

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

In the Matter of the Accusation Against:

KHIEM VINH, Respondent

Pharmacist License No. RPH 43315

Agency Case No. 7055

DECISION AND ORDER

The attached Stipulated Surrender of License 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 July 28, 2021.

It is so ORDERED on June 28, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" clearly visible.

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
Deputy Attorney General
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600 West Broadway, Suite 1800
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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. 7055

14 **KHIEM VINH**
15 **16458 Scotch Pine Street**
Fountain Valley, CA 92708

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 **Pharmacist License No. RPH 43315**

17 Respondent.

18
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
20 entitled proceedings that the following matters are true:

21 **PARTIES**

22 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
23 (Board). She brought this action solely in her official capacity and is represented in this matter by
24 Rob Bonta, Attorney General of the State of California, by Nicole R. Trama, Deputy Attorney
25 General.

26 2. Khiem Vinh (Respondent) is represented in this proceeding by attorney Ivan
27 Petrzelka, Esq., whose address is: 55 Cetus, 1st Floor, Irvine, CA 92618.

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1 3. On or about March 23, 1990, the Board issued Pharmacist License No. RPH 43315 to
2 Khiem Vinh (Respondent). The Pharmacist License expired on February 29, 2020, and has not
3 been renewed.

4 **JURISDICTION**

5 4. Accusation No. 7055 was filed before the Board, and is currently pending against
6 Respondent. The Accusation and all other statutorily required documents were properly served
7 on Respondent on February 2, 2021. Respondent timely filed his Notice of Defense contesting
8 the Accusation. A copy of Accusation No. 7055 is attached as Exhibit A and incorporated by
9 reference.

10 **ADVISEMENT AND WAIVERS**

11 5. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Accusation No. 7055. Respondent also has carefully read, fully
13 discussed with counsel, and understands the effects of this Stipulated Surrender of License and
14 Order.

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

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
22 every right set forth above.

23 **CULPABILITY**

24 8. Respondent understands that the charges and allegations in Accusation No. 7055, if
25 proven at a hearing, constitute cause for imposing discipline upon his Pharmacist License.

26 9. For the purpose of resolving the Accusation without the expense and uncertainty of
27 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
28 basis for the charges in the Accusation and that those charges constitute cause for discipline.

1 Respondent hereby gives up his right to contest that cause for discipline exists based on those
2 charges.

3 10. Respondent understands that by signing this stipulation he enables the Board to issue
4 an order accepting the surrender of his Pharmacist License without further process.

5 **CONTINGENCY**

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

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

18 13. This Stipulated Surrender of License and Order is intended by the parties to be an
19 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
20 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
21 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order
22 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing
23 executed by an authorized representative of each of the parties.

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

26 **ORDER**

27 IT IS HEREBY ORDERED that Pharmacist License No. RPH 43315, issued to Respondent
28 Khiem Vinh, is surrendered and accepted by the Board.

1 1. The surrender of Respondent's Pharmacist License and the acceptance of the
2 surrendered license by the Board shall constitute the imposition of discipline against Respondent.
3 This stipulation constitutes a record of the discipline and shall become a part of Respondent's
4 license history with the Board.

5 2. Respondent shall lose all rights and privileges as a pharmacist in California as of the
6 effective date of the Board's Decision and Order.

7 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
8 issued, his wall certificate on or before the effective date of the Decision and Order.

9 4. If he ever applies for licensure or petitions for reinstatement in the State of California,
10 the Board shall treat it as a new application for licensure. Respondent must comply with all the
11 laws, regulations and procedures for licensure in effect at the time the application or petition is
12 filed, and all of the charges and allegations contained in Accusation No. 7055 shall be deemed to
13 be true, correct and admitted by Respondent when the Board determines whether to grant or deny
14 the application or petition.

15 5. Respondent shall pay the agency its costs of investigation and enforcement in the
16 amount of \$15,392.00 prior to issuance of a new or reinstated license.

17 6. If Respondent should ever apply or reapply for a new license or certification, or
18 petition for reinstatement of a license, by any other health care licensing agency in the State of
19 California, all of the charges and allegations contained in Accusation, No. 7055 shall be deemed
20 to be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
21 other proceeding seeking to deny or restrict licensure.

22 7. Respondent shall not apply for licensure or petition for reinstatement for three (3)
23 years from the effective date of the Board's Decision and Order.

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DATED: _____

KHIEM VINH
Respondent

DATED: _____

IVAN PETRZELKA, ESQ.
Attorney for Respondent

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DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
JAMES M. LEDAKIS
Supervising Deputy Attorney General

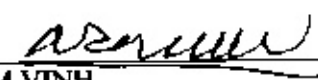
NICOLE R. TRAMA
Deputy Attorney General
Attorneys for Complainant

ACCEPTANCE

I have carefully read the above Stipulated Surrender of License and Order and have fully discussed it with my attorney Ivan Petrzelka, Esq. 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:

5/18/21


KHIEM VINH

Respondent

I have read and fully discussed with Respondent Khiem Vinh the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED:

May 18, 2021


IVAN PETRZELKA, ESQ.

Attorney for Respondent

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: _____

Respectfully submitted,

ROB BONTA

Attorney General of California

JAMES M. LEDAKIS

Supervising Deputy Attorney General

NICOLE R. TRAMA

Deputy Attorney General

Attorneys for Complainant

1 **ACCEPTANCE**

2 I have carefully read the above Stipulated Surrender of License and Order and have fully
3 discussed it with my attorney Ivan Petrzelka, Esq. I understand the stipulation and the effect it
4 will have on my Pharmacist License. I enter into this Stipulated Surrender of License and Order
5 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
6 Board of Pharmacy.

7
8 DATED: _____

KHIEM VINH
Respondent

9
10 I have read and fully discussed with Respondent Khiem Vinh the terms and conditions and
11 other matters contained in this Stipulated Surrender of License and Order. I approve its form and
12 content.

13 DATED: _____

IVAN PETRZELKA, ESQ.
Attorney for Respondent

14
15 **ENDORSEMENT**

16
17 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
18 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

19 DATED: 5/19/2021

Respectfully submitted,

20 ROB BONTA
Attorney General of California
21 JAMES M. LEDAKIS
Supervising Deputy Attorney General

22 *Nicole Trama*

23
24 NICOLE R. TRAMA
Deputy Attorney General
25 *Attorneys for Complainant*

Exhibit A

Accusation No. 7055

1 XAVIER BECERRA
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
Deputy Attorney General
4 State Bar No. 263607
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7 Facsimile: (619) 645-2061
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14 **KHIEM VINH**
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ACCUSATION

16 **Pharmacist License No. RPH 43315**

17 Respondent.

18
19 **PARTIES**

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

22 2. On or about March 23, 1990, the Board of Pharmacy issued Pharmacist License
23 Number RPH 43315 to Khiem Vinh (Respondent). The Pharmacist License expired on February
24 29, 2020, and has not been renewed.

25 **JURISDICTION**

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

4. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law (Bus. & Prof. Code, § 4000 *et seq.*) and the Uniform Controlled Substances Act (Health & Safety Code, § 11000 *et seq.*).

5. Code section 4300, subdivision (a) provides that every license issued by the Board may be suspended or revoked.

6. 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

7. Code section 4022 states:

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

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

(b) Any device that bears the statement: “Caution: federal law restricts this device to sale by or on the order of a _____” “Rx only,” or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

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

8. Code section 4113, subdivision (c) 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.

9. 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 procured by fraud or misrepresentation or issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

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

...

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

...

10. Code section 4307, subdivision (a) states:

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.

11. Health and Safety Code section 11153, subdivision (a), states:

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.

12. Health and Safety Code section 11162.1 states in part:

(a) The prescription forms for controlled substances shall be printed with the following features:

(1) A latent, repetitive 'void' pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words "California Security Prescription."

(3) A chemical void protection that prevents alteration by chemical washing.

(4) A feature printed in thermochromic ink.

(5) An area of opaque writing so that the writing disappears if the prescription is lightened.

(6) A description of the security features included on each prescription form.

(7) (A) Six quantity check off boxes shall be printed on the form so that the prescriber may indicate the quantity by checking the applicable box where the following quantities shall appear:

1-24

25-49

50-74

75-100

101-150

151 and over.

(B) In conjunction with the quantity boxes, a space shall be provided to designate the units referenced in the quantity boxes when the drug is not in tablet or capsule form.

(8) Prescription blanks shall contain a statement printed on the bottom of the prescription blank that the "Prescription is void if the number of drugs prescribed is not noted."

(9) The preprinted name, category of licensure, license number, federal controlled substance registration number, and address of the prescribing practitioner.

(10) Check boxes shall be printed on the form so that the prescriber may indicate the number of refills ordered.

(11) The date of origin of the prescription.

(12) A check box indicating the prescriber's order not to substitute.

(13) An identifying number assigned to the approved security printer by the Department of Justice.

(14) (A) A check box by the name of each prescriber when a prescription form lists multiple prescribers.

(B) Each prescriber who signs the prescription form shall identify himself or herself as the prescriber by checking the box by his or her name.

(b) Each batch of controlled substance prescription forms shall have the lot number printed on the form and each form within that batch shall be numbered sequentially beginning with the numeral one.

...

13. Health and Safety Code section 11164 states in 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.

(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 and shall meet the following requirements:

(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the prescriber's address and telephone number; the name 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; refill information, such as the number of refills ordered and whether the prescription is a first-time request or a refill; and the name, quantity, strength, and directions for use of the controlled substance prescribed.

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

....

REGULATORY PROVISIONS

14. Code of Federal Regulations, Title 21, section 1306.04, subdivision (a), states:

A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his 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. An order purporting 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.

15. California Code of Regulations, title 16, section 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

1 obtain the information needed to validate the prescription.

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

6 **COST RECOVERY**

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

11 **DRUGS**

12 17. Norco is the brand name for hydrocodone/acetaminophen, a Schedule II controlled
13 substance pursuant to Health and Safety Code section 11055(b)(1)(I)(ii) and 21 C.F.R.
14 1308.12(b)(1)(vi) and is a dangerous drug as defined by Business and Professions Code section
15 4022.

16 18. Phenergan with Codeine is the brand name for promethazine with codeine, a
17 Schedule V controlled substance pursuant to Health and Safety Code section 11058, subdivision
18 (c)(1), and is a dangerous drug as defined by Business and Professions Code section 4022.

19 19. Roxicodone is the brand name for oxycodone, a Schedule II controlled substance
20 pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M) and a dangerous drug as
21 defined by Business and Professions Code section 4022.

22 20. Soma is the brand name for carisoprodol and is a Schedule IV controlled substance
23 pursuant to 21 CFR 1308.14(c)(7) and a dangerous drug as defined by Business and Professions
24 Code section 4022.

25 **FACTUAL ALLEGATIONS**

26 21. Respondent was the Pharmacist-in-Charge (PIC) of Catinat Pharmacy located in
27 Santa Ana, California. From June 5, 2015 to June 5, 2018 and while Respondent was PIC,
28 Catinat Pharmacy dispensed 1,632 prescriptions under the prescribing authority of three
prescribers, Dr. Richard G., Dr. Randall G., and Dr. A. These included 624 prescriptions for

1 oxycodone 30 mg, totaling 78,670 oxycodone 30 mg tablets dispensed. The prescriptions were
2 dispensed despite the presence of significant factors of irregularity and red flags for prescription
3 drug abuse including the following:

4 a. Oxycodone 30 mg was the most commonly prescribed medication at Catinat
5 Pharmacy from Drs. Richard G., Randall G., and A., accounting for an unusually large percentage
6 of each doctor's prescribing. For example, Oxycodone 30 mg was Dr. Richard G.'s most
7 commonly prescribed medication, accounting for over 38% of his total prescribing; Oxycodone
8 30 mg was Dr. A.'s most commonly prescribed medication accounting for over 33% of his
9 prescribing at Catinat Pharmacy. Oxycodone 30 mg represented 63.59% of Dr. Randall G.'s
10 prescribing. Additionally three commonly abused controlled substances, oxycodone 30 mg,
11 carisoprodol 350 mg, and hydrocodone/acetaminophen 10/325 mg represented 86.89% of Dr.
12 Randall G.'s prescribing.

13 b. All of Drs. Richard G. and Randall G.'s prescriptions were purchased in cash and the
14 vast majority of Dr. A.'s prescriptions were purchased in cash.

15 c. All of these prescribers had a highly unusual uniformity of prescribing. Specifically,
16 all three physicians prescribed immediate release oxycodone exclusively in the highest available
17 strength. Additionally, all of Dr. Richard G.'s patients received a prescription for a controlled
18 substance and most of his patients received a prescription for oxycodone 30 mg. All of Dr. A.'s
19 patients received at least one prescription for oxycodone 30 mg or hydrocodone/acetaminophen
20 10/325 mg. Lastly, all of Dr. Randall G.'s patients received at least one prescription for
21 oxycodone 30 mg.

22 d. Dr. Richard G. identified himself as a pain management physician; however, he
23 commonly prescribed entire pint bottles of promethazine/codeine syrup (cough syrup) along with
24 opioid analgesics.

25 e. There were many instances where Catinat Pharmacy processed similar or identical
26 prescriptions from each prescriber on the same day. Sometimes these prescriptions were
27 processed within minutes of each other and assigned consecutive or nearly consecutive
28 prescription numbers.

1 f. There were instances when patients with the same address or very similar addresses
2 obtained similar prescriptions from Dr. Richard G.

3 g. On many occasions, patients travelled unusual distances to obtain controlled
4 substances from Catinat Pharmacy. For example, 18 patients of Dr. Richard G. had addresses that
5 were more than 20 miles from the pharmacy. Additionally, Dr. A.'s office was located 21 miles
6 from Catinat Pharmacy and Dr. Randall G.'s office was located 44 miles from the Catinat
7 Pharmacy.

8 h. Catinat Pharmacy dispensed 127 controlled substance prescriptions written on 111
9 prescription documents from Dr. Richard G. and Dr. A. that were invalid in that they were written
10 on forms which lacked required security features. These prescriptions were missing a
11 combination of a "California Security Prescription" watermark, a lot number, a batch number,
12 and an identifying number assigned to the approved security printer.

13 i. There were irregularities related to prescriber verification sheets attached to Dr.
14 Richard G.'s prescriptions including listing medications that patients had previously "tried and
15 failed" but these medications were not listed in the patient's dispensing records or patient activity
16 reports.

17 j. Several of Dr. A.'s prescription documents were attached to copies of California
18 Driver Licenses or Identification Cards that appeared to be fraudulent in that they were of a
19 format that was no longer being issued on the issue dates listed on the cards.

20 22. These irregularities and red flags constituted objective factors suggesting the
21 prescriptions in question were not legitimately prescribed. Despite this, there was no
22 documentation to suggest that Catinat Pharmacy conferred with the prescribers to resolve the
23 irregularities prior to dispensing the prescriptions. Additionally, on 11 instances, Catinat
24 Pharmacy dispensed prescriptions for oxycodone 30 mg with a total daily dose of up to 270
25 MMEs, to patients who appeared to be opioid-naïve. Despite accessing CURES Patient Activity
26 Reports indicating these patients had not received recent opioid prescriptions, Catinat Pharmacy
27 failed to contact the prescribers to address these irregular and potentially dangerous prescribed
28 doses.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Failing to Comply with Corresponding Responsibility**
3 **for Controlled Substance Prescriptions)**

4 23. Respondent is subject to disciplinary action under Code sections 4301, subdivisions
5 (j) and (o), for violating Health and Safety Code section 11153, subdivision (a), and Code of
6 Federal Regulations, Title 21, section 1306.04, subdivision (a), because he failed to comply with
7 his corresponding responsibility to ensure that controlled substances were dispensed for a
8 legitimate medical purpose. As described above, Respondent repeatedly furnished prescriptions
9 for controlled substances even though obvious and systemic “red flags” were present to indicate
10 those prescriptions were not issued for a legitimate medical purpose.

11 **SECOND CAUSE FOR DISCIPLINE**

12 **(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions,**
13 **Irregularities, Uncertainties, Ambiguities or Alterations)**

14 24. Respondent is subject to disciplinary action under Code section 4301, subdivision (o),
15 for violating title 16, California Code of Regulations, sections 1761, subdivisions (a) and (b)
16 because he dispensed controlled substances based on prescriptions which contained significant
17 errors, omissions, irregularities, uncertainties, ambiguities or alterations, as described above.

18 **THIRD CAUSE FOR DISCIPLINE**

19 **(Dispensing Controlled Substance Prescriptions Written on Unauthorized Forms)**

20 25. Respondent is subject to disciplinary action under Code sections 4301, subdivisions
21 (j) and (o), for violating Health and Safety Code section 11164, subdivision (a), because he filled
22 and dispensed controlled substances from prescription forms that did not comply with the
23 requirements of Health and Safety Code section 11162.1, as described above.

24 **FOURTH CAUSE FOR DISCIPLINE**

25 **(Unprofessional Conduct)**

26 26. Respondent is subject to disciplinary action under Code section 4301 for
27 unprofessional conduct because he engaged in the activities described above.

28 ///

1 **OTHER MATTERS**

2 27. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License
3 Number RPH 43315, issued to Khiem Vinh, he shall be prohibited from serving as a manager,
4 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
5 the Pharmacist License is placed on probation or until the Pharmacist License is reinstated, if it is
6 revoked.

7 **DISCIPLINARY CONSIDERATIONS**

8 28. To determine the degree of discipline, if any, to be imposed on Respondent,
9 Complainant alleges as follows. On February 24, 2017, the Board issued Citation Number CI
10 2016 74200 against Respondent for violation of California Code of Regulations, title 16, section
11 1711, subdivision (c)(1) (failing to have written policies and procedures for quality assurance)
12 and violation of Health and Safety Code section 11164, subdivision (a)(1) (filling and dispensing
13 controlled substances from prescription forms that did not comply with the requirements of
14 Health and Safety Code section 11162.1). The Board issued a fine against Respondent, which he
15 paid.

16 **PRAYER**

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

19 1. Revoking or suspending Pharmacist License Number RPH 43315, issued to Khiem
20 Vinh;

21 2. Prohibiting Khiem Vinh from serving as a manager, administrator, owner, member,
22 officer, director, associate, or partner of a licensee for five years if Pharmacist License Number
23 RPH 43315 is placed on probation or until the Pharmacist License is reinstated, if it is revoked;

24 3. Ordering Khiem Vinh to pay the Board of Pharmacy the reasonable costs of the
25 investigation and enforcement of this case, pursuant to Business and Professions Code section
26 125.3; and,

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

DATED: 1/28/2021

Signature on File

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

SD2020801613