

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

In the Matter of the Accusation Against:

**GARFIELD BEACH CVS, LLC DBA CVS PHARMACY #16092
Pharmacy Permit No. 53972,**

**HSIAO-CHUN LIN
Pharmacist License No. RPH 66454**

and

**TINA THAO TRAN
Pharmacist License No. RPH 79844**

Respondents

Case No. 7259

DECISION AND ORDER

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

This Decision shall become effective at 5:00 p.m. on February 21, 2024.

It is so ORDERED on January 22, 2024.

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 written in a cursive, flowing style with a large initial "S".

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 SHAWN P. COOK
Supervising Deputy Attorney General
3 GILLIAN E. FRIEDMAN
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7 *Attorneys for Complainant*

8
9 **BEFORE THE**
BOARD OF PHARMACY
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**
12

13 In the Matter of the Accusation Against:

14 **GARFIELD BEACH CVS, LLC DBA**
15 **CVS PHARMACY #16092**
20200 Bloomfield Avenue
Cerritos, CA 90703

16 **Pharmacy Permit No. PHY 53972,**

17 **HSIAO-CHUN LIN**
4622 Charnock Dr.
18 Irvine, CA 92604

19 **Pharmacist License No. RPH 66454,**

20 **and**

21 **TINA THAO TRAN**
9513 Carnation Avenue
22 Fountain Valley, CA 92708

23 **Pharmacist License No. RPH 79844**

24 Respondents.

Case No. 7259

OAH No. 2023050134

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO TINA
THAO TRAN ONLY**

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

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 Rob Bonta, Attorney General of the State of California, by Gillian E. Friedman, Deputy Attorney
5 General.

6 2. Respondent Tina Thao Tran, RPH 79844 (Respondent Tran) is represented in this
7 proceeding by attorney Ivan Petrzelka, Pharm.D., J.D, MBA, whose address is: 9090 Irvine
8 Center Drive, Irvine, CA 92618.

9 3. On or about December 21, 2015, the Board of Pharmacy issued Pharmacy Permit
10 Number PHY 53972 to Garfield Beach CVS, LLC to do business as CVS Pharmacy #16092 with
11 an address of record of 20200 Bloomfield Avenue, Cerritos, CA 90703. Tina Thao Tran, RPH
12 79844, was the Pharmacist-in-Charge from June 9, 2020 to May 21, 2021.

13 4. On or about October 26, 2018, the Board of Pharmacy issued Pharmacist License
14 Number RPH 79844 to Tina Thao Tran (Respondent Tran). Respondent Tran's Pharmacist
15 License was in full force and effect at all times relevant to the charges brought herein and will
16 expire on October 31, 2024, unless renewed.

17 **JURISDICTION**

18 5. Accusation No. 7259 was filed before the Board, and is currently pending against
19 Respondent Tran. The Accusation and all other statutorily required documents were properly
20 served on Respondent Tran on September 14, 2022. Respondent Tran timely filed her Notice of
21 Defense contesting the Accusation. A copy of Accusation No. 7259 is attached as Exhibit A and
22 incorporated herein by reference.

23 **ADVISEMENT AND WAIVERS**

24 6. Respondent Tran has carefully read, fully discussed with counsel, and understands
25 the charges and allegations in Accusation No. 7259. Respondent Tran has also carefully read,
26 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
27 Disciplinary Order.

28 ///

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

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

CULPABILITY

9. Respondent Tran admits the truth of each and every charge and allegation in Accusation No. 7259.

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

CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Pharmacy.

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

12. The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and

1 facsimile signatures thereto, shall have the same force and effect as the originals.

2 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be
3 an integrated writing representing the complete, final, and exclusive embodiment of their
4 agreement. It supersedes any and all prior or contemporaneous agreements, understandings,
5 discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and
6 Disciplinary Order may not be altered, amended, modified, supplemented, or otherwise changed
7 except by a writing executed by an authorized representative of each of the parties.

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

11 **DISCIPLINARY ORDER**

12 IT IS HEREBY ORDERED that Pharmacist License Number RPH 79844 issued to
13 Respondent Tina Thao Tran is revoked. However, the revocation is stayed and Respondent Tran
14 is placed on probation for three (3) years on the following terms and conditions:

15 1. **Obey All Laws**

16 Respondent shall obey all state and federal laws and regulations.

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

- 19 • An arrest or issuance of a criminal complaint for violation of any provision of
20 the Pharmacy Law, state and federal food and drug laws, or state and federal
21 controlled substances laws
- 22 • A plea of guilty, or nolo contendere, no contest, or similar, in any state or
23 federal criminal proceeding to any criminal complaint, information or
24 indictment a conviction of any crime
- 25 • The filing of a disciplinary pleading, issuance of a citation, or initiation of
26 another administrative action filed by any state or federal agency which
27 involves respondent's license or which is related to the practice of pharmacy or
28 the manufacturing, obtaining, handling, distributing, billing, or charging for

any drug, device or controlled substance.

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

2. Report to the Board

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

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

3. Interview with the Board

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

4. Cooperate with Board Staff

Respondent shall timely cooperate with the board's inspection program and with the board's monitoring and investigation of respondent's compliance with the terms and conditions of Respondent's probation, including but not limited to: timely responses to requests for information by board staff; timely compliance with directives from board staff regarding requirements of any term or condition of probation; and timely completion of documentation pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a violation of probation.

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1 **5. Continuing Education**

2 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
3 pharmacist as directed by the board or its designee.

4 **6. Reporting of Employment and Notice to Employers**

5 During the period of probation, respondent shall notify all present and prospective
6 employers of the decision in Case Number 7259 and the terms, conditions and restrictions
7 imposed on respondent by the decision, as follows:

8 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
9 undertaking any new employment, respondent shall report to the board in writing the name,
10 physical address, and mailing address of each of Respondent's employer(s), and the name(s) and
11 telephone number(s) of all of Respondent's direct supervisor(s), as well as any pharmacist(s)-in-
12 charge, designated representative(s)-in-charge, responsible manager, or other compliance
13 supervisor(s) and the work schedule, if known. Respondent shall also include the reason(s) for
14 leaving the prior employment. Respondent shall sign and return to the board a written consent
15 authorizing the board or its designee to communicate with all of respondent's employer(s) and
16 supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the board
17 or its designee, concerning respondents work status, performance, and monitoring. Failure to
18 comply with the requirements or deadlines of this condition shall be considered a violation of
19 probation.

20 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days
21 of respondent undertaking any new employment, respondent shall cause (a) Respondent's direct
22 supervisor, (b) Respondent's pharmacist-in-charge, designated representative-in-charge,
23 responsible manager, or other compliance supervisor, and (c) the owner or owner representative
24 of Respondent's employer, to report to the board in writing acknowledging that the listed
25 individual(s) has/have read the decision in Case Number 7259, and terms and conditions imposed
26 thereby. If one person serves in more than one role described in (a), (b), or (c), the
27 acknowledgment shall so state. It shall be the respondent's responsibility to ensure that these
28 acknowledgment(s) are timely submitted to the board. In the event of a change in the person(s)

1 serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause
2 the person(s) taking over the role(s) to report to the board in writing within fifteen (15) days of
3 the change acknowledging that he or she has read the decision in Case Number 7259, and the
4 terms and conditions imposed thereby.

5 If respondent works for or is employed by or through an employment service, respondent
6 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
7 of the decision in Case Number 7259, and the terms and conditions imposed thereby in advance
8 of respondent commencing work at such licensed entity. A record of this notification must be
9 provided to the board upon request.

10 Furthermore, within thirty (30) days of the effective date of this decision, and within
11 fifteen (15) days of respondent undertaking any new employment by or through an employment
12 service, respondent shall cause the person(s) described in (a), (b), and (c) above at the
13 employment service to report to the board in writing acknowledging that he or she has read the
14 decision in Case Number, and the terms and conditions imposed thereby. It shall be respondent's
15 responsibility to ensure that these acknowledgment(s) are timely submitted to the board.

16 Failure to timely notify present or prospective employer(s) or failure to cause the
17 identified person(s) with that/those employer(s) to submit timely written acknowledgments to the
18 board shall be considered a violation of probation.

19 "Employment" within the meaning of this provision includes any full-time, part-time,
20 temporary, relief, or employment/management service position as a pharmacist, or any position
21 for which a pharmacist is a requirement or criterion for employment, whether the respondent is an
22 employee, independent contractor or volunteer.

23 **7. Notification of Change(s) in Name, Address(es), or Phone Number(s)**

24 Respondent shall further notify the board in writing within ten (10) days of any change in
25 name, residence address, mailing address, e-mail address or phone number.

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

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1 **8. Restrictions on Supervision and Oversight of Licensed Facilities**

2 During the period of probation, respondent shall not supervise any intern pharmacist, be
3 the pharmacist-in-charge, designated representative-in-charge, responsible manager or other
4 compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption
5 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

6 **9. Probation Monitoring Costs**

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

11 **10. Status of License**

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

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

20 **11. License Surrender While on Probation/Suspension**

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

1 Upon acceptance of the surrender, respondent shall relinquish Respondent's pocket and/or
2 wall license, including any indicia of licensure not previously provided to the board within ten
3 (10) days of notification by the board that the surrender is accepted if not already provided.
4 Respondent may not reapply for any license from the board for three (3) years from the effective
5 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
6 of the date the application for that license is submitted to the board, including any outstanding
7 costs.

8 **12. Practice Requirement – Extension of Probation**

9 Except during periods of suspension, respondent shall, at all times while on probation, be
10 employed as a pharmacist in California for a minimum of 80 hours per calendar month. Any
11 month during which this minimum is not met shall extend the period of probation by one month.
12 During any such period of insufficient employment, respondent must nonetheless comply with all
13 terms and conditions of probation, unless respondent receives a waiver in writing from the board
14 or its designee.

15 If respondent does not practice as a pharmacist in California for the minimum number of
16 hours in any calendar month, for any reason (including vacation), respondent shall notify the
17 board in writing within ten (10) days of the conclusion of that calendar month. This notification
18 shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the
19 interruption or reduction in practice; and the anticipated date(s) on which respondent will resume
20 practice at the required level. Respondent shall further notify the board in writing within ten (10)
21 days following the next calendar month during which respondent practices as a pharmacist in
22 California for the minimum of hours. Any failure to timely provide such notification(s) shall be
23 considered a violation of probation.

24 It is a violation of probation for respondent's probation to be extended pursuant to the
25 provisions of this condition for a total period, counting consecutive and non-consecutive months,
26 exceeding thirty-six (36) months. The board or its designee may post a notice of the extended
27 probation period on its website.

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1 **13. Violation of Probation**

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

8 If respondent violates probation in any respect, the board, after giving respondent notice
9 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
10 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
11 probation, or the preparation of an accusation or petition to revoke probation is requested from
12 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
13 probation shall be automatically extended until the petition to revoke probation or accusation is
14 heard and decided.

15 **14. Completion of Probation**

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

18 **15. Community Services Program**

19 Within sixty (60) days of the effective date of this decision, respondent shall submit a
20 Public Letter of Apology to be published in Script. Respondent shall also submit to the board or
21 its designee, for prior approval a proposal whereby respondent shall make a \$3,000 donation to
22 Board-approved organization focused on patient safety, (e.g., Institute for Safe Medication
23 Practices, etc.) Failure to timely submit, commence, or comply with the program shall be
24 considered a violation of probation.

25 **16. Remedial Education**

26 Within sixty (60), days of the effective date of this decision, respondent shall submit to the
27 board or its designee, for prior approval, an appropriate program of remedial education related to
28 regulatory compliance. The program of remedial education shall consist of at least ten (10) hours

1 per year for each year of probation, which shall be completed at respondent's own expense. At
2 least 50% of the hours must be provided through in person instruction or a live webinar. All
3 remedial education shall be in addition to, and shall not be credited toward, continuing education
4 (CE) courses used for license renewal purposes for pharmacists.

5 Failure to timely submit for approval or complete the approved remedial education shall
6 be considered a violation of probation. The period of probation will be automatically extended
7 until such remedial education is successfully completed and written proof, in a form acceptable to
8 the board, is provided to the board or its designee.

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

14 **17. Ethics Course**

15 Credit shall be given for completion of California Pharmacy Ethics Course by PBI
16 Education (PE-22), which is approved by the California State Board of Pharmacy and meets the
17 requirements set forth in 16 CCR §1773.5. Respondent has submitted documents showing
18 completion of the initial 22 hour course on January 21-22, 2023 and six (6) month follow up on
19 August 16, 2023. Respondent shall provide the Certificate of Completion within six (6) months
20 of completion of the 12 month longitudinal follow-up on or about January 7, 2024.

21 **18. No Ownership or Management of Licensed Premises**

22 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
23 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
24 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell
25 or transfer any legal or beneficial interest in any entity licensed by the board within ninety (90)
26 days following the effective date of this decision and shall immediately thereafter provide written
27 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
28 documentation thereof shall be considered a violation of probation.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Ivan Petrzelka, Pharm.D., J.D, MBA. I understand the stipulation and the effect it will have on my Pharmacist License Number RPH 79844. 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: _____

Tina Thao Tran
Respondent

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

DATED: _____

IVAN PETRZELKA, PHARM.D., J.D, MBA
Attorney for Respondent
Tina Thao Tran

ENDORSEMENT

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

DATED: _____

Respectfully submitted,

ROB BONTA
Attorney General of California
SHAWN P. COOK
Supervising Deputy Attorney General

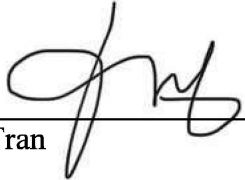
GILLIAN E. FRIEDMAN
Deputy Attorney General
Attorneys for Complainant

LA2022600704

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Ivan Petrzelka, Pharm.D., J.D, MBA. I understand the stipulation and the effect it will have on my Pharmacist License Number RPH 79844. 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: 10/25/2023


Tina Thao Tran
Respondent

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

DATED: October 25, 2023


IVAN PETRZELKA, PHARM.D., J.D, MBA
Attorney for Respondent
Tina Thao Tran

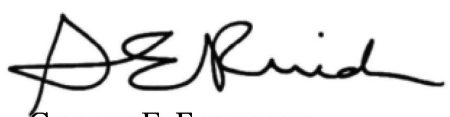
ENDORSEMENT

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

DATED: October 25, 2023

Respectfully submitted,

ROB BONTA
Attorney General of California
SHAWN P. COOK
Supervising Deputy Attorney General


GILLIAN E. FRIEDMAN
Deputy Attorney General
Attorneys for Complainant

LA2022600704

Exhibit A

Accusation No. 7259

1 ROB BONTA
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3 GILLIAN E. FRIEDMAN
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7 *Attorneys for Complainant*

8
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10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

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13 **GARFIELD BEACH CVS, LLC DBA CVS**
PHARMACY #16092
14 **20200 Bloomfield Avenue**
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ACCUSATION

15 **Pharmacy Permit Number No. PHY 53972,**

16 **and**

17 **TINA THAO TRAN**
18 **9513 Carnation Avenue**
Fountain Valley, CA 92708

19 **Pharmacist License No. RPH 79844,**

20 **and**

21 **HSIAO-CHUN LIN**
22 **4622 Charnock Dr.**
23 **Irvine, CA 92604**

24 **Pharmacist License No. RPH 66454**

25 Respondents.

1 **PARTIES**

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

4 2. On or about December 21, 2015, the Board of Pharmacy issued Pharmacy Permit
5 Number Number PHY 53972 to Garfield Beach CVS, LLC to do business as CVS Pharmacy
6 #16092 with an address of record of 20200 Bloomfield Avenue, Cerritos, CA 90703 (Respondent
7 Pharmacy). Tina Thao Tran, RPH 79844, was the Pharmacist-in-Charge from June 9, 2020 to
8 May 21, 2021. The Pharmacy Permit Number was in full force and effect at all times relevant to
9 the charges brought herein and will expire on June 1, 2023, unless renewed.

10 3. On or about October 26, 2018, the Board of Pharmacy issued Pharmacist License
11 Number RPH 79844 to Tina Thao Tran (Respondent Tran). Respondent Tran's Pharmacist
12 License was in full force and effect at all times relevant to the charges brought herein and will
13 expire on October 31, 2022, unless renewed.

14 4. On or about October 27, 2011, the Board of Pharmacy issued Pharmacist License
15 Number RPH 66454, to Hsiao-Chun Lin (Respondent Lin). Respondent Lin's Pharmacist
16 License was in full force and effect at all times relevant to the charges brought herein and will
17 expire on January 31, 2023, unless renewed.

18 **JURISDICTION**

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

22 6. Section 4300 of the Code provides, in part, that every license issued by the Board
23 is subject to discipline, including suspension or revocation.

24 7. Section 4300.1 of the Code states:

25 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
26 operation of law or by order or decision of the board or a court of law, the placement of a license
27 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
28

1 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
2 proceeding against, the licensee or to render a decision suspending or revoking the license."

3 8. Section 4301 of the Code states, in part:

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

7 . . .

8 "(c) Gross negligence.

9

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

13 ...

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

18 9. Section 4306.5 of the Code states, in part:

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

20 (a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or
21 her education, training, or experience as a pharmacist, whether or not the act or omission arises in
22 the course of the practice of pharmacy or the ownership, management, administration, or
23 operation of a pharmacy or other entity licensed by the board.

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

28

10. 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, partner, or any other person with management or control of any partnership, corporation, trust, 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, partner, or any other person with management or control 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, partner, or in any other position with management or control 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, partner, or any other person with management or control of a license" as used in this section and Section 4308 , may refer to a pharmacist or to any other person who serves in such 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.

11. Section 4113 of the Code states, in part:

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

12. Section 4125 of the Code states, in part:

"(a) Every pharmacy shall establish a quality assurance program that shall, at a minimum, document medication errors attributable, in whole or in part, to the pharmacy or its personnel.

1 The purpose of the quality assurance program shall be to assess errors that occur in the pharmacy
2 in dispensing or furnishing prescription medications so that the pharmacy may take appropriate
3 action to prevent a recurrence.”

4 13. Section 4169 of the Code states, in part:

5 “(a) A person or entity shall not do any of the following:

6

7 (2) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably
8 should have known were adulterated, as set forth in Article 2 (commencing with Section 111250)
9 of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

10 14. Section 111295 of the Health and Safety Code states:

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

13 **REGULATIONS**

14 15. California Code of Regulations, title 16, section 1711, states, in part:

15 “(a) Each pharmacy shall establish or participate in an established quality assurance
16 program which documents and assesses medication errors to determine cause and an appropriate
17 response as part of a mission to improve the quality of pharmacy service and prevent errors.

18 “(b) For purposes of this section, "medication error" means any variation from a
19 prescription or drug order not authorized by the prescriber, as described in Section 1716.
20 Medication error, as defined in the section, does not include any variation that is corrected prior
21 to furnishing the drug to the patient or patient's agent or any variation allowed by law.

22 (c)(1) Each quality assurance program shall be managed in accordance with written
23 policies and procedures maintained in the pharmacy in an immediately retrievable form.

24 (2) When a pharmacist determines that a medication error has occurred, a pharmacist shall
25 as soon as possible:

26 (A) Communicate to the patient or the patient's agent the fact that a medication error has
27 occurred and the steps required to avoid injury or mitigate the error.

28 (B) Communicate to the prescriber the fact that a medication error has occurred.

1 (3) The communication requirement in paragraph (2) of this subdivision shall only apply
2 to medication errors if the drug was administered to or by the patient, or if the medication error
3 resulted in a clinically significant delay in therapy.

4 (4) If a pharmacist is notified of a prescription error by the patient, the patient's agent, or a
5 prescriber, the pharmacist is not required to communicate with that individual as required in
6 paragraph (2) of this subdivision.

7 (d) Each pharmacy shall use the findings of its quality assurance program to develop
8 pharmacy systems and workflow processes designed to prevent medication errors. An
9 investigation of each medication error shall commence as soon as is reasonably possible, but no
10 later than 2 business days from the date the medication error is discovered. All medication errors
11 discovered shall be subject to a quality assurance review.

12 (e) The primary purpose of the quality assurance review shall be to advance error
13 prevention by analyzing, individually and collectively, investigative and other pertinent data
14 collected in response to a medication error to assess the cause and any contributing factors such
15 as system or process failures. A record of the quality assurance review shall be immediately
16 retrievable in the pharmacy.”

17 16. California Code of Regulations, title 16, section 1726, states, in part:

18 (a) The pharmacist supervising an intern pharmacist shall be responsible for all professional
19 activities performed by the intern under his or her supervision.

20 (b) The pharmacist supervising an intern pharmacist shall provide the experience necessary
21 for the intern pharmacist to become proficient in the practice of pharmacy.

22 **COST RECOVERY**

23 17. Section 125.3 of the Code states, in pertinent part, that the Board may request the
24 administrative law judge to direct a licensee found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

27 ///

28 ///

1 **FIRST CAUSE FOR DISCIPLINE**

2 (Prohibited Acts- Administration of Adulterated Vaccines)

3 18. Respondents Pharmacy, Lin and Tran are subject to disciplinary action under Code
4 section 4169 subdivision (a)(2) and Health and Safety Code 111295 in that Respondents engaged
5 in the prohibited act of purchasing, trading, selling, and/or transferring dangerous drugs that
6 Respondents knew or reasonably should have known were adulterated. The circumstances are as
7 follows:

8 19. Between on or about September 25, 2020 and on or about December 3, 2020,
9 Respondent Tran while working as a pharmacist at Respondent Pharmacy knowingly
10 administered or allowed for the administration of adulterated influenza vaccines to at least 321
11 patients.

12 **SECOND CAUSE FOR DISCIPLINE**

13 (Unprofessional Conduct)

14 20. Respondents Pharmacy, Lin and Tran are subject to disciplinary action under Code
15 section 4301 subdivisions (c), (f) and (o) in that Respondents engaged in unprofessional conduct
16 which includes, but is not limited to gross negligence, the commission of any act involving moral
17 turpitude, dishonesty, fraud, deceit, or corruption and violations of pharmacy law. The
18 circumstances are as follows:

19 21. Between on or about September 25, 2020 and on or about December 3, 2020,
20 Respondents Tran and Lin while working as pharmacists at Respondent Pharmacy knowingly
21 administered or allowed for the administration of adulterated influenza vaccines to at least 321
22 patients.

23 **THIRD CAUSE FOR DISCIPLINE**

24 (Unprofessional Conduct)

25 22. Respondent Pharmacy is subject to disciplinary action under Code section 4301
26 subdivisions (f) in that Respondents engaged in unprofessional conduct which includes, but not
27 limited to gross negligence, the commission of any act involving moral turpitude, dishonesty,
28 fraud, deceit, or corruption and violation of pharmacy law. The circumstances are as follows:

23. Between on or about September 25, 2020 and on or about December 3, 2020, Respondents dispensed and administered adulterated influenza vaccines to at least 321 patients. Respondent Pharmacy did not attempt to identify and notify the affected patients or their primary care physicians to inform them that adulterated vaccines were administered. Additionally, Respondent Pharmacy did not reverse or refund payment for the vaccines.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct- Fraud)

24. Respondent Pharmacy is subject to disciplinary action under Code section 4301 subdivision (f) for engaging in unprofessional conduct, which shall include, but is not limited to the commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption. The circumstances are as follows:

25. On or about April 23, 2021, personnel at Respondent Pharmacy discovered that adulterated influenza vaccine was dispensed and administered to at least 321 patients. Respondent Pharmacy billed and received payment for the administration of adulterated vaccines, but did not reverse or refund payment for the vaccines even after it was discovered that they were adulterated.

FIFTH CAUSE FOR DISCIPLINE

(Quality Assurance Program)

26. Respondent Pharmacy is subject to disciplinary action under Code section 4125 subdivision (a) and California Code of Regulations 1711 subdivisions (a) through (d) in that Respondent Pharmacy failed to follow its established quality assurance program, which provided that when a pharmacist determines that a medication error has occurred, the pharmacist shall act as soon as possible to communicate to the patient and prescriber that the medication error has occurred. The circumstances are as follows:

27. On or about April 23, 2021, personnel at Respondent Pharmacy discovered that adulterated influenza vaccines were dispensed and administered to at least 321 patients. Respondent Pharmacy did not complete a quality assurance review or contact the patients or the prescriber to notify them that expired vaccines were administered.

1 **SIXTH CAUSE FOR DISCIPLINE**

2 (Supervision of Intern)

3 28. Respondents Pharmacy, Tran and Lin are subject to disciplinary action under Code
4 section 4301, subdivision (o) in that under California Code of Regulations 1726(a) and (b), the
5 pharmacist supervising an intern pharmacist shall be responsible for all professional activities
6 performed by the intern under his or her supervision, and the pharmacist supervising an intern
7 pharmacist shall provide the experience necessary for the intern pharmacist to become proficient
8 in the practice of pharmacy.

9 29. On or about September 26, 2020 until on or about October 26, 2020, Respondents
10 Tran and Lin, while working at Respondent Pharmacy, were supervising intern pharmacists DS
11 and JN and directed and/or allowed the two intern pharmacists to administer adulterated influenza
12 vaccines to patients without the patients' knowledge.

13 **SEVENTH CAUSE FOR DISCIPLINE**

14 (Unprofessional Conduct - Misuse of Education)

15 30. Respondents Tran and Lin are subject to disciplinary action under Code section
16 4306.5 in that she engaged in unprofessional conduct for the inappropriate exercise of her
17 education, training, and experience as a pharmacist in that from or about September 25, 2020
18 until on or about December 3, 2020, Respondents Tran and Lin knowingly administered or
19 allowed for the administration of adulterated influenza vaccines to at least 321 patients.

20 **DISCIPLINE CONSIDERATIONS**

21 31. To determine the degree of discipline, if any, to be imposed on Respondent
22 Pharmacy, Complainant alleges as follows:

23 a. On or about January 29, 2010, in a prior action, the Board of Pharmacy filed an
24 accusation entitled *In The Matter of Accusation Against Target Store* No. T-289, PHY 45438
25 (Case No. 3358) based on violations of Code section 4301(j), 4301(o), 1718, 4081(a), 4105,
26 4059.5(a) and 1714(d). Effective June 25, 2012, a Decision and Order was made where Target
27 Pharmacy's license was placed on probation for five (5) years with terms and conditions.
28

b. On or about October 30, 2015, Garfield Beach CVS, L.L.C., One CVS Drive, 20 Woonsocket, RI 02895 dba Target Pharmacy# 16092 submitted an application to the Board for a change of ownership of Target Pharmacy# 16092 (Original Permit No. PHY 45438). Pursuant to Code section 4201(t) the permit issued to Target Corporation would be cancelled and a new original permit issued to the new owner. The Board agreed to issue a new permit to Respondent Pharmacy subject to the terms and conditions of Case No. 3358, described in paragraph 31a.

OTHER MATTERS

32. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 53972 issued to Respondent Pharmacy, while Tina Tran had been a pharmacist in charge then Tina Tran shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 53972 is placed on probation or until Pharmacy Permit Number PHY 53972 is reinstated if it is revoked.

33. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 53972 issued to Respondent Pharmacy, while Hsiao-Chun Lin had been a pharmacist then Hsiao-Chun Lin shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 53972 is placed on probation or until Pharmacy Permit Number PHY 53972 is reinstated if it is revoked.

34. Pursuant to Code section 4307, if discipline is imposed on License Number RPH 79844 issued to Tina Tran, then she shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 79844 is placed on probation or until Pharmacist License Number RPH 79844 is reinstated if it is revoked.

35. Pursuant to Code section 4307, if discipline is imposed on License Number RPH 66454 issued to Hsiao-Chun Lin, then Hsiao-Chun Lin shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for

1 five years if Pharmacist License Number RPH 66454 is placed on probation or until Pharmacist
2 License Number RPH 66454 is reinstated if it is revoked.

3 **PRAYER**

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

6 1. Revoking or suspending Pharmacy Permit Number Number PHY 53972, issued to
7 Garfield Beach CVS, LLC dba CVS Pharmacy #16092;

8 2. Revoking or suspending Pharmacist License Number RPH 79844 issued to Tina Thao
9 Tran;

10 3. Revoking or suspending Pharmacist License Number RPH 66454 issued to Hsiao-
11 Chun Lin;

12 4. Prohibiting Tina Thao Tran from serving as a manager, administrator, owner,
13 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
14 Number PHY 53972 is placed on probation or until Pharmacy Permit Number PHY 53972 is
15 reinstated if Pharmacy Permit Number PHY 53972 is revoked;

16 5. Prohibiting Hsiao-Chun Lin from serving as a manager, administrator, owner,
17 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
18 Number PHY 53972 is placed on probation or until Pharmacy Permit Number PHY 53972 is
19 reinstated if Pharmacy Permit Number PHY 53972 is revoked;

20 6. Ordering CVS Pharmacy #16092, Tina Thao Tran and Hsiao-Chun Lin to pay the
21 Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,
22 pursuant to Business and Professions Code section 125.3; and,

23 7. Taking such other and further action as deemed necessary and proper.

24 DATED: 9/6/2022 _____

Signature on File

25 ANNE SODERGREN
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

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