

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

In the Matter of the Accusation Against:

**PACIFIC SIDE PHARMACY, INC., dba
PACIFIC SIDE PHARMACY,
Pharmacy Permit No. PHY 47284; and**

**LINH KH DOAN,
Pharmacist License No. RPH 43569; and**

**DONG NGOC PHAM,
Pharmacist License No. RPH 47062,**

Respondents

Agency Case No. 6478

OAH No. 2020020907

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order for Public Reprimand 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 April 28, 2021.

It is so ORDERED on March 29, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe", is written over a horizontal line.

By

Greg Lippe
Board President

XAVIER BECERRA
Attorney General of California
MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General
AMIE J. FLYNN
Deputy Attorney General
State Bar No. 149600
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P.O. Box 85266
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Attorneys for Complainant

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

In the Matter of the Accusation Against:

**PACIFIC SIDE PHARMACY, INC., DBA
PACIFIC SIDE PHARMACY
19582 Beach Blvd. #118
Huntington Beach, CA 92648**

Pharmacy Permit No. PHY 47284,

**LINH KH DOAN
172 W. Price Street, #10
Nipomo, CA 93444**

Pharmacist License No. RPH 43569,

and

**DONG NGOC PHAM
19582 Beach Blvd. #118
Huntington Beach, CA 92648**

Pharmacist License No. RPH 47062

Respondents.

Case No. 6478

OAH No. 2020020907

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR PUBLIC
REPROVAL AS TO RESPONDENT
DONG NGOC PHAM ONLY**

[Bus. & Prof. Code § 495]

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

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1 **PARTIES**

2 1. Anne Sodergren (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 Amie J. Flynn, Deputy Attorney
5 General.

6 2. Respondent Dong Ngoc Pham (Respondent) is represented in this proceeding by
7 attorney Tony J. Park, 55 Cetus, #1, Irvine, California 92618.

8 3. On or about March 30, 1994, the Board issued Pharmacist License Number RPH
9 47062 to Respondent. The Pharmacist License was in full force and effect at all times relevant to
10 the charges brought herein and will expire on January 31, 2022, unless renewed.

11 **JURISDICTION**

12 4. Accusation No. 6478 was filed before the Board, and is currently pending against
13 Respondent. The Accusation and all other statutorily required documents were properly served
14 on Respondent on August 29, 2019. Respondent timely filed his Notice of Defense contesting the
15 Accusation. A copy of Accusation No. 6478 is attached as Exhibit A and incorporated herein by
16 reference.

17 5. Code section 4300.1 states:

18 The expiration, cancellation, forfeiture, or suspension of a board-issued license
19 by operation of law or by order or decision of the board or a court of law, the
20 placement of a license on a retired status, or the voluntary surrender of a license
21 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.

22 **ADVISEMENT AND WAIVERS**

23 6. Respondent has carefully read, fully discussed with counsel, and understands the
24 charges and allegations in Accusation No. 6478. Respondent has also carefully read, fully
25 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
26 Order.

27 7. Respondent is fully aware of his legal rights in this matter, including the right to a
28 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine

1 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
2 to the issuance of subpoenas to compel the attendance of witnesses and the production of
3 documents; the right to reconsideration and court review of an adverse decision; and all other
4 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

7 **CULPABILITY**

8 9. Respondent admits the truth of each and every charge and allegation in Accusation
9 No. 6478.

10 10. Respondent agrees that his Pharmacist License is subject to discipline and he agrees
11 to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

12 **CONTINGENCY**

13 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
14 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
15 communicate directly with the Board regarding this stipulation and settlement, without notice to
16 or participation by Respondent or his counsel. By signing the stipulation, Respondent
17 understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation
18 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
19 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
20 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
21 and the Board shall not 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 Settlement and Disciplinary Order, including PDF and facsimile
24 signatures thereto, shall have the same force and effect as the originals.

25 13. This Stipulated Settlement and Disciplinary 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 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.

14. 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 Number 47062 issued to Respondent Dong Ngoc Pham is publicly reprovved by the Board of Pharmacy under Business and Professions Code section 495 in resolution of Accusation No. 6478, attached as Exhibit A, pursuant to the following terms and conditions:

1. Remedial Education

Within one (1) year of the effective date of this decision, respondent shall submit to the board, or his designee, completion of the Board's prescription drug abuse prevention course along with 4 hours of coursework covering the role of a Pharmacist-in-Charge and pharmacy operations. The program of remedial education shall consist of at least 10 hours, of which 50 percent must be a live or in-person webinar. All remedial education shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes for pharmacists.

Failure to timely submit for approval or complete the approved remedial education shall be considered a violation of this Stipulated Settlement.

Following the completion of each course, the board or his designee may require the respondent, at his own expense, to take an approved examination to test the respondent's knowledge of the course. If the respondent does not achieve a passing score on the examination that course shall not count towards satisfaction of this term and Respondent shall take another course approved by the board in the same subject area until respondent achieves a passing score on the examination related to the course.

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2. **Reimbursement of Board Costs**

Respondent shall pay the amount of \$5,000.00 to the Board for its costs of investigation and prosecution.

Respondent shall be permitted to pay these costs in a payment plan approved by the Board. If Respondent fails to pay the Board costs as ordered, Respondent shall not be allowed to renew his Pharmacist License until Respondent pays costs in full.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Tony J. Park. 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: _____

DONG NGOC PHAM
Respondent

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

DATED: _____

TONY J. PARK, ESQ.
Attorney for Respondent

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2. **Reimbursement of Board Costs**

Respondent shall pay the amount of \$5,000.00 to the Board for its costs of investigation and prosecution.

Respondent shall be permitted to pay these costs in a payment plan approved by the Board. If Respondent fails to pay the Board costs as ordered, Respondent shall not be allowed to renew his Pharmacist License until Respondent pays costs in full.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Tony J. Park. 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: 3/1/2021

Dong Pham
DONG NGOC PHAM
Respondent

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

DATED: _____

TONY J. PARK, ESQ.
Attorney for Respondent

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ENDORSEMENT

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

DATED:

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General

AMIE J. FLYNN
Deputy Attorney General
Attorneys for Complainant

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ENDORSEMENT

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

DATED: March 1, 2021

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARICHELLE S. TAHIMIC
Supervising Deputy Attorney General



AMIE J. FLYNN
Deputy Attorney General
Attorneys for Complainant

SD2018700812
Pacific Side Stipulated Settlement AJF signature.docx

Exhibit A

Accusation No. 6478

1 XAVIER BECERRA
Attorney General of California
2 ANTOINETTE B. CINCOTTA
Supervising Deputy Attorney General
3 MARICHELE S. TAHIMIC
Deputy Attorney General
4 State Bar No. 147392
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7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 6478

14 **PACIFIC SIDE PHARMACY, INC.**
15 **DBA PACIFIC SIDE PHARMACY**
16 **19582 Beach Blvd. #118**
17 **Huntington Beach, CA 92648**

A C C U S A T I O N

18 **Pharmacy Permit No. PHY 47284,**

19 **DONG NGOC PHAM**
20 **19582 Beach Blvd. #118**
21 **Huntington Beach, CA 92648**

22 **Pharmacist License No. RPH 47062,**

23 **and**

24 **LINH KH DOAN**
25 **16478 Beach Blvd. #318**
26 **Westminster, CA 92683**

27 **Pharmacist License No. RPH 43569**

28 Respondents.

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1 Complainant alleges:

2 **PARTIES**

3 1. Anne Sodergren (Complainant) brings this Accusation solely in her official capacity
4 as the Interim Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

5 2. On or about August 30, 2005, the Board of Pharmacy (Board) issued Pharmacy
6 Permit Number PHY 47284 to Pacific Side Pharmacy, Inc., dba Pacific Side Pharmacy
7 (Respondent Pharmacy). The Pharmacy Permit was in full force and effect at all times relevant to
8 the charges brought herein and will expire on August 1, 2019, unless renewed.

9 3. On or about March 30, 1994, the Board issued Pharmacist License Number RPH
10 47062 to Dong Ngoc Pham (Respondent Pham). The Pharmacist License was in full force and
11 effect at all times relevant to the charges brought herein and will expire on January 31, 2020,
12 unless renewed. Dong Ngoc Pham is and has been the Pharmacist-in-Charge of Respondent
13 Pharmacy since August 30, 2005.

14 4. On or about July 27, 1990, the Board issued Pharmacist License Number RPH 43569
15 to Linh Kh Doan (Respondent Doan). The Pharmacist License was in full force and effect at all
16 times relevant to the charges brought herein and will expire on January 31, 2020, unless renewed.

17 **JURISDICTION**

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

20 6. Section 4300 of the Code states:

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

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

24 (1) Suspending judgment.

25 (2) Placing him or her upon probation.

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

28 (4) Revoking his or her license.

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

3

4 (e) The proceedings under this article shall be conducted in accordance with
5 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the
6 Government Code, and the board shall have all the powers granted therein. The
7 action shall be final, except that the propriety of the action is subject to review
8 by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

9 7. Section 4300.1 of the Code states:

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

16 **STATUTORY PROVISIONS**

17 8. Section 4022 of the Code states:

18 "Dangerous drug" or "dangerous device" means any drug or device unsafe for
19 self-use in humans or animals, and includes the following:

20 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing
21 without prescription," "Rx only," or words of similar import.

22

23 (c) Any other drug or device that by federal or state law can be lawfully dispensed
24 only on prescription or furnished pursuant to Section 4006.

25 9. Section 4035 of the Code states:

26 "Person" includes, but is not limited to, firm, association, partnership,
27 corporation, limited liability company, state governmental agency, trust, or
28 political subdivision.

10. Section 4059 of the Code states in part:

11 (a) A person may not furnish any dangerous drug, except upon the prescription
12 of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic
13 doctor pursuant to Section 3640.7. A person may not furnish any dangerous
14 device, except upon the prescription of a physician, dentist, podiatrist,
15 optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7.

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11. Section 4060 of the Code states:

A person shall not possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to Section 4052.1, 4052.2, or 4052.6. This section does not apply to the possession of any controlled substance by a manufacturer, wholesaler, third-party logistics provider, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, if in stock in containers correctly labeled with the name and address of the supplier or producer.

This section does not authorize a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

12. Section 4063 of the Code states:

No prescription for any dangerous drug or dangerous device may be refilled except upon authorization of the prescriber. The authorization may be given orally or at the time of giving the original prescription. No prescription for any dangerous drug that is a controlled substance may be designated refillable as needed.

13. Section 4081 of the Code states in relevant part:

(a) All records of manufacture and of sale, acquisition, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, pharmacy, veterinary food-animal drug retailer, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

....

14. Section 4105 of the Code states in relevant part:

(a) All records or other documentation of the acquisition and disposition of dangerous drugs and dangerous devices by any entity licensed by the board shall be retained on the licensed premises in a readily retrievable form.

....

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15. Section 4113 of the Code states in relevant part:

...

(c) 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.

....

16. Section 4301 of the Code states in relevant 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.

(e) The clearly excessive furnishing of controlled substances in violation of subdivision (a) of Section 11153.5 of the Health and Safety Code. Factors to be considered in determining whether the furnishing of controlled substances is clearly excessive shall include, but not be limited to, the amount of controlled substances furnished, the previous ordering pattern of the customer (including size and frequency of orders), the type and size of the customer, and where and to whom the customer distributes its product.

(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, of 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.

....

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17. Section 4307 of the Code states:

(a) 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 manager, administrator, owner, member, officer, director, associate, or partner had knowledge of 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 manager, 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.

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

(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. However, no order may be issued in that case except as to a person who is named in the caption, as to whom the pleading alleges the applicability of this section, and where the person has been given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code. The authority to proceed as provided by this subdivision shall be in addition to the board's authority to proceed under Section 4339 or any other provision of law.

18. Health and Safety Code (H&S Code) section 11153 states in relevant part:

(a) A prescription for a controlled substance shall only be issued for a legitimate 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.

....

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19. H&S Code section 11158 states in relevant part:

(a) Except as provided in Section 11159 or in subdivision (b) of this section, no controlled substance classified in Schedule II shall be dispensed without a prescription meeting the requirements of this chapter. Except as provided in Section 11159 or when dispensed directly to an ultimate user by a practitioner, other than a pharmacist or pharmacy, no controlled substance classified in Schedule III, IV, or V may be dispensed without a prescription meeting the requirements of this chapter.

....

20. H&S Code section 11164 states in relevant part:

Except as provided in Section 11167, no person shall prescribe a controlled substance, nor shall any person fill, compound, or dispense a prescription for a controlled substance, unless it complies with the requirements of this section.

....

(b)(1) Notwithstanding paragraph (1) of subdivision (a) of Section 11162.1, any controlled substance classified in Schedule III, IV, or V may be dispensed upon an oral or electronically transmitted prescription, which shall be produced in hard copy form and signed and dated by the pharmacist filling the prescription or by any other person expressly authorized by provisions of the Business and Professions Code. Any person who transmits, maintains, or receives any electronically transmitted prescription shall ensure the security, integrity, authority, and confidentiality of the prescription.

....

21. H&S Code section 11165 states in relevant part:

....

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

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

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

1 (3) Pharmacy prescription number, license number, NPI number, and
federal controlled substance registration number.

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

3 (5) Quantity of the controlled substance dispensed.

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

6 (7) Number of refills ordered.

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

8 (9) Date of origin of the prescription.

9 (10) Date of dispensing of the prescription.

10

11
12 22. H&S Code section 11170 states, "No person shall prescribe, administer, or furnish a
13 controlled substance for himself."

14 23. H&S Code section 11171 states, "No person shall prescribe, administer, or furnish a
15 controlled substance except under the conditions and in the manner provided by this division."

16 **REGULATORY PROVISIONS**

17 24. Title 16, California Code of Regulations (CCR), section 1707.1 (Regulation 1707.1)
18 states in relevant part:

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

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

24

25 (B) For each prescription dispensed by the pharmacy:

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

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1 25. Title 16, CCR, section 1709.1 (Regulation 1709.1) states in relevant part:

2 (a) The pharmacist-in-charge of a pharmacy shall be employed at that location
3 and shall have responsibility for the daily operation of the pharmacy.

4

5 26. Title 16, CCR, section 1714 (Regulation 1714) states in relevant part:

6

7 (b) Each pharmacy licensed by the board shall maintain its facilities, space,
8 fixtures, and equipment so that drugs are safely and properly prepared,
9 maintained, secured and distributed. The pharmacy shall be of sufficient size and
unobstructed area to accommodate the safe practice of pharmacy.

10

11 27. Title 16, CCR, section 1718 (Regulation 1718) states:

12 “Current Inventory” as used in Sections 4081 and 4332 of the Business and
13 Professions Code shall be considered to include complete accountability for all
dangerous drugs handled by every licensee enumerated in Sections 4081 and
14 4332.

15 The controlled substances inventories required by Title 21, CFR, Section 1304
shall be available for inspection upon request for at least 3 years after the date of
16 the inventory.

17 28. Title 16, CCR, section 1735.2 (Regulation 1735.2) states in relevant part:

18

19 (h) Every compounded drug product shall be given an expiration date
20 representing the date beyond which, in the professional judgment of the
pharmacist performing or supervising the compounding, it should not be used.
21 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
22 compounded drug product, unless a longer date is supported by stability studies
of finished drugs or compounded drug products using the same components and
23 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.

24 Every compounded drug preparation shall be given a beyond use date
25 representing the date or date and time beyond which the compounded drug
preparation should not be used, stored, transported or administered, and
26 determined based on the professional judgment of the pharmacist performing or
supervising the compounding.

27

28 ///

29. Title 16, CCR, section 1735.3 (Regulation 1735.3) states in relevant part:

(a) For each compounded drug preparation, pharmacy records shall include:

....

(6) The manufacturer, expiration date and lot number of each component. If the manufacturer name is demonstrably unavailable, the name of the supplier may be substituted. Exempt from the requirements in this paragraph are sterile products compounded on a one-time basis for administration within seventy-two (72) hours and stored in accordance with standards for "Redispensed CSPS" found in Chapter 797 of the United States Pharmacopeia - National Formulary (USP-NF) (35th Revision, Effective May 1, 2012), hereby incorporated by reference, to an inpatient in a health care facility licensed under section 1250 of the Health and Safety Code.

....

30. Title 16, CCR, section 1761 (Regulation 1761) states:

(a) No pharmacist shall compound or dispense any prescription which contains any significant error, omission, irregularity, uncertainty, ambiguity or alteration. Upon receipt of any such prescription, the pharmacist shall contact the prescriber to obtain the information needed to validate the prescription.

(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense a controlled substance prescription where the pharmacist knows or has objective reason to know that said prescription was not issued for a legitimate medical purpose.

DRUGS

31. The drugs pertinent to this Accusation are:

BRAND NAME	GENERIC NAME	DANGEROUS DRUG PER B & PC 4022	CONTROLLED SUBSTANCE PER H & SC	INDICATIONS FOR USE
Roxicodone	oxycodone immediate-release tablets	Yes	Yes / H&SC 11055	pain
Xanax	Alprazolam	Yes	Yes / H&SC 11057	anxiety
Valium	Diazepam	Yes	Yes / H&SC 11057	anxiety
Adderall	amphetamine / dextroamphetamine	Yes	Yes / H&SC 11055	attention deficit hyperactivity disorder [ADHD]
Dolophine	Methadone	Yes	Yes / H&SC 11055	pain
Soma	Carisoprodol	Yes	Yes / H&SC 11057	muscle relaxation
Oxycontin	oxycodone sustained-release tablets	Yes	Yes / H&SC 11055	pain

Dilaudid	Hydromorphone	Yes	Yes / H&SC 11055	pain
Ventolin-HFA	Albuterol	Yes	No	asthma

COST RECOVERY

32. Section 125.3 of the Code states, in pertinent part, that the Board may request the administrative law judge to direct a licensee 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.

FACTS

33. On or about March 11, 2016, the Board received a complaint from Dr. L.D., a physician at Hoag Memorial Healthcare System (Hoag), that Respondents refilled prescriptions for Ventolin-HFA for patient D.V. between November 17, 2015 and November 24, 2015, despite Dr. L.D.'s oral and written denial of the refill requests on November 20, 2015, and November 24, 2015. Dr. L.D. denied the refill request until a physician evaluated D.V. because the prescription for Ventolin-HFA, Prescription number (Rx #) 154803, was written for on July 3, 2014, more than a year before D.V. sought to refill the prescription. Respondent Doan stated that he refilled Rx 154803 because he didn't want D.V. to have to go to Urgent Care. Hoag's Urgent Care was located in the same building as Respondent Pharmacy.

34. On November 24, 2015, a prescription was falsely written in Dr. L.D.'s name for Ventolin-HFA for D.V. Respondent Pharmacy's medication profile for D.V. shows that Rx 175345 for Ventolin-HFA was filled by Respondents and was refillable until November 22, 2016. Dr. L.D. did not authorize or write Rx 175345.

35. On or about April 26, 2016, the Board received a complaint from Respondent Pham that Respondent Doan was dispensing controlled substances prior to receiving a prescription and altering records so that it appears the prescriptions were filled after the prescription was received.

36. For example, a pharmacy note in the pharmacy's medication profile for Patient R.B., printed on March 9, 2016, for Rx #178448, stated "3/4 O/N #40-LKD." Rx #178448 was for 120 tablets hydromorphone HCL 4 mg. The notation meant 40 tablets were sent via overnight

1 delivery to this patient pursuant to Respondent Doan's initials (LKD). A print out of this
2 patient's medication profile on March 29, 2016 no longer had the pharmacy note described above.

3 37. Similar notations were discovered in medication profiles for other patients: Patient
4 J.L. was prescribed 360 tablets of methadone 10 mg, which was due to be filled on December 6,
5 2015. On December 2, 2015, 160 tablets were dispensed by Respondents.

6 38. The complaint from Respondent Pham also stated that Respondent Doan saved
7 hydromorphone for two San Diego patients whose prescriptions were due on March 10, 2016, and
8 that Respondent Doan met these patients at Respondent Pharmacy after closing on a day that
9 Respondent Doan was not scheduled to work. These patients drove over 100 miles to pick up
10 their prescriptions.

11 39. On July 5, 2016, Board inspectors inspected the pharmacy. Patient profiles and
12 Patient Activity Reports from the Controlled Substance Utilization Review and Evaluation
13 System (CURES) were provided to the inspectors by the pharmacy for patients D.V., J.L., M.H.
14 and R.B. Patients M.H. and R.B. had the same address in Spring Valley, California. Spring
15 Valley is approximately 100 miles from Respondent Pharmacy and also more than 100 miles
16 from Dr. A.L., M.H. and R.B.'s prescriber.

17 **Compounded Medication:**

18 40. During the inspection, Inspector C.W. observed a compounded liquid medicine in the
19 pharmacy refrigerator. Respondent Pham provided the compounding records for this medication.
20 Rx #181068 was for omeprazole 3mg/ml suspension for a dog named "Scoop-Dog W--"
21 Handwritten notes on the prescription changed the quantity to "20 ml" "plus 5" and another
22 change on the same document indicated the quantity was "30 ml x 3 refills."

23 41. Deficiencies were noted with the compounding records for Rx #181068 as follows:

24 a. The names of the manufacturers for each of the ingredients used to compound the
25 omeprazole 3mg/ml oral suspension were not recorded as required by Regulation 1735.3(a)(2)(F).

26 b. Sodium bicarbonate 9% solution lot number #06102016@1, a compounded
27 ingredient used to compound omeprazole 3mg/ml suspension, had an expiration date of June 17,
28 2016. However, the compounded drug product omeprazole 3mg/ml suspension was given a

beyond use date of July 10, 2016, which was beyond the expiration date of the sodium bicarbonate 9% solution.

Prescriptions Not Verified:

42. In addition, there was no documentation that the following faxed prescriptions had been verified to ensure the security, integrity, authority and confidentiality of the prescriptions before they were filled:

a. Prescription Rx #183346 for patient J.N. for zolpidem 5mg was filled on June 23, 2016;

b. Prescription Rx #183366 for patient J.S. for testosterone cypionate was filled on June 23, 2016;

c. Prescription Rx #183386 for patient D.C. for buprenorphine 8mg was filled on June 23, 2016; and,

d. Prescription Rx #183388 for patient T.J. for lorazepam 0.5mg was filled on June 23, 2016.

Patient M.H.:

43. Respondents dispensed prescriptions for hydromorphone to this patient before the written prescriptions were issued. The newly issued prescriptions were then used to cover the medications dispensed in advance of the receipt of the new prescriptions:

a. Rx #176164 for 180 tablets of hydromorphone 4mg was written on December 15, 2015 and 180 tablets were dispensed on the same date.

I) On December 30, 2015, 40 tablets of hydromorphone, or a 5-day supply, were dispensed, before the next prescription for hydromorphone was received on January 12, 2016 and although the full 180 tablets were dispensed on December 15, 2015.

b. Rx #177316 for 180 tablets of hydromorphone 4mg was written on January 12, 2016 and 180 tablets were dispensed on January 14, 2016.

I) The screen printed computer notes for the previous prescription, Rx # 176164, had a notation stating, "1/14 – all done" and "0 Rem'g of 0 Wrtn 15 Dec 15 For Hydromorphone HC 4mg TAB." This screen print was taken on March 9, 2016. A screen

print on April 25, 2016 of the notes for Rx #176164 no longer had the notation “1/14-all done.”

II) A screen print for Rx #177316 taken on February 4, 2016 had a notation stating, “2/5. MAILED O/N #40 – APPT. 2/11.” This was understood as, on 2/5 a partial fill of 40 tablets of hydromorphone was mailed overnight and the patient’s next appointment was on 2/11.

III. On February 11, 2016, Respondent filled Rx 178446 for 180 tablets of hydromorphone. On 4/27/2016, a screen print of Prescription 177316 no longer had the notation “2/5. MAILED O/N #40 – APPT. 2/11.”

c. In summary:

Patient	Rx number	Drug		Date partial dispensed prior to receiving prescription	Quantity of partial dispensed	Date prescription dispensed
M.H.	176164	Hydromorphone-4mg				12/15/2015 [180 tablets dispensed]
M.H.	177316	Hydromorphone 4mg		12/30/2015	40 tablets	1/12/2016
M.H.	178446	Hydromorphone 4mg		2/5/2016	40 tablets	2/11/2016
M.H.	179665	Oxycontin 30mg		3/4/2016	10 tablets	3/10/2016

d. In addition to the need for early refills, red flags should have alerted Respondents to inquire further about the legitimacy of M.H.’s controlled substance prescriptions such as the distance from M.H.’s residence in Spring Valley, California, and her prescriber’s office (111 miles) and Respondent pharmacy (32 miles). According to pharmacy policy, a patient was required to reside locally within Orange County and have proof of such residency. In addition, M.H. was prescribed Oxycontin, hydromorphone and carisoprodol, which are commonly abused drugs.

Patient R.B.:

44. The same red flags existed with regard to Patient R.B. R.B. had the same address in Spring Valley as M.H. R.B. also traveled long distances to Respondent pharmacy and had the same prescriber, Dr. A.L., as M.H. R.B. was prescribed the same three drugs prescribed to M.H.:

Oxycontin, hydromorphone and carisoprodol. Of R.B.'s prescriptions, twelve were filled two days early and one was filled one day early.

a. A review of Respondent's records for Rx 176165, 177313, 178448, and 179661 for hydromorphone 4mg, and Rx 179662 for Oxycontin 30mg, showed partial fills were provided to R.B. prior to receiving the next prescription. When the next prescription was received, the new prescription was used to cover the tablets dispensed in advance. The advancing of tablets was documented in the computer notes but were later deleted.

b. In summary:

Patient	Rx number	Drug	Date partial dispensed prior to receiving prescription	Quantity of partial dispensed	Date prescription documented as dispensed
R.B.	176165	Hydromorphone 4mg			12/15/2015 [120 tablets]
R.B.	177313	Hydromorphone 4mg	12/30/2015	20 tablets	1/14/2016 (written 1/12/2016)
R.B.	178448	Hydromorphone 4mg	2/5/2016	20 tablets	2/11/2016 (written 2/11/2016)
R.B.	179661	Hydromorphone 4mg	3/4/2016	40 tablets	3/10/2016
R.B.	180731	Hydromorphone-4mg	3/31/2016	20 tablets	4/7/2016

Patient J.L.:

45. J.L. filled prescriptions at Respondent pharmacy from July 8, 2015 to June 9, 2016 to obtain controlled substances. During this time, J.L. also obtained controlled substances from five different pharmacies and four different prescribers. J.L.'s prescription information available on CURES showed that in addition to receiving methadone, Depo-Testosterone, oxycodone, amphetamine salts, hydromorphone, diazepam and carisoprodol Respondent pharmacy, J.L. also obtained the same drugs from four other pharmacies.

46. CURES data also showed multiple prescribers prescribed the same drugs to J.L. A review of Respondents' patient profile for J.L. showed that:

a. On May 13, 2016, Respondent dispensed 90 tablets, or a 30-day supply, of dextroamphetamine/amphetamine salts, which was prescribed by Dr. D.V. On June 3, 2016,

20 days later, Respondent dispensed 60 tablets or a 30-day supply of dextroamphetamine/amphetamine salts, which was prescribed by Dr. G.D. On June 27, 2016, 24 days later, Respondent dispensed 90 tablets or a 30-day supply of the same drug, which was prescribed by Dr. D.V.

b. On May 17, 2016, Respondent dispensed Rx #182028 for 300 tablets, or a 30-day supply, of methadone 10mg, which was prescribed by Dr. D.V. On June 9, 2016, 23 days later, Respondent dispensed Rx # 182877 for 300 tablets, or another 30-day supply of methadone 10mg, which was prescribed by Dr. A.H.

47. A review of Respondents' dispensing practices with regard to J.L. revealed that 22 percent of prescriptions for J.L. were dispensed more than two days early. The dispensing pharmacists were Respondents Doan and Pham.

Removal of Alprazolam 1mg:

48. On February 14, 2017, Respondent Doan entered the pharmacy before business hours, setting off the alarm. According to Respondent Doan, he entered the pharmacy in order to retrieve a binder that contained the password to access the CURES program in order to respond to the Board's investigator's inquiries. Video recordings showed Respondent walked to the first aisle where medications were kept, removed a bottle of medication, which was later identified as alprazolam, and placed the bottle in his pocket. Respondent Doan first denied taking a bottle of medication but later stated that he suffered a panic attack while trying to disarm the pharmacy's alarm and he took a tablet of alprazolam "to calm [himself]." Respondent Doan did not have a prescription for alprazolam.

49. An audit of alprazolam 1mg was performed for the period April 10, 2016, which was the date of the last DEA inventory, to March 1, 2017, which was the date a "stock on hand" inventory was conducted. The audit showed a loss of 407 tablets of alprazolam 1 mg.

Unauthorized Prescriptions for Respondent Doan and Patient T.D.:

50. On or about April 10, 2017, the Board received a complaint from Dr. L.D. that she was identified as a prescriber for controlled substances dispensed to Respondent Doan and T.D. by Respondent pharmacy. According to Dr. L.D., she did not prescribe these controlled

substances to Respondent Doan, who she last saw as a patient in July 2012. Dr. L.D. also denied prescribing controlled substances to Patient T.D., who was last seen in her office on October 22, 2007.

51. Between May 13, 2013 and September 26, 2014, Respondent pharmacy filled 15 prescriptions for himself that falsely identified Dr. L.D. as the prescriber. These prescriptions were as follows. The dispensing pharmacist was Respondent Doan on all but one prescription, Rx 157942, for which the dispensing pharmacist was unknown. All but three of the prescriptions were reportedly telephone orders; the type of prescription for the remaining three was unknown.

Rx #	Prescriber	Date filled	Dispensing RPH	Copy of RX provided (Y/N)	Type of rx provided: telephone order (TO/name of RPH) or written by MD (MD)	RX missing
136969	Dr. L.D.	5/13/13; 8/15/13	Linh Doan	Yes	TO/Linh Doan	No
136970	Dr. L.D.	5/13/13	Linh Doan	Yes	TO/Linh Doan	No
136971	Dr. L.D.	5/13/13	Linh Doan	Yes	TO/Linh Doan	No
136977	Dr. L.D.	5/13/13; 7/11/13; 9/25/13; 2/10/14	Linh Doan	Yes	TO/Linh Doan	No
136978	Dr. L.D. [patient profile listed different doctor but hard copy listed Dr. L.D.]	5/13/13; 6/10/13; 7/11/13; 8/15/13	Linh Doan	Yes	TO/Linh Doan	No
136980	Dr. L.D.	5/13/13; 9/25/13; 2/10/14; 4/4/14	Linh Doan	Yes	TO/Linh Doan	No
142710	Dr. L.D.	9/25/13	Linh Doan	No	Unknown	Yes
142711	Dr. L.D.	9/25/13	Linh Doan	No	Unknown	Yes
143278	Dr. L.D.	10/9/13	Linh Doan	Yes	TO/Linh Doan	No
143279	Dr. L.D.	10/9/13	Linh Doan	Yes	TO/Linh Doan	No
150664	Dr. L.D.	3/27/14	Linh Doan	Yes	TO/Linh Doan	No
150665	Dr. L.D.	3/27/14	Linh Doan	Yes	TO/Linh Doan	No
151038	Dr. L.D.	4/4/14	Linh Doan	Yes	TO/Linh Doan	No
151039	Dr. L.D.	4/4/14	Linh Doan	Yes	TO/Linh Doan	No
157942	Dr. L.D.	9/26/14	Unknown	No	Unknown; no hard copy retrieved	Yes

52. Between March 13, 2013 and October 15, 2015, Respondent filled 24 prescriptions for Patient T.D. falsely identified Dr. L.D. as the prescriber. These prescriptions were as follows. The dispensing pharmacist was Respondent Doan on all prescriptions. All of the prescriptions were reportedly telephone orders.

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Rx Number	Drug	Prescriber	Date filled	Dispensing RPH	Copy of Rx provided (Y/N)	Type of rx provided: Telephone order (TO/name of RPH) or written by MD (MD)	RX missing
123576	tmc dental paste 0.1%	Dr. L.D.	4/25/13; 7/12/13	Linh Doan	Yes	TO/Linh Doan	No
134346	azelastine nasal 137mcg spray	Dr. L.D.	3/13/13; 5/13/13; 7/12/13; 9/25/13; 11/25/13; 2/4/14	Linh Doan	Yes	TO/Linh Doan	No
136483	levocetirizine 5mg	Dr. L.D.	5/1/13	Linh Doan	Yes	TO/Linh Doan	No
136964	clotrimazole / betamethasone topical cream 1%/0.05%	Dr. L.D.	5/13/13; 7/12/13; 9/25/13; 11/25/13	Linh Doan	Yes	TO/Linh Doan	No
136965	naproxen 500mg	Dr. L.D.	5/13/13	Linh Doan	Yes	TO/Linh Doan	No
136966	methocarbamol 500mg	Dr. L.D.	5/15/13	Linh Doan	Yes	TO/Linh Doan	No
136967	levofloxacin 500mg	Dr. L.D.	5/13/13	Linh Doan	Yes	TO/Linh Doan	No
136968	methylprednisolone 4mg	Dr. L.D.	5/13/13	Linh Doan	Yes	TO/Linh Doan	No
137137	azithromycin 500mg	Dr. L.D.	5/15/13	Linh Doan	Yes	TO/Linh Doan	No
141760	tmc dental paste 0.1%	Dr. L.D.	9/4/13; 11/25/13; 2/10/14; 4/4/14	Linh Doan	Yes	TO/Linh Doan	No
143276	diphenoxylate / atropine 2.5mg/0.025mg	Dr. L.D.	10/9/13	Linh Doan	Yes	TO/Linh Doan	No
143277	belladonna alkaloids / phenobarbital tablets	Dr. L.D.	10/9/13	Linh Doan	Yes	TO/Linh Doan	No
144640	mupirocin topical ointment 2%	Dr. L.D.	11/8/13	Linh Doan	Yes	TO/Linh Doan	No
145395	azithromycin 500mg	Dr. L.D.	11/25/13	Linh Doan	Yes	TO/Linh Doan	No
148672	clotrimazole / betamethasone topical cream 1%/0.05%	Dr. L.D.	2/10/14; 4/4/14	Linh Doan	Yes	TO/Linh Doan	No
151035	ondansetron oral disintegrating tablets 8mg	Dr. L.D.	4/4/14	Linh Doan	Yes	TO/Linh Doan	No
151036	azelastine nasal 137mcg spray	Dr. L.D.	4/4/14	Linh Doan	Yes	TO/Linh Doan	No
154995	clarithromycin 500mg	Dr. L.D.	7/9/14	Linh Doan	Yes	TO/Linh Doan	No
154998	tmc dental paste 0.1%	Dr. L.D.	7/9/14; 3/31/15	Linh Doan	Yes	TO/Linh Doan	No
161243	celecoxib 200mg	Dr. L.D.	12/17/14	Linh Doan	Yes	TO/Linh Doan	No
167401	azelastine nasal 137mcg spray	Dr. L.D.	5/8/15	Linh Doan	No	Unknown	Yes
167402	cefuroxime 500mg	Dr. L.D.	5/8/15	Linh Doan	No	Unknown	Yes
167403	clotrimazole / betamethasone topical cream 1%/0.05%	Dr. L.D.	5/8/15; 10/15/15	Linh Doan	No	Unknown	Yes
173768	tmc dental paste 0.1%	Dr. L.D.	10/15/15	Linh Doan	No	Unknown	Yes

53. For all Schedule II-IV controlled substances, the dispensing pharmacy is required to report to the Department of Justice as soon as reasonably possible, but not more than seven days after the date a controlled substance is dispensed, information such as the user's name and address, the pharmacy prescription number, the National Drug Code number of the controlled

1 substance dispensed, the quantity dispensed, and the prescriber's national provider identifier. The
2 CURES Patient Activity Report for Respondent Doan showed that only one prescription was
3 reported to CURES. That prescription was for lorazepam, a Schedule IV controlled substance,
4 filled between April 1, 2014 and April 18, 2017 by another pharmacy. The Patient Activity
5 Report did not show any controlled substance prescriptions filled by Respondent pharmacy.
6 However, Rx #150664 for alprazolam 0.25mg, a Schedule IV controlled substance and Rx
7 #157942 for oxycodone 30mg, a Schedule II controlled substance, were filled by Respondent
8 pharmacy in March, 2014 and September, 2014, respectively.

9 54. The original prescription for oxycodone, dispensed as Rx #157942, on September 26,
10 2014 could not be located. In addition, Respondents' prescription print-out for this prescription
11 stated, "Rx STATUS: Deltd," meaning Rx #157942 was deleted." A pharmacy is required to
12 maintain medication profiles on all patients who have prescriptions filled in that pharmacy. Rx
13 #157942 did not appear on Respondent pharmacy's medication profile for the period January 1,
14 2013 to April 23, 2017 for Respondent Doan. Similarly, Rx #136971 for methocarbamol
15 500mg was not on Respondent Doan's medication profile although pharmacy documentation
16 showed it was mailed to Respondent Doan on May 17, 2013.

17 55. All records of disposition of dangerous drugs are required to be preserved by the
18 pharmacy for at least three years from the date of making. Accordingly, Respondents were
19 required to retain the hard copy prescriptions for Rx #157942 for oxycodone 30mg for
20 Respondent Doan dispensed on September 26, 2014; Rx #167401 for azelastine nasal spray for
21 Patient T.D. dispensed on May 8, 2015; Rx #167402 for cefuroxime 500mg for T.D. dispensed on
22 May 8, 2015; Rx #167403 for clotrimazole/betamethasone cream for T.D. last dispensed on
23 October 15, 2015; and Rx #173768 for TMC dental paste for T.D. dispensed on October 15,
24 2015. These prescriptions could not be produced.

25 **Audit of Oxycodone 30mg:**

26 56. On or about December 11, 2017, Respondent Pham conducted a zero-based audit of
27 oxycodone 30mg for the period June 25, 2014 to June 25, 2017. This audit resulted in a shortage
28 of 2,235 tablets of oxycodone 30mg.

1 57. In addition, the Board's investigator conducted an audit based on the last DEA
2 inventory taken on April 10, 2016 to June 25, 2017 (when a "stock on hand" inventory was taken
3 during the June 26, 2017 inspection.) This audit showed a shortage of 44 tablets of oxycodone
4 30mg.

5 **Audit of Timoptic Ocudose:**

6 58. Respondent Doan was reportedly responsible for ordering from the pharmacy's
7 medical supplier until July 26, 2016. Respondent Pham reported that a review of wholesaler
8 invoices dating back to April 14, 2011, showed between 40 to 50 orders for Timoptic Ocudose.
9 Respondent Pham did not recall any of the pharmacy's patients having used Timoptic Ocudose.

10 59. Timoptic Ocudose is an eye drop medication prescribed for glaucoma. Each dose is a
11 unit dose such that the single pack is discarded after use. It cost between \$280 and \$368 for a
12 one-month supply. It required a doctor's prescription. Respondent Pham confirmed that there
13 were no valid prescriptions for Timoptic Ocudose and no prescriptions for Timoptic Ocudose had
14 been dispensed by the pharmacy between December 5, 2009 and March 22, 2018. There was no
15 Timoptic Ocudose in stock on March 22, 2018.

16 60. An audit of Timoptic Ocudose 0.5% drops showed 49 boxes were purchased between
17 December 6, 2009 and April 15, 2016, no Timoptic Ocudoe 0.5% was dispensed during this
18 period and no stock on hand on March 22, 2018. Hence, there was a shortage of 49 boxes.

19 **FIRST CAUSE FOR DISCIPLINE**

20 **AGAINST RESPONDENTS PHARMACY AND DOAN**

21 **(Refilled Prescriptions for Dangerous Drugs without Prescriber Authorization)**

22 61. Respondents Pharmacy and Doan are subject to disciplinary action under Code
23 section 4063 in that on November 24, 2015, Respondents refilled prescription Rx #154803 for
24 Ventolin-HFA for patient D.V. although the refill request was denied by the prescriber, Dr. L.D.,
25 on November 20, 2015 and again on November 24, 2015, as more fully set forth in paragraphs
26 33-34 above and incorporated by this reference as though set forth in full herein.

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SECOND CAUSE FOR DISCIPLINE
AGAINST RESPONDENTS PHARMACY AND DOAN
(Furnished Dangerous Drugs Without Prescription)

62. Respondents Pharmacy and Doan are subject to disciplinary action under Code section 4059, subdivision (a) for unprofessional conduct in that Respondents furnished dangerous drugs without a prescription as follows:

a. Respondents advanced quantities of dangerous drugs, specifically, hydromorphone 4mg and Oxycontin 30mg to patients M.H. and R.B. prior to receiving a prescription and after the prescription was received, documented dispensing the full amount prescribed, as follows and as more fully set forth in paragraphs 32–59 above and incorporated by this reference as though set forth in full herein.

Patient	Rx number	Drug	Date partial dispensed prior to receiving prescription	Quantity of partial dispensed	Date prescription dispensed
MH	177316	Hydromorphone 4mg	12/30/2015	#40	1/12/2016
MH	178446	Hydromorphone 4mg	2/5/2016	#40	2/11/2016
MH	179665	Oxycontin 30mg	3/4/2016	#10	3/10/2016
RB	177313	Hydromorphone 4mg	12/30/2015	#20	1/14/2016 (written 1/12/2016)
RB	178448	Hydromorphone 4mg	2/5/2016	#20	2/11/2016 (written 2/11/2016)
RB	179661	Hydromorphone 4mg	3/4/2016	#40	3/10/2016
RB	180731	Hydromorphone	3/31/2016	#20	4/7/2016

b. Respondents provided Ventolin-HFA, a dangerous drug, to patient D.V. without prescriber authorization as more fully set forth in paragraphs 32 – 33 above and incorporated by this reference as though set forth in full herein.

c. Between May 13, 2013 and September 26, 2014, Respondents filled 15 prescriptions for Respondent Doan that falsely identified Dr. L.D. as the prescriber even though Respondent Doan was no longer a patient, as more fully set forth in paragraphs 32 – 59 above and incorporated by this reference as though set forth in full herein.

d. Respondents filled 24 different prescriptions for T.D. between March 13, 2013 and October 15, 2015 that identified Dr. L.D. as the prescriber when T.D. was no longer Dr. L.D.'s

patient after October 22, 2007 as more fully set forth in paragraphs 33 – 60 above and incorporated by this reference as though set forth in full herein.

THIRD CAUSE FOR DISCIPLINE
AGAINST RESPONDENTS PHARMACY AND DOAN
(Furnished Controlled Substances Without Prescription)

63. Respondents Pharmacy and Doan are subject to disciplinary action under Code section 4301, subdivisions (j) and (o), in conjunction with H&S Code section 11158, subdivision (a), for unprofessional conduct in that Respondents furnished Schedule II controlled substances without a prescription as follows:

a. Respondents advanced quantities of dangerous drugs, specifically, hydromorphone 4mg and Oxycontin 30mg to patients M.H. and R.B. prior to receiving a prescription and after the prescription was received, documented dispensing the full amount prescribed, as follows and as more fully set forth in paragraphs 33 – 60 above and incorporated by this reference as though set forth in full herein.

Patient	Rx number	Drug	Date partial dispensed prior to receiving prescription	Quantity of partial dispensed	Date prescription dispensed
MH	177316	Hydromorphone 4mg	12/30/2015	#40	1/12/2016
MH	178446	Hydromorphone 4mg	2/5/2016	#40	2/11/2016
MH	179665	Oxycontin 30mg	3/4/2016	#10	3/10/2016
RB	177313	Hydromorphone 4mg	12/30/2015	#20	1/14/2016 (written 1/12/2016)
RB	178448	Hydromorphone 4mg	2/5/2016	#20	2/11/2016 (written 2/11/2016)
RB	179661	Hydromorphone 4mg	3/4/2016	#40	3/10/2016
RB	180731	Hydromorphone	3/31/2016	#20	4/7/2016

FOURTH CAUSE FOR DISCIPLINE
AGAINST RESPONDENT DOAN

(Commission of Act Involving Moral Turpitude, Dishonesty, Fraud or Deceit)

64. Respondent Doan is subject to disciplinary action under Code section 4301, subdivision (f), for unprofessional conduct for the commission of an act involving moral turpitude, dishonesty, fraud, deceit, or corruption in that between March 13, 2013 and October 15,

1 2015, Respondent Doan reported the receipt of telephone orders from Dr. L.D. for patient T.D.
2 for dangerous drugs when T.D. had not been a patient of Dr. L.D. since October, 2007, as more
3 fully set forth in paragraphs 50 – 60 above and incorporated by this reference as though set forth
4 in full herein.

5 **FIFTH CAUSE FOR DISCIPLINE**

6 **AGAINST RESPONDENT DOAN**

7 **(Made or Signed Document That Falsely Stated Facts)**

8 65. Respondent Doan is subject to disciplinary action under Code section 4301,
9 subdivision (g), for unprofessional conduct for knowingly making or signing any certificate or
10 other document that falsely represents the existence or nonexistence of a state of facts as set forth
11 below and as more fully set forth in paragraphs 50 – 60 above and incorporated by this reference
12 as though set forth in full herein:

13 a. Respondent Doan reported the receipt of telephone orders from Dr. L.D. for patient
14 T.D. for dangerous drugs when T.D. had not been a patient of Dr. L.D. since October, 2007.

15 b. Respondent Doan reported receipt of telephone orders from Dr. L.D. for himself for
16 dangerous drugs when he was no longer a patient of Dr. L.D. after July 2012.

17 **SIXTH CAUSE FOR DISCIPLINE**

18 **AGAINST RESPONDENT DOAN**

19 **(Furnished Controlled Substance for Himself)**

20 66. Respondent Doan is subject to disciplinary action under Code sections 4059,
21 subdivision (a), 4060, and 4301, subdivisions (j) and (o), in conjunction with H&S Code sections
22 11170 and 11171, for unprofessional conduct in that Respondent Doan furnished controlled
23 substances to himself without a prescription, as more fully set forth in paragraphs 50 – 60 above
24 and incorporated by this reference as though set forth in full herein.

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1 **SEVENTH CAUSE FOR DISCIPLINE**

2 **AGAINST RESPONDENTS PHARMACY AND PHAM**

3 **(Compounded Drugs – Beyond Use Date)**

4 67. Respondents Pharmacy and Pham are subject to disciplinary action under Code
5 sections 4301, subdivision (o), and 4113, subdivision (c), in conjunction with Regulation
6 1735.2(h), for unprofessional conduct in that on June 10, 2016, Respondents filled and labeled
7 prescription Rx #181068 for omeprazole 3mg/ml with an expiration date of July 10, 2016
8 although one of the ingredients used in compounding had an expiration date of June 17, 2016, as
9 more fully set forth in paragraphs 40 – 41 above and incorporated by this reference as though set
10 forth in full herein.

11 **EIGHTH CAUSE FOR DISCIPLINE**

12 **AGAINST RESPONDENTS PHARMACY AND PHAM**

13 **(Erroneous or Uncertain Prescriptions)**

14 68. Respondents Pharmacy and Pham are subject to disciplinary action under Code
15 sections 4301, subdivisions (j) and (o), and 4113, subdivision (c), in conjunction with Regulation
16 1761(a) and H&S Code sections 11164(b)(1), for unprofessional conduct in that Respondents
17 failed to ensure the security, integrity, authority, and confidentiality of the following
18 electronically received prescriptions, as more fully set forth in paragraphs 33 – 60 above and
19 incorporated by this reference as though set forth in full herein:

- 20 a. Prescription Rx #183346 for patient J.N.;
- 21 b. Prescription Rx #183366 for patient J.S.;
- 22 c. Prescription Rx #183386 for patient D.C.; and,
- 23 d. Prescription Rx #183388 for patient T.J.

24 **NINTH CAUSE FOR DISCIPLINE**

25 **AGAINST RESPONDENTS PHARMACY AND PHAM**

26 **(Failure to Maintain Current Inventory)**

27 69. Respondents Pharmacy and Pham are subject to disciplinary action under Code
28 sections 4301, subdivisions (j) and (o), and 4113, subdivision (c), in conjunction with Code

1 section 4081(a) and Regulations 1714(b) and 1718, for unprofessional conduct for failing to
2 maintain a current inventory including complete accountability for all dangerous drugs handled
3 by every licensee as follows and as more fully set forth in paragraphs 33 – 60 above and
4 incorporated by this reference as though set forth in full herein:

5 a. Respondents lost about 407 tablets of alprazolam 1mg between April 10, 2016 and
6 March 1, 2017;

7 b. Respondents lost about 44 tablets of oxycodone 30mg immediate-release between
8 April 10, 2016 and June 25, 2017;

9 c. Respondents had a shortage of 49 boxes of Timoptic Ocudose 0.5% between
10 December 5, 2009 and March 22, 2018.

11 **TENTH CAUSE FOR DISCIPLINE**

12 **AGAINST RESPONDENTS PHARMACY AND PHAM**

13 **(Failure to Report to CURES)**

14 70. Respondents Pharmacy and Pham are subject to disciplinary action under Code
15 sections 4301, subdivisions (j) and (o), and 4113, subdivision (c), in conjunction with H&S Code
16 section 11165(d), for unprofessional conduct for failing report to the Controlled Substance
17 Utilization Review and Evaluation System that they dispensed prescription Rx #157942 for
18 Respondent Doan, as more fully set forth in paragraphs 53 – 55 above and incorporated by this
19 reference as though set forth in full herein.

20 **ELEVENTH CAUSE FOR DISCIPLINE**

21 **AGAINST RESPONDENTS PHARMACY AND PHAM**

22 **(Failure to Retain Prescriptions)**

23 71. Respondents Pharmacy and Pham are subject to disciplinary action under Code
24 sections 4301, subdivision (o), 4113, subdivision (c), and 4105, subdivision (a), for
25 unprofessional conduct for failing to maintain records or other documentation of the acquisition
26 and disposition of dangerous drugs in that Respondents failed to retain prescriptions Rx #157942,
27 Rx #167401, Rx #167402, Rx #167403 and Rx #173768, as more fully set forth in paragraphs 33
28 – 60 above and incorporated by this reference as though set forth in full herein.

TWELFTH CAUSE OF DISCIPLINE
AGAINST RESPONDENTS PHARMACY AND PHAM
(Failed to Maintain Medication Profile)

72. Respondents Pharmacy and Pham are subject to disciplinary action under Code sections 4301, subdivision (o), and 4113, subdivision (c), in conjunction with Regulation 1707.1(a)(1)(B)(1) for unprofessional code for failing to maintain medication profiles on all patients who have prescriptions filled in that pharmacy that contains the required information for each prescription dispensed in that Respondents dispensed Rx #157942 on September 26, 2014 but it did not appear in the patient's medication profile, as more fully set forth in paragraphs 50 – 60 above and incorporated by this reference as though set forth in full herein.

THIRTEENTH CAUSE OF DISCIPLINE
AGAINST ALL RESPONDENTS
(Compounded Product Preparation)

73. Respondents Pharmacy, Pham and Doan are subject to disciplinary action under Code section 4301, subdivision (o), and 4113, subdivision (c), in conjunction with Regulation 1735.3(a)(6), for unprofessional conduct in that Respondents failed to maintain a compounding log that contained the manufacturer or supplier of the ingredients used to compound Rx #181068 for omeprazole 3mg/ml, as more fully set forth in paragraphs 40 – 41 above and incorporated by this reference as though set forth in full herein.

FOURTEENTH CAUSE OF DISCIPLINE
AGAINST ALL RESPONDENTS
(Corresponding Responsibility)

74. Respondents Pharmacy, Pham and Doan are subject to disciplinary action under Code section 4301, subdivision (o), in conjunction with H&S Code section 11153, subdivision (a), for unprofessional conduct in that Respondents failed to comply with their corresponding responsibility to ensure that a prescription for a controlled substance shall only be issued for a legitimate medical purpose in dispensing prescriptions for controlled substances to R.B., M.H.

1 and J.L. as more fully set forth in paragraphs 33 – 60 above and incorporated by this reference as
2 though set forth in full herein.

3 **OTHER MATTERS**

4 75. Pursuant to Section 4307, if Pharmacy Permit Number PHY 47284 issued to Pacific
5 Side Pharmacy, Inc., dba Pacific Side Pharmacy is suspended, revoked or placed on probation,
6 Respondent Pharmacy shall be prohibited from serving as a manager, administrator, owner,
7 member, officer, director, associate, or partner of a licensee of the Board.

8 76. Pursuant to Section 4307, if Pharmacy Permit Number PHY 47284 issued to Pacific
9 Side Pharmacy, Inc., dba Pacific Side Pharmacy is suspended, revoked or placed on probation,
10 and Respondent Pham, while acting as the manager, administrator, owner, member, officer,
11 director, associate, or partner, had knowledge of or knowingly participated in any conduct for
12 which Pharmacy Permit Number PHY 47284 was revoked, suspended, or placed on probation,
13 Respondent Pham shall be prohibited from serving as a manager, administrator, owner, member,
14 officer, director, associate, or partner of a licensee of the Board.

15 77. Pursuant to Section 4307, if Pharmacy Permit Number PHY 47284 issued to Pacific
16 Side Pharmacy, Inc., dba Pacific Side Pharmacy is suspended, revoked or placed on probation,
17 and Respondent Doan, while acting as the manager, administrator, owner, member, officer,
18 director, associate, or partner, had knowledge of or knowingly participated in any conduct for
19 which Pharmacy Permit Number PHY 47284 was revoked, suspended, or placed on probation,
20 Respondent Doan shall be prohibited from serving as a manager, administrator, owner, member,
21 officer, director, associate, or partner of a licensee of the Board.

22 78. Pursuant to Section 4307, if Pharmacist License Number RPH 47062 issued to Dong
23 Ngoc Pham is suspended or revoked, Respondent Pham shall be prohibited from serving as a
24 manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

25 79. Pursuant to Section 4307, if Pharmacist License Number RPH 43569 issued to Linh
26 KH Doan is suspended or revoked, Respondent Doan shall be prohibited from serving as a
27 manager, administrator, owner, member, officer, director, associate, or partner of a licensee.

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

DATED: August 26, 2019



ANNE SODERGREN
Interim Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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