

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

In the Matter of the Accusation Against:

**SGP INC. DBA PROFESSIONAL PRESCRIPTION PHARMACY,
PHILENA LONG, VICE PRESIDENT,**

Pharmacy Permit No. PHY 47176;

and

HENRY NGUYEN,

Pharmacist License No. RPH 52399;

and

LAUREN E. CHUNG

Pharmacist License No. RPH 54812;

Respondents

Agency Case No. 6467

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 June 18, 2020.

It is so ORDERED on May 19, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA



By

Greg Lippe
Board President

1 XAVIER BECERRA
Attorney General of California
2 LINDA L. SUN
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 6467

13 **SGP INC. DBA PROFESSIONAL**
14 **PRESCRIPTION PHARMACY, PHILENA**
15 **LONG, VICE PRESIDENT**
2863 Atlantic Boulevard
Long Beach, CA 90806

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER AS TO
RESPONDENT HENRY NGUYEN,
LICENSE NO. RPH 52399

16 **Pharmacy Permit No. PHY 47176,**

17 **HENRY NGUYEN**
17078 San Ricardo Street
18 Fountain Valley, CA 92708

19 **Pharmacist License No. RPH 52399,**

20 **and**

21 **LAUREN E. CHUNG**
13253 Droxford Street
22 Cerritos, CA 90703

23 **Pharmacist License No. RPH 54812**

24
25 Respondents.

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 Xavier Becerra, Attorney General of the State of California, by Kevin J. Rigley, Deputy Attorney
5 General.

6 2. Respondent Henry Nguyen (Respondent) is represented in this proceeding by attorney
7 Adam B. Brown, whose address is: 3848 W. Carson Street, Suite 206, Torrance, CA 90503.

8 3. On or about March 28, 2001, the Board issued Pharmacist License Number RPH
9 52399 to Henry Nguyen (Respondent). Respondent was the PIC of Professional Pharmacy from
10 January 27, 2014 to June 23, 2017. The Pharmacist License was in full force and effect at all
11 times relevant to the charges brought herein and will expire on February 28, 2021, unless
12 renewed.

13 **JURISDICTION**

14 4. Accusation No. 6467 was filed before the Board, and is currently pending against
15 Respondent. The Accusation and all other statutorily required documents were properly served
16 on Respondent on June 11, 2019. Respondent timely filed his Notice of Defense contesting the
17 Accusation.

18 5. A copy of Accusation No. 6467 is attached as exhibit A and incorporated herein by
19 reference.

20 **ADVISEMENT AND WAIVERS**

21 6. Respondent has carefully read, fully discussed with counsel, and understands the
22 charges and allegations in Accusation No. 6467. Respondent has also carefully read, fully
23 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
24 Order.

25 7. Respondent is fully aware of his legal rights in this matter, including the right to a
26 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
27 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
28 to the issuance of subpoenas to compel the attendance of witnesses and the production of

1 documents; the right to reconsideration and court review of an adverse decision; and all other
2 rights accorded by the California Administrative Procedure Act and other applicable laws.

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

5 **CULPABILITY**

6 9. Respondent admits the truth of each and every charge and allegation in Accusation
7 No. 6467.

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

10 **CONTINGENCY**

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

20 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
21 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
22 signatures thereto, shall have the same force and effect as the originals.

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

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

6 **3. Interview with the Board**

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

12 **4. Cooperate with Board Staff**

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

19 **5. Continuing Education**

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

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

23 During the period of probation, Respondent shall notify all present and prospective
24 employers of the decision in case number 6467 and the terms, conditions and restrictions imposed
25 on respondent by the decision, as follows:

26 Within thirty (30) days of the effective date of this decision, and within ten (10) days of
27 undertaking any new employment, Respondent shall report to the board in writing the name,
28 physical address, and mailing address of each of his employer(s), and the name(s) and telephone

1 number(s) of all of His direct supervisor(s), as well as any pharmacist(s)-in- charge, designated
2 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work
3 schedule, if known. Respondent shall also include the reason(s) for leaving the prior
4 employment. Respondent shall sign and return to the board a written consent authorizing the
5 board or its designee to communicate with all of Respondent’s employer(s) and supervisor(s), and
6 authorizing those employer(s) or supervisor(s) to communicate with the board or its designee,
7 concerning Respondent’s work status, performance, and monitoring. Failure to comply with the
8 requirements or deadlines of this condition shall be considered a violation of probation.

9 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
10 Respondent undertaking any new employment, Respondent shall cause (a) his direct supervisor,
11 (b) his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
12 compliance supervisor, and (c) the owner or owner representative of his employer, to report to the
13 board in writing acknowledging that the listed individual(s) has/have read the decision in case
14 number 6467, and terms and conditions imposed thereby. If one person serves in more than one
15 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the Respondent’s
16 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
17 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term
18 of probation, Respondent shall cause the person(s) taking over the role(s) to report to the board in
19 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
20 in case number 6467, and the terms and conditions imposed thereby.

21 If Respondent works for or is employed by or through an employment service, Respondent
22 must notify the person(s) described in (a), (b), and (c) above at every Entity licensed by the board
23 of the decision in case number 6467, and the terms and conditions imposed thereby in advance of
24 respondent commencing work at such licensed Entity. A record of this notification must be
25 provided to the board upon request.

26 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
27 (15) days of Respondent undertaking any new employment by or through an employment service,
28 Respondent shall cause the person(s) described in (a), (b), and (c) above at the employment

1 service to report to the board in writing acknowledging that he or she has read the decision in case
2 number, and the terms and conditions imposed thereby. It shall be Respondent's responsibility to
3 ensure that these acknowledgment(s) are timely submitted to the board.

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

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

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

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

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

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

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

21 **9. Reimbursement of Board Costs**

22 As a condition precedent to successful completion of probation, Respondent shall pay to the
23 board its costs of investigation and prosecution in the amount of \$10,000.00. Respondent shall
24 make said payments as follows:

25 Respondent shall be permitted to pay these costs in a payment plan approved by the board
26 or its designee, so long as full payment is completed no later than one (1) year prior to the end
27 date of probation.

28 ///

1 There shall be no deviation from this schedule absent prior written approval by the board or
2 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
3 probation.

4 **10. Probation Monitoring Costs**

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

9 **11. Status of License**

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

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

18 **12. License Surrender While on Probation/Suspension**

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

27 Upon acceptance of the surrender, Respondent shall relinquish his pocket and/or wall
28 license, including any indicia of licensure not previously provided to the board within ten (10)

1 days of notification by the board that the surrender is accepted if not already provided.

2 Respondent may not reapply for any license from the board for three (3) years from the effective
3 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
4 of the date the application for that license is submitted to the board, including any outstanding
5 costs.

6 **13. Practice Requirement – Extension of Probation**

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

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

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

26 **14. Violation of Probation**

27 If Respondent has not complied with any term or condition of probation, the board shall
28 have continuing jurisdiction over Respondent, and the board shall provide notice to respondent

1 that probation shall automatically be extended, until all terms and conditions have been satisfied
2 or the board has taken other action as deemed appropriate to treat the failure to comply as a
3 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
4 board or its designee may post a notice of the extended probation period on its website.

5 If Respondent violates probation in any respect, the board, after giving Respondent notice
6 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
7 was stayed. If a petition to revoke probation or an accusation is filed against Respondent during
8 probation, or the preparation of an accusation or petition to revoke probation is requested from
9 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
10 probation shall be automatically extended until the petition to revoke probation or accusation is
11 heard and decided, and the charges and allegations in Accusation No. 6467 shall be deemed true
12 and correct.

13 **15. Completion of Probation**

14 Upon written notice by the board or its designee indicating successful completion of
15 probation, Respondent's license will be fully restored.

16 **16. Remedial Education**

17 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
18 board or its designee, for prior approval, an appropriate program of remedial education related to
19 the grounds for discipline, in such areas as Prescription Requirements under Federal & State Law,
20 Safe Dispensing, and Prescription Drug Abuse. The program of remedial education shall consist
21 of at least 10 hours per year of probation at Respondent's own expense (50% which is live/in-
22 person/webinar). All remedial education shall be in addition to, and shall not be credited toward,
23 continuing education (CE) courses used for license renewal purposes for pharmacists.

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

28 ///

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

6 **17. No Ownership or Management of Licensed Premises**

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

14 **18. Diversion Training Program**

15 Within the first year of probation, Respondent shall enroll in the board's diversion training
16 program, "Prescription Drug Abuse and Diversion What a Pharmacist Needs to Know," at
17 Respondent's expense. Respondent shall provide proof of enrollment upon request. Within five
18 (5) days of completion, Respondent shall submit a copy of the certificate of completion to the
19 board or its designee. Failure to timely enroll in the program, to initiate the program during the
20 first year of probation, to successfully complete it before the end of the second year of probation,
21 or to timely submit proof of completion to the board or its designee, shall be considered a
22 violation of probation.

23
24 **ACCEPTANCE**

25 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
26 discussed it with my attorney, Adam B. Brown. I understand the stipulation and the effect it will
27 have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order
28

1 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
2 Board of Pharmacy.

3
4 DATED: _____
5 HENRY NGUYEN
6 Respondent

7 I have read and fully discussed with Respondent Henry Nguyen the terms and conditions
8 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
9 its form and content.

10
11 DATED: _____
12 ADAM B. BROWN
13 Attorney for Respondent

14 **ENDORSEMENT**

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

17
18 DATED: _____ Respectfully submitted,
19 XAVIER BECERRA
20 Attorney General of California
21 LINDA L. SUN
22 Supervising Deputy Attorney General

23 KEVIN J. RIGLEY
24 Deputy Attorney General
25 Attorneys for Complainant

26
27 LA2018501408
28 14521062



Nguyen Settlement Order.pdf



1 voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the
2 Board of Pharmacy

3
4 DATED: 3/17/20 Henry Nguyen
5 HENRY NGUYEN
6 Respondent

7 I have read and fully discussed with Respondent Henry Nguyen the terms and conditions
8 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve
9 its form and content.

10
11 DATED: 3-17-20 [Signature]
12 ADAM B. BROWN
13 Attorney for Respondent

14 ENDORSEMENT

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

17
18 DATED: 3/17/2020

19 Respectfully submitted,
20 XAVIER BECERRA
21 Attorney General of California
22 LINDA I. SUN
23 Supervising Deputy Attorney General

24 [Signature] Stephen A. Swetich
25 KEVIN J. RICHY
26 Deputy Attorney General
27 Attorneys for Complainant

28 LA2018501408
14521062

Exhibit A

Accusation No. 6467

1 XAVIER BECERRA
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2 LINDA L. SUN
Supervising Deputy Attorney General
3 HELENE E. ROUSE
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4 State Bar No. 130426
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Attorneys for Complainant
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
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15 **PHILENA LONG, VICE PRESIDENT**
2863 Atlantic Boulevard
Long Beach, CA 90806

ACCUSATION

16 **Pharmacy Permit No. PHY 47176,**

17 **HENRY NGUYEN**
18 17078 San Ricardo St.
Fountain Valley, CA 92708

19 **Pharmacist License No. RPH 52399,**

20 **and**

21 **LAUREN E. CHUNG**
22 13253 Droxford Street
Cerritos, CA 90703

23 **Pharmacist License No. RPH 54812,**

24 Respondents.
25

26 Complainant alleges:
27
28

1 **PARTIES**

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

5 **LICENSE HISTORIES**

6 2. On or about November 14, 2005, the Board issued Pharmacy Permit Number PHY
7 47176 to SGP Inc. to do business as Professional Prescription Pharmacy (Respondent
8 Professional Pharmacy). Harry Long (now deceased) was the President, 100% shareholder from
9 November 14, 2005 to June 23, 2017 and was the Pharmacist-in-Charge (PIC) from November
10 14, 2005 to January 10, 2014. Philena Long was the Vice President of Respondent Professional
11 Pharmacy from November 14, 2005 to June 23, 2017. The Pharmacy Permit was cancelled on
12 August 3, 2017 due to a Discontinuance of Business, effective June 23, 2017.

13 3. On or about March 28, 2001, the Board issued Pharmacist License Number RPH
14 52399 to Henry Nguyen (Respondent Nguyen). Respondent Nguyen was the PIC of Professional
15 Pharmacy from January 27, 2014 to June 23, 2017. The Pharmacist License was in full force and
16 effect at all times relevant to the charges brought herein and will expire on February 28, 2019,
17 unless renewed.

18 4. On or about August 22, 2003, the Board issued Pharmacist License Number RPH
19 54812 to Lauren E. Chung (Respondent Chung). The Pharmacist License was in full force and
20 effect at all times relevant to the charges brought herein and will expire on January 31, 2019,
21 unless renewed.

22 **JURISDICTION**

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

25 6. Under Section 4300, the Board may discipline any license, for any reason provided in
26 the Pharmacy Law, (i.e., Sections 4000 et. seq.).

27 ///

28 ///

1 7. Section 4300.1 states:

2 The expiration, cancellation, forfeiture, or suspension of a board-issued license
3 by operation of law or by order or decision of the board or a court of law, the
4 placement of a license on a retired status, or the voluntary surrender of a license by a
5 licensee shall not deprive the board of jurisdiction to commence or proceed with any
6 investigation of, or action or disciplinary proceeding against, the licensee or to render
7 a decision suspending or revoking the license.

8 8. Section 4402, subdivision (a) provides that any pharmacist license that is not renewed
9 within three years following its expiration may not be renewed, restored, or reinstated and shall
10 be canceled by operation of law at the end of the three-year period. Under Section 4402,
11 subdivision (d), the Board has authority to proceed with an accusation that has been filed prior to
12 the expiration of the three-year period.

13 **STATUTORY PROVISIONS**

14 9. Section 4022 of the Code states

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

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

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

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

25 10. Section 4036.5 states that “‘Pharmacist-in-charge’ means a pharmacist proposed by a
26 pharmacy and approved by the board as the supervisor or manager responsible for ensuring the
27 pharmacy’s compliance with all state and federal laws and regulations pertaining to the practice
28 of pharmacy.”

11. Section 4059, subdivision (a), in pertinent part, prohibits furnishing of any dangerous
drug or dangerous device except upon the prescription of an authorized prescriber.

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///

///

1 12. Section 4113 states, in pertinent part, that: “(c) The pharmacist-in-charge shall be
2 responsible for a pharmacy’s compliance with all state and federal laws and regulations pertaining
3 to the practice of pharmacy.”

4 13. Section 4115, subdivision (c) states: “This section does not authorize a pharmacy
5 technician to perform any act requiring the exercise of professional judgment by a pharmacist.”

6 14. Section 4301 of the Code states:

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

 * * * *

10 (d) The clearly excessive furnishing of controlled substances in violation of
11 subdivision (a) of Section 11153 of the Health and Safety Code.

 * * * *

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

 * * * *

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

19 15. Section 4306.5 of the Code states:

 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
21 exercise of his or her education, training, or experience as a pharmacist, whether or
22 not the act or omission arises in the course of the practice of pharmacy or the
23 ownership, management, administration, or operation of a pharmacy or other entity
24 licensed by the board.

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

 (c) Acts or omissions that involve, in whole or in part, the failure to consult
appropriate patient, prescription, and other records pertaining to the performance of
any pharmacy function.

1 (d) Acts or omissions that involve, in whole or in part, the failure to fully
2 maintain and retain appropriate patient-specific information pertaining to the
3 performance of any pharmacy function.

4 16. Section 4307(a) of the Code provides, in pertinent part:

5 Any person who has been denied a license or whose license has been
6 revoked or is under suspension, or who has failed to renew his or her license while it
7 was under suspension, or who has been a manager, administrator, owner member,
8 officer, director, associate, partner, or any other person with management or control
9 of any partnership, corporation, firm, or association whose application for a license
10 has been denied or revoked, is under suspension or has been placed on probation, and
11 while acting as the manger, administrator, owner, member, officer, director, associate,
12 partner, or any other person with management or control had knowledge or
13 knowingly participated in any conduct for which the license was denied, revoked,
14 suspended, or placed on probation, shall be prohibited from serving as a manger,
15 administrator, owner, member, officer, director, associate, partner, or any other
16 person with management or control of a licensee as follows:

17 (1) Where a probationary license is issued or where an existing license is
18 placed on probation, this prohibition shall remain in effect for a period not to exceed
19 five years.

20 (2) Where the license is denied or revoked, the prohibition shall continue
21 until the license is issued or reinstated.

22 17. Health and Safety Code section 11153 provides, in pertinent part:

23 (a) A prescription for a controlled substance shall only be issued for a
24 legitimate medical purpose by an individual practitioner acting in the usual course of
25 his or her professional practice. The responsibility for the proper prescribing and
26 dispensing of controlled substances is upon the prescribing practitioner, but a
27 corresponding responsibility rests with the pharmacist who fills the prescription.
28 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.

18. Health and Safety Code section 11162.1 provides, in pertinent 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."

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

2 (4) A feature printed in thermochromic ink.

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

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

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

7 1–24

8 25–49

9 50–74

10 75–100

11 101–150

12 151 and over.

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

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

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

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

20 (11) The date of origin of the prescription.

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

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

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

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

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

1 19. Health and Safety Code section 11164 provides, in pertinent part:

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

5 (a) Each prescription for a controlled substance classified in Schedule II, III,
6 IV, or V, except as authorized by subdivision (b), shall be made on a controlled
7 substance prescription form as specified in Section 11162.1 . . .

8 **REGULATORY PROVISIONS**

9 20. California Code of Regulations (CCR), title 16, section 1707.5, provides, in relevant
10 part:

11 (d) The pharmacy shall have policies and procedures in place to help patients
12 with limited or no English proficiency understand the information on the label as
13 specified in subdivision (a) in the patient's language. The pharmacy's policies and
14 procedures shall be specified in writing and shall include, at minimum, the selected
15 means to identify the patient's language and to provide interpretive services in the
16 patient's language. The pharmacy shall, at minimum, provide interpretive services in
17 the patient's language, if interpretive services in such language are available, during
18 all hours that the pharmacy is open, either in person by pharmacy staff or by use of a
19 third-party interpretive service available by telephone at or adjacent to the pharmacy
20 counter.

21 21. California Code of Regulations, title 16, section 1711 provides as follows:

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

26 (b) For purposes of this section, "medication error" means any variation from a
27 prescription or drug order not authorized by the prescriber, as described in Section
28 1716. Medication error, as defined in the section, does not include any variation that
is corrected prior to furnishing the drug to the patient or patient's agent or any
variation allowed by law.

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

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

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

(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
2 only apply to medication errors if the drug was administered to or by the patient, or if
3 the medication error 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
5 agent, or a prescriber, the pharmacist is not required to communicate with that
6 individual as required in paragraph (2) of this subdivision.

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

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

- 19 1. the date, location, and participants in the quality assurance review;
- 20 2. the pertinent data and other information relating to the medication
21 error(s) reviewed and documentation of any patient contact required by subdivision
22 (c);
- 23 3. the findings and determinations generated by the quality assurance
24 review; and,
- 25 4. recommend changes to pharmacy policy, procedure, systems, or
26 processes, if any. The pharmacy shall inform pharmacy personnel of changes to
27 pharmacy policy, procedure, systems, or processes made as a result of
28 recommendations generated in the quality assurance program.

(f) The record of the quality assurance review, as provided in subdivision (e)
shall be immediately retrievable in the pharmacy for at least one year from the date
the record was created.

22 22. California Code of Regulations, title 16, section 1715.6 states that: "The owner
23 shall report to the Board within thirty (30) days of discovery of any loss of the controlled
24 substances, including their amounts and strengths."

25 23. CCR, title 16, section 1761, states:

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

(b) Even after conferring with the prescriber, a pharmacist shall not compound
or dispense a controlled substance prescription where the pharmacist knows or has

1 objective reason to know that said prescription was not issued for a legitimate
2 medical purpose.

3 **CODE OF FEDERAL REGULATIONS**

4 24. Code of Federal Regulations, title 21, section 1306.04, subdivision (a), states:

5 A prescription for a controlled substance to be effective must be issued for a
6 legitimate medical purpose by an individual practitioner in the usual course of his
7 professional practice. The responsibility for the proper prescribing and dispensing of
8 controlled substances is upon the prescribing practitioner, but a corresponding
9 responsibility rests with the pharmacist who fills the prescription. An order purporting
10 to be a prescription issued not in the usual course of professional treatment or in
11 legitimate and authorized research is not a prescription within the meaning and intent
12 of section 309 of the Act (21 U.S.C. 829) and the person knowingly filling such a
13 purported prescription as well as the person issuing it, shall be subject to the penalties
14 provided for violations of the provisions of law relating to controlled substances.

15 **COST RECOVERY**

16 25. Section 125.3 provides, in pertinent part, that the Board may request the
17 administrative law judge to direct a licentiate found to have committed a violation of the licensing
18 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

19 **CONTROLLED SUBSTANCES/DANGEROUS DRUGS**

20 26. **“Alprazolam 2 mg”** (brand name – **“Xanax”**) is a depressant and a Schedule IV
21 controlled substance, as designated by Health & Safety Code section 11057, subdivision (d)(1). It
22 is categorized as a dangerous drug pursuant to Section 4022 and is used to treat anxiety.

23 27. **“Hydrocodone/APAP 10/325mg”**, the generic name for the brand name **“Norco”**, is
24 a Schedule II controlled substance as designated by Health and Safety Code section 11055,
25 subdivision (b)(1)(I), and a dangerous drug within the meaning of Code section 4022. The drug
26 contains a combination of Acetaminophen (a pain reliever that increases the effects of
27 Hydrocodone) and Hydrocodone (an opioid pain medication) and is used to treat pain.

28 28. **Oxycodone, the generic name for Roxicodone**, is a Schedule II controlled substance
pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M) and is a dangerous drug
pursuant to Code section 4022.

29 29. **“Promethazine with Codeine Syrup 10 mg-6.25 mg./5 mL”** (brand name –
30 **“Phenergan-Codeine”**) is a dangerous drug, and a Schedule V controlled substance, as

1 designated by Health & Safety Code section 11058, subdivision (c)(1). Promethazine with
2 Codeine is a prescription cough syrup.

3 30. “Soma 350 mg”, the brand name for “Carisoprodol” is a dangerous drug and a
4 Schedule IV controlled substance, as designated by 21 CFR 1308.14(c)(6) and is a dangerous
5 drug pursuant to Code section 4022. Soma is used as a muscle relaxant.

6 FACTUAL ALLEGATIONS

7 31. The Board began an investigation after reviewing Professional Pharmacy’s
8 dispensing data, as reported to the Controlled Substance Utilization Review and Evaluation System
9 (CURES)¹, that showed a need for an investigation to evaluate the pharmacy’s controlled
10 substance dispensing practices. On February 7, 2017, an Inspector with the Board conducted an
11 inspection at Professional Pharmacy. PIC Nguyen was present and assisted in the inspection.
12 Details of the inspection included but were not limited to the following:

13 32. Professional Pharmacy was an independent retail pharmacy in a medical building and
14 PIC Nguyen estimated the pharmacy filled 90 to 100 prescriptions per day.

15 33. PIC Nguyen was unable to locate a Quality Assurance policy and procedure.

16 34. PIC Nguyen was initially unable to locate a policy and procedure to address
17 impairment of or theft and diversion by licensed employees. PIC Nguyen eventually provided a
18 document titled, "Employee Acknowledgement Health Insurance Portability and Accountability
19 Act of 1996 (Privacy Rule) Responsibilities and Obligations" and stated he believed this
20 document served as the pharmacy's Impaired Employee/Theft and Diversion policy and
21 procedure. However, since this document did not address employee impairment or employee
22 theft and diversion, it was not sufficient to satisfy the requirement of Section 4104.

23 35. PIC Nguyen was unable to locate a policy and procedure to address the provision of
24 interpretive services to patients with limited English proficiency. Additionally, the notice of
25 availability of interpretive services posted in public view in the pharmacy seemed to apply only to
26

27 ¹ CURES is California’s Prescription Drug Monitoring Program (PDMP) which requires mandatory weekly reporting of dispensed
28 Schedule II-IV (CII-IV) controlled substances prescriptions across the state and can be used by healthcare professionals to evaluate and determine
whether patients are utilizing controlled substances correctly.

1 L.A. Care beneficiaries. It read, "L.A. Care members can get free interpreting services including
2 American Sign Language."

3 36. The Board's Inspector asked PIC Nguyen if Professional Pharmacy recently suffered
4 any losses of controlled substances. PIC Nguyen replied that the pharmacy was burglarized the
5 night of February 17, 2015 and some controlled substances were stolen. PIC Nguyen stated that
6 he reported the loss to the DEA on a DEA Form 106 and to the Long Beach Police Department.
7 PIC Nguyen stated that he did not believe he reported the loss to the Board because he wasn't
8 aware of a requirement to report drug losses to the Board.

9 37. The Inspector reviewed several "books" of filled, completed prescription documents,
10 and collected a sample of prescription documents from the prescriber. The sample of prescription
11 documents from the following five prescribers identified in the review of the pharmacy's CURES
12 data included the following:

- 13 o 23 prescription documents and associated verifications from Dr. Wa.
- 14 o 17 prescription documents and associated verifications from Dr. Wi.
- 15 o 13 prescription documents and associated verifications from Dr. G.
- 16 o Four prescription documents and associated verifications from Dr. A.
- 17 o One prescription document from Dr. O.

18 38. The Inspector told PIC Nguyen to report the drug loss in February of 2017 and
19 requested the following in her inspection report: procedures for quality assurance and interpretive
20 services; the completion of a questionnaire related to PIC Nguyen's evaluation of controlled
21 substance prescriptions and corresponding responsibility; and a file with all prescriptions filled by
22 the pharmacy from February 7, 2014-February 7, 2017.

23 39. On February 20, 2017, the Inspector received the completed questionnaire signed by
24 PIC Nguyen, which set forth detailed information about the pharmacy's record keeping, as well
25 as the dispensing of controlled substances and verifying of the legitimacy of prescriptions for
26 controlled substances. Specifically, PIC Nguyen responded that the pharmacy generally does not
27 dispense controlled substance prescriptions to out of the area patients, and an acceptable distance
28 is about 10-11 miles radius maximum. In addition, the pharmacy gained access to the CURES

1 database in September 2014, which the pharmacy checked to make sure patients are not filling
2 controlled substances too early or obtaining excessive amounts. PIC Nguyen indicated they
3 check the CURES database for almost all controlled medications CII-CV and for the last filled
4 dates, quantity, frequency, pattern of medication used, doctor(s), and different pharmacies used.
5 For patients who appear to be “doctor shopping”, the pharmacy will usually deny the
6 prescriptions. Furthermore, the pharmacy uses different websites (BreEZe (license verification
7 site), DEA) to identify doctors with unethical writing habit(s), or if doctor's license is revoked or
8 not. The pharmacy generally does not dispense controlled substances prescriptions from out of
9 area doctors (an acceptable distance is about a 10-12 miles radius), except for patients who use
10 the pharmacy regularly for their special medications.

11 40. Based on PIC Nguyen’s education and professional experience, he indicated on the
12 questionnaire the appropriate starting doses for the following medications:

- 13 o Alprazolam 0.25 mg TID
- 14 o Hydrocodone/acetaminophen 2.5 mg hydrocodone Q 4-6 hours
- 15 o Oxycodone immediate release 5 mg Q 4-6 hours
- 16 o Oxycodone extended release 10 mg Q 12 hours

17 41. On June 20, 2017, the Inspector received an Excel file containing records of
18 prescriptions dispensed at Professional Pharmacy from February 7, 2014-February 7, 2017.

19 42. The Inspector did not receive Professional Pharmacy's policies and procedures related
20 to quality assurance or translation services.

21 43. The Inspector did not receive confirmation that PIC Nguyen reported the 2015 loss of
22 controlled substances to the Board. However, the Inspector’s search of the Board's database
23 revealed that the Board received a report of the 2015 loss of controlled substances at Professional
24 Pharmacy, on February 14, 2017.

25 44. Professional Pharmacy’s records of all prescriptions dispensed from February 7,
26 2014-February 7, 2017 indicated that:

- 27 • Professional Prescription Pharmacy filled 79,869 prescriptions during the query
28 period, or an average of approximately 106 prescriptions per business day.

1 • Over 75% of the prescriptions filled at Professional Pharmacy were written by
2 prescribers practicing in Long Beach, where the pharmacy was located, or neighboring cities.

3 • At least 70% of the prescriptions filled at Professional Pharmacy were written for
4 patients with addresses of record in Long Beach or neighboring cities.

5 • 89.32% of the prescriptions dispensed at Professional Pharmacy during the query
6 period were billed to prescription insurance, which was a typical billing pattern for a retail
7 pharmacy since patients ordinarily prefer to pay for medications with insurance.

8 • 88.5% of the prescriptions dispensed at Professional Pharmacy during the query
9 period were for non-controlled substances, which is consistent with the fact that there are
10 significantly more non-controlled substances on the market than controlled substances.

11 • Professional Pharmacy's 20 most commonly dispensed medications included 16 non-
12 controlled substances and four controlled substances. This list included medications to prevent
13 cardiac events and to treat cough, gastroesophageal reflux, pain, high blood pressure, diabetes,
14 nerve pain, anxiety, allergies, high cholesterol, and low bone density.

15 45. The Inspector reviewed and analyzed records and information related to
16 prescriptions for non-controlled and controlled substances filled by Professional Pharmacy for
17 five doctors: Dr. Wa., Dr. O., Dr. Wi., Dr. A., and Dr. G., from February 7, 2014-February 7,
18 2017. Moreover, the Inspector reviewed documents related to steps taken by the pharmacy staff
19 to verify the legitimacy of prescriptions filled for patients of these doctors. The pharmacists at
20 Professional Pharmacy would simply confirm that the doctor wrote the prescription, which did
21 not fulfill their corresponding responsibility to confer with the prescriber in the presence of
22 significant factors of irregularity to attempt to determine the legitimacy of the prescription. From
23 February 7, 2014-February 7, 2017, Professional Pharmacy filled 4,758 prescriptions for the
24 foregoing five prescribers, in the presence of objective factors suggesting that the prescriptions
25 were not written for legitimate medical purposes.

26 ///

27 ///

28 ///

FIRST CAUSE FOR DISCIPLINE
(Violation of Corresponding Responsibility)

46. Respondent Professional Pharmacy and Respondent Nguyen are subject to disciplinary action under Code section 4301, subdivisions (d), (j) and/or (o) and CCR, title 16, section 1761, subdivisions (a) and (b), in conjunction with Code sections 4036.5, 4306.5, subdivisions (a)-(d), and 4113, Health and Safety Code section 11153, subdivision (a) and Code of Federal Regulations, title 21, section 1306.04, subdivision (a), in that they violated their corresponding responsibility by excessively furnishing controlled substances and repeatedly failing to resolve irregularities and red flags of illegitimacy for controlled substances prescribed by five doctors. Respondent Nguyen, while employed as a pharmacist and PIC of Professional Pharmacy during the entire query period, personally approved the dispensing of 47% of the irregular prescriptions. In doing so, Nguyen misused his education and experience as a pharmacist and failed to implement his best professional judgment by excessively dispensing controlled substances with a high potential for abuse despite multiple clues of irregularity and uncertainty related to patient and prescriber factors, as follows:

- Most of the prescriptions written by the listed prescribers were purchased in cash, without the aid of prescription insurance.
- 79% of Dr. O.'s prescriptions, 99% of Dr. Wa.'s prescriptions, and 100% of Dr. Wi.'s, Dr. A.'s, and Dr. G.'s prescriptions were purchased in cash. In contrast, almost 11% of the pharmacy's total prescriptions were purchased in cash during the query period.
- The majority of the prescriptions written by the prescribers in question were for controlled substances. Additionally, the prescribing profiles of these prescribers were unusually limited, with a small number of commonly abused controlled substances accounting for a large percentage of the total prescribing.
- 55.25% of Dr. Wa.'s prescribing consisted of four controlled substances; oxycodone 30 mg, alprazolam 2 mg, carisoprodol 350 mg, and promethazine/codeine syrup. Additionally, all but one of Dr. Wa.'s patients received at least one prescription for oxycodone 30 mg.
- 76.71% of Dr. O.'s prescribing consisted of two controlled substances, promethazine/codeine syrup and alprazolam 2 mg tablets.

1 • Four controlled substances, promethazine/codeine syrup, oxycodone 30 mg tablets,
2 alprazolam 2 mg tablets, and hydrocodone/acetaminophen 10/325 mg tablets, represented 75.2%
3 of Dr. Wi.'s prescriptions at Professional Pharmacy. Additionally, 45.9% of Dr. Wi.'s
4 prescriptions were written for promethazine/codeine syrup.

5 • Dr. A.'s prescribing profile consisted of only three controlled substances;
6 hydrocodone/acetaminophen 10/325 mg, promethazine/codeine syrup, and alprazolam 2 mg
7 tablets.

8 • 85.44% of Dr. G.'s total prescriptions, were written for oxycodone 30 mg.

9 • The prescribers in question frequently prescribed the highest available strengths of
10 commonly abused controlled substances.

11 • Dr. Wa.'s prescribing profile contained 958 prescriptions for oxycodone 30 mg, 500
12 prescriptions for alprazolam 2 mg, and no prescriptions for any lower strength of either
13 medication.

14 • Dr. O.'s prescribing profile contained 208 prescriptions for alprazolam 2 mg and no
15 prescriptions for any lower strength.

16 • Dr. Wi.'s prescribing profile contained 71 prescriptions for oxycodone 30 mg, 28
17 prescriptions for alprazolam 2 mg, and no prescriptions for any lower strengths.

18 • The prescribing profiles of the prescribers in question were seemingly incongruent
19 with their self-reported areas of practice on the Medical Board of California's online database.

20 • Many patients of the listed prescribers paid exceptionally high prices for oxycodone
21 prescriptions. The dispensing record contained 1,034 instances when patients paid between \$900
22 and \$1,100 for 100 oxycodone 30 mg tablets.

23 • Professional Pharmacy frequently dispensed prescriptions for patients of Dr. Wa. in
24 pairs or groups. The dispensing record contained about 304 instances when Professional
25 Pharmacy processed prescriptions from Dr. Wa. in pairs or groups.

26 • Dr. Wi.'s patients frequently travelled excessive distances, 32.6 miles between his
27 office and the pharmacy, to obtain controlled substances from Professional Pharmacy.

1 • Professional Pharmacy dispensed many of Dr. Wi.'s prescriptions several weeks after
2 the prescriptions were written. Professional Pharmacy dispensed 137 of Dr. Wi.'s prescriptions
3 more than 30 days after they were written. While Professional Pharmacy produced
4 documentation to indicate pharmacy staff made attempts to verify these prescriptions,
5 Professional Pharmacy did not produce documentation to show that pharmacists there, including
6 Respondent Nguyen, conferred with the prescribers and addressed the irregularities listed above
7 to validate the prescriptions. Under Section 4115, subdivision (c), pharmacists may not delegate
8 their duty of verifying the legitimacy of prescriptions to pharmacy technician or other non-
9 pharmacist staff.

10 47. Complainant incorporates by reference paragraphs 31 through 45 as though fully set
11 forth herein.

12 **SECOND CAUSE FOR DISCIPLINE**
13 **(Failure to Provide Policies and Procedures)**

14 48. Respondents Professional Pharmacy and Nguyen, the PIC of Professional Pharmacy,
15 are subject to disciplinary action under Code sections 4104, subdivisions (a) and (b) and 4301,
16 subdivision (j) and/or (o) and CCR, title 16, sections 1707.5, section (d) and 1711, subdivisions
17 (a) and (c)(1), in conjunction with Code sections 4036.5 and 4113, in that Respondents failed to
18 have and/or produce to the Board's Inspector a quality assurance policy and procedure, a
19 procedure to address impairment of or theft by licensed employees, or a policy and procedure to
20 help patients with limited English or no English proficiency understand the information on the
21 label in the patient's language.

22 49. Complainant incorporates by reference paragraphs 31 through 45 as though fully set
23 forth herein.

24 **THIRD CAUSE FOR DISCIPLINE**
25 **(Failure to Notify Board of Loss of Controlled Substances)**

26 50. Respondent Professional Pharmacy and Respondent Nguyen are subject to
27 disciplinary action under Sections 4005, 4300 and 4301, subdivisions (o) and/or (j), in
28 conjunction with Section 4113, subdivision (c), for violating title 16, California Code of

1 Regulations, section 1715.6, in that Respondent Nguyen, while employed as the PIC of
2 Professional Pharmacy, failed to report the February 17, 2015 theft of drugs/controlled substances
3 from the pharmacy to the Board within 30 days. Professional Pharmacy reported those losses to
4 the Board on February 14, 2017. The facts supporting this cause are specified in paragraphs 31
5 through 45 above and incorporated herein by reference.

6 **FOURTH CAUSE FOR DISCIPLINE**
7 **(Violation of Corresponding Responsibility)**

8 51. Respondent Lauren Chung is subject to disciplinary action under Code sections 4301,
9 subdivisions (d), (j) and/or (o) and 4306.5, subdivisions (a)-(d), and CCR, title 16, section 1761,
10 subdivisions (a) and (b), in conjunction with Health and Safety Code section 11153, subdivision
11 (a) and Code of Federal Regulations, title 21, section 1306.04, subdivision (a), in that she violated
12 her corresponding responsibility by excessively furnishing controlled substances and repeatedly
13 failing to resolve irregularities and red flags of illegitimacy for controlled substances prescribed
14 by five doctors. Respondent Chung, from February 7, 2014-February 7, 2017, while employed as
15 a pharmacist of Professional Pharmacy, personally approved the dispensing of 27% of the
16 irregular prescriptions. In doing so, Respondent Chung misused her education and experience as
17 a pharmacist and failed to implement her best professional judgment by excessively dispensing
18 controlled substances with a high potential for abuse despite multiple clues of irregularity and
19 uncertainty related to patient and prescriber factors, as set forth above in Paragraph 45 and
20 incorporated here by reference. While Professional Pharmacy produced documentation to
21 indicate pharmacy staff made attempts to verify these prescriptions, Professional Pharmacy did
22 not produce documentation to show that pharmacists there, including Chung, conferred with the
23 prescribers and addressed the irregularities listed above to validate the prescriptions. Under
24 Section 4115, subdivision (c), pharmacists may not delegate their duty of verifying the legitimacy
25 of prescriptions to pharmacy technician or other non-pharmacist staff.

26 52. Complainant incorporates by reference paragraphs 31 through 45 as though fully set
27 forth herein.

28 ///

1 **OTHER MATTERS**

2 53. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
3 PHY 47176 to SGP Inc. to do business as Professional Prescription Pharmacy shall be prohibited
4 from serving as a manager, administrator, owner, member, officer, director, associate, or partner
5 of a licensee for five years if Pharmacy Permit Number PHY 47176 is placed on probation or
6 until Pharmacy Permit Number PHY 47176 is reinstated if it is revoked.

7 54. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
8 PHY 47176 to SGP Inc. to do business as Professional Prescription Pharmacy while Philena Long
9 has been an officer and owner and had knowledge of or knowingly participated in any conduct
10 for which the licensee was disciplined, Philena Long shall be prohibited from serving as a
11 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
12 five years if Pharmacy Permit Number PHY 47176 is placed on probation or until Pharmacy
13 Permit Number PHY 47176 is reinstated if it is revoked.

14 **PRAYER**

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

17 1. Revoking or suspending Pharmacy Permit Number PHY 47176, issued to SGP Inc.
18 dba Professional Prescription Pharmacy, Philena Long;

19 2. Revoking or suspending Pharmacist License Number RPH 52399, issued to Henry
20 Nguyen;

21 3. Revoking or suspending Pharmacist License Number RPH 54812, issued to Lauren E.
22 Chung;

23 4. Prohibiting SGP Inc. dba Professional Prescription Pharmacy from serving as a
24 manager, administrator, owner, member, officer, director, associate, or partner of a
25 licensee for five years if Pharmacy Permit Number PHY 47176 is placed on probation or until
26 Pharmacy Permit Number PHY 47176 is reinstated if Pharmacy Permit Number PHY 47176
27 issued to SGP Inc. dba Professional Prescription Pharmacy is revoked;

