

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

In the Matter of the Accusation Against:

**PHARMACY 9,  
JULIE TRAN, OWNER  
122 N. Euclid No. A  
Santa Ana, CA 92703**

**Pharmacy Permit No. PHY 40841,**

**DUYEN THI TRAN  
122 N. Euclid No. A  
Santa Ana, CA 92703**

**Pharmacist License No. RPH 45895**

Respondents.

Case No. 6178

OAH No. 2018030581


**DECISION AND ORDER**

The attached Stipulated Surrender 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 June 28, 2018.

It is so ORDERED on May 29, 2018.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA



By

\_\_\_\_\_  
Amy Gutierrez, Pharm.D.  
Board President

1. XAVIER BECERRA  
Attorney General of California  
2 HARINDER K. KAPUR  
Supervising Deputy Attorney General  
3 DESIREE I. KELLOGG  
Deputy Attorney General  
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*Attorneys for Complainant*

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10 **DEPARTMENT OF CONSUMER AFFAIRS**  
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15 **Pharmacy Permit No. PHY 40841**  
16 **DUYEN THI TRAN**  
17 **122 No. Euclid, No. A**  
**Santa Ana, CA 92703**  
18 **Pharmacist License No. RPH 45895**  
19 Respondents.

Case No. 6178  
OAH No. 2018030581  
**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

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

23 PARTIES

24 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy  
25 (Board). She brought this action solely in her official capacity and is represented in this matter by  
26 Xavier Becerra, Attorney General of the State of California, by Desiree I. Kellogg, Deputy  
27 Attorney General.

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

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

5 CULPABILITY

6 9. Respondents admit the truth of each and every charge and allegation in Accusation  
7 No. 6178, agree that cause exists for discipline and hereby surrender Pharmacy Permit  
8 No. PHY 40841 and Pharmacist License No. RPH 45895 for the Board's formal acceptance.

9 10. Respondents understand that by signing this stipulation, Respondents Pharmacy 9 and  
10 Duyen Tran enables the Board to issue an order accepting the surrender of their Pharmacy Permit  
11 and Pharmacist License without further process.

12 CONTINGENCY

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

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

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

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

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

5 **ORDER**

6 IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 40841, issued to Respondent  
7 Pharmacy 9, Julie Tran and Duyen Thi Tran, owners and Pharmacist License No. RPH 45895,  
8 issued to Duyen Thi Tran are surrendered and accepted by the Board of Pharmacy.

9 1. The surrender of Respondent Pharmacy 9's Pharmacy Permit and Respondent Duyen  
10 Thi Tran's Pharmacist License and the acceptance of the surrendered licenses by the Board shall  
11 constitute the imposition of discipline against Respondents. This stipulation constitutes a record  
12 of the discipline and shall become a part of Respondents' license history with the Board of  
13 Pharmacy.

14 2. Respondent Duyen Thi Tran shall lose all rights and privileges as a pharmacist in  
15 California as of the effective date of the Board's Decision and Order.

16 3. Respondent Pharmacy 9 shall lose all rights and privileges as a pharmacy in  
17 California as of the effective date of the Board's Decision and Order.

18 4. Respondents shall cause to be delivered to the Board their pocket licenses and, if one  
19 was issued, its wall certificate on or before the effective date of the Decision and Order.

20 5. If Respondents ever apply for licensure or petitions for reinstatement in the State of  
21 California, the Board shall treat it as a new application for licensure. Respondents must comply  
22 with all the laws, regulations and procedures for licensure in effect at the time the application or  
23 petition is filed, and all of the charges and allegations contained in Accusation No. 6178 shall be  
24 deemed to be true, correct and admitted by Respondents when the Board determines whether to  
25 grant or deny the application or petition.

26 6. Respondents shall pay the agency its costs of investigation and enforcement in the  
27 amount of \$14,052.50 (\$12,100.00 in investigative costs and \$1,952.50 in prosecution costs)  
28 prior to issuance of a new or reinstated license.

1           7. If Respondents should ever apply or reapply for a new license or certification, or  
2 petition for reinstatement of a license, by any other health care licensing agency in the State of  
3 California, all of the charges and allegations contained in Accusation No. 6178 shall be deemed to  
4 be true, correct, and admitted by Respondents for the purpose of any Statement of Issues or any  
5 other proceeding seeking to deny or restrict licensure.

6           8. Within (30) days of the effective date of the Order adopting this Stipulated Surrender,  
7 Respondent Pharmacy 9 shall arrange for the destruction of, the transfer to, sale of or storage in a  
8 facility licensed by the Board of all controlled substances and dangerous drugs and devices.  
9 Respondent Pharmacy 9 shall further provide written proof of such disposition and submit a  
10 completed Discontinuance of Business form according to Board guidelines.

11           9. Within thirty (30) days of the effective date of the Order adopting this Stipulated  
12 Surrender, Respondent Pharmacy 9 shall arrange for the continuation of care for ongoing patients  
13 of the pharmacy, by at minimum, providing a written notice to ongoing patients that specifies the  
14 anticipated closing date of the pharmacy and that identifies one or more area pharmacies capable  
15 of taking up the patients' care, and by cooperating as may be necessary in the transfer of records  
16 or prescriptions for ongoing patients. Within five (5) days of satisfaction of this provision to the  
17 pharmacy's ongoing patients, Respondent Pharmacy 9 shall provide a copy of the written notice  
18 to the board. For the purposes of this provision, "ongoing patients" means those patients for  
19 whom the pharmacy has on file a prescription with one or more refills outstanding, or for whom  
20 the pharmacy has filled a prescription within the preceding sixty (60) days.

21           10. Respondents may not apply, reapply, or petition for any licensure or registration of  
22 the Board for three (3) years from the effective date of the Decision and Order.


23           11. Owners of Respondent Pharmacy 9, Julie Tran and Respondent Duyen Tran shall be  
24 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,  
25 or partner of any entity licensed by the Board until the pharmacist license or pharmacy permit are  
26 issued or reinstated.

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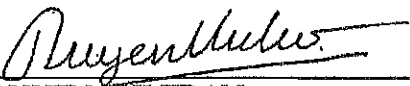
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ACCEPTANCE

I, as the authorized agent on behalf of Pharmacy 9 have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacy Permit. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: March, 27, 2018        
AUTHORIZED AGENT ON BEHALF OF  
PHARMACY 9  
*Respondent*

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 3/29/2018        
DUYEN THI TRAN  
*Respondent*

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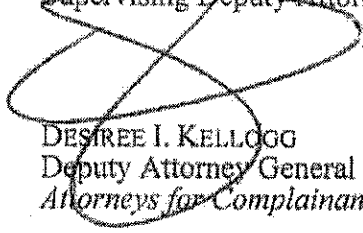
ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 4/5/18

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
HARINDER K. KAPUR  
Supervising Deputy Attorney General



DESIREE I. KELLOGG  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 6178**

1 XAVIER BECERRA  
Attorney General of California  
2 HARINDER K. KAPUR  
Supervising Deputy Attorney General  
3 DESIREE I. KELLOGG  
Deputy Attorney General  
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P.O. Box 85266  
6 San Diego, CA 92186-5266  
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7 Facsimile: (619) 645-2061  
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14 **122 N. Euclid No. A**  
**Santa Ana, CA 92703**

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

15 **Pharmacy Permit No. PHY 40841**

16 **DUYEN THI TRAN**  
17 **122 No. Euclid, No. A**  
**Santa Ana, CA 92703**

18 **Pharmacist License No. RPH 45895**

19 Respondents.

20  
21 Complainant alleges:

22 **PARTIES**

- 23 1. Virginia K. Herold (Complainant) brings this Accusation solely in her official  
24 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.
- 25 2. On or about June 21, 1995, the Board of Pharmacy issued Pharmacy Permit Number  
26 PHY 40841 to Pharmacy 9 (Pharmacy 9). The Pharmacy Permit was in full force and effect at all  
27 times relevant to the charges and allegations brought herein and will expire on June 1, 2018,  
28 unless renewed.



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10. Section 4040(a)(2) of the Code states:

‘Prescription’ means an oral, written, or electronic transmission order that is both of the following:

Issued by a physician, dentist, optometrist, podiatrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7 or, if a drug order is used pursuant to Section 2746.51, 2836.1, 3502.1 or 3460.5, by a certified nurse-midwife, nurse practitioner, physician assistant or naturopathic doctor licensed in this state, or pursuant to Section 4052.1, 4052.2, or 4052.6 by a pharmacist licensed in this state.

11. Section 4113(c) of the Code states:

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

12. Section 4301 of the Code states in pertinent part:

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

...

(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 any other state or federal regulatory agency.

...

13. Section 4307(a) of the Code states that:

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

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

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

....

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14. Section 1707.5(d) of California Code of Regulations, title 16 states:

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

#### **COST RECOVERY**

15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

#### **FACTUAL ALLEGATIONS**

16. Since on or about June 21, 1995, Duyen Tran was the Pharmacist-in-Charge and fifty percent shareholder of Pharmacy 9, and Julie Tran was the other fifty percent owner of Pharmacy 9.

17. On or about January 12, 2006, Julie Tran became licensed as a physician assistant by the Physician Assistant Board and authorized to write prescriptions.

18. Subsequently, Pharmacy 9 submitted renewal applications for its permit but never disclosed that Julie Tran had become licensed as a physician assistant.

19. On June 23, 2016, a Board inspector informed Julie Tran and Duyen Tran that Julie Tran could not be an owner of Pharmacy 9 because Julie Tran was licensed as a physician assistant who could prescribe controlled substances and dangerous drugs. Julie Tran informed the inspector that she would relinquish ownership of Pharmacy 9. The inspector further informed them to submit change of ownership paperwork immediately. The Board then issued a notice of non-compliance. However, Respondents did not remove Julie Tran from the ownership of the pharmacy.

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1 Pharmacy Permit Number PHY 40841 is placed on probation or until Pharmacy Permit Number  
2 PHY 40841 is reinstated if it is revoked.

3 26. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit  
4 Number PHY 40841 issued to Pharmacy 9 while Julie Tran and/or Duyen Tran have been an  
5 officer and owner and had knowledge of or knowingly participated in any conduct for which the  
6 licensee was disciplined, Julie Tran and Duyen Tran shall be prohibited from serving as a  
7 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for  
8 five years if Pharmacy Permit Number PHY 40841 is placed on probation or until Pharmacy  
9 Permit Number PHY 40841 is reinstated if it is revoked.

10 27. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License  
11 No. RPH 45895 issued to Duyen Tran, Duyen Tran shall be prohibited from serving as a manager,  
12 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if  
13 Pharmacist License Number RPH 45895 is placed on probation or until Pharmacist License  
14 Number RPH 45895 is reinstated if it is revoked.

15 **PRAYER**

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

18 1. Revoking or suspending Pharmacy Permit Number PHY 40841, issued to Pharmacy  
19 9;

20 2. Revoking or suspending Pharmacist License Number RPH 45895, issued to Duyen  
21 Thi Tran;

22 3. Prohibiting Pharmacy 9. from serving as a manager, administrator, owner, member,  
23 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number  
24 PHY 40841 is placed on probation or until Pharmacy Permit Number PHY 40841 is reinstated if  
25 Pharmacy Permit Number 40841 issued to Pharmacy 9 is revoked;

26 4. Prohibiting Julie Tran from serving as a manager, administrator, owner, member,  
27 officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number

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PHY 40841 is placed on probation or until Pharmacy Permit Number PHY 40841 is reinstated if Pharmacy Permit Number 40841 issued to Pharmacy 9 is revoked;

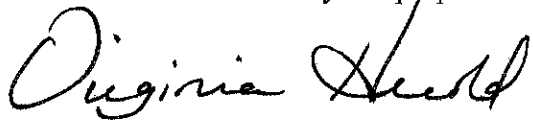
5. Prohibiting Duyen Thi Tran from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 40841 is placed on probation or until Pharmacy Permit Number PHY 40841 is reinstated if Pharmacy Permit Number PHY 40841 issued to Pharmacy 9 is revoked;

6. Prohibiting Duyen Thi Tran from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 45895 is placed on probation or until Pharmacist License Number RPH 45895 is reinstated if Pharmacist License Number RPH 45895 issued to Duyen Thi Tran is revoked;

7. Ordering Pharmacy 9 and Duyen Thi Tran 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,

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

DATED: 2/1/18



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

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