



California State Board of Pharmacy

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

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

April 12, 2016

Christopher Tri Ho
5351 Tremaine Dr.
Huntington Beach, CA 92659

Re: **LETTER OF PUBLIC REPROVAL**
In the Matter of the Accusation Against:
Christopher Tri Ho, et al., Pharmacist License No. RPH 55450

Dear Mr. Ho:

On August 13, 2015, the Board of Pharmacy, Department of Consumer Affairs, State of California, filed an Accusation against your Pharmacist License. The Accusation alleged that you engaged in unprofessional conduct as follows:

(1) When you permitted an individual to perform the functions of an intern pharmacist without being licensed by the Board in violation of Business and Professions Code section 4110(a).

(2) When you committed gross negligence by dispensing and furnishing a used sharps disposal container which was filled with used syringes to a minor patient in violation of Business and Professions Code section 4301(c).

(3) When you engaged in the activities set forth above in violation of Business and Professions Code section 4301.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Pharmacy, Department of Consumer Affairs issues this letter of public reproof.

Sincerely,

VIRGINIA HEROLD

A handwritten signature in black ink that reads "Virginia Herold".

Executive Officer
Board of Pharmacy
Department of Consumer Affairs

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

In the Matter of the Accusation Against:

Case No. 5299

**CVS VANGUARD, INC., DBA
CVS PHARMACY NO. 5837
7065 La Palma Avenue
Buena Park, CA 90620**

Pharmacy Permit No. PHY 46780

**CHRISTOPHER TRI HO
5351 Tremaine Dr.
Huntington Beach, CA 92659**

Pharmacist License No. RPH 55450

Respondents.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Repeval 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 May 12, 2016.

It is so ORDERED on April 12, 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 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

12 **CVS VANGUARD, INC., DBA**
13 **CVS PHARMACY NO. 5837**
14 **7065 La Palma Avenue**
Buena Park, CA 90620

15 **Pharmacy Permit No. PHY 46780**

16 **CHRISTOPHER TRI HO**
17 **5351 Tremaine Dr.**
Huntington Beach, CA 92659

18 **Pharmacist License No. RPH 55450**

19 Respondents.

Case No. 5299

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL**

[Bus. & Prof. Code § 495]

20
21
22 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
23 entitled proceedings that the following matters are true:

24 PARTIES

25 1. Virginia K. Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
26 She brought this action solely in her official capacity and is represented in this matter by Kamala
27
28

1 D. Harris, Attorney General of the State of California, by Desiree I. Kellogg, Deputy Attorney
2 General.

3 2. Respondent CVS Vanguard, Inc., doing business as CVS Pharmacy No. 5837
4 (Respondent CVS Pharmacy No. 5837) and Christopher Tri Ho (Respondent Christopher Ho) are
5 represented in this proceeding by attorney Harold B. Hilborn of Much Shelist, P.C., whose
6 address is: 191 North Wacker Drive, Suite 1800, Chicago, Illinois 60606.

7 3. On or about July 22, 2004, the Board of Pharmacy issued Pharmacy Permit No. PHY
8 46780 to CVS Pharmacy No. 5837. The Pharmacy Permit was in full force and effect at all times
9 relevant to the charges brought in Accusation No. 5299 and will expire on June 1, 2016, unless
10 renewed.

11 4. On or about June 23, 2004, the Board of Pharmacy issued Pharmacist License No.
12 RPH 55450 to Christopher Ho. The Pharmacist License was in full force and effect at all times
13 relevant to the charges brought in Accusation No. 5299 and will expire on October 31, 2017,
14 unless renewed.

15 JURISDICTION

16 5. Accusation No. 5299 was filed before the Board of Pharmacy (Board), Department of
17 Consumer Affairs and is currently pending against Respondents. The Accusation and all other
18 statutorily required documents were properly served on Respondent on August 24, 2015.
19 Respondents timely filed its Notice of Defense contesting the Accusation. A copy of Accusation
20 No. 5299 is attached as exhibit A and incorporated herein by reference.

21 ADVISEMENT AND WAIVERS

22 6. Respondents have carefully read, fully discussed with counsel, and understand the
23 charges and allegations in Accusation No. 5299. Respondents have also carefully read, fully
24 discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary
25 Order for Public Repeval.

26 7. Respondents are fully aware of their legal rights in this matter, including the right to a
27 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
28 the witnesses against them; the right to present evidence and to testify on their own behalf; the

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

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

6 CULPABILITY

7 9. Respondents understand and agree that the charges and allegations in Accusation No.
8 5299, if proven at a hearing, constitute cause for imposing discipline upon their respective
9 Pharmacist License and Pharmacy Permit.

10 10. For the purpose of resolving the Accusation without the expense and uncertainty of
11 further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual
12 basis for the charges in the Accusation, and that Respondents hereby give up their right to contest
13 those charges.

14 11. Respondent CVS Pharmacy No. 5837 agrees that its Pharmacy Permit No. 46780 is
15 subject to discipline and Respondent Christopher Ho agrees that his Pharmacist License No.
16 55450 is subject to discipline and they agree to be bound by the Disciplinary Order below.

17 CONTINGENCY

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

28

1 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
2 copies of this Stipulated Settlement and Disciplinary Order for Public Reapproval, including
3 Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and
4 effect as the originals.

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

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

15 **DISCIPLINARY ORDER**

16 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 46780 issued to Respondent
17 CVS Vanguard, Inc., doing business as CVS Pharmacy No. 5837 (Respondent CVS Pharmacy
18 No. 5837) and Pharmacist License No. RPH 55450 issued to Christopher Tri Ho (Respondent
19 Christopher Ho) shall, by way of letter from the Board's Executive Officer, be publicly reapproved.
20 The letter issued to CVS Pharmacy No. 5837 shall be in substantially the same form as the letter
21 attached as Exhibit B to this stipulation. The letter issued to Christopher Ho shall be in
22 substantially the same form as the letter attached as Exhibit C to this stipulation.

23 IT IS FURTHER ORDERED that Respondent CVS Pharmacy No. 5837 shall pay \$1124.00
24 and Respondent Christopher Ho shall pay \$2,623.00 to the Board for its costs associated with the
25 investigation and enforcement of this matter. Respondents shall be permitted to pay these costs in
26 a payment plan approved by the Board. If Respondents fail to pay the Board costs as ordered,
27 Respondents shall not be allowed to renew their Pharmacy Permit and Pharmacist License until
28 Respondents pay their respective costs in full.

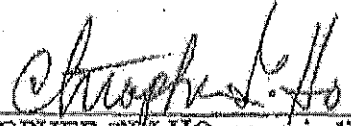
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS FURTHER ORDERED that within sixty (60) days of the effective date of this decision, Respondent CVS Pharmacy No. 5837 shall submit to the Board or its designee, for prior approval, a community service program in which Respondent CVS Pharmacy No. 5837 shall provide free sharp disposal containers or provide free or at a reduced cost immunizations, brown bag consultations, or other healthcare related services to a community, charitable facility or agency valuing \$20,000.00. Within thirty (30) days of board approval thereof, Respondent CVS Pharmacy No. 5837 shall submit documentation to the Board demonstrating commencement of the community service program. Respondent CVS Pharmacy No. 5837 shall complete the community service program and report on that completion to the board within six (6) months of the effective date of the decision.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order for Public Repeval and have fully discussed it with my attorney, Harold B. Hilborn. I understand the stipulation and the effect it will have on the Pharmacy Permit and Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order for Public Repeval voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

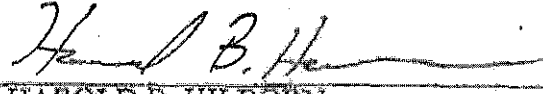
DATED: 2/18/2016



CHRISTOPHER TRI HO, as an individual and as the authorized agent on behalf of CVS VANGUARD, INC., DBA CVS PHARMACY NO. 5837 Respondents

I have read and fully discussed with Respondent CVS Pharmacy and Christopher Ho the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order for Public Repeval. I approve its form and content.

DATED: 2/18/2016



HAROLD B. HILBORN Attorney for Respondents

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ENDORSEMENT

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

DATED: 2/18/16

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
GREGORY J. SALUTE
Supervising Deputy Attorney General

DESIRÉE I. KELLOGG
Deputy Attorney General
Attorneys for Complainant

SD2014707918
81263602.doc

Exhibit A

Accusation No. 5299

1 KAMALA D. HARRIS
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2996
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5299

12 **CVS VANGUARD, INC., DBA**
13 **CVS PHARMACY NO. 5837**
14 **7065 La Palma Avenue**
Buena Park, CA 90620

ACCUSATION

15 **Pharmacy Permit No. PHY 46780**

16 **CHRISTOPHER TRI HO**
17 **5351 Tremaine Dr.**
Huntington Beach, CA 92659

18 **Pharmacist License No. RPH 55450**

19 Respondents.
20

21
22 Complainant alleges:

23 **PARTIES**

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

26 2. On or about July 22, 2004, the Board of Pharmacy issued Pharmacy Permit Number
27 PHY 46780 to CVS Pharmacy No. 5837 (Respondent CVS). The Pharmacy Permit was in full
28

1 force and effect at all times relevant to the charges brought herein and will expire on June 1, 2015,
2 unless renewed.

3 3. On or about June 23, 2004, the Board of Pharmacy issued Pharmacist License
4 Number RPH 55450 to Christopher Tri Ho (Ho). The Pharmacist License was in full force and
5 effect at all times relevant to the charges brought herein and will expire on October 31, 2015,
6 unless renewed.

7 JURISDICTION

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

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

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

16 7. Section 4300.1 of the Code states:

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

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

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

25 ...
26 (c) Gross negligence.
27 ...
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STATUTORY PROVISIONS

9. Section 4030 of the Code states:

"Intern pharmacist" means a person issued a license pursuant to Section 4208 [intern pharmacist license].

10. Section 4113(e) of the Code states:

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

11. Section 4114(a) of the Code states:

An intern pharmacist may perform all functions of a pharmacist at the discretion of and under the direct supervision and control of a pharmacist whose license is in good standing with the board.

12. Section 4208(a) of the Code states in pertinent part that:

At the discretion of the board, an intern pharmacist license may be issued...

COST RECOVERY

13. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate 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.

FACTUAL ALLEGATIONS

14. From February 1, 2006 through the present, Respondent Ho was the Pharmacist-in-Charge of Respondent CVS.

15. On or about January 16, 2007, the Board received an application for a registration as an intern pharmacist from Allison V. Dinh but never issued that license to her.

16. On or about July 9, 2009, the Board received in connection with an application for a pharmacist licensure and examination for Allison V. Dinh, a Pharmacy Intern Hours Affidavit executed by the then Pharmacist Supervisor for Respondent CVS, Peter Patel on or about June 27, 2008. That Pharmacist Supervisor certified that Ms. Dinh was employed or volunteered as an intern pharmacist under the supervision of a registered pharmacist from July 16, 2007 through December 15, 2007 for a total of 510 hours at Respondent CVS.

1 17. On or about December 28, 2010, the Board requested that Respondent Ho verify Ms.
2 Dinh's employment history with Respondent CVS. On or about January 27, 2011, the Pharmacy
3 Supervisor for Respondent CVS, Lina Semaan represented to the Board that Ms. Dinh had
4 performed the duties of an intern pharmacist while employed at Respondent CVS from July 21,
5 2007 through December 15, 2007. However, on or about January 26, 2011, Ho represented that
6 Ms. Dinh never interned at Respondent CVS.

7 18. On May 22, 2013, Respondents dispensed and furnished a used BD Sharps container
8 RX 511451 to minor patient S.M. which was filled with used syringes.

9 **FIRST CAUSE FOR DISCIPLINE**

10 **(Permitting the Unlicensed Practice of an Intern Pharmacist)**

11 19. Respondents CVS and Ho are subject to disciplinary action under Code section
12 4301(o), for violating Business and Professions Code section 4110(a), in that they permitted an
13 individual to perform the functions of an intern pharmacist without being licensed by the Board,
14 as set forth in paragraphs 14 through 18 above, which are incorporated herein by reference.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Gross Negligence)**

17 20. Respondents CVS and Ho are subject to disciplinary action under Code section
18 4301(c), in that they committed gross negligence when they dispensed and furnished a used BD
19 Sharps container which was filled with used syringes to minor patient S.M., as set forth in
20 paragraphs 14 through 18, which are incorporated herein by reference.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct)**

23 21. Respondents CVS and Ho are subject to disciplinary action under Code section 4301
24 for unprofessional conduct in that they engaged in the activities described in paragraphs 14
25 through 18 above, which are incorporated herein by reference.

26 **DISCIPLINARY CONSIDERATIONS**

27 22. To determine the degree of discipline, if any, to be imposed on Respondents,
28 Complainant alleges that:

1 a. On September 2, 2011, the Board issued Citation number CI 2011 49363 against
2 Ho for violating California Code of Regulations, title 16, section 1761 for dispensing an
3 erroneous prescription without contacting the prescriber for clarification. The Board issued a fine
4 which Respondent Christopher Ho paid.

5 b. On September 2, 2011, the Board issued Citation number CI 2009 44414 against
6 Respondent CVS Pharmacy No. 5837 for violating California Code of Regulations, title 16,
7 section 1761 for dispensing an erroneous prescription without contacting the prescriber for
8 clarification. The Board issued a fine which Respondent CVS Pharmacy No. 5837 paid.

9 **PRAYER**

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

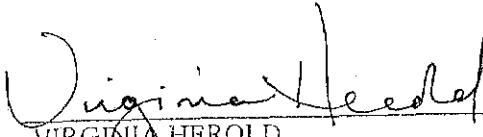
12 1. Revoking or suspending Pharmacy Permit Number PHY 46780, issued to CVS
13 Pharmacy Vanguard, Inc., doing business as CVS Pharmacy No. 5837;

14 2. Revoking or suspending Pharmacist License Number RPH 55450, issued to
15 Christopher Tri Ho;

16 3. Ordering CVS Pharmacy Vanguard, Inc., doing business as CVS Pharmacy No. 5837
17 and Christopher Tri Ho to pay the Board of Pharmacy the reasonable costs of the investigation
18 and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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

20
21 DATED: 8/13/15


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

28 SD2014707918/71003262.doc

Exhibit B

Letter of Public Repeval in Case No. 5299 to CVS Pharmacy No. 5837

Date: _____

Christopher Tri Ho
CVS Vanguard, Inc., dba
CVS Pharmacy No. 5837
7065 La Palma Avenue
Buena Park, CA 90620

Re: **LETTER OF PUBLIC REPROVAL**
In the Matter of the Accusation Against:
CVS Pharmacy No. 5837, et al., Pharmacy Permit No. PHY 46780

Dear Mr. Ho:

On August 13, 2015, the Board of Pharmacy, Department of Consumer Affairs, State of California, filed an Accusation against CVS Vanguard, Inc., doing business as CVS Pharmacy No. 5837's Pharmacy Permit. The Accusation alleged that CVS Vanguard, Inc. doing business as CVS Pharmacy No. 5837 engaged in unprofessional conduct as follows:

- (1) When it permitted an individual to perform the functions of an intern pharmacist without being licensed by the Board in violation of Business and Professions Code section 4110(a).
- (2) When it committed gross negligence by dispensing and furnishing a used sharps disposal container which was filled with used syringes to a minor patient in violation of Business and Professions Code section 4301(c).
- (3) When it engaged in the activities set forth above in violation of Business and Professions Code section 4301.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Pharmacy, Department of Consumer Affairs issues this letter of public reproval.

Sincerely,

VIRGINIA HEROLD

Executive Officer
Board of Pharmacy
Department of Consumer Affairs

Exhibit C

Letter of Public Repeval in Case No. 5299 to Christopher Ho

Date: _____

Christopher Tri Ho
5351 Tremaine Dr.
Huntington Beach, CA 92659

Re: **LETTER OF PUBLIC REPROVAL**
In the Matter of the Accusation Against:
Christopher Tri Ho, et al., Pharmacist License No. RPH 55450

Dear Mr. Ho:

On August 13, 2015, the Board of Pharmacy, Department of Consumer Affairs, State of California, filed an Accusation against your Pharmacist License. The Accusation alleged that you engaged in unprofessional conduct as follows:

(1) When you permitted an individual to perform the functions of an intern pharmacist without being licensed by the Board in violation of Business and Professions Code section 4110(a).

(2) When you committed gross negligence by dispensing and furnishing a used sharps disposal container which was filled with used syringes to a minor patient in violation of Business and Professions Code section 4301(c).

(3) When you engaged in the activities set forth above in violation of Business and Professions Code section 4301.

Accordingly, in resolution of this matter under the authority provided under Business and Professions Code section 495, the Board of Pharmacy, Department of Consumer Affairs issues this letter of public reproval.

Sincerely,

VIRGINIA HEROLD

Executive Officer
Board of Pharmacy
Department of Consumer Affairs