

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

In the Matter of the Accusation Against:

**KAN PHARMACY INC.  
dba CARE RX PHARMACY  
CHRISTINE NGA KAN, PRESIDENT  
AND PHARMACIST-IN-CHARGE**  
302 E. Bullard Ave.  
Fresno, CA 93710

**Pharmacy Permit No. PHY 51049**

**and**

**CHRISTINE NGA KAN**  
8277 N. Paula Ave.  
Fresno, CA 93720

**Pharmacist License No. RPH 58228**

Respondents.

Case No. 5903

OAH No. 2018040783

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

**FOR RESPONDENT KAN PHARMACY  
INC. dba CARE RX PHARMACY ONLY**

**DECISION AND ORDER**

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

This Decision shall become effective at 5:00 p.m. on September 20, 2018.

It is so ORDERED on August 21, 2018.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Victor Law, R.Ph.  
Board President

1 XAVIER BECERRA  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 MABEL LEW  
Deputy Attorney General  
4 State Bar No. 158042  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-6104  
Facsimile: (916) 327-8643  
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:

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13 **dba CARE RX PHARMACY**  
14 **CHRISTINE NGA KAN, PRESIDENT**  
15 **AND PHARMACIST-IN-CHARGE**  
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**FOR RESPONDENT KAN PHARMACY  
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16 **Pharmacy Permit No. PHY 51049**

17 and

18 **CHRISTINE NGA KAN**  
19 8277 N. Paula Ave.  
20 Fresno, CA 93720

21 **Pharmacist License No. RPH 58228**

22 Respondents.  
23

24  
25 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
26 entitled proceedings that the following matters are true:

27 ///

28 ///

1 PARTIES

2 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy  
3 (Board). She brought this action solely in her official capacity and is represented in this matter by  
4 Xavier Becerra, Attorney General of the State of California, by Mabel Lew, Deputy Attorney  
5 General.

6 2. Respondent Kan Pharmacy Inc., dba Care Rx Pharmacy; Christine Nga Kan,  
7 President and Pharmacist-in-Charge (Respondent) is represented in this proceeding by attorney  
8 Tony J. Park, Pharm.D., J.D., whose address is:

9 49 Discovery, Suite 240

10 Irvine, CA 92618-6713

11 3. On or about September 12, 2012, the Board issued Pharmacy Permit No. PHY 51049  
12 to Care Rx Pharmacy; Christine Nga Kan, President and PIC (Respondent). The Pharmacy  
13 Permit was in full force and effect at all times relevant to the charges brought in Accusation No.  
14 5903, and will expire on September 1, 2018, unless renewed.

15 4. On or about April 5, 2006, the Board issued Pharmacist License No. RPH 58228 to  
16 Care Rx Pharmacy; Christine Nga Kan, President and PIC (Respondent). The Pharmacist  
17 License was in full force and effect at all times relevant to the charges brought in Accusation No.  
18 5903, and will expire on August 31, 2019, unless renewed.

19 JURISDICTION

20 5. Accusation No. 5903 was filed before the Board, and is currently pending against  
21 Respondent. The Accusation and all other statutorily required documents were properly served  
22 on Respondent on March 23, 2018. Respondent timely filed her Notice of Defense contesting the  
23 Accusation.

24 6. A copy of Accusation No. 5903 is attached as exhibit A and incorporated herein by  
25 reference.

26 ADVISEMENT AND WAIVERS

27 7. Respondent has carefully read, fully discussed with counsel, and understands the  
28 charges and allegations in Accusation No. 5903. Respondent has also carefully read, fully

1 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary  
2 Order.

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

9 9. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
10 every right set forth above.

#### 11 CULPABILITY

12 10. Respondent admits the truth of each and every charge and allegation in Accusation  
13 No. 5903.

14 11. Respondent agrees that her Pharmacy Permit is subject to discipline and she agrees to  
15 be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

#### 16 CONTINGENCY

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

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



- 1 • an arrest or issuance of a criminal complaint for violation of any provision of the
- 2 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
- 3 substances laws;
- 4 • a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal
- 5 criminal proceeding to any criminal complaint, information or indictment;
- 6 • a conviction of any crime; or
- 7 • discipline, citation or other administrative action filed by any state or federal agency
- 8 which involves respondent's Pharmacy Permit No. PHY 51049, or which is related
- 9 to the practice of pharmacy or the manufacturing, obtaining, handling or
- 10 distributing, billing, or charging for any dangerous drug, and/or dangerous device or
- 11 controlled substance.

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

### 13 3. Report to the Board

14 Respondent shall report to the board quarterly, on a schedule as directed by the board or its  
15 designee. The report shall be made either in person or in writing, as directed. Among other  
16 requirements, respondent shall state in each report under penalty of perjury whether there has  
17 been compliance with all the terms and conditions of probation.

18 Failure to submit timely reports in a form as directed shall be considered a violation of  
19 probation. Any period(s) of delinquency in submission of reports as directed may be added to the  
20 total period of probation. Moreover, if the final probation report is not made as directed,  
21 probation shall be automatically extended until such time as the final report is made and accepted  
22 by the board.

### 23 4. Interview with the Board

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

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**5. Cooperate with Board Staff**

Respondent shall timely 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 her probation, including but not limited to: timely responses to requests for information by board staff; timely compliance with directives from board staff regarding requirements of any term or condition of probation; and timely completion of documentation pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a violation of probation.

**6. Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, Respondents Kan Pharmacy Inc., dba Care Rx Pharmacy with Christine Nga Kan as President and PIC, and Christine Nga Kan shall be jointly and severally liable for paying the board its costs of investigation, enforcement, and prosecution in this Accusation/Stipulated Settlement and Disciplinary Order, Case No. 5903, OAH Case No. 2018040783, in the amount of \$12,000.00.

Respondent shall be permitted to pay these costs in a payment plan approved by the board or its designee, so long as full payment is completed no later than one (1) year prior to the end date of probation. There shall be no deviation from this schedule absent prior written approval by the board or its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

**7. 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.

**8. Status of License**

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

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

5 **9. License Surrender While on Probation/Suspension**

6 Following the effective date of this decision, should respondent cease practice due to  
7 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
8 respondent may relinquish her license, including any indicia of licensure issued by the board,  
9 along with a request to surrender the license. The board or its designee shall have the discretion  
10 whether to accept the surrender or take any other action it deems appropriate and reasonable.  
11 Upon formal acceptance of the surrender of the license, respondent will no longer be subject to  
12 the terms and conditions of probation. This surrender constitutes a record of discipline and shall  
13 become a part of the respondent's license history with the board.

14 Upon acceptance of the surrender, respondent shall relinquish her pocket and/or wall  
15 license, including any indicia of licensure not previously provided to the board within ten (10)  
16 days of notification by the board that the surrender is accepted if not already provided.  
17 Respondent may not reapply for any license from the board for three (3) years from the effective  
18 date of the surrender. Respondent shall meet all requirements applicable to the license sought as  
19 of the date the application for that license is submitted to the board, including any outstanding  
20 costs.

21 **10. Sale or Discontinuance of Business**

22 During the period of probation, should respondent sell, trade or transfer all or part of the  
23 ownership of the licensed entity, discontinue doing business under the license issued to  
24 respondent, or should practice at that location be assumed by another full or partial owner,  
25 person, firm, business, or entity, under the same or a different premises license number, the board  
26 or its designee shall have the sole discretion to determine whether to exercise continuing  
27 jurisdiction over the licensed location, under the current or new premises license number, and/or  
28 carry the remaining period of probation forward to be applicable to the current or new premises



1 license number of the new owner.

2 **11. Notice to Employees**

3 Respondent shall, upon or before the effective date of this decision, ensure that all  
4 employees involved in permit operations are made aware of all the terms and conditions of  
5 probation, either by posting a notice of the terms and conditions, circulating such notice, or both.  
6 If the notice required by this provision is posted, it shall be posted in a prominent place and shall  
7 remain posted throughout the probation period. Respondent shall ensure that any employees hired  
8 or used after the effective date of this decision are made aware of the terms and conditions of  
9 probation by posting a notice, circulating a notice, or both. Additionally, respondent shall submit  
10 written notification to the board, within fifteen (15) days of the effective date of this decision, that  
11 this term has been satisfied. Failure to timely provide such notification to employees, or to timely  
12 submit such notification to the board shall be considered a violation of probation.

13 "Employees" as used in this provision includes all full-time, part-time, volunteer, temporary  
14 and relief employees and independent contractors employed or hired at any time during  
15 probation.

16 **12. Owners and Officers: Knowledge of the Law**

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

23 **13. Premises Open for Business**

24 Respondent shall remain open and engaged in its ordinary business as a Pharmacy in  
25 California for a minimum of 120 hours per calendar month. Any month during which this  
26 minimum is not met shall toll the period of probation, i.e., the period of probation shall be  
27 extended by one month for each month during with this minimum is not met. During any such  
28 period of tolling of probation, respondent must nonetheless comply with all terms and conditions

1 of probation, unless respondent is informed otherwise in writing by the board or its designee. If  
2 respondent is not open and engaged in its ordinary business as a Pharmacy for a minimum of 160  
3 hours in any calendar month, for any reason (including vacation), respondent shall notify the  
4 board in writing within ten (10) days of the conclusion of that calendar month. This notification  
5 shall include at minimum all of the following: the date(s) and hours respondent was open; the  
6 reason(s) for the interruption or why business was not conducted; and the anticipated date(s) on  
7 which respondent will resume business as required. Respondent shall further notify the board in  
8 writing with ten (10) days following the next calendar month during which respondent is open  
9 and engaged in its ordinary business as a pharmacy in California for a minimum of 160 hours.  
10 Any failure to timely provide such notification(s) shall be considered a violation of probation.

#### 11 **14. Posted Notice of Probation**

12 Respondent shall prominently post a probation notice provided by the board or its designee  
13 in a place conspicuous to and readable by the public within two (2) days of receipt thereof from  
14 the board or its designee. Failure to timely post such notice, or to maintain the posting during the  
15 entire period of probation, shall be considered a violation of probation.

16 Respondent shall not, directly or indirectly, engage in any conduct or make any statement  
17 which is intended to mislead or is likely to have the effect of misleading any patient, customer,  
18 member of the public, or other person(s) as to the nature of and reason for the probation of the  
19 licensed entity.

#### 20 **15. Violation of Probation**

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

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

1 was stayed. If a petition to revoke probation or an accusation is filed against respondent during  
2 probation, or the preparation of an accusation or petition to revoke probation is requested from  
3 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of  
4 probation shall be automatically extended until the petition to revoke probation or accusation is  
5 heard and decided.

6 **16. Completion of Probation**

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

9 **17. Monthly Consultant**

10 Respondent Christine Nga Kan may serve as a pharmacist-in-charge, responsible manager  
11 or other compliance supervisor of Care Rx Pharmacy (PHY 51049) only, but only if Respondent  
12 retains, at her expense, an independent consultant who shall be responsible for reviewing the  
13 operations of the entity on a monthly basis for compliance by respondent and the entity with state  
14 and federal laws and regulations governing the practice of the entity, and compliance by  
15 respondent with the obligations of her supervisory position. The period of time an independent  
16 consultant is required may be reduced by the board or its designee. The consultant shall be a  
17 pharmacist licensed by and not on probation with the board, who has been approved by the board  
18 or its designee to serve in this position. Respondent shall submit the name of the proposed  
19 consultant to the board or its designee for approval within thirty (30) days of the effective date of  
20 the decision or prior to assumption of duties allowed in this term. Assumption of any  
21 unauthorized supervision responsibilities shall be considered a violation of probation. In addition,  
22 failure to timely seek approval for, timely retain, or ensure timely reporting by the consultant  
23 shall be considered a violation of probation.

24 ///

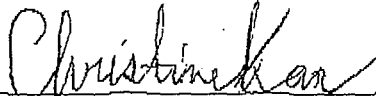
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27 ACCEPTANCE

28

1 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
 2 discussed it with my attorney, Tony J. Park, Pharm.D., J.D.. I understand the stipulation and the  
 3 effect it will have on my Pharmacy Permit, and Pharmacist License. I enter into this Stipulated  
 4 Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be  
 5 bound by the Decision and Order of the Board of Pharmacy.

6  
 7 DATED: 06/10/18   
 8 CARE RX PHARMACY; CHRISTINE NGA KAN,  
 9 PRESIDENT AND PIC  
 Respondent

10 I have read and fully discussed with Respondent Care Rx Pharmacy, Christine Nga Kan,  
 11 President and PIC the terms and conditions and other matters contained in the above Stipulated  
 12 Settlement and Disciplinary Order. I approve its form and content.


13 DATED: 6/11/2018   
 14 TONY J. PARK, PHARM.D., J.D.  
 Attorney for Respondent

15  
 16 ENDORSEMENT

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

19 Dated: 6/11/18

20 Respectfully submitted,  
 21 XAVIER BECERRA  
 Attorney General of California  
 22 KENT D. HARRIS  
 Supervising Deputy Attorney General

23  
 24   
 25 MABEL LEW  
 Deputy Attorney General  
 Attorneys for Complainant  
 26  
 27  
 28

**Exhibit A**

**Accusation No. 5903**

1 XAVIER BECERRA  
Attorney General of California  
2 KENT D. HARRIS  
Supervising Deputy Attorney General  
3 MABEL LEW  
Deputy Attorney General  
4 State Bar No. 158042  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5337  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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**A C C U S A T I O N**

17 302 E. Bullard Ave.  
18 Fresno, CA 93710

19 **Pharmacy Permit No. PHY 51049**

20 and

21 **CHRISTINA NGA KAN**  
22 8277 N. Paula Ave.  
23 Fresno, CA 93720

24 **Pharmacist License No. RPH 58228**

25 Respondents.

26 Virginia Herold ("Complainant") alleges:

27 **PARTIES**

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

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**Pharmacy Permit**

2. On or about September 12, 2012, the Board issued Pharmacy Permit Number PHY 51049 to Kan Pharmacy Inc., doing business as Care Rx Pharmacy, with Christina Nga Kan as its President and Pharmacist-in-Charge. The Pharmacy Permit was in full force and effect at all times relevant to the charges brought herein and will expire on September 1, 2018, unless renewed.

**Pharmacist License**

3. On or about April 5, 2006, the Board issued Pharmacist License Number RPH 58228 to Christina Nga Kan. The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2019, unless renewed.

4. Kan Pharmacy Inc., dba Care Rx Pharmacy (“CRP”) and Christina Nga Kan are referred to collectively hereinafter as “Respondents”.

**JURISDICTION**

5. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (“Code”) unless otherwise indicated.

6. Code section 4300 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.

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7. Code section 4300.1 states:

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

**STATUTORY PROVISIONS**

8. Code section 4301 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 issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

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

...

(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. Code section 4306.5 states, in pertinent part:

Unprofessional conduct for a pharmacist may include any of the following:

...

(b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement his or her best professional judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services.

...

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1           10. Code section 4113(c) states, "The pharmacist-in-charge shall be responsible for a  
2 pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of  
3 pharmacy."

4           11. Code section 4307 states, in pertinent part:

5           (a) Any person who has been denied a license or whose license has been  
6 revoked or is under suspension, or who has failed to renew his or her license while it  
7 was under suspension, or who has been a manager, administrator, owner, member,  
8 officer, director, associate, or partner of any partnership, corporation, firm, or  
9 association whose application for a license has been denied or revoked, is under  
10 suspension or has been placed on probation, and while acting as the manager,  
11 administrator, owner, member, officer, director, associate, or partner had knowledge  
12 of or knowingly participated in any conduct for which the license was denied,  
13 revoked, suspended, or placed on probation, shall be prohibited from serving as a  
14 manager, administrator, owner, member, officer, director, associate, or partner of a  
15 licensee as follows:

16           (1) Where a probationary license is issued or where an existing license is  
17 placed on probation, this prohibition shall remain in effect for a period not to exceed  
18 five years.

19           (2) Where the license is denied or revoked, the prohibition shall continue until  
20 the license is issued or reinstated.

21           (b) "Manager, administrator, owner, member, officer, director, associate, or  
22 partner," as used in this section and Section 4308, may refer to a pharmacist or to any  
23 other person who serves in that capacity in or for a licensee.

24 ...

#### 25 **HEALTH & SAFETY CODE**

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

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

///

///

1 **REGULATORY PROVISIONS**

2 **CALIFORNIA CODE OF REGULATIONS**

3 13. Code of Federal Regulations (“CFR”), title 21, section 1306.04(a), states:

4 A prescription for a controlled substance to be effective must be issued for a  
5 legitimate medical purpose by an individual practitioner acting in the usual course of  
6 his professional practice. The responsibility for the proper prescribing and dispensing  
7 of controlled substances is upon the prescribing practitioner, but a corresponding  
8 responsibility rests with the pharmacist who fills the prescription. An order purporting  
9 to be a prescription issued not in the usual course of professional treatment or in  
legitimate and authorized research is not a prescription within the meaning and intent  
of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such a  
purported prescription, as well as the person issuing it, shall be subject to the  
penalties provided for violations of the provisions of law relating to controlled  
substances.

10 **COST RECOVERY**

11 14. Code section 125.3 provides, in pertinent part, that the Board may request the  
12 administrative law judge to direct a licentiate found to have committed a violation or violations of  
13 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
14 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
15 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
16 included in a stipulated settlement.

17 **DRUGS**

18 15. *Norco*, a brand of hydrocodone bitartrate and acetaminophen, is designated a  
19 Schedule III controlled substance by Health and Safety Code section 11056(e)(4) and is  
20 designated a Schedule II controlled substance by the Code of Federal Regulations, title 21,  
21 section 1308.12(b)(1)(vi). It is a dangerous drug pursuant to Business and Professions Code  
22 section 4022.

23 16. *Soma*, a brand name for carisoprodol, is designated a Schedule IV Controlled  
24 Substance Health & Safety Code section 11057(d)(18), by the Code of Federal Regulations, title  
25 21, section 1308.14(c)(6), and is a dangerous drug pursuant to Business and Professions Code  
26 section 4022.

27 ///

28 ///

1 17. *Oxycodone* is designated a Schedule II controlled substance pursuant to Health and  
2 Safety Code section 11055(b)(1)(M), and Code of Federal Regulations, title 21, section  
3 1308.12(b)(1)(xiii), and is a dangerous drug pursuant to Business and Professions Code section  
4 4022.

5 **STATEMENT OF FACTS**

6 18. On or around June 2013, the Board received notification from Amerisource Bergen  
7 Company that they stopped sales of hydrocodone and/or oxycodone products to CRP. A Board  
8 investigation ensued and a Controlled Substance Utilization Review and Evaluation System  
9 (CURES) report<sup>1</sup> for the period January 1, 2010, to September 19, 2013, was obtained.

10 19. The CURES report showed that between November 12, 2012, and September 19,  
11 2013, Dr. Jose Luis Flores<sup>2</sup> issued prescriptions for 31% of the total controlled substance  
12 prescriptions dispensed by CRP. Prescriptions issued by Dr. Flores and filled by CRP for  
13 carisoprodol 350 mg., hydrocodone/APAP 10/325 mg., and oxycodone 30 mg., were  
14 disproportionately higher than prescriptions dispensed by CRP for other prescribers. Between  
15 November 12, 2012, and September 19, 2013, Respondent CRP dispensed: 12,738 units of  
16 carisoprodol 350 mg., of which 9,450 were written by Dr. Flores; 20,641 units of  
17 hydrocodone/APAP 10/325 mg., of which 13,680 were written by Dr. Flores; and 21,318 units of  
18 oxycodone 30 mg., of which 13,620 were written by Dr. Flores.

19 20. On or about October 28, 2013, a Board inspector conducted an on-site inspection of  
20 CRP's facility. The inspector requested patient profiles for 20 patients selected from the CURES  
21 report, a questionnaire to be completed for each of those patients, and hard copy prescriptions and  
22 dispensing records for those patients.

23  
24 <sup>1</sup> Operative January 1, 2005, Health and Safety Code section 11165(d) required  
25 pharmacies to report prescriptions for Schedule II or III controlled substances for the Department  
26 of Justice on a weekly basis. Effective January 1, 2007, 11165(d) was amended to require  
reporting of Schedule IV controlled substances as well. The purpose of such reporting is to help  
identify and prevent/deter drug abuse and diversion.

27 <sup>2</sup> Effective April 16, 2014, Jose Luis Flores, M.D. stipulated to surrender of his  
28 physician's and surgeon's certificate. Dr. Flores was disciplined for, *inter alia*, a failure to meet  
the Medical Board of California's standards for contemporary pain management practice, as  
evidenced by multiple prescriptions issued by Dr. Flores for large quantities of Oxycodone,  
Norco, and Soma for multiple patients.

1 21. Christina Nga Kan, CRP's president and PIC, provided the documentation and  
2 patient questionnaires for nineteen patients. The documentation, compiled and summarized in the  
3 course of the Board investigation, revealed that:

- 4 a. 95% of the time Respondents did not verify that the person presenting the  
5 prescription was the patient or a legitimate representative of the patient;  
6 b. 95% of the patients paid cash;  
7 c. 63% of the prescriptions were brought in by a caregiver;  
8 d. 68% of the prescriptions were picked up a caregiver without use of a consent form;  
9 e. 58% had a diagnosis of lumbosacral neuritis and 42% had a diagnosis of chronic  
10 pain;  
11 f. 47% had the same address;  
12 g. 58% had the same phone number;  
13 h. Of 33 prescriptions written by Dr. Flores for the 19 patients:  
14 (1) 97% included a prescription for oxycodone 30 mg.  
15 (2) 97% included a prescription for carisoprodol 350 mg.  
16 (3) 97% included a prescription for hydrocodone/APAP 10/325;  
17 i. CRP dispensed oxycodone for four patients who had prescriptions written by  
18 Dr. Flores for oxycodone, carisoprodol, and hydrocodone on one script  
19 (1) those patients filled Dr. Flores' prescriptions for carisoprodol and  
20 hydrocodone at other pharmacies  
21 (2) Of those patients, three had Dr. Flores' prescriptions for carisoprodol and  
22 hydrocodone filled at a pharmacy approximately 60 miles away.

23 **FIRST CAUSE FOR DISCIPLINE**

24 (Unprofessional Conduct – Corresponding Responsibility)

25 22. Respondents are subject to disciplinary action pursuant to Code sections 4301(j) and  
26 (o) and 4306.5(b) for unprofessional conduct, in that Respondents failed to exercise or implement  
27 their corresponding responsibility with regard to the dispensing or furnishing of controlled  
28 substances and dangerous drugs for a legitimate medical purpose, in violation of Health & Safety

1 Code section 11153(a) ( and CFR, title 21, section 1306.04(a). Specifically, between on or about  
2 November 12, 2012, and September 19, 2013, Respondents dispensed carisoprodol 350 mg.,  
3 oxycodone 30 mg., and hydrocodone/APAP 10/325 mg. on multiple prescriptions issued by  
4 Dr. Flores for multiple patients without questioning the legitimacy of those prescriptions despite  
5 Dr. Flores' repetitive prescribing habits, his multiple patients residing at one address and having  
6 the same phone number, the high percentage of cash transactions, and the fact that the  
7 prescriptions were being dropped off and picked up by someone other than the patient, as set forth  
8 more fully in paragraphs 19 to 21, above.

9 **SECOND CAUSE FOR DISCIPLINE**

10 (Clearly Excessive Furnishing of Controlled Substances)

11 23. Respondents are subject to disciplinary action pursuant to Code section 4301(d) for  
12 unprofessional conduct, in that between on or about November 12, 2012, and September 19,  
13 2013, Respondents clearly excessively furnished controlled substances, including carisoprodol  
14 350 mg., oxycodone 30 mg., and hydrocodone/APAP 10/325 mg., as set forth in paragraphs 19  
15 through 22, above, in violation of Health and Safety Code section 11153(a).

16 **OTHER MATTERS**

17 24. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY  
18 51049, issued to Kan Pharmacy, Inc., dba Care Rx Pharmacy, Care Rx Pharmacy shall be  
19 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,  
20 or partner of a licensee for five years if Pharmacy Permit Number PHY 51049 is placed on  
21 probation or until Pharmacy Permit Number PHY 51049 is reinstated if it is revoked.

22 25. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No.  
23 PHY 51049, issued to Kan Pharmacy, Inc., dba Care Rx Pharmacy, while Christina Nga Kan has  
24 been an officer and/or pharmacist-in-charge, and had knowledge of or knowingly participated in  
25 any conduct for which the permit was disciplined, Christina Nga Kan shall be prohibited from  
26 serving as a manager, administrator, owner, member, officer, director, associate, or partner of  
27 any licensed or permitted entity for five (5) years if Pharmacy Permit Number PHY 51049 is  
28 placed on probation, or until Pharmacy Permit Number PHY 51049 is reinstated, if revoked.

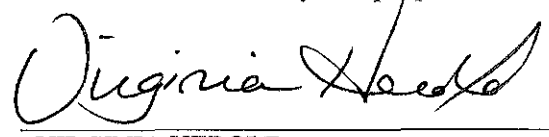
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**PRAYER**

**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 Pharmacy Permit Number PHY 51049, issued to Kan Pharmacy, Inc., dba Care Rx Pharmacy;
- 2. Prohibiting Kan Pharmacy, Inc., dba Care Rx Pharmacy from serving as a manager, administrator, owner, member, officer, director, associate, or partner of any licensed or permitted entity for five (5) years if Pharmacy Permit Number PHY 51049 is placed on probation, or until Pharmacy Permit Number PHY 51049 is reinstated, if revoked;
- 3. Revoking or suspending Pharmacist License Number RPH 37855, issued to Christina Nga Kan;
- 4. Prohibiting Christina Nga Kan from serving as a manager, administrator, owner, member, officer, director, associate, or partner of any licensed or permitted entity for five (5) years if Pharmacy Permit Number PHY 51049 is placed on probation, or until Pharmacy Permit Number PHY 51049 is reinstated, if revoked;
- 5. Ordering Kan Pharmacy, Inc., dba Care Rx Pharmacy Care Rx Pharmacy and Christina Nga Kan to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
- 6. Take such other and further action as deemed necessary and proper.

DATED: 3/8/18



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

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