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

In the Matter of the Accusation Against: **DANIEL QUOC NGUYEN** **6240 W. Ceres Avenue** **Visalia, CA 93291** **Pharmacist License No. RPH 43487** Respondent.	Case No. 5630 & 5643 OAH No. 2016120865 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** **(DANIEL NGUYEN ONLY)**

DECISION AND ORDER

The attached Stipulated Settlement of License and 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 August 10, 2017.

It is so ORDERED on July 11, 2017.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By _____
Amy Gutierrez, Pharm.D.
Board President

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Attorney General of California
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BOARD OF PHARMACY
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In the Matter of the Accusation Against: **DANIEL QUOC NGUYEN** **6240 W. Ceres Avenue** **Visalia, CA 93291** **Pharmacist License No. RPH 43487** Respondent.	Case No. 5630 & 5643 OAH No. 2016120865 **STIPULATED SETTLEMENT AND DISCIPLINARY ORDER** **(DANIEL NGUYEN ONLY)**

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

PARTIES

1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy (Board). She brought this action solely in her official capacity and is represented in this matter by Xavier Becerra, Attorney General of the State of California, by Elena L. Almanzo, Deputy Attorney General.

2. Respondent Daniel Quoc Nguyen (Respondent Daniel Nguyen) is represented in this proceeding by attorney Peter Osinoff, Bonne, Bridges, Mueller, O'Keefe & Nichols, whose address is: 355 South Grand Ave., Ste. 1750, Los Angeles, CA 90071-1562

3. On or about July 26, 1990, the Board of Pharmacy issued Pharmacist License No. RPH 43487 to Daniel Quoc Nguyen, (Respondent Daniel Nguyen). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2018, unless renewed.

JURISDICTION

4. The First Amended Accusation No. 5630 & 5643 was filed before the Board, and is currently pending against Respondent. The First Amended Accusation and all other statutorily required documents were properly served on Respondent Daniel Nguyen on September 27, 2016. Respondent Daniel Nguyen timely filed its Notice of Defense contesting the First Amended Accusation.

5. A copy of First Amended Accusation No. 5630 & 5643 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

6. Respondent Daniel Nguyen has carefully read, fully discussed with counsel, and understands the charges and allegations in the First Amended Accusation No. 5630 & 5643. Respondent Daniel Nguyen has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent Daniel Nguyen is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the First Amended Accusation; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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

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CULPABILITY

9. Respondent Daniel Nguyen understands and agrees that the charges and allegations in the First Amended Accusation No. 5630 & 5643, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist License.

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

11. Respondent Daniel Nguyen further agrees that in any future proceedings before the Board all allegations set forth in the First Amended Accusations shall be deemed admitted.

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

CONTINGENCY

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

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

15. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement.

It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 43487 issued to Respondent Daniel Quoc Nguyen is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions.

1. **Obey All Laws**

Respondent shall obey all state and federal laws and regulations.

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

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

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

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2. **Report to the Board**

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

3. **Interview with the Board**

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

4. **Cooperate with Board Staff**

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

5. **Continuing Education**

Within six months of the effective date of the decision, Respondent must complete 6 hours of aseptic training "in person" or minimally one class. In addition, Respondent shall complete 6 additional hours, 50 % in person, each year of probation in compounding and pharmacy law.

6. **Notice to Employers**

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 5630 & 5643 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

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Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause their direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the board in writing acknowledging that the listed individual(s) has/have read the decision in case number 5630 & 5643, and terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that their employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify their direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the board of the terms and conditions of the decision in case number 5630 & 5643 in advance of the respondent commencing work at each licensed entity. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause their direct supervisor with the pharmacy employment service to report to the board in writing acknowledging that they have read the decision in case number 5630 & 5643 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that their employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

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

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

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

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

8. **Probation Monitoring Costs**

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

9. **Status of License**

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

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

10. **License Surrender While on Probation/Suspension**

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

will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of the respondent's license history with the board.

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

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

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

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

12. **Tolling of Probation**

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 40 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation. The Board agrees that if Respondent provides notification and documentation, from a physician indicating a specific timeframe, to the Board that he cannot meet the 40 hour requirement due to his medical condition or medical treatment his probation will be tolled and but he will not be in violation of this term.

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

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

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

13. **Violation of Probation**

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

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

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14. **Completion of Probation**

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

15. **Supervised Practice**

Respondent shall be permitted to work in his current consulting position with duties approved by the Board, which constitutes practicing as a pharmacist. However, during the period of probation, if respondent obtains any other employment at a pharmacy he shall practice only under the supervision of a licensed pharmacist not on probation with the board. Upon and after the effective date of this decision, respondent shall obtain approval prior to obtaining employment in a pharmacy and he may not practice in a pharmacy until a supervisor is approved by the board or its designee. The supervision shall be, as required by the board or its designee, either:

Continuous – At least 75% of a work week

Substantial - At least 50% of a work week

Partial - At least 25% of a work week

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

If Respondent practices in a compounding pharmacy the supervision shall be continuous and if a pharmacy does not have compounding he shall have partial supervision. The supervision as described may be reduced by the board's designee.

Respondent shall have his supervisor submit notification to the board in writing stating that the supervisor has read the decision in case number 5630 & 5643 and is familiar with the required level of supervision as determined by the board or its designee. It shall be the respondent's responsibility to ensure that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the board shall be considered a violation of probation.

If respondent changes employment, it shall be the respondent's responsibility to ensure that his employer(s), pharmacist-in-charge and/or supervisor(s) submit timely acknowledgement(s) to the board. Respondent shall have his new supervisor, within fifteen (15) days after employment

commences, submit notification to the board in writing stating the direct supervisor and pharmacist-in-charge have read the decision in case number 5630 & 5643 and is familiar with the level of supervision as determined by the board. Respondent shall not practice pharmacy and his license shall be automatically suspended until the board or its designee approves a new supervisor. Failure to cause the direct supervisor and the pharmacist-in-charge to submit timely acknowledgements to the board shall be considered a violation of probation.

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

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

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

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

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

16. **No Ownership of Licensed Premises**

Respondent shall not own, have any legal or beneficial interest in, or serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)

days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

17. **Ethics Course**

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

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

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Peter Osinoff, Bonne, Bridges, Mueller, O'Keefe & Nichols. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 5/23/2017

DANIEL QUOC NGUYEN
Respondent

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

DATED: 5/23/17

PETER OSINOFF, BONNE, BRIDGES, MUELLER, O'KEEFE & NICHOLS
Attorney for Respondent

ENDORSEMENT

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

Dated: 6/2/17

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
KENT D. HARRIS
Supervising Deputy Attorney General

ELENA L. ALMANZO
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

First Amended Accusation No. 5630 & 5643

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Attorneys for Complainant

BEFORE THE BOARD OF PHARMACY
STATE OF CALIFORNIA

In the Matter of the Accusation Against:	Case Nos. 5630 & 5643
OROVILLE HOSPITAL PHARMACY **2767 Olive Highway** **Oroville, CA 95966** **Original Permit No. HSP 41557** **Original Sterile Compounding Permit No. LSC 100404** **DANIEL QUOC NGUYEN** **1825 Ringnecked Pheasant Court** **Gridley, CA 95948** **Pharmacist License No. RPH 43487** **VICTOR MICHAEL MINETTI** **1392 Eagle Ln.** **Plumas Lake, CA 95961** **Pharmacist License No. RPH 35419** **SUSAN SCHMIDT** **167 Solana Dr** **Oroville, CA 95966** **Pharmacist License No. RPH 58496** **CHAD RAMOS** **23 Avenida Brisa Ct.** **Chico, CA 95928** **Pharmacist License No. RPH 67245**	**FIRST AMENDED ACCUSATION**

SON NGUYEN
767 Bridlewood Ct.
Chico, CA 95926
Pharmacist License No. RPH 62061

SAMUEL TONG
3249 Mystery Run
Chico, CA 95973
Pharmacist License No. RPH 62917

JASMINE DONG
2090 Sea Cliff Way
San Bruno, CA 94066
Pharmacist License No. RPH 69270

Respondents.

Complainant alleges:

PARTIES

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

2. On or about August 30, 1996, the Board of Pharmacy issued Original Permit Number HSP 41557 to Oroville Hospital Pharmacy (Respondent Oroville). The Permit was in full force and effect at all times relevant to the charges brought herein and will expire on August 1, 2016, unless renewed.

3. On or about June 30, 2014, the Board of Pharmacy issued Original Sterile Compounding Permit Number LSC 100404 to Oroville Hospital Pharmacy (Respondent Oroville). The Compounding Permit was in full force and effect at all times relevant to the charges brought herein and will expire on August 1, 2016, unless renewed.

4. On or about July 26, 1990, the Board of Pharmacy issued Pharmacist License No. RPH 43487 to Daniel Quoc Nguyen, (Respondent Daniel Nguyen). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2016, unless renewed.

5. On or about August 13, 1990, the Board of Pharmacy issued Pharmacist License No. RPH 35419 to Victor Michael Minetti, (Respondent Minetti). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on February 29, 2018, unless renewed.

6. On or about August 3, 2006, the Board of Pharmacy issued Pharmacist License No. RPH 58496 to Susan Schmidt, (Respondent Schmidt). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2017, unless renewed.

7. On or about July 19, 2012, the Board of Pharmacy issued Pharmacist License No. RPH 67245 to Chad Miller Ramos, (Respondent Ramos). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on September 30, 2017, unless renewed.

8. On or about December 26, 2008, the Board of Pharmacy issued Pharmacist License No. RPH 62061 to Son Thia Nguyen, (Respondent Son Nguyen). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on March 31, 2018, unless renewed.

9. On or about August 13, 2009, the Board of Pharmacy issued Pharmacist License No. RPH 62917 to Samuel Tong, (Respondent Tong). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on July 31, 2017, unless renewed.

10. On or about August 21, 2013, the Board of Pharmacy issued Pharmacist License No. RPH 69270 to Jasmine Brittany Dong, (Respondent Dong). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on December 31, 2016, unless renewed.

JURISDICTION

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

12. Section 4300 of the Code states in pertinent part:

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

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

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

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

"(4) Revoking his or her license.

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

13. Section 4301 of the Code states:

"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:

"(a) Gross immorality.

"(b) Incompetence.

"(c) Gross negligence.

"(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

"(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

"(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.

"(p) Actions or conduct that would have warranted denial of a license.

"(q) Engaging in any conduct that subverts or attempts to subvert an investigation of the board.

14. Section 4342 of the Code states in pertinent part:

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

15. Section 4073 of the Code provides:

(a) A pharmacist filling a prescription order for a drug product prescribed by its trade or brand name may select another drug product with the same active chemical ingredients of the same strength, quantity, and dosage form, and of the same generic drug name as determined by the United States Adopted Names (USAN) and accepted by the federal Food and Drug Administration (FDA), of those drug products having the same active chemical ingredients.

(b) In no case shall a selection be made pursuant to this section if the prescriber personally indicates, either orally or in his or her own handwriting, "Do not substitute," or words of similar meaning. Nothing in this subdivision shall prohibit a prescriber from checking a box on a prescription

Marked, "Do not substitute"; provided that the prescriber personally initials the box or checkmark. To indicate that a section may not be made pursuant to this section for an electric data transmission prescription as defined in subdivision (c) of section 440, a prescriber may indicate "Do not substitute," or words similar meaning, in the prescription as transmitted by electronic data, or may check a box marked on the prescription "Do not substitute." In either instance, it shall not be required that prohibition on substitution be manually initialed by the prescriber.

(c) Selection pursuant to this section is within the discretion of the pharmacist, except as provided in subdivision (b). The person who selects the drug product to be dispensed pursuant to this section shall assume the same responsibility for selecting the dispensed drug product as would be incurred in filling a prescription for a drug product prescribed by generic name. There shall be no liability on the prescriber for an act or omission by a pharmacist in selecting, preparing, or dispensing a drug product pursuant to this section. In no case shall the pharmacist select a drug product pursuant to this section unless the drug product selected costs the patient less than the prescribed drug product. Cost, as used in this subdivision, is defined to include any professional fee that may be charged by the pharmacist.

(d) This section shall apply to all prescriptions, including those presented by or on behalf of persons receiving assistance from the federal government or pursuant to the California Medical Assistance Program set forth in Chapter 7 (commencing with Section 1400) of Part 3 of Division 9 of the Welfare and Institution Code.

(e) When a substitution is made pursuant to this section, the use of the cost-saving drug product dispensed shall be communicated to the patient and the name of the dispensed drug product shall be indicated on the prescription label, except where the prescriber orders otherwise.

16. Health and Safety Code Section 111295 provides:

It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any drug or device that is adulterated.

17. Health and Safety Code Section 111255 provides:

Any drug or device is adulterated if it has been produced, prepared, packed, or held under conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health.

18. California Code of Regulations Section 1707.1 provides:

(a) A pharmacy shall maintain medication profiles on all patients who have prescriptions filled in that pharmacy except when the pharmacist has reasonable belief that the patient will not continue to obtain prescription medications from that pharmacy.

(1) A patient medication record shall be maintained in an automated data processing or manual record mode such that the following information is readily retrievable during the pharmacy's normal operating hours.

(A) The patient's full name and address, telephone number, date of birth (or age) and gender;

(B) For each prescription dispensed by the pharmacy:

1. The name, strength, dosage form, route of administration, if other than oral, quantity and directions for use of any drug dispensed;

2. The prescriber's name and where appropriate, license number, DEA registration number or other unique identifier;

3. The date on which a drug was dispensed or refilled;

4. The prescription number for each prescription; and

5. The information required by section 1717.

(C) Any of the following which may relate to drug therapy: patient allergies, idiosyncrasies, current medications and relevant prior medications including nonprescription medications and relevant devices, or medical conditions which are communicated by the patient or the patient's agent.

(D) Any other information which the pharmacist, in his or her professional judgment, deems appropriate.

(2) The patient medication record shall be maintained for at least one year from the date when the last prescription was filled.

19. California Code of Regulations Section 1712 provides:

(a) Any requirement in this division for a pharmacist to initial or sign a prescription record or prescription label can be satisfied by recording the identity of the reviewing pharmacist in a computer system by a secure means. The computer

used to record the reviewing pharmacist's identity shall not permit such a record to be altered after it is made.

(b) The record of the reviewing pharmacist's identity made in a computer system pursuant to subdivision (a) of this section shall be immediately retrievable in the pharmacy.

20. California Code of Regulations Section 1716 provides:

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

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

21. California Code of Regulations Section 1735.2 provides:

(a) Except as specified in (b) and (c), no drug product shall be compounded prior to receipt by a pharmacy of a valid prescription for an individual patient where the prescriber has approved use of a compounded drug product either orally or in writing. Where approval is given orally, that approval shall be noted on the prescription prior to compounding.

(b) A pharmacy may prepare and store a limited quantity of a compounded drug product in advance of receipt of a patient-specific prescription where and solely in such quantity as is necessary to ensure continuity of care for an identified population of patients of the pharmacy based on a documented history of prescriptions for that patient population.

(c) A "reasonable quantity" as used in Business and Professions Code section 4052(a) (1) means that amount of compounded drug product that:

(1) is sufficient for administration or application to patients in the prescriber's office, or for distribution of not more than a 72-hour supply to the prescriber's patients, as estimated by the prescriber; and

(2) is reasonable considering the intended use of the compounded medication and the nature of the prescriber's practice; and

(3) for any individual prescriber and for all prescribers taken as a whole, is an amount which the pharmacy is capable of compounding in compliance with pharmaceutical standards for integrity, potency, quality and strength of the compounded drug product.

(d) A drug product shall not be compounded until the pharmacy has first prepared a written master formula record that includes at least the following elements:

(1) Active ingredients to be used.

(2) Equipment to be used.

(3) Expiration dating requirements.

(4) Inactive ingredients to be used.

(5) Process and/or procedure used to prepare the drug.

(6) Quality reviews required at each step in preparation of the drug.

(7) Post-compounding process or procedures required, if any.

(e) Where a pharmacy does not routinely compound a particular drug product, the master formula record for that product may be recorded on the prescription document itself.

(f) The pharmacist performing or supervising compounding is responsible for the integrity, potency, quality, and labeled strength of a compounded drug product until it is dispensed.

(g) All chemicals, bulk drug substances, drug products, and other components used for drug compounding shall be stored and used according to compendia and other applicable requirements to maintain their integrity, potency, quality, and labeled strength.

(h) Every compounded drug product shall be given an expiration date representing the date beyond which, in the professional judgment of the pharmacist performing or supervising the compounding, it should not be used. This "beyond use date" of the compounded drug product shall not exceed 180 days from preparation or the shortest expiration date of any component in the compounded drug product, unless a longer date is supported by stability studies of finished drugs or compounded drug products using the same components and packaging. Shorter dating than set forth in this subsection may be used if it is deemed appropriate in the professional judgment of the responsible pharmacist.

(i) The pharmacist performing or supervising compounding is responsible for the proper preparation, labeling, storage, and delivery of the compounded drug product.

(j) Prior to allowing any drug product to be compounded in a pharmacy, the pharmacist-in-charge shall complete a self-assessment for compounding pharmacies developed by the board. (Incorporated by reference is "Community Pharmacy & Hospital Outpatient Pharmacy Compounding Self-Assessment" Form 17M-39 Rev. 02/12.) That form contains a first section applicable to all compounding, and a second section applicable to sterile injectable compounding. The first section must be completed by the pharmacist-in-charge before any compounding is performed in the pharmacy. The second section must be completed by the pharmacist-in-charge before any sterile injectable compounding is performed in the pharmacy. The applicable sections of the self-assessment shall subsequently be completed before July 1 of each odd-numbered year, within 30 days of the start of a new pharmacist-in-charge, and within 30 days of the issuance of a new pharmacy license. The primary purpose of the self-assessment is to promote compliance through self-examination and education.

22. California Code of Regulations Section 1751.1 provides:

(a) Pharmacies compounding sterile injectable products for future use pursuant to section 1735.2 shall, in addition to those records required by section 1735.3, make and keep records indicating the name, lot number, amount, and date on which the products were provided to a prescriber.

(b) In addition to the records required by section 1735.3 and subdivision

(a), for sterile products compounded from one or more non-sterile ingredients, the following records must be made and kept by the pharmacy:

(1) The training and competency evaluation of employees in sterile product procedures.

(2) Refrigerator and freezer temperatures.

(3) Certification of the sterile compounding environment.

(4) Other facility quality control logs specific to the pharmacy's policies and procedures (e.g., cleaning logs for facilities and equipment).

(5) Inspection for expired or recalled pharmaceutical products or raw ingredients.

(6) Preparation records including the master work sheet, the preparation work sheet, and records of end-product evaluation results.

(c) Pharmacies shall maintain and retain all records required by this article in the pharmacy in a readily retrievable form for at least three years from the date the record was created.

FACTUAL BACKGROUND

23. On or about July 6, 2015, Board of Pharmacy inspectors performed an inspection of Oroville Hospital Pharmacy (LSC 100404) located at 2767 Olive Highway, Oroville, California. The initial inspection revealed violations of pharmacy law pertaining to the Oroville Pharmacy's compounding of drugs and the storage of said drugs. An inspection was performed on July 30, 2015 and violations were reviewed with the Pharmacist-in-Charge Daniel Nguyen and his staff and a Cease and Desist Order was issued. On September 18, 2015, a follow-up inspection was performed in which it was discovered there were several continuing violations pertaining to the compounding of sterile drugs.

INSPECTION OF JULY 6 AND JULY 30, 2015

FIRST CAUSE FOR DISCIPLINE

(Drugs Lacking in Quality or Strength)

24. Respondent Oroville Hospital is subject to disciplinary action under Business and Professions Code section 4342 section in conjunction Health and Safety Code Section 111295 and 111255, in that on or about July 30, 2015, sterile compounded drugs were stored under conditions which did not conform to the standard set forth to maintain quality and strength of the drugs. The circumstances are as follows:

25. On or about July 30, 2015, pharmacists at Oroville Hospital stored the dry powdered form of piperacillin/tazobactamTI, ceftriaxone, cefoxitin, ceftazidime, ceftarolin fosamil, aztreonam, oxacillin, meropenem, ampicillin/sulbactam, doxycycline, and azithromycin under refrigerated conditions of 4 to 6 degrees Celsius instead of at room temperature of 15 to 30 degrees Celsius. These drugs were stored in the refrigerator for an unknown and undocumented length of time. In addition, vancomycin and penicillin G were thawed in the refrigerator and kept beyond the acceptable 30 and 14 days expiration date, respectively.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ False Documents)

26. Respondent Oroville Hospital and Pharmacist-in Charge (hereinafter PIC) Nguyen are subject to disciplinary action pursuant to section 4301 subdivisions (c) and (g) for unprofessional conduct for knowingly making or signing any certificate or other document that falsely represents the existence or non- existence of a state of facts as set forth more specifically below:

A. Compounding self-assessment: On or about July 13, 2013 and June 30, 2015, Pharmacist-in Charge (hereinafter PIC) Nguyen signed the Compounding self-assessment form indicating the pharmacy was in compliance with pharmacy laws, when in truth and in fact, it was not.

B. PIC Nguyen provided a document entitled Policy and Procedure review on July 30, 2015, which indicated he had reviewed the policies and procedures on July 16, 2015, when the same document was provided to the Board on July 23, 2015, without a signature.

C. On July 6, 2015, the cleaning log for the compounding area for July of 2015 listed four of six days in which there was no documentation of cleaning. On July 30, 2015, the same log had blank dates filled in on the log, thereby falsifying the cleaning log.

D. Training of compounding personnel: On July 6, 2015 and July 21, 2015, PIC Nguyen had not ensured all personnel had demonstrated written competence of the handling of sterile compounded products, including cytotoxic agents. In fact, there was no evidence of training for any cytotoxic compounding personnel.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Insufficient Training of Staff)

27. Respondent Oroville Hospital and PIC Nguyen are subject to disciplinary action pursuant to Business and Professions Code section 4301 (j) and (o) in conjunction with Title 16, California Code of Regulations, sections 1751.6 and 1735.7 for unprofessional conduct in that they failed to

properly train staff assigned to compounding drug products: The compounding staff repeatedly demonstrated they had no training in aseptic garbing, the documentation required of sterile compounding products, and requirements appropriate for cleaning the compounding area and equipment.

Additionally, respondents failed to properly train staff and ensure demonstrated written competence of the safe compounding of cytotoxic agents.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Compounding Limitations)

28. Respondent Oroville Hospital and PIC Nguyen are subject to disciplinary action pursuant to Business and Professions Code section 4301 subdivisions (c) and (g) for unprofessional conduct in that during the Inspection on July 6, 2015, the Board of Pharmacy Inspectors found compounded drug products which had beyond use dates on the products that exceeded expectations outlined in California Code of Regulations Section 1735.2 (h) as it relates to California Code of Regulations section 1751.4 (a) and 1250.4. Additionally the compounding area was dirty, all areas were not non-porous, an air conditioner was vented through a window located to the right of the laminar flow hood blowing directly in front of the hood, and a biological safety cabinet was located in a non-ISO environment.

FIFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Sterile Recordkeeping Requirements)

29. Respondent Oroville Hospital and PIC Nguyen are subject to disciplinary action pursuant to Business and Professions Code section 4301 (o) and (j) in conjunction with Title 16, California Code of Regulations section 1751.1 for unprofessional conduct in that they failed to comply with sterile injectable recordkeeping requirements as set forth below:

30. On or about July 6, 2015, and July 30, 2015, during Board inspections it was found that Oroville Pharmacy through its staff compounded drug products without maintaining pharmacy records to include a master formula, date the drug product was compounded, the identity of the pharmacy personnel who compounded the drug product, the identity of the pharmacist reviewing the final drug product, the manufacturer, expiration date and lot number of each component, the

pharmacy assigned reference or lot number for the compounded drug product, the quantity or amount of drug product compounded and all records were not retrievable for three years.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Failure to label Compounded drug products)

31. Respondent Oroville Hospital and PIC Nguyen are subject to disciplinary action pursuant to Business and Professions Code section 4301 (j) and (o) in conjunction with Title 16, California Code of Regulations section 1735.4 for unprofessional conduct in that they dispensed compounded products without appropriate labeling. The circumstances are as follows:

32. On or about on July 6, 2015, compounded drug product labels intended for dispensing to patients in the infusion center did not contain a patient name, the pharmacy name, compounded by the pharmacy, directions, total volume dispensed, name of the prescriber, and the date of issue. In additions, drugs were compounded for future use and stored in the refrigerator without any label affixed to the container in order to identify the compounded drug.

SEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Compounding in an unsafe environment)

33. Respondent Oroville Hospital and PIC Nguyen are subject to disciplinary action pursuant to Business and Professions Code section 4301 (j) and (o) in conjunction with Title 16, California Code of Regulations section 1751.4 for unprofessional conduct in they permitted compounding of sterile injectable products where it was known, or reasonably should be known that the compounding environment failed to meet criteria specified in the pharmacy's written policies and procedures for the safe compounding of sterile injectable drug products dispensed compounded products without appropriate labeling. The circumstances are as follows:

34. On or about July 6, 2015, compounding at Oroville Hospital was conducted in a designated area that was not clean, the designated area was not cleaned weekly, and an air conditioner was vented from a window located next to the laminar flow hood. The staff was not garbed appropriately, in that, masks, beard covers, head covers, and sterile gloves were

not worn in order to facilitate an aseptic environment. Additionally, Process validation as outlined in the policies and procedures for Oroville Hospital was not followed.

EIGHTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Failure to maintain policies and procedures for cytotoxic agents)

35. Respondent Oroville Hospital and PIC Nguyen are subject to disciplinary action pursuant to Business and Professions Code section 4301 (j) and (o) in conjunction with Title 16, California Code of Regulations section 1751.3 (a) (5) (c) for unprofessional conduct in that they failed to maintain policies and procedures for cytotoxic agents as required by law.

NINTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Quality Assurance)

36. Respondent Oroville Hospital and PIC Nguyen are subject to disciplinary action pursuant to Business and Professions Code section 4301 (j) and (o) in conjunction with Title 16, California Code of Regulation section 1751.7 for unprofessional conduct in that hospital staff conducted cytotoxic compounding despite the fact that no personnel had completed a validation process in the biologic safety cabinet used for compounding cytotoxic drug products and a validation process had not been conducted in the prior twelve months as required by regulation.

Additionally, respondents failed to produce a documented quality assurance plan for cleaning and sanitization of the parenteral medication preparation area. Daily cleaning was not completed or documented completed medium samples were incubated but not evaluated as required by the policies and procedures in place. Batch compounding was conducted under "immediate use" conditions without periodic end product testing for sterility.

TENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Patient Medical Records)

37. Respondent Oroville Hospital and PIC Nguyen are subject to disciplinary action pursuant to Business and Professions Code section 4301 (j) and (o) in conjunction with Title 16, California Code of Regulations section 1707.1 for unprofessional conduct in that they failed to maintain patient records in an electronic or manual form to identify compounded medications patients

received. Additionally the hospital pharmacy did not maintain records to record the identity of compounding personnel.

ELEVENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ PIC Nguyen)

38. Respondent PIC Nguyen is subject to disciplinary action pursuant to Business and Professions Code section 4306.5 (a) for unprofessional conduct as follows;

A. PIC Nguyen failed to maintain medication in that he failed medication profiles to identify patient specific sterile compounded products.

B. PIC Nguyen failed to store dangerous drugs under controlled room temperature, thus demonstrating a lack of knowledge of storage conditions.

C. PIC Nguyen failed to ensure proper incubation and evaluation of media samples provided to the lab of compounded drugs thereby rendering the samples invalid.

D. PIC Nguyen failed to maintain medication profiles.

TWELFTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Staff Pharmacist Victor Minetti)

39. Respondent Minetti is subject to disciplinary action pursuant to Business and Professions Code section 4301 (j) and (o) in conjunction with Title 16, California Code of Regulations sections 1735.4 (a) and 1751.1, for unprofessional conduct as follows:

A. On or about July 6, 2015, Respondent Minetti dispensed dexamethasone which was compounded for infusion but he failed to list a patient name, the pharmacy name, that it was compounded by the pharmacy, directions, total volume dispensed, name of the prescriber, and the date of issue.

B. On or about July 6, 2015, Respondent Minetti, while working at Oroville Hospital Pharmacy located at 2767 Olive Highway, Oroville compounded drug products without maintaining pharmacy records to include a master formula, date the drug product was compounded, the identity of the pharmacy personnel who compounded the drug product, the identity of the pharmacist reviewing the final drug product, the manufacturer, expiration date and lot number of each component, the pharmacy assigned reference or lot number for the compounded drug product, the quantity or amount of drug product compounded.

THIRTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Staff Pharmacists)

40. Respondent Schmidt, Tong, and Dong are subject to disciplinary action pursuant to Business and Professions code section 4306.5 (b) in conjunction with Title 16, California Code

of Regulations section 1735.2 (f) for unprofessional conduct in that they supervised compounding and/ or compounded drugs on July 6, 2015, at Oroville Hospital under conditions which did not meet the minimum requirements for compounding products.

FOURTEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/ Staff Pharmacists)

41. Respondent Ramos and Son Nguyen are subject to disciplinary action pursuant to Business and Professions code section 4306.5 (b) in conjunction with Title 16, California Code of Regulations section 1735.2 (f) for unprofessional conduct in that they supervised and/ or compounded drugs on July 30, 2015, at Oroville Hospital under conditions which did not meet the minimum requirements for compounded products.

INSPECTION OF SEPTEMBER 18, 2015

FIFTEENTH CAUSE FOR DISCIPLINE

(Gross Negligence/Incompetence)

42. Respondent Oroville Hospital and PIC Nguyen are subject to disciplinary action under Business and Professions Code section 4301 (b) and (c) for gross negligence and/ or incompetence in the dispensing of compounded drug products. The circumstances are as follows:

A. Respondents Oroville Hospital and PIC Nguyen permitted the dispensing of compounded drugs that were expired in that they were dispensed compounded drugs as immediate use when they were dispensed after an hour had expired.

B. Respondents Oroville Hospital and PIC Nguyen permitted the dispensing of medium risk compounded drugs when the documentation maintained by the pharmacy supported low risk compounding.

C. Respondents Oroville Hospital and PIC Nguyen the dispensing of chemotherapy drugs which were not have proper documentation or demonstrated compounding processes as required by statute.

SIXTEENTH CAUSE FOR DISCIPLINE

(Gross Negligence/Incompetence/Compounding)

43. Respondent Oroville Hospital and PIC Nguyen are subject to disciplinary action pursuant to Business and Professions Code section 4301 (b) and (c) for gross negligence and/ or

incompetence in that they permitted the dispensing of compounded drug products which did not ensure the integrity, potency, and quality of compounded Bevacizumab, Zometa, Iron sucrose, vancomycin, Ancef, and Claforan. The circumstances are as follows:

A. On or about July 7, 2015 and September 17, 2015, Bevacizumab, was compounded for patient FS with a total volume of 114ml instead of 100ml The volume altered the final concentration of the compounded drug product.

B. On or about September 17, 2015, Zometa was compounded for patient J.M. in 100ml of sodium chloride instead of the prescribed 250ml. The volume altered the final concentration of the compounded drug product.

C. Iron Sucrose was compounded improperly for the following patients: M.G. on or about July 7 and 9, 2015, M.V. on or about July 28, 2015, R.T. on or about July 29, 2015, T.R. on or about July 7, 2015, T.D. on or about August 3 and 13, 2015, C.S. on or about August 13, 2015, and R.R. on August 13, 2015. Iron Sucrose was compounded in 100 ml of sodium chloride instead of the prescribed 250ml. The volume altered the final concentration of the compounded drug product.

D. Vancomycin, Ancef, and Clarforan, were not reconstituted with the manufacturer's instruction thereby altering the integrity, potency, and quality of the final product.

SEVENTEENTH CAUSE FOR DISCIPLINE

(Gross Negligence/Incompetence/ Pharmacist Identifiers)

44. Respondent Oroville Hospital and PIC Nguyen are subject to disciplinary action pursuant to Business and Professions Code section 4301 (b) and (c) for gross negligence and/ or incompetence in that they failed to maintain records which identified the identity of the reviewing pharmacist on a prescription or prescribers order in violation of Title 16 California Code of Regulations section 1712 (a).

EIGHTEENTH CAUSE FOR DISCIPLINE

(Gross Negligence/Incompetence/Failure to comply with Review Process for Compounding)

45. Respondent Oroville Hospital and PIC Nguyen are subject to disciplinary action pursuant to Business and Professions Code section 4301 (b) and (c) for gross negligence in conjunction with Title 16, California Code of Regulations section 1735.2 and 1751.3 (b), in that from February 26, 2015 to September 21, 2015, compounded drugs did not meet the requirements for proper preparation and review in that there were calculation errors such that the final drug product strengths did not correspond with the components and qualities listed on the compounding logs.

Such errors should have been reviewed by a pharmacist prior to dispensing said compounded drugs to patients.

NINETEENTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Variation from Prescription)

46. Respondent Victor Minetti is subject to disciplinary action pursuant to Business and Professions Code section 4301 (j) and (o) in conjunction with Title 16, California Code of Regulations section 1716 and 1735.2 (f) in that he compounded the following drugs incorrectly and failed to obtain consent of the prescriber for the deviation:

A. On or about July 11, 2015, in reference number 6849057, Respondent Victor Minetti compounded potassium phosphate prescribed as 163.5mm but the final product was potassium phosphate 32.7 mm.

B. On or about August 16, 2015, in reference number 8571v64, Respondent Victor Minetti compounded lacosamide 200mg with a 20ml dose but labeled it lacosamide 100mg.

C. On or about August 16, 2015, in reference number 122885v71, Respondent Victor Minetti compounded with octreotide 200 mcg in 250ml NS but labeled the final product octreotide 625mg.

D. On or about September 18, 2015 and September 21, 2015, Respondent Victor Minetti compounded Bevacizumab with a total volume of 114ml instead of 100ml. The volume altered the final concentration of the compounded drug product.

E. On or about September 18, 2015 and September 21, 2015, Respondent Victor Minetti compounded Iron Sucrose in 100ml of sodium chloride instead of the prescribed 250ml. of sodium chloride. The volume altered the final concentration of the compounded drug product.

TWENTIETH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Variation from Prescription)

47. Respondent Susan Schmidt is subject to disciplinary action pursuant to Business and Professions Code section 4301 (j) and (o) in conjunction with Title 16, California Code of Regulation section 1716 and 1735.2 in that she compounded the following drugs incorrectly and failed to obtain consent of the prescriber for the deviation:

A. Respondent Susan Schmidt failed to constitute vancomycin in accordance with the manufacturers reference numbers 8582v41 and 25816v26, thereby altering the final compounded drug product

B. Respondent Susan Schmidt had errors on the following compounded

prescriptions: September 17, 2015 reference number 205647v7; August 17, 2015, reference number 14275v441; July 22, 2015, reference number 37484v86; July 21, 2015, reference numbers 37484v77 and 154055v2.

TWENTY-FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Variation from Prescription)

48. Respondent Samuel Tong is subject to disciplinary action pursuant to Business and Professions Code section 4301 (j) and (o) in conjunction with Title 16, California Code of Regulation section 1716 and 1735.2 in that he compounded the following drugs incorrectly and failed to obtain consent of the prescriber for the deviation:

A. On or about July 11, 2015, Respondent Samuel Tong compounded KCL 20meq instead of the stated product of KCL 10meq.

B. On or about July 11, 2015, Respondent Samuel Tong compounded Folic acid 5mg. instead of the stated product Folic acid 2mg.

TWENTY-SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Variation from Prescription)

49. Respondent Jasmine Dong is subject to disciplinary action pursuant to Business and Professions Code section 4301 (j) and (o) in conjunction with Title 16, California Code of Regulation section 1716 and 1735.2 in that she compounded the following drugs incorrectly and failed to obtain consent of the prescriber for the deviation:

A. On or about July 10, 2015, Respondent Jasmine Dong compounded Versed 25 mg but labeled the final product Versed 100 mg.

B. On or about July 10, 2015, Respondent Jasmine Dong compounded Glassia 7.6gm but labeled the final product Glassia1gm.

C. On or about July 10, 2015, Respondent Jasmine Dong compounded vancomycin 750mg instead of the stated product vancomycin 1750mg.

D. On or about July 10, 2015, Respondent Jasmine Dong compounded sodium phosphate 30mm but labeled the final product sodium phosphate 20mm.

E. On or about August 18, 2015, Respondent Jasmine Dong compounded hydromorphone 12.5mg but labeled the final product Dilaudid 50mg.

F. On or about July 22, 2015, Respondent Jasmine Dong compounded Emend without a stated strength but labeled the final product Emend 150 mg.

TWENTY-THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Variation from Prescription)

50. Respondent Son Nguyen is subject to disciplinary action pursuant to Business and Professions Code section 4301 (j) and (o) in conjunction with Title 16, California Code of Regulation section 1716 and 1735.2 in that he compounded the following drugs incorrectly and failed to obtain consent of the prescriber for the deviation:

A. On or about September 17, 2015, Respondent Son Nguyen compounded Bevacizumab with a volume of 114m., instead of 100ml. The volume altered the final concentration of the compounded drug product

B. On or about September August 13, 2015, Respondent Son Nguyen compounded Iron Sucrose in 100ml of sodium instead of the prescribed 250ml of sodium. The volume altered the final concentration of the compounded drug product

C. On or about July 30, 2015, Respondent Son Nguyen compounded Crofad 4mg in 50ml of NS instead of the prescribed Crofab 2mg in 250ml NS.

D. On an unknown date, Respondent Son Nguyen compounded penicillin 10MU instead of the prescribed penicillin 6 MU.

TWENTY-FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct/Review of Compounded Products)

51. Respondents Victor Minetti, Susan Schmidt, Chad Ramos, Son Nguyen, Samuel Tong, and Jasmine Dong are subject to disciplinary action pursuant to Business and Professions Code section 4301 (j) and (o) in conjunction with Title 16, California Code of Regulation section 1751.3 (b) and 1735.2 (f) in that records obtained from February 26, 2015 to September 21, 2015, demonstrate that Respondent Schmidt failed to properly review compounded products in that there were calculation errors in compounded products dispensed; components and quantities listed on compounding logs did not correspond to the stated strength of the final product or label.

OTHER MATTERS

To determine the degree of discipline, if any, to be imposed on Respondent Daniel Quoc Nguyen, Complainant alleges that on or about January 28, 1993, in a prior disciplinary action entitled In the Matter of the Accusation Against: Daniel Quoc Nguyen before the Board of Pharmacy, in Case Number 1612, Respondent's license was revoked stayed and placed on three years probation for stealing testosterone, Anadrol and Nolvadex in 1991 while employed at CVS

Pharmacies in Orange County. That decision is now final and is incorporated by reference as if fully set forth.

Additionally, Respondent Daniel Quoc Nguyen was issued Citation No. CI 2013 61899 and fined in the amount of $2,500 for a violation of Business and Professions Code section 4312 subd. (a) & (e) for having an issued and valid permit when the pharmacy was not built or open.

PRAYER

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

1. Revoking or suspending Original Permit Number HSP 41557, issued to Oroville Hospital Pharmacy;

2. Revoking or suspending Original Sterile Compounding Permit Number LSC 100404, issued to Oroville Hospital Pharmacy;

3. Revoking or suspending Pharmacist License No. RPH 43487 to Daniel Quoc Nguyen;

4. Revoking or suspending Pharmacist License No. RPH 35419 issued to Victor Michael Minetti;

5. Revoking or suspending Pharmacist License No. RPH 58496 issued to Susan Schmidt;

6. Revoking or suspending Pharmacist License No. RPH 67245 issued to Chad Miller Ramos;

7. Revoking or suspending Pharmacist License No. RPH 62061 issued to Son Thia Nguyen;

8. Revoking or suspending Pharmacist License No. RPH 62917 to Samuel Tong,

9. Revoking or suspending Pharmacist License No. RPH 69270 issued to Jasmine Brittany Dong;

10. Ordering Respondents Oroville Hospital; Daniel Quoc Nguyen; Victor Michael Minetti; Susan Schmidt; Chad Miller Ramos; Son Thia Nguyen; and Jasmine Brittany Dong 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;

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

DATED: 9/14/16

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

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