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9	BEFORE THE	
10	BOARD OF PHARMACY	
11	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA	
12		
13	In the Matter of the Statement of Issues	Case No. 7440
14	Against:	
15	CATHY NGUYEN	STATEMENT OF ISSUES
16	Pharmacy Technician Registration	
	Applicant	
17	Respondent.	
18		
19		
20	PARTIES PARTIES	
21	Anne Sodergren (Complainant) brings this Statement of Issues solely in her official	
22	capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer	
23	Affairs.	marmacy (Board), Department of Consumer
24		received an application for a Dharmacy
25		
26	Technician Registration from Cathy Nguyen (Respondent). On or about July 13, 2022, Cathy	
27	Nguyen certified under penalty of perjury to the truthfulness of all statements, answers, and representations in the application. The Board denied the application on December 22, 2022.	
28	representations in the application. The Board den	ied the application on December 22, 2022.

JURISDICTION 1 2 3. This Statement of Issues is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless 3 otherwise indicated. 4 STATUTORY PROVISIONS 5 Section 480 of the Code states: 4. 6 7 (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of 8 a crime or has been subject to formal discipline only if either of the following conditions are met: 9 10 (2) The applicant has been subjected to formal discipline by a licensing 11 board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for 12 discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary 13 action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has 14 been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the 15 Penal Code or a comparable dismissal or expungement. Section 4300, subdivision (c) of the Code states: 5. 16 17 18 (c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any 19 applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any 20 terms or conditions not contrary to public policy, including, but not limited to, the following: 21 (1) Medical or psychiatric evaluation. 22 (2) Continuing medical or psychiatric treatment. 23 (3) Restriction of type or circumstances of practice. 24 (4) Continuing participation in a board-approved rehabilitation program. 25 (5) Abstention from the use of alcohol or drugs. 26 (6) Random fluid testing for alcohol or drugs.

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(7) Compliance with laws and regulations governing the practice of pharmacy

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

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

. . . .

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

. . . .

FACTUAL ALLEGATIONS

- 7. On May 22, 2018, a deputy with the San Diego County Sheriff's Department (SDCSD) was dispatched to investigate a theft that occurred at a Target retail store in Poway, California. It was reported that on May 20, 2018, at approximately 4:48 p.m., Respondent, who was subsequently identified as the suspect, entered Target and selected several liquor bottles, valued at approximately \$1,807.48, which she placed in her shopping cart and concealed with two pillows. Respondent then exited the store without paying for the merchandise. Target's loss prevention officer provided the SDCSD deputy with video surveillance, photos, and a copy of his report.
- 8. On June 7, 2018, a SDCSD deputy was dispatched to investigate a theft that occurred at the same Target retail store. It was reported that on June 4, 2018, at approximately 2:00 p.m., Respondent entered Target and selected several liquor bottles, valued at approximately \$1,421.67, which she placed in her shopping cart and concealed with two pillows. Respondent then exited the store without paying for the merchandise. Target's loss prevention officer recognized Respondent from a prior theft; however, she was not detained or identified during this occurrence. Target's loss prevention officer provided the SDCSD deputy with video surveillance, photos, and a copy of his report.
- 9. On June 13, 2018, at approximately 5:35 p.m., Respondent entered the same Target retail store and selected several liquor bottles, valued at approximately \$932.73, which she placed in her shopping cart and concealed with pillows. Target's loss prevention officer was alerted when Respondent entered the liquor aisle, immediately recognized her from previous recent

thefts, and contacted the SDCSD while Respondent was still in the store. Prior to exiting the store, Respondent noticed the loss prevention officer waiting at the front door. Respondent returned to the liquor aisle and placed the alcohol back on the shelves. Respondent then proceeded to exit the store where she was contacted by SDCSD deputies. Respondent was arrested for the two previous thefts (Pen. Code, § 459 (burglary)), and her current shoplifting attempt (Pen. Code, § 459.5).

- 10. Subsequently, on June 21, 2018, in a criminal proceeding titled *People of the State of California v. Cathy Nguyen*, in San Diego County Superior Court, case number CD277356, Respondent was charged with three felony counts of violating Penal Code section 487, subdivision (a), grand theft. On or about August 14, 2018, Respondent plead guilty to, and was convicted of, violating Penal Code section 487 (a), Grand Theft. On or about April 20, 2021, the conviction was dismissed pursuant to Penal Code sections 1203.4 and 1203.4a.
- 11. On or about April 24, 2019, in the case titled, *In the Matter of the Accusation Against Cathy Nguyen*, Case No. 6573, Respondent surrendered her Pharmacy Technician Registration based upon the conducted set forth in paragraphs 7-10 above.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Prior Discipline)

12. Respondent's application is subject to denial under Code section 480, subdivision (a)(2) and Code section 4300, subdivision (c), in that Respondent was formally disciplined by the Board based on professional misconduct, as set forth in paragraphs 7-11 above, incorporated herein.

SECOND CAUSE FOR DENIAL OF APPLICATION

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

13. Respondent's application is subject to denial under Code section 4300, subdivision (c) and Code section 4301, subdivision (f), for unprofessional conduct in that she committed acts of moral turpitude, dishonesty and deceit, as described in paragraphs 7-11, above, incorporated herein.

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PRAYER 1 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, 2 and that following the hearing, the Board of Pharmacy issue a decision: 3 Denying the application of Cathy Nguyen for a Pharmacy Technician Registration; 1. 4 5 and Taking such other and further action as deemed necessary and proper. 2. 6 7 Digitally signed by Sodergren, Anne@DCA Sodergren, Date: 2023.05.08 07:41:45 DATED: 5/8/2023 Anne@DCA 8 ANNE SODERGREN 9 **Executive Officer** Board of Pharmacy 10 Department of Consumer Affairs State of California 11 Complainant 12 13 SD2023800172 83818316.docx 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28