

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

In the Matter of the Accusation Against:

RILEY NGUYEN AKA DAT QUOC NGUYEN, Respondent

Registered Pharmacist License No. RPH 55341

Agency Case No. 6665

OAH No. 2019110857

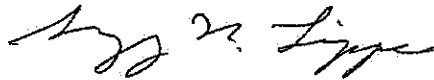
DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge 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 May 6, 2020.

It is so ORDERED on April 6, 2020.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg M. Lippe", is written over the printed name.

By

Greg Lippe
Board President

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RILEY NGUYEN AKA DAT QUOC NGUYEN, Respondent,

Registered Pharmacist License No. RPH 55341.

Case No. 6665

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PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter on March 2, 2020, in Oakland, California.

Amber N. Wipfler, Deputy Attorney General, represented the complainant, Anne Sodergren, Interim Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Tony T. Park, Attorney at Law, represented the respondent, who was present.

The record closed on March 2, 2020, and the matter was submitted for decision on that date.

FACTUAL FINDINGS

Jurisdictional Matters

1. Anne Sodergren (Complainant) made this accusation in her official capacity as the Interim Executive Officer of the Board.
2. On June 17, 2004, the Board issued Registered Pharmacist License Number RPH 55341 to Riley Nguyen aka Dat Quoc Nguyen (respondent). The license was in full force and effect at all times relevant to this matter and will expire on July 31, 2020, unless renewed. There are three prior citations issued against respondent. On October 1, 2014, the Board issued a citation for variation from prescription and on June 6, 2016, the Board issued a citation for erroneous or uncertain prescriptions and excess filling of Schedule III-IV prescriptions. On February 23, 2018, the Board issued a citation for unauthorized disclosure of prescription, variation from prescription and failure to provide consultation. All citations have been paid.

Cause for Discipline

3. Respondent admitted that between October 1, 2017 and January 11, 2018, while employed as the pharmacist-in-charge at Walgreens Pharmacy in Campbell, California (Walgreens), respondent stole 1,960 boxes of diabetic test strips valued at \$281,080.40 from his employer. After admitting to the theft, respondent returned \$43,992.87 worth of the test strips to Walgreens. The total value of the property after respondent returned a portion was \$237,123.53.
4. On May 8, 2019, in Santa Clara Superior Court, respondent was convicted, upon his plea of no contest, of Penal Code section 484/487, subdivision

(b)(3) (felony grand theft.) Respondent was sentenced to three years' probation, and 30 days in jail, which he is serving through the weekend work program.

5. It was not established by clear and convincing evidence that respondent, as the pharmacist-in-charge, can be held responsible for the loss of 51 tablets of alprazolam 1 mg., for the period between June 10, 2016, and February 1, 2018. Because alprazolam is a Schedule 4 dangerous drug, the amounts can be estimated. The beginning amount in the audit was 5500. That amount is likely an estimate. Therefore, the actual amount of alprazolam, if any, that is missing is, at best, an estimate. The evidence did not establish that an actual inventory was done to determine the beginning amount.

6. Respondent's conduct and his conviction for grand theft constitute unprofessional conduct, specifically acts involving moral turpitude, dishonesty, fraud, deceit, and corruption. The conviction is for a crime which is substantially related to the qualifications, duties and functions of a licensed pharmacist.

7. Respondent did not fail to maintain accountability of dangerous drugs or to maintain security of dangerous drugs.

Respondent's Evidence

8. Respondent saw an advertisement that stated the person would purchase diabetic test strips. Respondent wanted money to pay his student loans, which amounted to \$130,000. He admits to a clandestine meeting with this person and selling \$200 worth of the stolen strips. He then decided it was wrong, so he began returning the stolen boxes. He was caught by loss prevention bringing back the stolen merchandise. He was fired three days later. Walgreens decided they did not want the rest of the test strips returned, but wanted monetary restitution. Respondent's sister

gave him the \$237,123.53 to pay back Walgreens. Respondent stated that he threw away the remaining boxes of diabetic test strips.

9. Respondent has taken more than 100 hours of continuing education, targeted at ethics, better pharmacy practice, and legal issues. It was confirmed by a letter dated January 24, 2020, that he attended and completed the University of Tennessee Continuing Professional Development program on pharmacy law, ethics and professionalism.

10. Respondent presented three character letters from members of respondent's church: Church of Jesus Christ of Latter-Day Saints in San Jose. They have read the accusation in this matter. Respondent is engaged in church related service. He has been a member of the church since November of 2019.

11. Respondent also presented a letter from David Do, a registered pharmacist. They went to the University of the Pacific together and remained friends. Mr. Do finds respondent to be a dependable and trustworthy friend. He is aware of the accusation against respondent. He notes that respondent regrets his actions and hopes for redemption.

12. Respondent is presently employed at Creekside Pharmacy in Santa Rosa, California. He has been employed there since February 15, 2018. Respondent presented a letter from the owner of the pharmacy. The owner knows about respondent's conviction. He finds respondent to be a dedicated, hard working pharmacist, who is knowledgeable and experienced. Respondent also presented a letter from the pharmacist-in-charge of Creekside Pharmacy. He knows about the accusation and conviction. He finds respondent to be exceptionally hard working, knowledgeable and experienced.

13. Respondent is also a medical reserve corps volunteer for the Department of Health Services in Sonoma County. He wants to help the community if there is a disaster.

14. Respondent expressed sincere remorse for his behavior. It is clear that respondent recognizes the need for rehabilitation. He has made some significant efforts, including studying the law and ethics of his profession. However, there is no evaluation of respondent's mental condition or insight into why he thought it would be acceptable to steal from his employer. An evaluation that respondent is safe to practice and that he will not resort to unethical conduct in the future is required to protect the public. Such an evaluation must be a condition of probation.

Cost Recovery

15. Complainant has requested cost recovery in the amount of \$4,316.50 for investigation and enforcement, and \$10,430 for prosecution costs. The total amount requested is \$14,746.50. Complainant fully explained all costs. The costs are reasonable. In considering the *Zuckerman* factors, the only factor relevant to this matter is respondent's good faith belief in the merits of his position. Respondent must be allowed to present evidence of mitigation, extenuation and rehabilitation. This hearing gave respondent the opportunity to do so. The costs are reduced by \$1,000. The total costs to be paid are \$13,746.50.

LEGAL CONCLUSIONS

1. The standard of proof applied in this proceeding is clear and convincing evidence.

2. Pursuant to Business and Professions Code section 4011, the Board has jurisdiction to enforce and administer the law, rules and regulations against Registered Pharmacists.

3. Pursuant to Business and Professions Code section 4301, subdivision (f), the Board is authorized to impose discipline on a registered pharmacist for unprofessional conduct, including any act involving moral turpitude, dishonesty, fraud, deceit, or corruption. Respondent engaged in acts of unprofessional conduct when he stole diabetic test strips from his employer (Factual Findings 3 and 6.)

4. Pursuant to Business and Professions Code section 4301, subdivision (l), the Board is authorized to impose discipline for a conviction of a crime substantially related to the duties, qualifications and functions of a licensed pharmacist. (Factual Findings 4 and 6).

5. It was not established by clear and convincing evidence that respondent violated Business and Professions Code section 4081, subdivision (a), and California Code of Regulations, title 16, sections 1718 and 1714, subdivision (d), in that it was not established that any dangerous drugs were missing. (Factual Findings 5 and 7.)

6. Complainant has requested that respondent be ordered to pay the Board the costs of investigation and enforcement of the case. Business and Professions Code section 125.3 provides that respondent may be ordered to pay the Board "a sum not to exceed the reasonable costs of the investigation and enforcement of the case." The Board has reasonably incurred costs of investigation and enforcement in the amount of \$14,746.50. (Factual Finding 15.) The case of *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32 sets forth the factors to be considered in determining whether costs should be reduced. Those factors include whether the licensee has been

successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of his or her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate to the alleged misconduct. Respondent established that his attempt to show rehabilitation was a good faith belief in showing what disciplinary action should be taken. Therefore, the cost recovery is reduced by \$1,000 for a total amount due of \$13,746.50.

7. After considering respondent's evidence of rehabilitation, including his dedication to education, his letters from his employer, and coworker, his religious/community service, and his genuine remorse, the appropriate disciplinary action at this time is probation, with a condition to have respondent evaluated by a mental health profession to determine if he is safe to practice pharmacy.

ORDER

Pharmacist License No. RPH 55341, issued to respondent Riley Nguyen aka Dat Quoc Nguyen, is revoked; however, the revocation is stayed and respondent is placed on probation for three years upon the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations. Respondent shall report any of the following occurrences to the Board, in writing, within seventy-two (72) hours of such occurrence:

a) an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws

- b) a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment
- c) a conviction of any crime
- d) discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's pharmacist license or which is related to the practice of pharmacy or 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 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 his probation. Failure to cooperate shall be considered a violation of probation.

5. Continuing Education

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

6. Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 6665 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause his direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 6665, and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify his direct supervisor, pharmacist-in-charge, and owner at every entity licensed by the Board of the terms and conditions of the decision in case number 6665 in advance of respondent commencing work at each licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause his direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that he or she has read the decision in case number 6665 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that his employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

Failure to timely notify present or prospective employer(s) or to cause that/those employer(s) to submit timely acknowledgments to the Board shall be considered a violation of probation.

"Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief or pharmacy management service as a pharmacist or any position for which a pharmacist license is a requirement or criterion for employment, whether respondent is an employee, independent contractor or volunteer.

7. No Supervision of Interns, Serving as Pharmacist-in-Charge (PIC), Serving as Designated Representative-in-Charge, or Serving as a Consultant

During the period of probation, respondent shall not supervise any intern pharmacist, be the pharmacist-in-charge or designated representative-in-charge of any entity licensed by the Board nor serve as a consultant unless otherwise specified in

this order. Assumption of any such unauthorized supervision responsibilities shall be considered a violation of probation.

8. Reimbursement of Board Costs

As a condition precedent to successful completion of probation, respondent shall pay to the Board its costs of prosecution in the amount of \$13,746.50.

Respondent shall be permitted to make monthly payments pursuant to a payment schedule agreed upon by the Board.

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

The filing of bankruptcy by respondent shall not relieve respondent of his responsibility to reimburse the Board its costs of prosecution.

9. Probation Monitoring Costs

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

10. Status of License

Respondent shall, at all times while on probation, maintain an active, current license with the Board, including any period during which suspension or probation is

tolled. Failure to maintain an active, current license shall be considered a violation of probation.

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

11. License Surrender While on Probation/Suspension

Following the effective date of this decision, should respondent cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, respondent may tender his license to the Board for surrender. The Board or its designee shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the license, respondent will no longer be subject to the terms and conditions of probation. This surrender constitutes a record of discipline and shall become a part of respondent's license history with the Board.

Upon acceptance of the surrender, respondent shall relinquish his pocket and wall license to the Board within ten (10) days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license from the Board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board, including any outstanding costs.

12. Notification of a Change in Name, Residence Address, Mailing Address or Employment

Respondent shall notify the Board in writing within ten (10) days of any change of employment. Said notification shall include the reasons for leaving, the address of the new employer, the name of the supervisor and owner, and the work schedule if known. Respondent shall further notify the Board in writing within ten (10) days of a change in name, residence address, mailing address, or phone number.

Failure to timely notify the Board of any change in employer(s), name(s), address(es), or phone number(s) shall be considered a violation of probation.

13. Tolling of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 80 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall be extended by one month for each month during which this minimum is not met. During any such period of tolling of probation, respondent must nonetheless comply with all terms and conditions of probation.

Should respondent, regardless of residency, for any reason (including vacation) cease practicing as a pharmacist for a minimum of 80 hours per calendar month in California, respondent must notify the Board in writing within ten (10) days of the cessation of practice, and must further notify the Board in writing within ten (10) days of the resumption of practice. Any failure to provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to remain tolled pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding thirty-six (36) months.

"Cessation of practice" means any calendar month during which respondent is not practicing as a pharmacist for at least 80 hours, as defined by Business and Professions Code section 4000 et seq. "Resumption of practice" means any calendar month during which respondent is practicing as a pharmacist for at least 80 hours as a pharmacist as defined by Business and Professions Code section 4000 et seq.

14. Violation of Probation

If a respondent has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over respondent, and probation shall automatically be extended, until all terms and conditions have been satisfied or the Board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.

If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. Notice and opportunity to be heard are not required for those provisions stating that a violation thereof may lead to automatic termination of the stay and/or revocation of the license. If a petition to revoke probation or an accusation is filed against respondent during probation, the Board shall have continuing jurisdiction and the period of probation shall be automatically extended until the petition to revoke probation or accusation is heard and decided.

15. Completion of Probation

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

16.o Clinical Diagnostic Evaluation

Within thirty (30) days of the effective date of this decision, and on a periodic basis thereafter if required by the Board or its designee, respondent shall undergo, at his own expense, clinical diagnostic evaluation(s) by a practitioner selected or approved prior to the evaluation by the Board or its designee. The approved evaluator shall be provided with a copy of the Board's accusation and decision. Respondent shall sign a release authorizing the evaluator to furnish the Board with a current diagnosis and a written report regarding the respondent's judgment and ability to function independently as a registered pharmacist with safety to the public. If the evaluator recommends restrictions or conditions on respondent's practice, including but not limited to other terms and conditions listed in these guidelines (e.g., required psychotherapy, inpatient treatment, prescription coordination and monitoring, restricted practice), the Board or its designee may by written notice to respondent adopt any such restrictions or conditions as additional probation terms and conditions, violation of which shall be considered a violation of probation. Failure to comply with any requirement or deadline stated by this paragraph shall be considered a violation of probation.

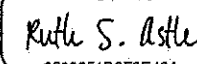
If at any time the approved evaluator or therapist determines that respondent is unable to practice safely or independently, the licensed mental health practitioner shall notify the Board immediately by telephone and follow up by written letter within three (3) working days. Upon notification from the Board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the Board or its designee that practice may resume.

Failure to comply with any requirement or deadline stated by this term shall be considered a violation of probation.

17. Criminal Probation/Parole Reports

Respondent shall provide a copy of the conditions of any criminal probation/parole to the Board, in writing, within ten (10) days of the issuance or modification of those conditions. Respondent shall provide the name of his probation/parole officer to the Board, in writing, within ten (10) days after that officer is designated or a replacement for that officer is designated. Respondent shall provide a copy of all criminal probation/parole reports to the Board within ten (10) days after respondent receives a copy of such a report. Failure to timely make any of the submissions required hereby shall be considered a violation of probation.

DATE: March 12, 2020

DocuSigned by:

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RUTH S. ASTLE

Administrative Law Judge

Office of Administrative Hearings

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

12
13 In the Matter of the Accusation Against:

Case No. 6665

14 **RILEY NGUYEN AKA DAT QUOC NGUYEN**
15 **PO Box 506**
Novato, CA 94947

ACCUSATION

16 **Registered Pharmacist License No. RPH 55341**

17 **Respondent.**

18
19 Complainant alleges:

20 **PARTIES**

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

24 2. On or about June 17, 2004, the Board of Pharmacy issued Registered Pharmacist
25 License Number RPH 55341 to Riley Nguyen aka Dat Quoc Nguyen (Respondent). The
26 Registered Pharmacist License was in full force and effect at all times relevant to the charges
27 brought herein and will expire on July 31, 2020, unless renewed.
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6. Code section 4300.1 provides that the expiration, cancellation, forfeiture, or suspension of a Board-issued license, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

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(1) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this

chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

8. Code section 4081, subdivision (a) states:

All records of manufacture and of sale, acquisition, receipt, shipment, or disposition of dangerous drugs or dangerous devices shall be at all times during business hours open to inspection by authorized officers of the law, and shall be preserved for at least three years from the date of making. A current inventory shall be kept by every manufacturer, wholesaler, third-party logistics provider, pharmacy, veterinary food-animal drug retailer, outsourcing facility, physician, dentist, podiatrist, veterinarian, laboratory, clinic, hospital, institution, or establishment holding a currently valid and unrevoked certificate, license, permit, registration, or exemption under Division 2 (commencing with Section 1200) of the Health and Safety Code or under Part 4 (commencing with Section 16000) of Division 9 of the Welfare and Institutions Code who maintains a stock of dangerous drugs or dangerous devices.

9. California Code of Regulations, title 16, section 1714, subdivision (d) states:

(d) Each pharmacist while on duty shall be responsible for the security of the prescription department, including provisions for effective control against theft or diversion of dangerous drugs and devices, and records for such drugs and devices. Possession of a key to the pharmacy where dangerous drugs and controlled substances are stored shall be restricted to a pharmacist.

10. California Code of Regulations, title 16, section 1718 provides, in pertinent part, that “‘Current Inventory’ as used in Sections 4081 and 4332 of the Business and Professions Code shall be considered to include complete accountability for all dangerous drugs handled by every licensee enumerated in Sections 4081 and 4332.”

CONTROLLED SUBSTANCES/DANGEROUS DRUGS

11. Section 4021 of the Code states:

“‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code.”

12. Section 4022 of the Code states, in pertinent part:

“Dangerous drug” or “dangerous device” means any drug or device unsafe for self-use, except veterinary drugs that are labeled as such, and includes the following:

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

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

3 13. **Alprazolam** (common trade name: **Xanax**) is a Schedule IV controlled substance as
4 designated by Health and Safety Code section 11057, subdivision (d)(1) and a dangerous drug as
5 designated by Code section 4022. It is a short-acting benzodiazepine used to treat anxiety.

6 **COST RECOVERY**

7 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
8 administrative law judge to direct a licentiate found to have committed a violation or violations of
9 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
10 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
11 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
12 included in a stipulated settlement.

13 **FACTUAL SUMMARY**

14 15. Between approximately October 1, 2017 and January 11, 2018, while employed as
15 the pharmacist-in-charge at Walgreens Pharmacy in Campbell, California (Walgreens),
16 Respondent stole approximately 1,960 boxes of diabetic test strips (valued at approximately
17 \$281,080.40) from his employer. After admitting to the theft, Respondent returned
18 approximately \$43,992.87 worth of test strips to Walgreens, leaving the total value of property
19 stolen at approximately \$237,123.53.

20 16. An inventory audit of Walgreens for the 20-month period between June 10, 2016 and
21 February 26, 2018, while respondent was pharmacist-in-charge, could not account for the loss of
22 51 tablets of alprazolam 1mg.

23 17. On or about May 8, 2019, in Santa Clara Superior Court Case No. C1889031,
24 Respondent was convicted, upon his plea of no contest, of felony grand theft (Pen. Code §
25 484/487, subd. (b)(3).) Respondent was sentenced to 30 days in jail and three years of probation.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Unprofessional Conduct)

3 18. Respondent is subject to discipline under Code section 4301, subdivision (f) in that
4 Respondent, as described in paragraphs 15-17 above, committed unprofessional conduct,
5 specifically, acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

6 **SECOND CAUSE FOR DISCIPLINE**

7 (Substantially Related Conviction)

8 19. Respondent is subject to discipline under Code section 4301, subdivision (l) in that
9 Respondent, as described in paragraph 17 above, committed was convicted of a crime
10 substantially related to the qualifications, functions, and duties of a licensed pharmacist.

11 **THIRD CAUSE FOR DISCIPLINE**

12 (Failure to Maintain Accountability of Dangerous Drug)

13 20. Respondent is subject to discipline under Code section 4081, subdivision (a) and
14 California Code of Regulations, title 16, section 1718 in that Respondent, as described in
15 paragraph 16 above, failed to maintain complete accountability of a dangerous drug, specifically,
16 alprazolam.

17 **FOURTH CAUSE FOR DISCIPLINE**

18 (Failure to Maintain Security of Dangerous Drug)

19 21. Respondent is subject to discipline under California Code of Regulations, title 16,
20 section 1714, subdivision (d) in that Respondent, as described in paragraph 16 above, failed to
21 maintain security of a dangerous drug, specifically, alprazolam.

22 **DISCIPLINARY CONSIDERATIONS**

23 22. On or about October 1, 2014, the Board issued Citation CI 2014 62811 against
24 Respondent for a violation of California Code of Regulations, title 16, section 1716 (variation
25 from prescription).

26 23. On or about June 6, 2016, the Board issued Citation CI 2015 7065 against
27 Respondent for violations of California Code of Regulations, title 16, section 1761 (erroneous or
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1 uncertain prescriptions) and Health and Safety Code, section 11200, subdivision (b) (excess
2 filling of Schedule III-IV prescriptions).

3 24.ee On or about February 23, 2018, the Board issued Citation CI 2017 78917 against ee
4 Respondent for violations of California Code of Regulations, title 16, sections 1764 (unauthorized
5 disclosure of prescription), 1716 (variation from prescription), and 1707.2 (failure to provide
6 consultation).

7 **PRAYER**

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

10 1.ee Revoking or suspending Registered Pharmacist License Number RPH 55341, issued ee
11 to Riley Nguyen aka Dat Quoc Nguyen;

12 2.ee Ordering Riley Nguyen AKA Dat Quoc Nguyen to pay the Board of Pharmacy threee
13 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
14 Professions Code section 125.3; and,

15 3. Taking such other and further action as deemed necessary and proper.ee
16
17

18 DATED: August 26, 2019 ee
19



20 ANNE SODERGREN
21 Interim Executive Officer
22 Board of Pharmacy
23 Department of Consumer Affairs
24 State of California
25 Complainant
26
27
28

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