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

12 In the Matter of the Accusation Against:

Case No. 2433

13 **PHUONG THI NGUYEN**  
14 6287 Jacinto Avenue, No. 146  
15 Sacramento, CA 95823

OAH No. N-2001120060

**STIPULATED SURRENDER OF  
LICENSE AND ORDER**

16 Original Pharmacist License No. RPH 44292

17 Respondent.

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19  
20 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
21 proceeding that the following matters are true:

22 PARTIES

23 1. Patricia F. Harris (“Complainant”) is the Executive Officer of the Board of  
24 Pharmacy (“Board”), Department of Consumer Affairs. Complainant brought this action solely  
25 in her official capacity and is represented in this matter by Bill Lockyer, Attorney General of the  
26 State of California, by Ronald L. Diedrich, Deputy Attorney General.

27 2. Phuong Thi Nguyen (“Respondent”) is knowingly and voluntarily  
28 representing herself in this proceeding.







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ACCEPTANCE

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

DATED: 2-5-02, 2002.

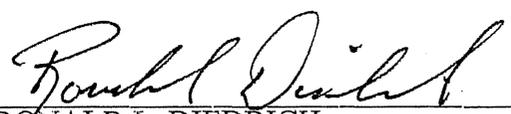
  
PHUONG THI NGUYEN  
Respondent

ENDORSEMENT

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

DATED: February 7, 2002.

BILL LOCKYER, Attorney General  
of the State of California

  
RONALD L. DIEDRICH  
Deputy Attorney General  
Attorneys for Complainant

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

In the Matter of the Accusation Against:

**PHUONG THI NGUYEN**  
6287 Jacinto Avenue, No. 146  
Sacramento, CA 95823

Original Pharmacist License No. RPH 44292

Respondent.

Case No. 2433

OAH No. N-2001120060

**DECISION AND ORDER**

**DECISION AND ORDER**

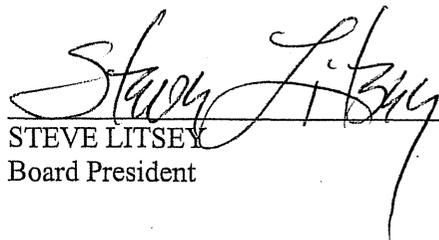
The attached STIPULATED SURRENDER OF LICENSE AND ORDER is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on April 28, 2002.

It is so ORDERED March 29, 2002.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By:

  
STEVE LITSEY  
Board President

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of the State of California  
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7 Attorneys for Complainant

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

13 In the Matter of the Accusation Against:  
14 **PHUONG THI NGUYEN**  
6287 Jacinto Avenue, No. 146  
15 Sacramento, CA 95823  
16 Original Pharmacist License No. RPH 44292  
17 Respondent.

Case No. 2433  
ACCUSATION

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20 Complainant alleges:

PARTIES

21  
22 1. Patricia F. Harris ("Complainant") brings this Accusation solely in her  
23 official capacity as the Executive Officer of the Board of Pharmacy ("Board"), Department of  
24 Consumer Affairs, State of California.

25 2. On or about July 19, 1991, the Board issued Original Pharmacist License  
26 Number RPH44292 to Phuong Thi Nguyen ("Respondent"). Respondent's pharmacist license  
27 was in full force and effect at all times relevant to the charges brought herein. Respondent's  
28 pharmacist license will expire on April 30, 2003, unless renewed.



1 discipline or, in the case of a conviction not involving controlled substances or dangerous drugs,  
2 to determine if the conviction is of an offense substantially related to the qualifications,  
3 functions, and duties of a licensee under Chapter 9 (commencing with Section 4000) of the  
4 Business and Professions Code. A plea or verdict of guilty or a conviction following a plea of  
5 nolo contendere is deemed to be a conviction within the meaning of this provision. The board  
6 may take action when the time for appeal has elapsed, or the judgment of conviction has been  
7 affirmed on appeal or when an order granting probation is made suspending the imposition of  
8 sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the  
9 person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the  
10 verdict of guilty, or dismissing the accusation, information, or indictment.”

11           8. Code section 490 provides that “[A] board may suspend or revoke a  
12 license on the ground that the licensee has been convicted of a crime, if the crime is substantially  
13 related to the qualifications, functions, or duties of the business or profession for which the  
14 license was issued. A conviction within the meaning of this section means a plea or verdict  
15 of guilty or a conviction following a plea of nolo contendere. Any action which a board is  
16 permitted to take following the establishment of a conviction may be taken when the time for  
17 appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an  
18 order granting probation is made suspending the imposition of sentence, irrespective of a  
19 subsequent order under the provisions of Section 1203.4 of the Penal Code.”

20           9. Code section 493 provides that “[N]otwithstanding any other provision of  
21 law, in a proceeding conducted by a board within the department pursuant to law to deny an  
22 application for a license or to suspend or revoke a license or otherwise take disciplinary action  
23 against a person who holds a license, upon the ground that the applicant or the licensee has been  
24 convicted of a crime substantially related to the qualifications, functions, and duties of the  
25 licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact  
26 that the conviction occurred, but only of that fact, and the board may inquire into the  
27 circumstances surrounding the commission of the crime in order to fix the degree of discipline or  
28 to determine if the conviction is substantially related to the qualifications, functions, and duties

1 of the licensee in question.

2 As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and  
3 'registration.'"

4 10. California Code of Regulations, title 16, section 1770, provides that for the  
5 purpose of denial, suspension, or revocation of a personal or facility license pursuant to Division  
6 1.5 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be  
7 considered substantially related to the qualifications, functions or duties of a licensee or  
8 registrant if to a substantial degree it evidences present or potential unfitness of a licensee or  
9 registrant to perform the functions authorized by his license or registration in a manner consistent  
10 with the public health, safety, or welfare.

11 (Cost Recovery)

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

16 FIRST CAUSE FOR DISCIPLINE

17 (Corrupt Acts)

18 12. Respondent is subject to disciplinary action under Code section 4301,  
19 subdivision (f), in that Respondent committed an act involving moral turpitude, dishonesty,  
20 fraud, deceit, or corruption.

21 13. At all times relevant to this matter, Respondent owned Luna Pharmacy,  
22 which was located at 9039 Bolsa Avenue, Westminster, California. Luna Pharmacy was in the  
23 business of providing pharmaceuticals to its customers and had registered to participate in the  
24 Medi-Cal program.

25 14. Beginning on and prior August 1994, and continuing until at least June  
26 1996, Respondent fraudulently billed, or caused the Medi-Cal program to be billed, for  
27 prescription medication that Luna Pharmacy never dispensed.

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PRAYER

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

1. Revoking or suspending Original Pharmacist License Number RPH 44292 issued to Phuong Thi Nguyen;
2. Ordering Phuong Thi Nguyen to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 11/9/01

P. F. Harris

PATRICIA F. HARRIS  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
Complainant