

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

In the Matter of the Accusation Against:

**HEALTH CENTER PHARMACY
THANH-TRUC NGO, OWNER
15418 Crenshaw Blvd.
Gardena, CA 90249**

Pharmacy Permit No. PHY 50395

AND

**TIN HUU NGUYEN
Pharmacist-In-Charge
P.O. Box 1037
Westminster, CA 46458**

Pharmacist License No. RPH 46458

Respondents.

Case No. 5275

OAH No. 2015060048

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT TIN HUU NGUYEN
ONLY**

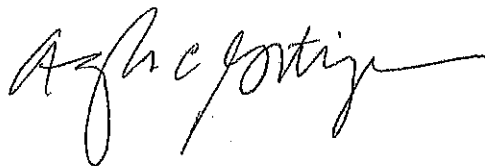
DECISION AND ORDER

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 at 5:00 p.m. on June 17, 2016.

It is so ORDERED on May 18, 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 THOMAS L. RINALDI
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

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

11 In the Matter of the First Amended Accusation
Against:
12 **HEALTH CENTER PHARMACY**
13 **THANH-TRUC NGO, OWNER**
14 **15418 Crenshaw Blvd**
Gardena, CA 90249
15 **Pharmacy Permit No. PHY 50395,**
16 **and**
17 **TIN HUU NGUYEN**
P.O. Box 1037
18 **Westminster, CA 92684**
19 **Pharmacist License No. RPH 46458**
20 Respondents.

Case No. 5275
OAH No. 2015060048
**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT TIN HUU NGUYEN
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 Cristina Felix, Deputy Attorney
27 General.
28

1 2. Respondent Health Center Pharmacy, Thanh-Truc Ngo ("Respondent") is represented
2 in this proceeding by attorney Tony J. Park, Esq., whose address is: Pharmacy Lawyers, 2855
3 Michelle Drive, Suite 180, Irvine, CA 92606-1027.

4 3. On or about August 12, 1993, the Board of Pharmacy issued Pharmacist License
5 Number RPH 46458 to Tin Huu Nguyen ("Respondent"). The Pharmacist License was in full
6 force and effect at all times relevant to the charges brought herein and will expire on June 30,
7 2017, unless renewed. From November 10, 2010 to September 17, 2011, Respondent was the
8 Pharmacist-in-Charge of Health Center Pharmacy.

9 JURISDICTION

10 4. Accusation No. 5275 was filed before the Board of Pharmacy (Board), Department of
11 Consumer Affairs, and is currently pending against Respondent. The Accusation and all other
12 statutorily required documents were properly served on Respondent on April 14, 2015.

13 Respondent timely filed his Notice of Defense contesting the Accusation.

14 5. A copy of Accusation No. 5275 is attached as exhibit A and incorporated herein by
15 reference.

16 ADVISEMENT AND WAIVERS

17 6. Respondent has carefully read, fully discussed with counsel, and understands the
18 charges and allegations in Accusation No. 5275. Respondent has also carefully read, fully
19 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
20 Order.

21 7. Respondent is fully aware of his legal rights in this matter, including the right to a
22 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
23 his own expense; the right to confront and cross-examine the witnesses against him; the right to
24 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
25 the attendance of witnesses and the production of documents; the right to reconsideration and
26 court review of an adverse decision; and all other rights accorded by the California
27 Administrative Procedure Act and other applicable laws.

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1 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
2 every right set forth above.

3 CULPABILITY

4 9. Respondent understands and agrees that the charges and allegations in Accusation
5 No. 5275, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist
6 License.

7 10. For the purpose of resolving the Accusation without the expense and uncertainty of
8 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
9 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
10 those charges.

11 11. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
12 to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

13 CONTINGENCY

14 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
15 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
16 communicate directly with the Board regarding this stipulation and settlement, without notice to
17 or participation by Respondent or his counsel. By signing the stipulation, Respondent
18 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
19 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
20 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
21 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
22 and the Board shall not be disqualified from further action by having considered this matter.

23 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
24 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
25 signatures thereto, shall have the same force and effect as the originals.

26 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
27 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
28 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,

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 15. 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 46458 issued to Respondent
9 Tin Huu Nguyen is revoked. However, the revocation is stayed and Respondent is placed on
10 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.

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1 **2. Report to the Board**

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

10 **3. Interview with the Board**

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

16 **4. Cooperate with Board Staff**

17 Respondent shall cooperate with the board's inspection program and with the board's
18 monitoring and investigation of respondent's compliance with the terms and conditions of his
19 probation. Failure to cooperate shall be considered a violation of probation.

20 **5. Continuing Education**

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

23 **6. Notice to Employers**

24 During the period of probation, respondent shall notify all present and prospective
25 employers of the decision in case number 5275 and the terms, conditions and restrictions imposed
26 on respondent by the decision, as follows:

27 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
28 respondent undertaking any new employment, respondent shall cause his direct supervisor,

1 pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's
2 tenure of employment) and owner to report to the board in writing acknowledging that the listed
3 individual(s) has/have read the decision in case number 5275, and terms and conditions imposed
4 thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s)
5 submit timely acknowledgment(s) to the board.

6 If respondent works for or is employed by or through a pharmacy employment service,
7 respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity
8 licensed by the board of the terms and conditions of the decision in case number 5275 in advance
9 of the respondent commencing work at each licensed entity. A record of this notification must be
10 provided to the board upon request.

11 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
12 (15) days of respondent undertaking any new employment by or through a pharmacy employment
13 service, respondent shall cause his direct supervisor with the pharmacy employment service to
14 report to the board in writing acknowledging that he has read the decision in case number 5275
15 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure
16 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

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

7 **8. Reimbursement of Board Costs**

8 As a condition precedent to successful completion of probation, respondent shall pay to the
9 board its costs of investigation and prosecution in the amount of \$7,408. Respondent shall be
10 permitted to pay these costs in a payment plan approved by the Board, with payments to be
11 completed no later than three months prior to the end of the probation term. There shall be no
12 deviation from this schedule absent prior written approval by the board or its designee. Failure to
13 pay costs by the deadline(s) as directed shall be considered a violation of probation.

14 The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to
15 reimburse the board its costs of investigation and prosecution.

16 **9. Probation Monitoring Costs**

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

21 **10. Status of License**

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

25 If respondent's license expires or is cancelled by operation of law or otherwise at any time
26 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
27 renewal or reapplication respondent's license shall be subject to all terms and conditions of this
28 probation not previously satisfied.

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

2 Following the effective date of this decision, should respondent cease practice due to
3 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
4 respondent may tender his license to the board for surrender. The board or its designee shall have
5 the discretion whether to grant the request for surrender or take any other action it deems
6 appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent
7 will no longer be subject to the terms and conditions of probation. This surrender constitutes a
8 record of discipline and shall become a part of the respondent's license history with the board.

9 Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to
10 the board within ten (10) days of notification by the board that the surrender is accepted.
11 Respondent may not reapply for any license from the board for three (3) years from the effective
12 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
13 of the date the application for that license is submitted to the board, including any outstanding
14 costs.

15 **12. Notification of a Change in Name, Residence Address, Mailing Address or**
16 **Employment**

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

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

24 **13. Tolling of Probation**

25 Except during periods of suspension, respondent shall, at all times while on probation, be
26 employed as a pharmacist in California for a minimum of forty (40) hours per calendar month.
27 Any month during which this minimum is not met shall toll the period of probation, i.e., the
28 period of probation shall be extended by one month for each month during which this minimum is

1 not met. During any such period of tolling of probation, respondent must nonetheless comply
2 with all terms and conditions of probation.

3 Should respondent, regardless of residency, for any reason (including vacation) cease
4 practicing as a pharmacist for a minimum of forty (40) hours per calendar month in California,
5 respondent must notify the board in writing within ten (10) days of the cessation of practice, and
6 must further notify the board in writing within ten (10) days of the resumption of practice. Any
7 failure to provide such notification(s) shall be considered a violation of probation.

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

11 "Cessation of practice" means any calendar month during which respondent is not
12 practicing as a pharmacist for at least 40 hours, as defined by Business and Professions
13 Code section 4000 et seq. "Resumption of practice" means any calendar month during
14 which respondent is practicing as a pharmacist for at least 40 hours as a pharmacist as
15 defined by Business and Professions Code section 4000 et seq.

16 Respondent is required to practice as a pharmacist in a licensed pharmacy setting that
17 dispenses medication for a minimum of one year prior to the completion of probation. After the
18 first year of probation, the board or its designee may consider a modification of this requirement.
19 If respondent fails to comply with this requirement or a subsequent modification thereto, such
20 failure shall be considered a violation of probation.

21 **14. Violation of Probation**

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

27 If respondent violates probation in any respect, the board, after giving respondent notice
28 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that

1 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
2 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
3 a petition to revoke probation or an accusation is filed against respondent during probation, the
4 board shall have continuing jurisdiction and the period of probation shall be automatically
5 extended until the petition to revoke probation or accusation is heard and decided, and the charges
6 and allegations in the Accusation No. 5275 shall be deemed true and correct.

7 **15. Completion of Probation**

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

10 **16. Remedial Education**

11 Within sixty (60) days of the effective date of this decision, respondent shall submit to the
12 board or its designee, for prior approval, an appropriate program of remedial education related to
13 corresponding responsibility and prescription drug use prevention. The program of remedial
14 education shall consist of at least ten (10) hours a year for each of the first three (3) years of
15 probation for a total of thirty (30) hours at respondent's own expense. At least 50% of the
16 education hours must be taken by in-person training. All remedial education shall be in addition
17 to, and shall not be credited toward, continuing education (CE) courses used for license renewal
18 purposes.

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

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

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1 Respondent shall be restricted from the practice of until the remedial education program has
2 been successfully completed.

3 **17. Supervised Practice**

4 During the period of probation, respondent shall practice only under the supervision of a
5 licensed pharmacist not on probation with the board. Upon and after the effective date of this
6 decision, respondent shall not practice pharmacy and his license shall be automatically suspended
7 until a supervisor is approved by the board or its designee. The supervision shall be, as required
8 by the board or its designee, either:

9 Continuous – At least 75% of a work week

10 Substantial - At least 50% of a work week

11 Partial - At least 25% of a work week

12 Daily Review - Supervisor's review of probationer's daily activities within 24 hours

13 Within thirty (30) days of the effective date of this decision, respondent shall have his
14 supervisor submit notification to the board in writing stating that the supervisor has read the
15 decision in case number 5275 and is familiar with the required level of supervision as determined
16 by the board or its designee. It shall be the respondent's responsibility to ensure that his
17 employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the
18 board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
19 acknowledgements to the board shall be considered a violation of probation.

20 If respondent changes employment, it shall be the respondent's responsibility to ensure that
21 his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to
22 the board. Respondent shall have his new supervisor, within fifteen (15) days after employment
23 commences, submit notification to the board in writing stating the direct supervisor and
24 pharmacist-in-charge have read the decision in case number 5275 and is familiar with the level of
25 supervision as determined by the board. Respondent shall not practice pharmacy and his license
26 shall be automatically suspended until the board or its designee approves a new supervisor.
27 Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely
28 acknowledgements to the board shall be considered a violation of probation.

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

2 During suspension, respondent shall not enter any pharmacy area or any portion of the
3 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
4 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
5 or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act
6 involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient
7 consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the
8 board, or have access to or control the ordering, manufacturing or dispensing of dangerous drugs
9 and controlled substances. Respondent shall not resume practice until notified by the board.

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

14 Subject to the above restrictions, respondent may continue to own or hold an interest in any
15 licensed premises in which he holds an interest at the time this decision becomes effective unless
16 otherwise specified in this order.

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

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

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

26 Respondent shall not acquire any new ownership, legal or beneficial interest nor serve as a
27 manager, administrator, member, officer, director, trustee, associate, or partner of any additional
28 business, firm, partnership, or corporation licensed by the board. If respondent currently owns or

1 has any legal or beneficial interest in, or serves as a manager, administrator, member, officer,
2 director, trustee, associate, or partner of any business, firm, partnership, or corporation currently
3 or hereinafter licensed by the board, respondent may continue to serve in such capacity or hold
4 that interest, but only to the extent of that position or interest as of the effective date of this
5 decision. Violation of this restriction shall be considered a violation of probation.

6 19. Ethics Course

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

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

13 ACCEPTANCE

14 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
15 discussed it with my attorney, Tony J. Park, Esq. I understand the stipulation and the effect it will
16 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order
17 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
18 Board of Pharmacy.

19
20 DATED: 1/30/2016



TIN HUU NGUYEN
Respondent

22 I have read and fully discussed with Respondent Tin Huu Nguyen the terms and conditions
23 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
24 its form and content.

25 DATED: 02/01/2016



TONY J. PARK, ESQ.
Attorney for Respondent

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ENDORSEMENT

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

Dated: 02/01/2016

Respectfully submitted,
KAMALA D. HARRIS
Attorney General of California
THOMAS L. RINALDI
Supervising Deputy Attorney General


CRISTINA FELIX
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 5275

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS L. RINALDI
Supervising Deputy Attorney General
3 CRISTINA FELIX
Deputy Attorney General
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Attorneys for Complainant

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

10 In the Matter of the First Amended Accusation
11 Against:

Case No. 5275

12 **HEALTH CENTER PHARMACY;**
13 **THANH-TRUC NGO, OWNER**
15418 Crenshaw Blvd
14 Gardena, CA 90249

FIRST AMENDED ACCUSATION

15 Pharmacy Permit No. PHY 50395,

16 and

17 **TIN HUU NGUYEN**
P.O. Box 1037
18 Westminster, CA 92684

19 Pharmacist License No. RPH 46458

20 Respondents.

21 Complainant alleges:

22 **PARTIES**

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

25 2. On or about November 10, 2010, the Board of Pharmacy issued Pharmacy Permit
26 Number PHY 50395 to Thanh-Truc Ngo to do business as Health Center Pharmacy ("Respondent
27 Pharmacy"). Thanh-Truc Ngo has been the individual licensed owner of Respondent Pharmacy
28 since November 10, 2010. From November 10, 2010 to September 17, 2011, Tin Huu Nguyen

1 was the Pharmacist-in-Charge of Respondent Pharmacy. From September 19, 2011 to the
2 present, Thanh-Truc Ngo has been the Pharmacist-in-Charge of Respondent Pharmacy. The
3 Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein
4 and will expire on November 1, 2015, unless renewed.

5 3. On or about August 12, 1993, the Board of Pharmacy issued Pharmacist License
6 Number RPH 46458 to Tin Huu Nguyen ("Respondent Nguyen"). The Pharmacist License was
7 in full force and effect at all times relevant to the charges brought herein and will expire on June
8 30, 2017, unless renewed.

9 JURISDICTION

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

13 5. Section 4300.1 of the Code states:

14 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
15 operation of law or by order or decision of the board or a court of law, the placement of a license
16 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
17 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
18 proceeding against, the licensee or to render a decision suspending or revoking the license."

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

20 "(a) Every license issued may be suspended or revoked.

21 (b) The board shall discipline the holder of any license issued by the board, whose default
22 has been entered or whose case has been heard by the board and found guilty, by any of the
23 following methods:

24 (1) Suspending judgment.

25 (2) Placing him or her upon probation.

26 (3) Suspending his or her right to practice for a period not exceeding one year.

27 (4) Revoking his or her license.
28

1 (5) Taking any other action in relation to disciplining him or her as the board in its
2 discretion may deem proper."

3 STATUTES AND REGULATIONS

4 7. Section 4169 of the Code states, in pertinent part:

5 "(a) A person or entity may not do any of the following:

6

7 (3) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably
8 should have known were misbranded, as defined in Section 111335 of the Health and Safety
9 Code."

10 8. Section 4301 of the Code states, in pertinent part:

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

14

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

17

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

20

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

25 9. Business and Professions Code section 4307, subdivision (a), provides, in pertinent
26 part, that any person who is an owner of licensee who has been revoked or is under suspension
27 shall be prohibited from serving as a manager, administrator, owner, member, officer, director,
28 associate or partner of a licensee.

1 Pursuant to Business and Professions Code section 4307, subdivision (a), in the event the
2 license issued to Respondent Pharmacy is revoked or placed on suspension, Thanh-Truc Ngo
3 shall be prohibited from serving as a manager, administrator, owner, member, officer, director,
4 associate or partner of any licensee with rights issued by the Board.

5 10. Business and Professions Code section 4342, states:

6 "(a) The board may institute any action or actions as may be provided by law and that, in its
7 discretion, are necessary, to prevent the sale of pharmaceutical preparations and drugs that do not
8 conform to the standard and tests as to quality and strength, provided in the latest edition of the
9 United States Pharmacopoeia or the National Formulary, or that violate any provision of the
10 Sherman Food, Drug and Cosmetic Law (Part 5 (commencing with Section 109875) of Division
11 104 of the Health and Safety Code)."

12 11. Health and Safety Code section 11153, subdivision (a) states:

13 "(a) A prescription for a controlled substance shall only be issued for a legitimate medical
14 purpose by an individual practitioner acting in the usual course of his or her professional practice.
15 The responsibility for the proper prescribing and dispensing of controlled substances is upon the
16 prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the
17 prescription. Except as authorized by this division, the following are not legal prescriptions: (1)
18 an order purporting to be a prescription which is issued not in the usual course of professional
19 treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of
20 controlled substances, which is issued not in the course of professional treatment or as part of an
21 authorized narcotic treatment program, for the purpose of providing the user with controlled
22 substances, sufficient to keep him or her comfortable by maintaining customary use."

23 12. Health and Safety Code section 111335 states:

24 "Any drug or device is misbranded if its labeling or packaging does not conform to the
25 requirements of Chapter 4 (commencing with Section 110290)."

26 ///

1 13. California Code of Regulations, title 16, section 1714, subdivision (b) states,

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

6 14. California Code of Regulations, title 16, section 1714.1 states, in pertinent part:

7 "This section is to ensure that pharmacists are able to have duty free breaks and meal
8 periods to which they are entitled under Section 512 of the Labor Code and the orders of the
9 Industrial Welfare Commission, without unreasonably impairing the ability of a pharmacy to
10 remain open.

11 (a) In any pharmacy that is staffed by a single pharmacist, the pharmacist may leave the
12 pharmacy temporarily for breaks and meal periods pursuant to Section 512 of the Labor Code and
13 the orders of the Industrial Welfare Commission without closing the pharmacy and removing
14 ancillary staff from the pharmacy if the pharmacist reasonably believes that the security of the
15 dangerous drugs and devices will be maintained in his or her absence.

16 If in the professional judgment of the pharmacist, the pharmacist determines that the
17 pharmacy should close during his or her absence, then the pharmacist shall close the pharmacy
18 and remove all ancillary staff from the pharmacy during his or her absence.

19
20 (e) The temporary absence authorized by this section shall be limited to the minimum
21 period authorized for pharmacists by section 512 of Labor Code or orders of the Industrial
22 Welfare Commission, and any meal shall be limited to 30 minutes. The pharmacist who is on
23 break shall not be required to remain in the pharmacy area during the break period."

24 15. California Code of Regulations, title 16, section 1761 states:

25 "(a) No pharmacist shall compound or dispense any prescription which contains any
26 significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any
27 such prescription, the pharmacist shall contact the prescriber to obtain the information needed to
28 validate the prescription.

1 (b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense
2 a controlled substance prescription where the pharmacist knows or has objective reason to know
3 that said prescription was not issued for a legitimate medical purpose."

4 **CONTROLLED SUBSTANCES**

5 16. Alprazolam, the generic name for Xanax, is a Schedule IV controlled substance
6 pursuant to Health and Safety Code section 11057, subdivision (d)(1) and is a dangerous drug
7 pursuant to Business and Professions Code section 4022.

8 17. Norco is the brand name for the combination narcotic, Hydrocodone and
9 Acetaminophen, and is a Schedule III¹ controlled substance pursuant to Health and Safety Code
10 section 11056(e) and is categorized as a dangerous drug pursuant to Business and Professions
11 Code section 4022.

12 18. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
13 section 11055, subdivision (b)(1)(M) and is a dangerous drug pursuant to Business and
14 Professions Code section 4022. Oxycodone is a narcotic analgesic used for moderate to severe
15 pain and it has a high potential for abuse.

16 19. Phenergan with codeine is the brand name for promethazine with codeine, which is a
17 Schedule V controlled substance pursuant to Health and Safety Code section 11058, subdivision
18 (c) and is a dangerous drug pursuant to Business and Professions Code section 4022. It is used
19 for temporary relief of coughs and upper respiratory symptoms associated with allergy or the
20 common cold. Promethazine and codeine combined with a soda could cause euphoria.

21 **COST RECOVERY**

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

26
27 ¹ Effective October 6, 2014, the Drug Enforcement Administration rescheduled
28 Hydrocodone combination products from schedule III to schedule II of the Controlled Substances
Act. (See 21 CFR Part 1308 § 1308.12; 21 U.S.C. 812 (c))

1 BACKGROUND

2 21. On or about January 29, 2013, a Board Inspector ("Inspector") conducted an
3 inspection of Respondent Pharmacy, which is located in Gardena, California. The Inspector
4 arrived at approximately 9:55 a.m. and Respondent Pharmacy was open. However there was no
5 pharmacist on duty as Pharmacist-In-Charge Thanh-Truc Ngo had gone to a personal medical
6 appointment. PIC Ngo arrived at Respondent Pharmacy at approximately 10:25 a.m.

7 22. During the inspection, the Inspector found numerous prepackaged medications with
8 no labels. Some drugs were in vials inside baskets and some were on the side counters. The
9 prepackaged drugs included:

- 10 • Amoxicillin 500 mg;
- 11 • Ampicillin 500 mg;
- 12 • Cephalexin 500 mg;
- 13 • Promethazine DM liquid;
- 14 • Lopermide 2 mg;
- 15 • Omeprazole 20mg; and
- 16 • Folic acid 1 mg.

17 23. The Inspector obtained CURES² data on Respondent Pharmacy from 1/1/2011 to
18 12/5/2012. In reviewing CURES data, Respondent Pharmacy dispensed a total of 3,241
19 controlled substance prescriptions. Of these prescriptions, 1,647 (or 50.82%) of them were for
20 oxycodone 30mg for a total of 363,370 units of oxycodone 30mg. In addition, CURES data
21 revealed that 73.59% of all controlled substances dispensed by Respondent were for oxycodone
22 30 mg. The average quantity of oxycodone dispensed was 224 tablets. Additionally 2,355 of the
23 prescriptions were dispensed for cash, meaning no insurance was billed. A neighboring CVS
24 pharmacy was the next highest purchaser of oxycodone 30mg but it only purchased 23,900 units

25
26 ² CURES stands for the Controlled Substance Utilization Review and Evaluation System
27 program which requires mandatory monthly pharmacy reporting of controlled substances.
28 Prescribers and pharmacists can register with the State of California, Department of Justice to
access CURES data through the Prescription Drug Monitoring Program which can aide them in
determining if a patient has been to multiple prescribers and/or multiple pharmacies.

1 from 12/1/2010 to 9/1/2011, as compared to the 393,900 units purchased by Respondent for the
2 same time frame.

3 24. The Inspector selected 18 random patients and reviewed CURES data, pharmacy
4 patient questionnaires prepared by Respondent Nguyen, patient history reports, prescriptions,
5 medication justification forms, etc., and made the following determinations:

6 a. Patient CA only had controlled substances dispensed at Respondent Pharmacy
7 (oxycodone 30mg and promethazine with codeine). He lived in Inglewood and traveled
8 approximately 25 miles to Northridge to see prescriber Robert Lifson and subsequently traveled
9 approximately 8 miles to Respondent Pharmacy to get his prescriptions dispensed. CA paid cash
10 for his prescriptions. Respondent Pharmacy dispensed promethazine with codeine 16oz on
11 4/5/2011, RX# 107110 with no antibiotic. This medication is for cough and the high quantity of
12 cough medication without any antibiotic should have been a warning sign for the pharmacy.

13 b. Patient SA only had controlled substances dispensed at Respondent Pharmacy
14 (oxycodone 30mg, promethazine with codeine, and hydrocodone/acetaminophen). She lived in
15 Tarzana and traveled approximately 4 miles to Northridge to see prescriber Robert Lifson and
16 subsequently traveled approximately 28 miles to Respondent Pharmacy to get prescriptions
17 dispensed. SA paid cash for her medications. Respondent Pharmacy dispensed promethazine
18 with codeine 16oz on 4/1/2011 and on 4/16 2011, RX# 107495 with no antibiotic. This
19 medication is for cough and the high quantity of cough medication without any antibiotic should
20 have been a warning sign for the pharmacy. According to the medication justification form from
21 the prescriber, SA had different diagnosis on 5/27/2011 and 7/29/2011. Additionally, the
22 following table shows early refills for hydrocodone/ acetaminophen 10/325mg:

RX#	Date Dispensed	Day Supply	Days Early	Prescriber
106207	3/23/2011	30	N/A	Lifson
107495	4/11/2011	30	11	Lifson
108525	4/26/2011	30	15	Lifson

1 e. Patient AB mostly had controlled substances dispensed at Respondent Pharmacy
 2 (oxycodone 30mg). She lived in Rialto and travelled approximately 74 miles to Northridge to see
 3 prescribers Robert Lifson and Boniface Obubah and subsequently traveled approximately 66
 4 miles from her home to have her prescriptions filled at Respondent Pharmacy. She paid cash for
 5 her medications. Additionally, the following table shows early refills for oxycodone 30mg:

RX#	Date Dispensed	Day Supply	Days Early	Prescriber
104084	2/22/2011	30	N/A	Ferraro
105861	3/7/2011	30	17	Onubah

10 According to the medication justification form from the prescriber, AB had different diagnoses on
 11 3/8/2011 and 6/24/2011. A review of CURES data revealed that AB went to 2 different
 12 practitioners (Robert Lifson and Boniface Onubah) and both Respondent Pharmacy and Century
 13 Discount Pharmacy around the same time to get oxycodone 30mg. On 6/14/2011, Century
 14 Discount Pharmacy dispensed RX# 433311 #120 for a 30 day supply of oxycodone 30mg. On
 15 6/24/2011, Respondent Pharmacy dispensed RX# 112584 #240 for a 30 day supply of oxycodone
 16 30mg. If Respondent Pharmacy had consulted CURES data, it would have determined that AB
 17 was a doctor and pharmacy shopper.

18 d. Patient GB mostly had controlled substances dispensed at Respondent Pharmacy
 19 (oxycodone 30mg). He lived in Palmdale and traveled approximately 48 miles to Reseda to see
 20 Lucia Ferraro and Boniface Obubah and subsequently traveled approximately 66 miles from his
 21 home to have his prescriptions filled at Respondent Pharmacy. He paid cash for his medications.
 22 Additionally, the following table shows early refills for oxycodone 30mg:

RX#	Date Dispensed	Day Supply	Days Early	Prescriber
105006	3/7/2011	30	N/A	Ferraro
106500	3/28/2011	30	9	Ferraro

26 GB went to numerous other pharmacies (Rite Aid 5840, Rite Aid 6396, CVS 9657, Own Western
 27 Pharmacy, CVS 9634, Century Discount Pharmacy, and Yorba Linda Pharmacy). GB also went
 28 to pharmacies in different cities (Lancaster, Palmdale, Covina, Orange, and Reseda), and GB

1 went to went to multiple practitioners in various cities (Natividad De Jesus in Lancaster, Lucia
2 Ferrero in Van Nuys, Ton Tan in Lancaster, Boniface Onubah in Northridge, Shahid Siddique in
3 Burbank, Sunil Shroff in Los Angeles, and Ramaiah Madihalli in Lancaster). If Respondent
4 Pharmacy had consulted CURES data, it would have determined that GB was a doctor and
5 pharmacy shopper.

6 e. Patient JB only had controlled substances dispensed at Respondent Pharmacy
7 (oxycodone 30mg). He lived in Lancaster and traveled approximately 57 miles to Northridge to
8 see Robert Lifson and Boniface Obubah and subsequently traveled approximately 82 more miles
9 to get the prescriptions dispensed at Respondent Pharmacy. He paid cash for his medications. A
10 review of CURES data showed JB went to various Kaiser facilities ranging from Lancaster,
11 Riverside, and Panorama City. While getting prescriptions filled at Respondent Pharmacy, JB
12 went to multiple practitioners (Robert Lifson and Joseph Garfinkel) and had prescriptions
13 dispensed at multiple pharmacies (Century Discount Pharmacy). According to the medication
14 justification form from the prescriber, JB had different diagnoses on 4/13/2011 and 6/6/2011.

15 f. Patient MB only had controlled substances dispensed at Respondent Pharmacy
16 (oxycodone 30mg). She lived in Lancaster and traveled approximately 59 miles to Reseda to see
17 Robert Lifson, Boniface Obubah, and Lucio Ferraro and subsequently traveled approximately 82
18 miles from home to get prescriptions dispensed at Respondent Pharmacy. She paid cash for her
19 medications. While getting prescriptions filled at Respondent Pharmacy, MB went to multiple
20 practitioners (Lucio Ferraro, Robert Lifson, and Boniface Onubah) and had prescriptions
21 dispensed at multiple pharmacies (Century Discount Pharmacy in Reseda and Yorba Park
22 Pharmacy in Orange). According to the medication justification form from the prescriber, MB
23 had different diagnoses on 4/25/2011 and 7/25/2011.

24 g. Patient NB only had controlled substances dispensed at Respondent Pharmacy
25 (oxycodone 30mg). She lived in Lancaster and traveled approximately 59 miles to Reseda to see
26 Robert Lifson, Boniface Obubah, and Lucio Ferraro and subsequently traveled approximately 82
27 miles from home to get prescriptions dispensed at Respondent Pharmacy. She paid cash for her
28 medications. The following table shows early refills for oxycodone 30mg:

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RX#	Date Dispensed	Day Supply	Days Early	Prescriber
104085	2/22/2011	30	N/A	Ferraro
105855	3/18/2011	30	6	Lifson

According to the medication justification form from the prescriber, NB had different diagnoses on 3/18/2011 and 6/6/2011.

h. Patient MC only had controlled substances dispensed at Respondent Pharmacy (oxycodone 30mg). She lived in Palmdale and traveled to approximately 47 miles to Van Nuys and Reseda to see Joseph Garfinkel, Lucio Ferrero, and Morris Halfon and subsequently traveled approximately 74 miles from home to get prescriptions dispensed at Respondent Pharmacy. She paid cash for her medications. A review of CURES data showed that prior to going to Respondent Pharmacy, MC went to numerous pharmacies (Palmdale Medical Pharmacy in Palmdale, Rite Aid 6396 in Palmdale, Costco 412 in Azusa, Rite Aid 5535 in Pasadena, Costco 447 in Santa Clarita, Costco 762 in Lancaster, Sam's 4824 in Santa Clarita, Costco 1010 in Victorville, Costco 1015 in San Dimas, CVS 9694 in Pasadena, Covina Pharmacy in Covina, CVS 1666 in Lancaster, Huntington Pharmacy in San Marino, Longs Drug Store 9731 in Victorville, Hesperia La Salle Pharmacy in Hesperia, Cabrillo Park Pharmacy in Santa Ana, and Century Discount Pharmacy in Reseda). While going Respondent Pharmacy, MC continued to go to multiple pharmacies (Costco 762, Hesperia La Salle Pharmacy, Cabrillo Park Pharmacy, and Century Discount Pharmacy). Prior to, and while going to Respondent Pharmacy, MC went to numerous practitioners in various cities (Shahram Parsa in Palmdale, Randolph Betts in Covina, Katherine Robb-Ramirez in Riverside, Edward Ridgill in Whittier, Daniel Sheppard in Lancaster, Phillip Schoel in Palmdale, Daisey Markley in Lancaster, Leroy Pascal in Rancho Palso Verdes, Joseph Selveraj in Hesperia, Nagwa Mina in Lancaster, Danny Jones in Lancaster, Morris Halfon in Los Angeles, Lucia Ferrero in Van Nuys, Felix Albino in Hesperia and Robert Lifson in Northridge). If Respondent Pharmacy had consulted CURES data, it would have determined MC was a doctor and pharmacy shopper.

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1 i. Patient DC mostly had controlled substances dispensed at Respondent Pharmacy
2 (oxycodone 30mg, promethazine with codeine, and hydrocodone/acetaminophen). He lived in
3 Monrovia and traveled approximately 35 miles to Northridge and Reseda to see Robert Lifson
4 and Ray Salari and subsequently traveled approximately 35 miles from home to get prescriptions
5 dispensed at Respondent Pharmacy. Respondent Pharmacy dispensed promethazine with codeine
6 16oz on 2/18/2011 RX# 103795, on 4/8/11 RX# 107386, and on 5/2/2011 RX# 108795 with no
7 antibiotic. This medication is for cough and the high quantity of cough medication without any
8 antibiotic should have been a warning sign for the pharmacy. DC paid cash for the medications.
9 According to the medication justification form from the prescriber, DC had different diagnoses on
10 4/25/2011 and 6/1/2011. Respondent Pharmacy dispensed some unusual prescription
11 combinations for DC:

- 12 • On 5/18/2011, Respondent Pharmacy dispensed HC/AP 10/325mg #240, promethazine
13 with codeine 16oz, and amoxicillin 500mg #15. On 8/14/2011, Respondent Pharmacy
14 dispensed oxycodone 30mg #240, promethazine with codeine 16oz, and amoxicillin
15 500mg #15. These are usual combinations for high quantity narcotics, low dose
16 antibiotics, and of high quantity cough syrup.

17 DC had multiple prescriptions from Robert Lifson and Ray Salari for
18 hydrocodone/acetaminophen around the same time dispensed at 2 different pharmacies:

- 19 • On 4/8/2011, Respondent Pharmacy dispensed HC/AP 10/325mg #240, 30 day supply,
20 RX# 107385. On 4/15/2011, Costco 44 dispensed HC/AP 10/325mg #240, 30 day supply,
21 RX# 1000498.
- 22 • On 7/1/2011, Respondent Pharmacy dispensed HC/AP 10/325mg #240, 30 day supply,
23 RX# 113058. On 7/25/2011, Costco 44 dispensed HC/AP 10/325mg # 240, 30 day
24 supply, RX# 1012155.

25 If Respondent Pharmacy had consulted CURES data, it would have determined DC was a doctor
26 and pharmacy shopper.

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1 j. Patient TC mostly had controlled substances dispensed at Respondent Pharmacy
2 (oxycodone 30mg). She lived in Pacoima and travelled approximately 9 miles to Reseda to see
3 Robert Lifson and Luolo Ferraro and subsequently traveled approximately 34 miles from home to
4 get prescriptions dispensed at Respondent Pharmacy. She paid cash for her medications. A
5 review of CURES data showed that prior to going to Respondent Pharmacy, TC went to multiple
6 pharmacies in various cities (Medicine Shoppe in Reseda, Mission Community Pharmacy in
7 Panorama City, CVS 9657 in Lancaster, Burn Prescription Pharmacy in Lancaster, Rite-Aid 5549
8 in Pacoima and CVS 9651 in Sylmar) and multiple practitioners in various cities (Kevin Gohar in
9 Woodland Hills, Luis Flores in Arleta, Asha Amir-Jahid in Beverly Hills, Troy Fennel in Van
10 Nuys, Lena Nathen in Los Angeles, Donna Emanuele in Tujunga, and Mark Medowell in Santa
11 Monica). If Respondent Pharmacy had consulted CURES data, it would have determined TC was
12 a doctor and pharmacy shopper.

13 k. Patient PD had only controlled substances dispensed at Respondent Pharmacy
14 (oxycodone 30mg and promethazine with codeine). She lived in San Bernardino and travelled
15 approximately 78 miles Reseda to see Boniface Onubah and Joseph Garfinkel and subsequently
16 travelled approximately 75 miles from home to get prescriptions dispensed at Respondent
17 Pharmacy. She paid cash for her medications. According to the medication justification form
18 from the prescriber, PD had different diagnoses on 4/13/2011 and 8/17/2011. Respondent
19 Pharmacy dispensed promethazine with codeine 16oz on 2/7/2011 RX# 102952 and on 3/11/2011
20 RX# 105382 with no antibiotic. This medication is for cough and the high quantity of cough
21 medication without any antibiotic should have been a warning sign for the pharmacy. A review
22 of CURES data showed that prior to going to Respondent Pharmacy, PD went to numerous
23 pharmacies in various cities (Arrowhead Regional Medical Center in Colton, Kaiser #197 in
24 Fontana, Kaiser #985 in Downey, and Kaiser #157 in Victorville). While going to Respondent
25 Pharmacy, PD also had prescriptions filled at Cabrillo Park Pharmacy in Santa Ana and Century
26 Discount Pharmacy in Reseda. PD also went to numerous practitioners (Jonathan Tsao in Irvine,
27 Kristine Zambrano in Colton, Steven Wider in Fontana, Julie Tang in Rialto, Javier Desoalzi in
28 Fontana, Gregory Tennant in Fontana, Daniel Bennett in Reseda, Chester Sarnowski in Colton,

1 Angel Schaffer in Gardena, Samir Tejwani in Fontana, and Dawn Renko in Fontana). If
2 Respondent Pharmacy had consulted CURES data, it would have determined PD was a doctor
3 and pharmacy shopper.

4 l. Patient YG only had controlled substances dispensed at Respondent Pharmacy
5 (oxycodone 30mg). He lived in Sylmar and traveled approximately 11 miles to see Robert Lifson
6 and subsequently traveled approximately 33 miles from home to get prescriptions dispensed at
7 Respondent Pharmacy. He paid cash for his medications. The following table shows early refills
8 for oxycodone 30mg:

RX#	Date Dispensed	Day Supply	Days Early	Prescriber
105592	3/15/2011	30	N/A	Lifson
106567	3/29/2011	30	13	Lifson

13 According to the medication justification form from the prescriber, YG had different diagnoses
14 on 3/10/2011, 3/29/2011, 5/5/2011, and 7/8/2011. While going to Respondent Pharmacy, YG
15 also went to multiple pharmacies in various cities (Yorba Park Pharmacy in Orange and Century
16 Discount Pharmacy in Reseda) and various prescribers (Robert Lifson, Boniface Onubah, and
17 Joseph Garfinkle). If Respondent Pharmacy had consulted CURES data, it would have
18 determined YG was a doctor and pharmacy shopper.

19 m. Patient JH had some controlled substances dispensed at Respondent Pharmacy
20 (hydrocodone/acetaminophen 7.5/750mg, oxycodone 30mg, and promethazine with codeine). He
21 lived in Long Beach and traveled approximately 48 miles to Riverside to see Susan Wagner and
22 subsequently traveled approximately 14 miles from home to get prescriptions dispensed at
23 Respondent Pharmacy. Respondent Pharmacy dispensed promethazine with codeine 16oz on
24 6/10/2011, RX# 108677, and on 7/7/2011 and 8/1/2011 RX# 113375, with no antibiotic. This
25 medication is for cough and the high quantity of cough medication without any antibiotic should
26 have been a warning sign for the pharmacy. JH paid cash for the promethazine with codeine (but
27 paid with insurance for his other prescriptions). A review of CURES data showed that prior
28 going to Respondent Pharmacy, JH went to numerous pharmacies in various cities (Walgreens in

1 Anaheim, Thrifty Payless in Los Angeles, Beverly Hills Medical Plaza Pharmacy in Beverly
2 Hills, Rite-Aid 5429 in Los Angeles, Ad-Rx in Los Angeles, CVS 1176 in Lomita, Northridge
3 Plaza Pharmacy in Northridge, and Vermillion Drug #3 in Long Beach). While going to
4 Respondent Pharmacy, JH continued to go to multiple pharmacies (Rite-Aid 5602 in Ontario, Ad-
5 Rx in Los Angeles, Valley Medical Plaza Pharmacy in Alhambra, Medical Towers Pharmacy in
6 Huntington Beach, Ralphs 760 in Rancho Palos Verdes, Target 2179 in Diamond Bar, Yorba
7 Park Pharmacy in Orange, Gage Pharmacy in Long Beach, Century Discount Pharmacy in
8 Reseda, St. Paul Pharmacy in Huntington Park, The Druggist in Valencia, Rite-Aid 5435 in Los
9 Angeles, Walgreens 6904 in Redondo Beach, Walgreens 7870 in Long Beach, and Today
10 Pharmacy in Long Beach). JH also went to numerous practitioners prior to, during, and after
11 going to Respondent Pharmacy (Boniface Orubah in Northridge, Emmanuel Lim in Los Angeles,
12 Yousef Awad in Long Beach, Clyde Arnold in Los Angeles, Joseph Garfinkel in Reseda, Susan
13 Wagner in Riverside, Uche Chukwudi in Gardena, David Niknia in Panorama City, Earnest
14 Casillas in Los Angeles, and Manuel Sison in Panorama City). If Respondent Pharmacy had
15 consulted CURES data, it would have determined JH was a doctor and pharmacy shopper.

16 n. Patient BJ mostly had controlled substances dispensed at Respondent Pharmacy
17 (oxycodone 30mg). She lived in Los Angeles and traveled approximately 25 miles to Reseda to
18 see Robert Lifson and Joseph Garfinkel and subsequently traveled approximately 8 miles from
19 home to get prescriptions dispensed at Respondent Pharmacy. She paid cash for her medications.
20 According to the medication justification form from the prescriber, BJ had different diagnoses on
21 5/11/2011 and 7/1/2011. Respondent Pharmacy dispensed promethazine with codeine 16oz with
22 no antibiotic on 2/15/2011 and 3/21/2011. This medication is for cough and the high quantity of
23 cough medication without any antibiotic should have been a warning sign for the pharmacy. BJ
24 also had prescriptions dispensed at Medical Towers Pharmacy in Huntington Beach while going
25 to Respondent Pharmacy.

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1 o. Patient RJ mostly had controlled substances dispensed at Respondent Pharmacy
2 (alprazolam 2mg, hydrocodone/acetaminophen and promethazine with codeine). She lived in
3 Hawthorne³ and traveled approximately 29 miles to Northridge to see Robert Lifson and
4 subsequently traveled approximately 2 miles from home to get prescriptions dispensed at
5 Respondent Pharmacy. On 1/20/2011, and 2/8/2011, Respondent Pharmacy dispensed
6 promethazine with codeine 16oz with no antibiotic. This medication is for cough and the high
7 quantity of cough medication without any antibiotic should have been a warning sign for the
8 pharmacy. A review of CURES data showed that prior to going to Respondent Pharmacy, RJ
9 went to numerous pharmacies in various cities (Gage Pharmacy in Long Beach, Golden Drugs in
10 Los Angeles, Daniel's Pharmacy in Moreno Valley, Spaulding Rx Pharmacy in Inglewood,
11 Valley Pharmacy in Moreno Valley, Mats Pharmacy and Medical Supply in Lynwood, Super
12 Discount Pharmacy in Van Nuys, and Michael's Pharmacy in Sherman Oaks). While going to
13 Respondent Pharmacy, RJ continued to go to multiple pharmacies (Daniel's Pharmacy in Moreno
14 Valley, Golden Care Pharmacy in Los Angeles, Walgreens 6249 in Lynwood, St. Paul's
15 Pharmacy in Huntington Park, Sierra Pharmacy in San Bernardino, Rite-Aid 5486 in Inglewood,
16 Manchester Professional Pharmacy in Los Angeles, Walgreens 5528 in San Bernardino, and Rite-
17 Aid 5471 in Gardena). Prior to and while going to Respondent Pharmacy, RJ went to multiple
18 practitioners in numerous cities (Jack Chun and Ting Wu in Long Beach, Edward Ridgill in
19 Whittier, James May in Los Angeles, Nazar Al-Bussam in Downey, Jijan Hoorfar in Encino,
20 Asher Ram in Van Nuys, Susan Seideman in Wilmington, Susan Wagner in Riverside, Robert
21 Lifson in Northridge, Boniface Onubah in Northridge, Michael Martelli in Hermosa Beach, Rabia
22 Ahmed in Los Angeles, and Gilbert Pelayo in Gardena). If Respondent Pharmacy had consulted
23 CURES data, it would have determined RJ was a doctor and pharmacy shopper.

24 p. Patient GO mostly had controlled substances dispensed at Respondent Pharmacy
25 (oxycodone 30mg, hydrocodone/acetaminophen and promethazine with codeine). He lived in
26 Studio City and traveled approximately 12 miles to Reseda to see Robert Lifson and Ray Salar

27 ³ According to the prescription, RJ lived in Van Nuys but the Pharmacy's records
28 indicated that she lived in Hawthorne.

1 and subsequently travelled approximately 25 miles from home to get prescriptions dispensed at
2 Respondent Pharmacy. He paid cash for his medications. On 3/16/2011, Respondent Pharmacy
3 dispensed RX# 105678, promethazine with codeine 16oz with no antibiotic. This medication is
4 for cough and the high quantity of cough medication without any antibiotic should have been a
5 warning sign for the pharmacy. The following table shows early refills for oxycodone 30mg:

RX#	Date Dispensed	Day Supply	Days Early	Prescriber
105677	3/16/2011	30	N/A	Lifson
106851	4/1/2011	30	15	Lifson

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9
10 A review of CURES data showed GO went to Ralphs 712 in Burbank while going to Respondent
11 Pharmacy. On 4/1/2011, Respondent Pharmacy dispensed HC/AP 10/325mg #240, 30 day
12 supply, RX# 106851 prescribed by Robert Lifson. On 4/15/2011, Ralphs 712 dispensed HC/AP
13 10/325mg #240, 30 day supply RX# 4707995 prescribed by Robert Lifson. GO received 480
14 tablets within 1 month prescribed by Robert Lifson. If Respondent Pharmacy had checked
15 CURES data, it would have noticed Robert Lifson's unusual prescribing habit.

16 q. Patient PP mostly had controlled substances dispensed at Respondent Pharmacy
17 (oxycodone 30mg, hydrocodone/acetaminophen and promethazine with codeine). He lived in
18 Lancaster and traveled approximately 53 miles to Reseda to see Robert Lifson and Ray Salari and
19 subsequently traveled approximately 75 miles from home to get prescriptions dispensed at
20 Respondent Pharmacy. He paid cash for his medications. On 2/2/2011, 3/28/2011, and
21 4/14/2011, PP received promethazine with codeine 16oz with no antibiotic. This medication is
22 for cough and the high quantity of cough medication without any antibiotic should have been a
23 warning sign for the pharmacy. The following table shows early refills for
24 hydrocodone/acetaminophen 10/325mg:

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RX#	Date Dispensed	Day Supply	Days Early	Prescriber
106496	3/28/2011	30	N/A	Lifson
107750	4/13/2011	30	14	Lifson
107799	4/14/2011	30	29	Lifson

A review of CURES dated showed that PP went to Save-on 6554 in Diamond Bar while going to Respondent Pharmacy.

r. Patient ES had controlled substances dispensed at Respondent Pharmacy (oxycodone 30mg). He lived in Los Angeles and traveled approximately 25 miles to Northridge to see Robert Lifson and Boniface Abubah and traveled approximately 15 miles from home to get prescriptions dispensed at Respondent Pharmacy. He paid cash for his medications. The following table shows early refills for oxycodone 30mg:

RX#	Date Dispensed	Day Supply	Days Early	Prescriber
107136	4/5/2011	30	N/A	Onubah
107378	4/8/2011	30	27	Onubah
108651	4/27/2011	30	11	Onubah
112332	6/21/2011	30	N/A	Onubah
113925	7/15/2011	30	6	Onubah

According to the medication justification form from the prescriber, ES had different diagnoses on 1/21/2011, 2/22/2011, 4/6/2011, 4/8/2011, 4/27/2011, 6/22/2011, and 7/15/2011. A review of CURES data showed that prior to going to Respondent Pharmacy, ES had prescriptions dispensed at multiple pharmacies in various cities (Mission Community Pharmacy in Panorama City, Valley West Medical Pharmacy in Alhambra, and Broadway Medical Pharmacy in Anaheim). ES continued to go to multiple pharmacies while going to Respondent Pharmacy (Cabrillo Park Pharmacy in Santa Ana, Sierra Pharmacy in Rancho Cucamonga, and Golden Soales Pharmacy in Pomona). ES also went to multiple practitioners prior to and while going to

1 Respondent Pharmacy (Cecilia Madrid in Toluca Lake, Ray Salari in Northridge, Joseph
2 Garfinkel in Reseda, Robert Lifson in Northridge, Boniface Onubah in Northridge, and Oliver
3 Tsai in West Covina.)

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Failure to Exercise Corresponding Responsibility)**

6 25. Respondent Pharmacy and Respondent Nguyen are subject to disciplinary action
7 under Code section 4301, subdivisions (d) and (j), in conjunction with Health and Safety Code
8 section 11153, subdivision (a), and Code section 4301, subdivision (o), in conjunction with
9 California Code of Regulations, title 16, section 1761, on the grounds of unprofessional conduct
10 in that they violated their corresponding responsibility by committing acts of excessive furnishing
11 of controlled substances with an established history of a high potential for abuse despite multiple
12 cues of irregularity and uncertainty related to patient and prescriber factors. Specifically,
13 between 1/1/2011 and 12/5/2012, Respondent Pharmacy dispensed 3,241 controlled substance
14 prescriptions of which 1,647 were for oxycodone 30mg without regarding for the following
15 factors: distance from Respondent Pharmacy to the prescriber's office, distance from Respondent
16 Pharmacy to the patient's home, distance from the patient's home to the prescriber's office,
17 percentage of patients willing to pay cash for the prescriptions, percentage of patients seeing
18 multiple prescribers, and percentage of patients getting prescriptions filled at multiple
19 pharmacies. Respondent Pharmacy filled prescriptions by the same prescribers who offices were
20 outside the normal trading area, who prescribed oxycodone 30mg in large quantities, and who
21 gave similar diagnoses. Respondent Pharmacy did not scrutinize its patients' drug therapy with
22 readily available tools such as CURES data and its own records, which therefore led to early fills
23 to patients who habitually engaged in doctor and pharmacy shopping. Complainant incorporates
24 by reference Paragraphs 21 through 24, including all subparagraphs as though fully set forth
25 herein.

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SECOND CAUSE FOR DISCIPLINE

(Drugs Lacking Quality and Strength)

26. Respondent Pharmacy is subject to disciplinary action under Code section 4301, subdivision (c) and Code section 4342, in conjunction with Code section 4169, subdivision (a)(3) and Health and Safety Code section 111335, in that on or about January 29, 2013, during an inspection of Respondent Pharmacy, several repackaged bottles and vials of drugs were improperly labeled or had no labeling adhered to the containers. Complainant incorporates by reference Paragraph 22 as though fully set forth herein.

THIRD CAUSE FOR DISCIPLINE

(Pharmacy Operating During Absence of Pharmacist)

27. Respondent Pharmacy is subject to disciplinary action under Code section 4300, subdivision (c), in conjunction with California Code of Regulations, title 16, section 1714.1, subdivision (e), on the grounds of unprofessional conduct in that on or about January 29, 2013, during an inspection of Respondent Pharmacy, the pharmacy was operating with no pharmacist on duty for over 30 minutes and the pharmacist was not on a rest or meal break. Complainant incorporates by reference Paragraph 21 as though fully set forth herein.

FOURTH CAUSE FOR DISCIPLINE

(Operational Standards and Security)

28. Respondent Pharmacy is subject to disciplinary action under Code section 4300, subdivision (c), in conjunction with California Code of Regulations, title 16, section 1714, subdivision (b), on the grounds of unprofessional conduct in that on or about January 29, 2013, during an inspection of Respondent Pharmacy, the pharmacy was operating with no pharmacist on duty for over 30 minutes and the pharmacist was not on a rest or meal break. Complainant incorporates by reference Paragraph 21 as though fully set forth herein.

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1 OWNERSHIP PROHIBITION

2 Business and Professions Code section 4307, subdivision (a), provides, in pertinent part,
3 that any person whose license has been revoked or is under suspension shall be prohibited from
4 serving as a manager, administrator, owner, member, officer, director, associate or partner of a
5 licensee.

6 Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit PHY 50395
7 issued to Thanh-Truc Ngo doing business as Health Care Pharmacy, and Thanh-Truc Ngo, while
8 acting as the manager, administrator, owner, member, officer, director, associate, or partner of
9 Health Care Pharmacy, had knowledge of, or knowingly participated in, any conduct for which
10 Pharmacy Permit PHY 50395 was revoked, suspended or placed on probation, Thanh-Truc Ngo
11 shall be prohibited from serving as manager, administrator, owner, member, officer, director,
12 associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50395 issued to
13 Thanh-Truc Ngo doing business as Health Care Pharmacy is placed on probation, or until
14 Pharmacy Permit Number PHY 50395 issued to Thanh-Truc Ngo doing business as Health Care
15 Pharmacy is reinstated if Pharmacy Permit Number PHY 50535 is revoked;

16 PRAYER

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

19 1. Revoking or suspending Pharmacy Permit Number PHY 50395, issued to Thanh-Truc
20 Ngo doing business and Health Care Pharmacy;

21 2. Revoking or suspending Pharmacist License Number RPH 46458, issued to Tin Huu
22 Nguyen;

23 3. Prohibiting Thanh-Truc Ngo from serving as a manager, administrator, owner,
24 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
25 Number PHY 50395 is placed on probation or until Pharmacy Permit Number PHY 50395 is
26 reinstated if Pharmacy Permit Number PHY 50395 issued to Thanh-Truc Ngo is revoked;

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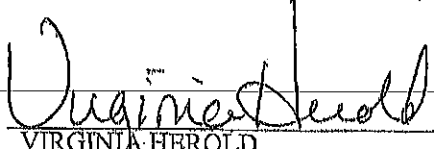
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4. Ordering Health Care Pharmacy, with Thanh-Truo Ngo as owner, and Tin Huu Nguyen to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and

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

DATED:

11/4/15



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

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