
8	V&P	34220	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	37 day supply	4/4/2012	Duplicate therapy.
9						
10	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	4/25/2012	
11						
12	V&P	38161	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	37 day supply	5/3/2012	Duplicate therapy.
13						
14	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	5/22/2012	
15						
16	V&P	38161	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	37 day supply	6/4/2012	Duplicate therapy.
17						
18	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	6/19/2012	
19						
20	V&P	42284	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	37 day supply	7/3/2012	Duplicate therapy.
21						
22	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	7/18/2012	
23						
24	V&P	42284	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	37 day supply	8/2/2012	Duplicate therapy.
25						
26	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	37 day supply	8/13/2012	
27						
28	V&P	46202	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	37 day supply	8/31/2012	Duplicate therapy, too soon.

1	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	9/26/2012	
2	V&P	46202	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	37 day supply	10/1/2012	Duplicate therapy.
3						
4	Sam's Pharmacy		Hydrocodone/ Acetaminophen 5/500 mg, #200	25 day supply	10/25/2012	
5	V&P	50855	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	37 day supply	11/1/2012	Duplicate therapy.
6						
7	V&P	50855	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	37 day supply	11/30/2012	Too soon.
8						
9	V&P	55073	Hydrocodone/ Acetaminophen 7.5/750 mg, #150	37 day supply	12/29/2012	Too soon.
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12 f. Lonnell L. - This patient regularly purchased promethazine with codeine from June  
13 12, 2010 to March 4, 2013, a period of almost three years. According to the product insert, an  
14 unresponsive cough needs to be re-evaluated within 5 days. According to Respondent's Patient  
15 Profile, this patient was not taking long acting medications indicative of an underlying chronic  
16 respiratory tract disease nor any short-acting bronchodilators. There were 20 instances when  
17 Respondent filled 480 ml of promethazine with codeine for an 8-day supply (60 ml per day), which  
18 is double the recommended maximum daily dose. These were prescription numbers 1977, 2189,  
19 3134 (twice under this number), 4135, 7270, 7919, 8415, 8643, 9445, 10013, 10630, 11794  
20 (twice under this number), 12728 (twice under this number), 13472 (twice under this number),  
21 16231 and 27158. This information was available to Respondents and should have alerted  
22 Respondents about the possibility that the prescriptions were not issued for a legitimate medical  
23 purpose.

24 g. Regina L. - This patient regularly purchased promethazine with codeine for over two  
25 years (November 30, 2010 to January 29, 2013). According to the product insert, an unresponsive  
26 cough needs to be re-evaluated within 5 days. According to Respondent's Patient Profile, this  
27  
28

1 patient was not taking long acting medications indicative of an underlying chronic respiratory tract  
2 disease nor any short-acting bronchodilators.

3 h. Donald P. - This patient had early refills of controlled substances. In some cases, the  
4 directions on the prescriptions exceeded the recommended maximum dosage of the medication.  
5 This information was available to Respondents and should have alerted Respondents about the  
6 possibility that the prescriptions were not issued for a legitimate medical purpose. An excerpt  
7 from this patient's medication history follows:

8	Pharmacy	RX #	Drug	Quantity	Date filled	Comments
9	V&P	11852	Hydrocodone/ Acetaminophen 5/500 mg, #100	25 day supply	4/20/2011	
10	V&P	16050	Hydrocodone/ Acetaminophen 5/500 mg, #100	25 day supply	4/28/2011	Too soon.
11	CVS #9121		Promethazine with codeine 480 ml	24 day supply	7/5/2011	
12	V&P	20252	Promethazine with codeine 750 ml	18 day supply	7/18/2011	Too soon. Written directions of 2 teaspoonfuls (10 ml) every 6 hours as needed exceeds maximum recommended daily dosage.
13	CVS #9121		Promethazine with codeine 480 ml	24 day supply	8/4/2011	
14	V&P	20252	Promethazine with codeine 750 ml	18 day supply	8/5/2011	Too soon and exceeds maximum recommended dosage.
15	CVS #9121		Promethazine with codeine 480 ml	24 day supply	10/15/2011	
16	V&P	26074	Promethazine with codeine 750 ml	18 day supply	10/26/2011	Too soon and exceeds maximum recommended dosage.
17	CVS #9121		Promethazine with	24 day	11/4/2011	

1			codeine 480 ml	supply		
2	V&P	27417	Promethazine with codeine 750 ml	37 day supply	11/15/2011	Too soon.
3	CVS #9121		Promethazine with codeine 480 ml	24 day supply	12/15/2011	
4	V&P	27417	Promethazine with codeine 750 ml	37 day supply	12/16/2011	Too soon.
5	CVS #9121		Promethazine with codeine 473 ml	24 day supply	12/31/2011	
6	V&P	31046	Promethazine with codeine 750 ml	18 day supply	1/10/2012	Too soon and exceeds maximum recommended dosage.
7						
8						
9	CVS #9121		Promethazine with codeine 473 ml	24 day supply	1/24/2012	
10	V&P	31046	Promethazine with codeine 750 ml	18 day supply	1/27/2012	Too soon and exceeds maximum recommended dosage.
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13	CVS #9121		Promethazine with codeine 473 ml	16 day supply	3/4/2012	
14	V&P	32275	Promethazine with codeine 750 ml	20 day supply	3/6/2012	Too soon and exceeds maximum recommended dosage.
15						
16						
17	CVS #9121		Promethazine with codeine 472 ml	23 day supply	3/23/2012	
18	V&P	35954	Promethazine with codeine 750 ml	18 day supply	3/27/2012	Too soon and exceeds maximum recommended dosage.
19						
20						
21	CVS #9121		Promethazine with codeine 472 ml	23 day supply	4/20/2012	
22						
23	V&P	37939	Promethazine with codeine 750 ml	18 day supply	4/26/2012	Too soon and exceeds maximum recommended dosage.
24						
25						
26	CVS #9121		Promethazine with codeine 472 ml	23 day supply	5/11/2012	
27	V&P	39065	Promethazine with	18 day	5/12/2012	Too soon and
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		codeine 750 ml	supply		exceeds maximum recommended dosage.
CVS #9121		Promethazine with codeine 472 ml	23 day supply	6/8/2012	
V&P	40915	Promethazine with codeine 750 ml	18 day supply	6/9/2012	Too soon and exceeds maximum recommended dosage.
CVS #9121		Promethazine with codeine 473 ml	24 day supply	8/17/2012	
V&P	45490	Promethazine with codeine 750 ml	18 day supply	8/20/2012	Too soon and exceeds maximum recommended dosage.
V&P	41442	Carisoprodol 350 mg #90	30 day supply	9/1/2012	
CVS #9121		Promethazine with codeine 480 ml	24 day supply	9/14/2012	
V&P	44701	Promethazine with codeine 750 ml	18 day supply	9/26/2012	Too soon and exceeds maximum recommended dosage.
V&P	41442	Carisoprodol 350 mg #90	30 day supply	9/26/2012	Too soon from 9/1/2012.
V&P	41442	Carisoprodol 350 mg #90	30 day supply	10/2/2012	Too soon from 9/26/2012.
Viet Medical Supply		Promethazine with codeine 480 ml	20 day supply	10/12/2012	
V&P	49428	Promethazine with codeine 720 ml	18 day supply	10/15/2012	Too soon and exceeds maximum recommended dosage.
V&P	48907	Hydrocodone/Acetaminophen 5/500 mg, #120	30 day supply	11/2/2012	
V&P	48907	Hydrocodone/Acetaminophen 5/500 mg, #120	30 day supply	11/7/2012	Too soon.
Viet		Promethazine with	25 day	11/16/2012	

1	Medical Supply		codeine 480 ml	supply		
2	V&P	52219	Promethazine with codeine 860 ml	24 day supply	11/19/2012	Too soon and exceeds maximum recommended dosage.
3						

4 i. Brenda R. - This patient obtained early refills of controlled substances from  
 5 Respondent that should have alerted Respondent about the possibility that the prescriptions were  
 6 not issued for a legitimate medical purpose.

8	Pharmacy	RX #	Drug	Quantity	Date filled	Comments
9	CVS #9109		Oxycodone/apap 10/325 mg, #120	30 day supply	10/4/2012	
10	V&P	50188	Oxycodone/apap 10/325 mg, #120	30 day supply	10/24/2012	Too soon.
11	CVS #9109		Oxycodone/apap 10/325 mg, #120	30 day supply	11/9/2012	
12	V&P	52721	Oxycodone/apap 10/325 mg, #120	30 day supply	11/27/2012	Too soon.
13	V&P	54543	Oxycodone/apap 10/325 mg, #120	30 day supply	12/20/2012	Too soon, early fills compounded.
14	V&P	57519	Oxycodone/apap 10/325 mg, #120	30 day supply	1/31/2013	
15	V&P	58629	Oxycodone/apap 10/325 mg, #180	30 day supply	2/15/2013	Too soon.
16						

17 j. Barbara S. - This patient obtained early refills of controlled substances from  
 18 Respondent and had different prescribers for the same medication for the same period of time.  
 19 This information was available to Respondents and should have alerted Respondents about the  
 20 possibility that the prescriptions were not issued for a legitimate medical purpose. An excerpt  
 21 from this patient's medication history follows:  
 22

23	Pharmacy	RX #	Drug	Quantity	Date filled	Comments
24	V&P	7575	Promethazine with codeine 480 ml	24 day supply	11/15/2010	
25	V&P	8688	Promethazine with codeine 240 ml	12 day supply	12/2/2010	Rx from a different prescriber, filled too soon.
26	V&P	13601	Promethazine with codeine 480 ml	24 day supply	3/9/2011	
27	V&P	14339	Promethazine with codeine 240 ml	8 day supply	3/23/2011	Rx from a different
28						

1						prescriber, filled too soon.
2	V&P	33981	Promethazine with codeine 480 ml	24 day supply	2/28/2012	
3	V&P	35206	Promethazine with codeine 240 ml	8 day supply	3/15/2012	Rx from a different prescriber, filled too soon.
4						
5	V&P	48448	Promethazine with codeine 480 ml	24 day supply	10/2/2012	
6	V&P	49502	Promethazine with codeine 240 ml	8 day supply	10/15/2012	Rx from a different prescriber, filled too soon.
7						
8						
9	V&P	53387	Promethazine with codeine 480 ml	24 day supply	12/5/2012	
10	V&P	54465	Promethazine with codeine 240 ml	8 day supply	12/19/2012	Rx from a different prescriber, filled too soon.
11						
12						

13  
14 k. Olevia S. - This patient obtained early refills of controlled substances from  
15 Respondent and had different prescribers for the same medication for the same period of time.  
16 This information was available to Respondents and should have alerted Respondents about the  
17 possibility that the prescriptions were not issued for a legitimate medical purpose. An excerpt  
18 from this patient's medication history follows:

19	Pharmacy	RX #	Drug	Quantity	Date filled	Comments
20	Viet Medical Supply		Carisoprodol 350 mg #50	25 day supply	3/12/2012	
21						
22	V&P	34269	Carisoprodol 350 mg #90	30 day supply	3/29/2012	Rx from a different prescriber, filled too soon.
23						
24	Viet Medical Supply		Carisoprodol 350 mg #50	25 day supply	4/9/2012	
25						
26	V&P	34269	Carisoprodol 350 mg #90	30 day supply	4/28/2012	Rx from a different prescriber, filled
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					too soon.
Viet Medical Supply		Carisoprodol 350 mg #50	25 day supply	5/3/2012	
V&P	34269	Carisoprodol 350 mg #90	30 day supply	5/19/2012	Rx from a different prescriber, filled too soon.
Viet Medical Supply		Carisoprodol 350 mg #50	25 day supply	6/21/2012	
V&P	32451	Carisoprodol 350 mg #90	30 day supply	7/7/2012	Rx from a different prescriber, filled too soon.
Viet Medical Supply		Carisoprodol 350 mg #40	20 day supply	7/27/2012	
V&P	43415	Carisoprodol 350 mg #90	30 day supply	8/1/2012	Rx from a different prescriber, filled too soon.
V&P	43415	Carisoprodol 350 mg #90	30 day supply	8/22/2012.	Too soon, early fills compounded.
Viet Medical Supply		Carisoprodol 350 mg #40	20 day supply	11/19/2012	
V&P	32451	Carisoprodol 350 mg #90	30 day supply	11/29/2012	Rx from a different prescriber, filled too soon.
Viet Medical Supply		Carisoprodol 350 mg #50	25 day supply	2/22/2013	
V&P	58438	Carisoprodol 350 mg #60	20 day supply	3/5/2013	Rx from a different prescriber, filled too soon.

1. Clarence T. - This patient had 10 different prescribers and used 9 different pharmacies to obtain controlled substances from July 1, 2010 through March 26, 2013. In addition, this patient obtained early refills on his prescriptions. This information was available to Respondents

1 and should have alerted Respondents about the possibility that the prescriptions were not issued  
 2 for a legitimate medical purpose. An excerpt from this patient's medication history follows:

3	Pharmacy	RX #	Drug	Quantity	Date filled	Comments
4	Medical Center Pharmacy		Hydrocodone/ Acetaminophen 10/325 mg, #60	30 day supply	6/16/2010	
5	V&P	1762	Hydrocodone/ Acetaminophen 10/325 mg, #270	30 day supply	7/1/2010	Rx from a different prescriber, filled too soon.
6	Medical Center Pharmacy		Hydrocodone/ Acetaminophen 10/325 mg, #110	28 day supply	7/19/2010	
7	V&P	1762	Hydrocodone/ Acetaminophen 10/325 mg, #270	30 day supply	7/27/2010	Rx from a different prescriber, filled too soon.
8	Allen Pharmacy		Hydrocodone/ Acetaminophen 10/325 mg, #110	26 day supply	8/19/2010	
9	V&P	1762	Hydrocodone/ Acetaminophen 10/325 mg, #270	30 day supply	8/23/2010	Rx from a different prescriber, filled too soon.
10	Allen Pharmacy		Hydrocodone/ Acetaminophen 10/325 mg, #110	26 day supply	9/25/2010	
11	V&P	4835	Hydrocodone/ Acetaminophen 10/325 mg, #60	30 day supply	9/28/2010	Rx from a different prescriber, filled too soon.
12	Allen Pharmacy		Hydrocodone/ Acetaminophen 10/325 mg, #110	27 day supply	12/14/2010	
13	V&P	9769	Hydrocodone/ Acetaminophen 10/325 mg, #90	30 day supply	12/21/2010	Rx from a different prescriber, filled too soon.
14	SavOn #6771		Hydrocodone/ Acetaminophen 10/325 mg, #110	28 day supply	7/6/2011	
15	V&P	19575	Hydrocodone/ Acetaminophen	30 day supply	7/7/2011	Rx from a different

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		10/325 mg, #120			prescriber, filled too soon.
SavOn #6771		Hydrocodone/ Acetaminophen 10/325 mg, #110	27 day supply	8/4/2011	
V&P	21556	Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	8/10/2011	Rx from a different prescriber, filled too soon.
SavOn #6771		Hydrocodone/ Acetaminophen 10/325 mg, #110	28 day supply	10/5/2011	
V&P	24980	Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	10/6/2011	Rx from a different prescriber, filled too soon.
SavOn #6758		Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	11/14/2011	
V&P	28776	Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	12/5/2011	Rx from a different prescriber, filled too soon.
SavOn #6758		Hydrocodone/ Acetaminophen 10/325 mg, #110	28 day supply	1/3/2012	
V&P	30583	Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	1/4/2012	Rx from a different prescriber, filled too soon.
SavOn #6758		Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	1/12/2012	
V&P	32393	Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	2/1/2012	Rx from a different prescriber, filled too soon.
SavOn #6758		Hydrocodone/ Acetaminophen 10/325 mg, #110	27 day supply	2/29/2012	
V&P	34246	Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	3/1/2012	Rx from a different prescriber, filled too soon.
Vons		Hydrocodone/	27 day	3/28/2012	

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Pharmacy #2093		Acetaminophen 10/325 mg, #110	supply		
Vons Pharmacy #2093		Carisoprodol 350 mg, #100	33 day supply	3/28/2012	
V&P	36232	Carisoprodol 350 mg, #60	20 day supply	3/30/2012	Rx from a different prescriber, filled too soon.
V&P	36311	Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	4/2/2012	Rx from a different prescriber, filled too soon from 3/28/2012.
Vons Pharmacy #2093		Carisoprodol 350 mg, #100	33 day supply	4/25/2012	
V&P	38200	Carisoprodol 350 mg, #60	15 day supply	5/1/2012	Rx from a different prescriber, filled too soon.
SavOn #6758		Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	5/9/2012	
V&P	39813	Hydrocodone/ Acetaminophen 10/325 mg, #110	27 day supply	5/23/2012	Rx from a different prescriber, filled too soon.
V&P	39814	Carisoprodol 350 mg, #100	33 day supply	5/23/2012	
V&P	40055	Carisoprodol 350 mg, #60	15 day supply	5/29/2012	Rx from a different prescriber, filled too soon.
SavOn #6758		Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	6/8/2012	
V&P	41559	Hydrocodone/ Acetaminophen 10/325 mg, #110	27 day supply	6/20/2012	Rx from a different prescriber, filled too soon.
V&P	41556	Carisoprodol 350 mg, #100	25 day supply	6/20/2012	
V&P	42221	Carisoprodol 350 mg, #60	15 day supply	6/29/2012	Rx from a different prescriber, filled

1					too soon.
2	SavOn #6771		Hydrocodone/ Acetaminophen 10/325 mg, #110	28 day supply	8/15/2012
3	V&P	46498	Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	9/5/2012
4					Rx from a different prescriber, filled too soon.
5	SavOn #6771		Carisoprodol 350 mg, #100	33 day supply	9/13/2012
6	V&P	36232	Carisoprodol 350 mg, #60	20 day supply	10/1/2012
7					Rx from a different prescriber, filled too soon.
8					
9	SavOn #6771		Hydrocodone/ Acetaminophen 10/325 mg, #110	27 day supply	12/4/2012
10	V&P	53338	Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	12/5/2012
11					Rx from a different prescriber, filled too soon.
12					
13	Viet Medical Supply		Hydrocodone/ Acetaminophen 10/325 mg, #100	30 day supply	1/2/2013
14	V&P	55611	Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	1/7/2013
15					Rx from a different prescriber, filled too soon.
16					
17	Viet Medical Supply		Hydrocodone/ Acetaminophen 10/325 mg, #110	30 day supply	1/31/2013
18	V&P	57769	Hydrocodone/ Acetaminophen 10/325 mg, #120	30 day supply	2/4/2013
19					Rx from a different prescriber, filled too soon.
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22 m. Natalie T. - This patient used 7 different prescribers and 5 different pharmacies to  
 23 obtain controlled substances from June 8, 2011 through March 13, 2013. In addition, this patient  
 24 obtained early refills on her prescriptions. This information was available to Respondents and  
 25 should have alerted Respondents about the possibility that the prescriptions were not issued for a  
 26 legitimate medical purpose. An excerpt from this patient's medication history follows:

27	Pharmacy	RX #	Drug	Quantity	Date filled	Comments
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V&P	2100	Promethazine with codeine 480 ml	16 day supply	7/14/2010	
V&P	2285	Promethazine with codeine 240 ml	8 day supply	7/20/2010	Rx from a different prescriber, filled too soon.
CVS #9121		Promethazine with codeine 473 ml	24 day supply	8/16/2011	
V&P	19934	Promethazine with codeine 480 ml	24 day supply	8/18/2011	Too soon.
CVS #9121		Promethazine with codeine 473 ml	24 day supply	9/7/2011	
V&P	19934	Promethazine with codeine 480 ml	24 day supply	9/7/2011	Too soon.
CVS #9162		Promethazine with codeine 240 ml	16 day supply	10/15/2011	
V&P	23729	Promethazine with codeine 480 ml	12 day supply	10/19/2011	Rx from a different prescriber, filled too soon.
CVS #9121		Promethazine with codeine 118 ml	8 day supply	12/29/2011	
V&P	29331	Promethazine with codeine 240 ml	12 day supply	12/29/2011	Rx from a different prescriber, filled too soon.
Viet Medical Supply		Promethazine with codeine 473 ml	20 day supply	9/21/2012	
V&P	46392	Promethazine with codeine 240 ml	12 day supply	9/25/2012	Rx from a different prescriber, filled too soon.
Viet Medical Supply		Promethazine with codeine 473 ml	20 day supply	10/11/2012	
V&P	49473	Promethazine with codeine 240 ml	12 day supply	10/15/2012	Rx from a different prescriber, filled too soon.

n. William T. - This patient used 30 different prescribers and 14 different pharmacies to obtain controlled substances from January 23, 2011 through May 14, 2013. This patient obtained early refills and regularly purchased promethazine with codeine from October 11, 2011 through

1 May 6, 2011. According to the product insert, an unresponsive cough needs to be re-evaluated  
 2 within 5 days. According to Respondent's Patient Profile, this patient was not taking long acting  
 3 medications indicative of an underlying chronic respiratory tract disease but was on one short-  
 4 acting bronchodilators. An excerpt from this patient's medication history follows:

Pharmacy	RX #	Drug	Quantity	Date filled	Comments
CVS #9121		Promethazine with codeine 300 ml	20 day supply	12/21/2011	
V&P	30252	Promethazine with codeine 473 ml	23 day supply	12/28/2011	Rx from a different prescriber, filled too soon.
CVS #9121		Promethazine with codeine 473 ml	16 day supply	3/12/2012	
V&P	35261	Promethazine with codeine 480 ml	24 day supply	3/15/2012	Too soon.
CVS #9121		Promethazine with codeine 473 ml	30 day supply	6/19/2012	
V&P	41809	Promethazine with codeine 480 ml	30 day supply	6/25/2012	Too soon.
SavOn #6771		Hydrocodone/ Acetaminophen 10/325 mg, #180	30 day supply	7/25/2012	
V&P	43969	Hydrocodone/ Acetaminophen 10/325 mg, #90	22 day supply	7/27/2012	Rx from a different prescriber, filled too soon.
SavOn #6771		Hydrocodone/ Acetaminophen 10/325 mg, #120	20 day supply	11/15/2012	
V&P	43969	Hydrocodone/ Acetaminophen 10/325 mg, #180	30 day supply	11/28/2012	Too soon.

o. Terry F. - This patient regularly purchased promethazine with codeine from August 9, 2010 through February 25, 2013. According to the product insert, an unresponsive cough needs to be re-evaluated within 5 days. According to Respondent's Patient Profile, this patient was not taking long acting medications indicative of an underlying chronic respiratory tract disease nor any short-acting bronchodilators.

1 p. Leola A. - This patient regularly purchased promethazine with codeine from July 13,  
2 2011 through March 2, 2013. According to the product insert, an unresponsive cough needs to be  
3 re-evaluated in 5 days or sooner. According to Respondent's Patient Profile, this patient was not  
4 taking long-acting medications indicative of an underlying chronic respiratory tract disease nor any  
5 short-acting bronchodilators.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **AS TO V&P PHARMACY AND CHAU TRUNG VO**

8 **(Acted As A Wholesaler Without License)**

9 32. Respondents V&P Pharmacy and Chau Trung Vo are subject to disciplinary action  
10 pursuant to Code section 4301, subdivision (o) in conjunction with Code section 4160 in that  
11 Respondents acted as a wholesaler by accepting medications from the community in order to  
12 manage the disposition of outdated or nonsalable dangerous drugs when Respondents were not  
13 licensed wholesalers, as more fully set forth in paragraph 22 above and incorporated by this  
14 reference as though set forth in full.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **AS TO V&P PHARMACY AND CHAU TRUNG VO**

17 **(Failure to Maintain Effective Control Against Theft or Loss of Controlled Substances)**

18 33. Respondents V&P Pharmacy and Chau Trung Vo are subject to disciplinary action  
19 pursuant to Code section 4301, subdivision (o) in conjunction with title 16, California Code of  
20 Regulations, section 1714, subdivision (b) in that Respondents could not account for 5674 tablets  
21 of hydrocodone/acetaminophen 10/325 mg and 24 pints of promethazine with codeine syrup  
22 between July 26, 2011 and January 15, 2013, as more fully set forth in paragraphs 22 - 31 above  
23 and incorporated by this reference as though set forth in full.

24 **THIRD CAUSE FOR DISCIPLINE**

25 **AS TO V&P PHARMACY AND CHAU TRUNG VO**

26 **(Failure to Maintain Current Inventory)**

27 34. Respondents V&P Pharmacy and Chau Trung Vo are subject to discipline pursuant to  
28 Code section 4301, subdivision (j), in conjunction with Code section 4081(b) and title 16,

1 California Code of Regulations section 1718, for unprofessional conduct in that Respondents failed  
2 to maintain a current inventory in that they could not account for a shortage of 5674 tablets of  
3 hydrocodone/acetaminophen 10/325 mg and 24 pints of promethazine with codeine syrup between  
4 July 26, 2011 and January 15, 2013, as more fully set forth in paragraphs 22 – 31 above and  
5 incorporated by this reference as though set forth in full.

6 **FOURTH CAUSE FOR DISCIPLINE**

7 **AS TO V&P PHARMACY AND CHAU TRUNG VO**

8 **(Unprofessional Conduct - Variation from Prescription)**

9 35. Respondents V&P Pharmacy and Chau Trung Vo are subject to disciplinary action  
10 pursuant to Code section 4301, subdivision (o) in conjunction with title 16, California Code of  
11 Regulations, section 1716, for unprofessional conduct in that Respondents deviated from the  
12 requirements of a prescription. Specifically, prescription RX 34088C5 was dispensed with  
13 directions "take 1 to 2 teaspoonful [sic] by mouth every 6 to 8 hours as needed for pain, fever"  
14 when the directions on RX 34088 stated "ii to po q 6 8," which is "take 2 teaspoonfuls by mouth  
15 every 6 to 8 hours," as more fully set forth in paragraphs 22 – 31 above and incorporated by this  
16 reference as though set forth in full.

17 **FIFTH CAUSE FOR DISCIPLINE**

18 **AS TO V&P PHARMACY AND CHAU TRUNG VO**

19 **(Failure to Comply with Corresponding Responsibility**

20 **for Legitimate Controlled Substance Prescriptions)**

21 36. Respondents V&P Pharmacy and Chau Trung Vo are subject to disciplinary action  
22 pursuant to Code section 4301, subdivision (j), in conjunction with Health and Safety Code section  
23 11153(a) for unprofessional conduct in that Respondents failed to comply with their corresponding  
24 responsibility to ensure that controlled substances are dispensed for a legitimate medical purpose  
25 when Respondents failed to evaluate the totality of the circumstances (information from  
26 Respondent's own records and other sources) to determine the prescription's legitimate medical  
27 purpose in light of information showing that prescriptions for controlled substances were filled  
28 early, there was duplication of therapy, patients filled prescriptions for the same controlled

1 substance from different pharmacies, patients had numerous prescribers for the same drug and  
2 patients were dispensed promethazine with codeine for extended periods, among other things, as  
3 more fully set forth in paragraphs 22 – 31 above and incorporated by this reference as though set  
4 forth in full.

5 **SIXTH CAUSE FOR DISCIPLINE**

6 **AS TO V&P PHARMACY AND CHAU TRUNG VO**

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

8 37. Respondents V&P Pharmacy and Chau Trung Vo are subject to discipline pursuant to  
9 Code section 4301, subdivision (d), for unprofessional conduct in that Respondents clearly  
10 excessively furnished controlled substances during the period June 12, 2010 through March 26,  
11 2013, as more fully set forth in paragraphs 22 – 31 above and incorporated by this reference as  
12 though set forth in full.

13 **SEVENTH CAUSE FOR DISCIPLINE**

14 **AS TO CHAU TRUNG VO**

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

16 38. Respondent Chau Trung Vo is subject to discipline pursuant to Code section 4301,  
17 subdivision (c), for unprofessional conduct in that Respondent was grossly negligent in dispensing  
18 controlled substances, or in performing his duties as the Pharmacist-in-Charge, during the period  
19 June 12, 2010 through March 26, 2013. Respondent knew or should have known that certain  
20 patients were receiving early refills of controlled substances, there was duplication of therapy,  
21 patients filled prescriptions for the same controlled substance from different pharmacies, patients  
22 had numerous prescribers for the same drug and patients were dispensed promethazine with  
23 codeine for extended periods, as more fully set forth in paragraphs 22 – 31 above and incorporated  
24 by this reference as though set forth in full herein, such that Respondent should have taken further  
25 steps to determine whether the prescriptions were issued for a legitimate medical purpose.

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28 **EIGHTH CAUSE FOR DISCIPLINE**

1 **AS TO CHAU TRUNG VO**

2 **(Unprofessional Conduct – Negligence)**

3 39. Respondent Chau Trung Vo is subject to discipline pursuant to Code section 4301, for  
4 unprofessional conduct in that Respondent was negligent in dispensing controlled substances, or in  
5 performing his duties as the Pharmacist-in-Charge, during the period June 12, 2010 through March  
6 26, 2013. Respondent knew or should have known that certain patients were receiving early refills  
7 of controlled substances, there was duplication of therapy, patients filled prescriptions for the same  
8 controlled substance from different pharmacies, patients had numerous prescribers for the same  
9 drug and patients were dispensed promethazine with codeine for extended periods, as more fully  
10 set forth in paragraphs 22 – 31 above and incorporated by this reference as though set forth in full  
11 herein, such that Respondent should have taken further steps to determine whether the  
12 prescriptions were issued for a legitimate medical purpose.

13 **EIGHTH CAUSE FOR DISCIPLINE**

14 **AS TO CHAU TRUNG VO**

15 **(Unprofessional Conduct)**

16 40. Respondent Chau Trung Vo is subject to discipline pursuant to Code section 4301 for  
17 unprofessional conduct in that Respondent engaged in the activity described in paragraphs 22 – 31  
18 above, and incorporated by this reference as though set forth in full herein.

19 **DISCIPLINE CONSIDERATIONS**

20 41. To determine the degree of discipline, if any, to be imposed on Respondent V&P  
21 Pharmacy, Complainant alleges that on or about May 8, 2012, in a prior action, the Board of  
22 Pharmacy issued Citation Number C 2011 49124 and ordered Respondent to pay a fine in the  
23 amount of \$2,000.00. That Citation is now final and is incorporated by reference as if fully set  
24 forth.

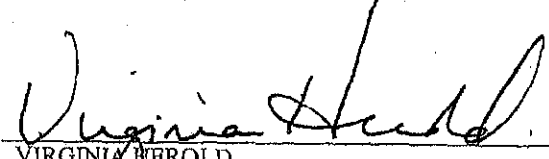
25 42. To determine the degree of discipline, if any, to be imposed on Respondent Chau  
26 Trung Vo, Complainant alleges that on or about May 8, 2012, in a prior action, the Board of  
27 Pharmacy issued Citation Number C 2011 52234 and ordered Respondent to pay a fine in the  
28

1 amount of \$2,000.00. That Citation is now final and is incorporated by reference as if fully set  
2 forth.

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 50261 issued to V&P  
7 Pharmacy;
- 8 2. Revoking or suspending Pharmacist License Number RPH 55532 issued to Chau  
9 Trung Vo;
- 10 3. Ordering V&P Pharmacy and Chau Trung Vo, jointly and severally, to pay the Board  
11 of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to  
12 Business and Professions Code section 125.3; and,
- 13 4. Taking such other and further action as deemed necessary and proper.

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16 DATED: 4/9/14 

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

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