

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

In the Matter of the Accusation Against:

Case No. 5327

**ROSEBILL PHARMACY, CORP. DBA  
MID VALLEY PHARMACY; FRANK PO  
KEI WONG  
2519 Royal Avenue  
Simi Valley, CA 93065  
Pharmacy Permit No. PHY 47423**

and

**FRANK PO KEI WONG  
2519 Royal Avenue  
Simi Valley, CA 93065  
Pharmacist License No. RPH 43505**

Respondents.

**DECISION AND ORDER**

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

This decision shall become effective on July 8, 2015.

It is so ORDERED on July 1, 2015.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
AMARYLIS GUTIERREZ  
Board President

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARMANDO ZAMBRANO  
Supervising Deputy Attorney General  
3 SYDNEY M. MEHRINGER  
Deputy Attorney General  
4 State Bar No. 245282  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2537  
6 Facsimile: (213) 897-2804  
*Attorneys for Complainant*

7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 5327

11 **ROSEBILL PHARMACY, CORP. DBA**  
12 **MID VALLEY PHARMACY; FRANK PO**  
13 **KEI WONG**  
14 2519 Royal Avenue  
Simi Valley, CA 93065  
Pharmacy Permit No. PHY 47423,

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

15 and

16 **FRANK PO KEI WONG**  
17 2519 Royal Avenue  
Simi Valley, CA 93065  
18 Pharmacist License No. RPH 43505

19 Respondents.

20  
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 Sydney M. Mehringer, Deputy Attorney  
27 General.



1 and court review of an adverse decision; and all other rights accorded by the California  
2 Administrative Procedure Act and other applicable laws.

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

5 **CULPABILITY**

6 10. Respondents admit the truth of each and every charge and allegation in Accusation  
7 No. 5327.

8 11. Respondents agree that Pharmacy Permit No. PHY 47423 and Pharmacist License  
9 No. RPH 43505 are subject to discipline and they agree to be bound by the Board's probationary  
10 terms as set forth in the Disciplinary Order below.

11 **CONTINGENCY**

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

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

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

1 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a  
2 writing executed by an authorized representative of each of the parties.

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

6 **DISCIPLINARY ORDER**

7 IT IS HEREBY ORDERED that Pharmacist License No. RPH 43505 issued to Frank Po  
8 Kei Wong ("Respondent Wong") is revoked. However, the revocation is stayed and Respondent  
9 Wong is placed on probation for four (4) years on terms and conditions 1 through 18, inclusive,  
10 set forth below.

11 IT IS HEREBY FURTHER ORDERED that Pharmacy Permit No. PHY 47423 issued to  
12 Respondent Rosebill Pharmacy, Corp. dba Mid Valley Pharmacy with Frank Po Kei Wong as  
13 President and Pharmacist-in-Charge ("Respondent Pharmacy") is revoked. However, the  
14 revocation is stayed and Respondent Pharmacy is placed on probation for four (4) years on terms  
15 and conditions 1 through 10 and terms 19 through 21, inclusive, set forth below.

16 **Terms and Conditions Applicable to both Respondent Pharmacy and Respondent Wong**

17 **1. Obey All Laws**

18 Respondents obey all state and federal laws and regulations.

19 Respondents shall report any of the following occurrences to the board, in writing, within  
20 seventy-two (72) hours of such occurrence:

- 21 • an arrest or issuance of a criminal complaint for violation of any provision of the  
22 Pharmacy Law, state and federal food and drug laws, or state and federal controlled  
23 substances laws;
- 24 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any  
25 criminal complaint, information or indictment;
- 26 • a conviction of any crime; and
- 27 • discipline, citation, or other administrative action filed by any state or federal agency  
28 which involves Respondent Wong's pharmacy license or Respondent Pharmacy's

1 permit or which is related to the practice of pharmacy or the manufacturing,  
2 obtaining, handling, distributing, billing, or charging for any drug, device or  
3 controlled substance.

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

5 **2. Report to the Board**

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

14 **3. Interview with the Board**

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

20 **4. Cooperate with Board Staff**

21 Respondents shall cooperate with the board's inspection program and with the board's  
22 monitoring and investigation of Respondents compliance with the terms and conditions of their  
23 probation. Failure to cooperate shall be considered a violation of probation.

24 **5. Reimbursement of Board Costs**

25 As a condition precedent to successful completion of probation, Respondents shall pay to  
26 the board its costs of investigation and prosecution in the amount of \$3,341.00. Respondents  
27 shall be jointly and severally liable to pay this amount and shall make said payments according to  
28 a payment plan to be approved by the Board or its designee. Failure to pay costs by the

1 deadline(s) as directed shall be considered a violation of probation. The filing of bankruptcy by  
2 either Respondent Wong or Respondent Pharmacy shall not relieve Respondents of their  
3 responsibility to reimburse the board its costs of investigation and prosecution.

4 **6. Probation Monitoring Costs**

5 Respondents shall pay any costs associated with probation monitoring as determined by the  
6 board each and every year of probation. Such costs shall be payable to the board on a schedule as  
7 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
8 be considered a violation of probation.

9 **7. Status of License**

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

13 If Respondent Wong's and/or Respondent Pharmacy's license expires or is cancelled by  
14 operation of law or otherwise at any time during the period of probation, including any extensions  
15 thereof due to tolling or otherwise, upon renewal or reapplication Respondent Wong's and/or  
16 Respondent Pharmacy's license shall be subject to all terms and conditions of this probation not  
17 previously satisfied.

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

19 Following the effective date of this decision, should any Respondent cease practice due to  
20 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, any  
21 Respondent may tender his or its license to the board for surrender. The board or its designee  
22 shall have the discretion whether to grant the request for surrender or take any other action it  
23 deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, the  
24 surrendering Respondent will no longer be subject to the terms and conditions of probation. This  
25 surrender constitutes a record of discipline and shall become a part of the surrendering  
26 Respondent's license history with the board.

27 Upon acceptance of the surrender, the surrendering Respondent shall relinquish his or its  
28 pocket and wall license to the board within ten (10) days of notification by the board that the

1 surrender is accepted. The surrendering Respondent may not reapply for any license from the  
2 board for three (3) years from the effective date of the surrender. The surrendering Respondent  
3 shall meet all requirements applicable to the license sought as of the date the application for that  
4 license is submitted to the board, including any outstanding costs.

5 **9. Violation of Probation**

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

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

18 **10. Completion of Probation**

19 Upon written notice by the board or its designee indicating successful completion of  
20 probation, each of Respondents' licenses will be fully restored.

21 Additional Terms Applicable to Respondent Wong

22 **11. Continuing Education**

23 Respondent Wong provide evidence of efforts to maintain skill and knowledge as a  
24 pharmacist as directed by the board or its designee.

25 **12. Notice to Employers**

26 During the period of probation, Respondent Wong shall notify all present and prospective  
27 employers of the decision in case number 5327 and the terms, conditions and restrictions imposed  
28 on Respondent Wong by the decision, as follows:



1           Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of  
2 Respondent Wong undertaking any new employment, Respondent Wong shall cause his direct  
3 supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during  
4 Respondent Wong's tenure of employment) and owner to report to the board in writing  
5 acknowledging that the listed individual(s) has/have read the decision in case number 5327, and  
6 terms and conditions imposed thereby. It shall be Respondent Wong's responsibility to ensure  
7 that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

8           If Respondent Wong works for or is employed by or through a pharmacy employment  
9 service, Respondent Wong must notify his direct supervisor, pharmacist-in-charge, and owner at  
10 every entity licensed by the board of the terms and conditions of the decision in case number  
11 5327 in advance of Respondent Wong commencing work at each licensed entity. A record of this  
12 notification must be provided to the board upon request.

13           Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen  
14 (15) days of Respondent Wong undertaking any new employment by or through a pharmacy  
15 employment service, Respondent Wong shall cause his direct supervisor with the pharmacy  
16 employment service to report to the board in writing acknowledging that they have read the  
17 decision in case number 5327 and the terms and conditions imposed thereby. It shall be  
18 Respondent Wong's responsibility to ensure that his employer(s) and/or supervisor(s) submit  
19 timely acknowledgment(s) to the board.

20           Failure to timely notify present or prospective employer(s) or to cause that/those  
21 employer(s) to submit timely acknowledgments to the board shall be considered a violation of  
22 probation. "Employment" within the meaning of this provision shall include any full-time, part-  
23 time, temporary, relief or pharmacy management service as a pharmacist or any position for  
24 which a pharmacist license is a requirement or criterion for employment, whether Respondent  
25 Wong is an employee, independent contractor or volunteer.

26 ///

27 ///

28 ///

1           **13. No Supervision of Interns or Serving as a Consultant**

2           During the period of probation, Respondent Wong shall not supervise any intern pharmacist  
3 nor serve as a consultant unless otherwise specified in this order. Assumption of any such  
4 unauthorized supervision responsibilities shall be considered a violation of probation.

5           **14. Consultant for Owner or Pharmacist-in-Charge**

6           During the period of probation, Respondent Wong shall not supervise any intern pharmacist  
7 or serve as a consultant to any entity licensed by the board as set forth in paragraph 13.  
8 Respondent Wong may be a pharmacist-in-charge. However, if during the period of probation  
9 Respondent Wong serves as a pharmacist-in-charge, Respondent Wong shall retain an  
10 independent consultant at his own expense who shall be responsible for reviewing pharmacy  
11 operations on a quarterly basis for compliance by Respondent Wong with state and federal laws  
12 and regulations governing the practice of pharmacy and for compliance by Respondent Wong  
13 with the obligations of a pharmacist-in-charge. The consultant shall be a pharmacist licensed by  
14 and not on probation with the board and whose name shall be submitted to the board or its  
15 designee, for prior approval, within thirty (30) days of the effective date of this decision.  
16 Respondent Wong shall not be a pharmacist-in-charge at more than one pharmacy or at any  
17 pharmacy of which he is not the sole owner. Failure to timely retain, seek approval of, or ensure  
18 timely reporting by the consultant shall be considered a violation of probation.

19           **15. Notification of a Change in Name, Residence Address, Mailing Address or**  
20 **Employment**

21           Respondent Wong shall notify the board in writing within ten (10) days of any change of  
22 employment. Said notification shall include the reasons for leaving, the address of the new  
23 employer, the name of the supervisor and owner, and the work schedule if known. Respondent  
24 Wong shall further notify the board in writing within ten (10) days of a change in name, residence  
25 address, mailing address, or phone number. Failure to timely notify the board of any change in  
26 employer(s), name(s), address(es), or phone number(s) shall be considered a violation of  
27 probation.

28       ///

1           **16. Tolling of Probation**

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

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

13           It is a violation of probation for Respondent Wong's probation to remain tolled pursuant to  
14 the provisions of this condition for a total period, counting consecutive and non-consecutive  
15 months, exceeding thirty-six (36) months. "Cessation of practice" means any calendar month  
16 during which Respondent Wong is not practicing as a pharmacist for at least 40 hours, as defined  
17 by Business and Professions Code section 4000 et seq. "Resumption of practice" means any  
18 calendar month during which Respondent Wong is practicing as a pharmacist for at least 40 hours  
19 as a pharmacist as defined by Business and Professions Code section 4000 et seq.

20           **17. Remedial Education**

21           Within sixty (60) days of the effective date of this decision, Respondent Wong shall submit  
22 to the board or its designee, for prior approval, an appropriate program of remedial education  
23 related to pharmacy law, pharmacy management, and controlled substances, and record keeping.  
24 The program of remedial education shall consist of at least 10 hours in pharmacy law, pharmacy  
25 management, and controlled substances, and record keeping, which shall be completed within 24  
26 months at Respondent Wong's own expense. All remedial education shall be in addition to, and  
27 shall not be credited toward, continuing education (CE) courses used for license renewal  
28 purposes.

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

5 Following the completion of each course, the board or its designee may require Respondent  
6 Wong, at his own expense, to take an approved examination to test Respondent Wong's  
7 knowledge of the course. If Respondent Wong does not achieve a passing score on the  
8 examination, this failure shall be considered a violation of probation. Any such examination  
9 failure shall require Respondent Wong to take another course approved by the board in the same  
10 subject area.

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

12 Respondent Wong shall not acquire any new ownership, legal or beneficial interest nor  
13 serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any  
14 additional business, firm, partnership, or corporation licensed by the board. If Respondent Wong  
15 currently owns or has any legal or beneficial interest in, or serves as a manager, administrator,  
16 member, officer, director, trustee, associate, or partner of any business, firm, partnership, or  
17 corporation currently or hereinafter licensed by the board, Respondent Wong may continue to  
18 serve in such capacity or hold that interest, but only to the extent of that position or interest as of  
19 the effective date of this decision. Violation of this restriction shall be considered a violation of  
20 probation.

21 Additional Terms Applicable to Respondent Pharmacy

22 **19. Notice to Employees**

23 Respondent Pharmacy shall, upon or before the effective date of this decision, ensure that  
24 all employees involved in permit operations are made aware of all the terms and conditions of  
25 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.  
26 If the notice required by this provision is posted, it shall be posted in a prominent place and shall  
27 remain posted throughout the probation period. Respondent Pharmacy shall ensure that any  
28 employees hired or used after the effective date of this decision are made aware of the terms and

1 conditions of probation by posting a notice, circulating a notice, or both. Additionally,  
2 Respondent Pharmacy shall submit written notification to the board, within fifteen (15) days of  
3 the effective date of this decision, that this term has been satisfied. Failure to submit such  
4 notification to the board shall be considered a violation of probation. "Employees" as used in this  
5 provision includes all full-time, part-time, volunteer, temporary and relief employees and  
6 independent contractors employed or hired at any time during probation.

7 **20. Owners and Officers: Knowledge of the Law**

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

15 **21. Posted Notice of Probation**

16 Respondent Pharmacy shall prominently post a probation notice provided by the board in a  
17 place conspicuous and readable to the public. The probation notice shall remain posted during  
18 the entire period of probation. Respondent Pharmacy shall not, directly or indirectly, engage in  
19 any conduct or make any statement which is intended to mislead or is likely to have the effect of  
20 misleading any patient, customer, member of the public, or other person(s) as to the nature of and  
21 reason for the probation of the licensed entity. Failure to post such notice shall be considered a  
22 violation of probation.

23 ///

24 ///

25 ///

26 ///


27 ///

28 ///

**ACCEPTANCE**

I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on Pharmacy Permit No. PHY 47423 and Pharmacist License No. RPH 43505. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: JUNE 2, 2015



FRANK PO KEI WONG, on behalf of himself, and on behalf of ROSEBILL PHARMACY, CORP. DBA MID VALLEY PHARMACY as its President and Pharmacist-in-Charge, Respondents

**ENDORSEMENT**

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

Dated: May 29, 2015

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
ARMANDO ZAMBRANO  
Supervising Deputy Attorney General

SYDNEY M. MEHRINGER  
Deputy Attorney General  
*Attorneys for Complainant*

LA2014512854  
51787399.doc

**Exhibit A**

**Accusation No. 5327**

1 KAMALA D. HARRIS  
Attorney General of California  
2 THOMAS L. RINALDI  
Supervising Deputy Attorney General  
3 SYDNEY M. MEHRINGER  
Deputy Attorney General  
4 State Bar No. 245282  
300 So. Spring Street, Suite 1702  
5 Los Angeles, CA 90013  
Telephone: (213) 897-2537  
6 Facsimile: (213) 897-2804  
E-mail: Sydney.Mehring@doj.ca.gov  
7 Attorneys for Complainant

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

11 In the Matter of the Accusation Against:

Case No. 5327

12 **ROSEBILL PHARMACY CORP, DBA**  
13 **MID VALLEY PHARMACY; FRANK PO**  
14 **KEI WONG**  
2519 Royal Avenue  
Simi Valley, CA 93065

**ACCUSATION**

15 Pharmacy Permit No. PHY 47423,

16 and

17 **FRANK PO KEI WONG**  
2519 Royal Avenue  
18 Simi Valley, CA 93065

19 Pharmacist License No. RPH 43505

20 Respondents.

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 17, 2006, the Board of Pharmacy issued Pharmacy Permit Number  
27 PHY 47423 to Rosebill Pharmacy Corp, dba Mid Valley Pharmacy with Frank Po Kei Wong as  
28 President and Pharmacist-in-Charge ("Respondent Pharmacy"). The Pharmacy Permit was in full



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

3 3. On or about July 30, 1990, the Board of Pharmacy issued Pharmacist License Number  
4 RPH 43505 to Frank Po Kei Wong ("Respondent Wong"). The Pharmacist License was in full  
5 force and effect at all times relevant to the charges brought herein and will expire on September  
6 30, 2015, 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 4300.1 of the Code states:

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

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

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

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

22 "(1) Suspending judgment.

23 "(2) Placing him or her upon probation.

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

25 "(4) Revoking his or her license.

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

28 ///

STATUTES AND REGULATIONS

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

7. Section 4115, subdivision (e) of the Code states:

"(e) No person shall act as a pharmacy technician without first being licensed by the board as a pharmacy technician."

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

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

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

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

9. Health and Safety Code section 11165, subdivision (d) states:

"(d) For each prescription for a Schedule II, Schedule III, or Schedule IV controlled substance, as defined in the controlled substances schedules in federal law and regulations, specifically Sections 1308.12, 1308.13, and 1308.14, respectively, of Title 21 of the Code of Federal Regulations, the dispensing pharmacy, clinic, or other dispenser shall report the following information to the Department of Justice as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed, in a format specified by the Department of Justice:

"(1) Full name, address, and, if available, telephone number of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services, and the gender, and date of birth of the ultimate user.

1           "(2) The prescriber's category of licensure, license number, national provider  
2 identifier (NPI) number, if applicable, the federal controlled substance registration number, and  
3 the state medical license number of any prescriber using the federal controlled substance  
4 registration number of a government-exempt facility.

5           "(3) Pharmacy prescription number, license number, NPI number, and federal  
6 controlled substance registration number.

7           "(4) National Drug Code (NDC) number of the controlled substance dispensed.

8           "(5) Quantity of the controlled substance dispensed.

9           "(6) International Statistical Classification of Diseases, 9th revision (ICD-9) or 10th  
10 revision (ICD-10) Code, if available.

11          "(7) Number of refills ordered.

12          "(8) Whether the drug was dispensed as a refill of a prescription or as a first-time  
13 request.

14          "(9) Date of origin of the prescription.

15          "(10) Date of dispensing of the prescription."

16          10. California Code of Regulations, title 16, section 1707.5, subdivision (d) states:

17          "(d) The pharmacy shall have policies and procedures in place to help patients with limited  
18 or no English proficiency understand the information on the label as specified in subdivision (a)  
19 in the patient's language. The pharmacy's policies and procedures shall be specified in writing and  
20 shall include, at minimum, the selected means to identify the patient's language and to provide  
21 interpretive services in the patient's language. The pharmacy shall, at minimum, provide  
22 interpretive services in the patient's language, if interpretive services in such language are  
23 available, during all hours that the pharmacy is open, either in person by pharmacy staff or by use  
24 of a third-party interpretive service available by telephone at or adjacent to the pharmacy counter."

25          11. California Code of Regulations, title 16, section 1715 states, in pertinent part:

26          "(a) The pharmacist-in-charge of each pharmacy as defined under section 4029 or section  
27 4037 of the Business and Professions Code shall complete a self-assessment of the pharmacy's  
28 compliance with federal and state pharmacy law. The assessment shall be performed before July 1

1 of every odd-numbered year. The primary purpose of the self-assessment is to promote  
2 compliance through self-examination and education.

3  
4 "(c) The components of this assessment shall be on Form 17M-13 (Rev. 01/11) entitled  
5 "Community Pharmacy Self-Assessment Hospital Outpatient Pharmacy Self-Assessment" and on  
6 Form 17M-14 (Rev. 01/11) entitled "Hospital Pharmacy Self-Assessment" which are hereby  
7 incorporated by reference to evaluate compliance with federal and state laws and regulations.

8 "(d) Each self-assessment shall be kept on file in the pharmacy for three years after it is  
9 performed."

10 12. Code of Federal Regulations, title 21 section 1304.11 states, in pertinent part:

11 "(a) General requirements. Each inventory shall contain a complete and accurate record of  
12 all controlled substances on hand on the date the inventory is taken, and shall be maintained in  
13 written, typewritten, or printed form at the registered location. An inventory taken by use of an  
14 oral recording device must be promptly transcribed. Controlled substances shall be deemed to be  
15 "on hand" if they are in the possession of or under the control of the registrant, including  
16 substances returned by a customer, ordered by a customer but not yet invoiced, stored in a  
17 warehouse on behalf of the registrant, and substances in the possession of employees of the  
18 registrant and intended for distribution as complimentary samples. A separate inventory shall be  
19 made for each registered location and each independent activity registered, except as provided in  
20 paragraph (e)(4) of this section. In the event controlled substances in the possession or under the  
21 control of the registrant, are stored at a location for which he/she is not registered, the substances  
22 shall be included in the inventory of the registered location to which they are subject to control or  
23 to which the person possessing the substance is responsible. The inventory may be taken either as  
24 of opening of business or as of the close of business on the inventory date and it shall be indicated  
25 on the inventory.

26 "(b) Initial inventory date. Every person required to keep records shall take an inventory of  
27 all stocks of controlled substances on hand on the date he/she first engages in the manufacture,  
28 distribution, or dispensing of controlled substances, in accordance with paragraph (e) of this

1 section as applicable. In the event a person commences business with no controlled substances on  
2 hand, he/she shall record this fact as the initial inventory.

3 "(c) Biennial inventory date. After the initial inventory is taken, the registrant shall take a  
4 new inventory of all stocks of controlled substances on hand at least every two years. The biennial  
5 inventory may be taken on any date which is within two years of the previous biennial inventory  
6 date."

#### 7 COST RECOVERY

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

#### 12 BACKGROUND FACTS

13 14. On or about February 28, 2014, an agent of the Board checked the Controlled  
14 Substance Utilization Review and Evaluation System ("CURES") for Respondent Pharmacy's  
15 compliance with the requirement that it submit Schedule II, III, and IV controlled substance  
16 prescription data to the California Department of Justice. The Pharmacy Compliance Report  
17 showed that Respondent Pharmacy had only submitted controlled substance prescription data one  
18 time: for the months of April, May, and June 2013 on June 13, 2013.

19 15. On or about May 16, 2014, a Board Inspector requested a CURES Pharmacy  
20 Compliance Report for Respondent Pharmacy. On or about May 27, 2014, the Board Inspector  
21 received the Pharmacy Compliance Report. The Report showed that Respondent Pharmacy had  
22 submitted controlled substance prescription data for April, May, and June 2013 on June 13, 2013.  
23 The Report also showed that Respondent Pharmacy had submitted controlled substance  
24 prescription data for July through December 2013 on April 30, 2014 and January through March  
25 2014 on April 30, 2014.

26 16. On or about June 12, 2014, a Board Inspector conducted an inspection at Respondent  
27 Pharmacy. Pharmacy technician Steven Carrillo (TCH 34924) was present at the pharmacy that  
28 day. The Board Inspector discovered that Mr. Carrillo's pharmacy technician registration was

1 cancelled and had expired on December 31, 2013.<sup>1</sup> Nevertheless, Mr. Carrillo was still working  
2 at Respondent Pharmacy in the capacity as a pharmacy technician.

3 17. During the inspection, the Board Inspector asked Respondent Wong for the  
4 Community Pharmacy Self-Assessment form but Respondent Wong could only produce a Self-  
5 Assessment from 2007. The Board Inspector also asked Respondent Wong for the biennial Drug  
6 Enforcement Administration ("DEA") Inventory but Respondent Wong was only able to provide a  
7 perpetual log of the pharmacy's Schedule II controlled substances. Further, the Board Inspector  
8 asked Respondent Wong for Respondent Pharmacy's required policies and procedures. Certain  
9 policies and procedures were missing, including a policy and procedure regarding providing  
10 interpretive services.

11 18. Also during the inspection, the Board Inspector discussed the CURES reporting  
12 issues with Respondent Wong and Mr. Carrillo. Mr. Carrillo stated that he had been attempting  
13 to submit data to Atlantic Associates<sup>2</sup> but due to technical difficulties, the data was not  
14 transmitting. However the only controlled substance prescription data that Respondent Pharmacy  
15 was able to produce in addition to the June 13, 2013 and April 30, 2014 data that had already been  
16 submitted was a report created on September 30, 2011 with a date range of June 1, 2011 through  
17 September 30, 2011.

#### 18 FIRST CAUSE FOR DISCIPLINE

##### 19 (Failure to Conduct Pharmacy Self-Assessment)

20 19. Respondent Pharmacy and Respondent Wong are subject to disciplinary action under  
21 Code section 4301, subdivision (o), in conjunction with California Code of Regulations, title 16,  
22 section 1715, on the grounds of unprofessional conduct in that at the time of the Board inspection  
23 on June 12, 2014, Respondent Pharmacy and Respondent Wong did not have completed  
24 Community Pharmacy Self-Assessment forms for 2009, 2011, and 2013. A Self-Assessment  
25 must be completed before July 1 of every odd-numbered year of the pharmacy's compliance with  
26

27 <sup>1</sup> Mr. Carrillo provided documentation showing that he had submitted payment for his license  
28 renewal but the payment was late because of a change of address.

<sup>2</sup> Atlantic Associates is the third party administrator for submitting data to CURES.

1 state and federal pharmacy law. Complainant incorporates by reference Paragraphs 14 through 18  
2 as though fully set forth herein.

3 **SECOND CAUSE FOR DISCIPLINE**

4 **(Failure to Comply with Inventory Requirements)**

5 20. Respondent Pharmacy and Respondent Wong are subject to disciplinary action under  
6 Code section 4301, subdivision (o), in conjunction with Code of Federal Regulations, title 21,  
7 section 1304.11, subdivision (o), on the grounds of unprofessional conduct in that at the time of  
8 the Board inspection on June 12, 2014, Respondent Pharmacy did not have a completed biennial  
9 DEA controlled substance inventory from 2007 to 2014. A new inventory of must be taken of all  
10 stocks of controlled substances on hand at least every two years. Complainant incorporates by  
11 reference Paragraphs 14 through 18 as though fully set forth herein.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Failure to Report to the Controlled Substance Utilization Review and Evaluation System)**

14 21. Respondent Pharmacy and Respondent Wong are subject to disciplinary action under  
15 Code section 4301, subdivision (j), in conjunction with Health and Safety Code section 11165,  
16 subdivision (d), on the grounds of unprofessional conduct in that at the time of the Board  
17 inspection on June 12, 2014, Respondent Pharmacy had not submitted weekly controlled  
18 substance prescription data to the California Department of Justice, through CURES. Respondent  
19 Pharmacy had only submitted limited data on June 13, 2013 and April 30, 2014. Complainant  
20 incorporates by reference Paragraphs 14 through 18 as though fully set forth herein.

21 **FOURTH CAUSE FOR DISCIPLINE**

22 **(Employment of an Unlicensed Pharmacy Technician)**

23 22. Respondent Pharmacy and Respondent Wong are subject to disciplinary action under  
24 Code section 4301, subdivision (o), in conjunction with Code section 4115, subdivision (e), in  
25 that at the time of the Board inspection on June 12, 2014, Respondent Pharmacy and Respondent  
26 Wong employed Steven Carrillo as a pharmacy technician, even though Mr. Carrillo's pharmacy  
27 technician registration was cancelled and expired. Complainant incorporates by reference  
28 Paragraphs 14 through 18 as though fully set forth herein.

1 FIFTH CAUSE FOR DISCIPLINE

2 (Failure to Have Translation Policy and Procedure)

3 23. Respondent Pharmacy and Respondent Wong are subject to disciplinary action under  
4 Code section 4301, subdivision (o), in conjunction with California Code of Regulations, title 16,  
5 section 1707.5, subdivision (d), in that at the time of the Board inspection on June 12, 2014,  
6 Respondent Pharmacy did not have in place policies and procedures for interpretive services for  
7 its customers. Respondent Pharmacy was required to have policies and procedures in place to  
8 help patients with limited or no English proficiency understand the information on prescription  
9 labels in the patient's language. Complainant incorporates by reference Paragraphs 14 through 18  
10 as though fully set forth herein.

11 PRAYER

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

- 14 1. Revoking or suspending Pharmacy Permit Number PHY 47423, issued to Rosebill  
15 Pharmacy Corp, dba Mid Valley Pharmacy with Frank Po Kei Wong as President and Pharmacist-  
16 in-Charge; ;
- 17 2. Revoking or suspending Pharmacist License Number RPH 43505, issued to Frank Po  
18 Kel Wong; and
- 19 3. Ordering Mid Valley Pharmacy and Frank Po Kei Wong to pay the Board of  
20 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to  
21 Business and Professions Code section 125.3;
- 22 4. Taking such other and further action as deemed necessary and proper.

23 DATED: 5/1/15

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

LA2014512854  
51650171.doc