

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

**In the Matter of the Accusation Against:**

**PLEASANT CARE PHARMACY  
CHAU THANH PHAN, CEO/100  
SHAREHOLDER/PHARMACIST-IN-CHARGE**

**Original Permit No. PHY 51503,**

**and**

**CHAU THANH PHAN**

**Pharmacist License No. RPH 62912,**

**Respondents.**

**Agency Case No. 6905**

**OAH No. 2020110523**

## 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 May 12, 2021.

It is so ORDERED on April 12, 2021.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Greg Lippe", written in a cursive style.

By

Greg Lippe  
Board President

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Supervising Deputy Attorney General  
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7

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

12 In the Matter of the Accusation Against:

13 **PLEASANT CARE PHARMACY**  
14 **Chau Thanh Phan, CEO/100**  
**Shareholder/Pharmacist-in-Charge**  
15 **1652 B St.**  
**Hayward, CA 94541**  
16 **Original Permit No. PHY 51503,**

17 **CHAU THANH PHAN**  
**34972 Newark Blvd., #171**  
18 **Newark, CA 94560**  
**Pharmacist License No. RPH 62912,**

19 Respondents.  
20

Case No. 6905  
OAH No. 2020110523

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

21  
22 IT IS STIPULATED AND AGREED by and between the parties to these proceedings that  
23 the following matters are true:

24 **PARTIES**

25 1. Complainant Anne Sodergren is the Executive Officer of the Board of Pharmacy  
26 (Board), Department of Consumer Affairs. She brought this action solely in her official capacity  
27 and is represented in this matter by Xavier Becerra, Attorney General of the State of California,  
28 and Gregory Tuss, deputy attorney general.

2. Respondents Pleasant Care Pharmacy and Chau Thanh Phan are represented in this proceeding by attorney Kevin T. Dunbar, whose address is Dunbar & Associates, 100 Oceangate, Suite 640, Long Beach, CA 90802.

3. On July 19, 2013, the Board issued Original Permit No. PHY 51503 to Respondent Pleasant Care Pharmacy. This original permit will expire on July 1, 2021, unless renewed.

4. On August 13, 2009, the Board issued Original Pharmacist License No. RPH 62912 to Respondent Phan. This original pharmacist license will expire on October 31, 2022, unless renewed.

### **JURISDICTION**

5. Accusation No. 6905 was filed before the Board and is currently pending against Respondents. The accusation and all other statutorily required documents were properly served on Respondents on September 11, 2020. Respondents filed their notices of defense contesting the accusation.

6. A copy of Accusation No. 6905 is attached as exhibit 1 and incorporated by reference.

### **ADVISEMENT AND WAIVERS**

7. Respondents have carefully read, fully discussed with counsel, and understand the charges and allegations in Accusation No. 6905. Respondents have also carefully read, fully discussed with counsel, and understand the effects of this Stipulated Settlement and Disciplinary Order.

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

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1 **CULPABILITY**

2 9. Respondents admit the truth of each and every charge and allegation in Accusation  
3 No. 6905.

4 10. Respondents agree that their Original Permit No. PHY 51503 and Original  
5 Pharmacist License No. RPH 62912 are subject to discipline and they agree to be bound by the  
6 Board's probationary terms as set forth in the Disciplinary Orders below.

7 **CONTINGENCY**

8 11. This stipulation shall be subject to approval by the Board. Respondents  
9 understand and agree that counsel for complainant and the staff of the Board may communicate  
10 directly with the Board regarding this stipulation and settlement, without notice to or participation  
11 by Respondents or their counsel. By signing the stipulation, Respondents understand and agree  
12 that they may not withdraw their agreement or seek to rescind the stipulation prior to the time the  
13 Board considers and acts upon it. If the Board fails to adopt this stipulation as its decision and  
14 order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect except for  
15 this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall  
16 not be disqualified from further action by having considered this matter.

17 12. The parties understand and agree that portable document format (PDF) and  
18 facsimile copies of this Stipulated Settlement and Disciplinary Order, including PDF and  
19 facsimile signatures, shall have the same force and effect as the originals.

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

26 14. In consideration of these admissions and stipulations, the parties agree that the  
27 Board may, without further notice or formal proceeding, issue and enter the following  
28 Disciplinary Orders:

1                    **DISCIPLINARY ORDER REGARDING RESPONDENT PLEASANT CARE**  
2                    **PHARMACY**

3                    IT IS ORDERED that Original Permit No. PHY 51503 issued to Respondent Pleasant  
4                    Care Pharmacy. However, the revocation is stayed and Respondent Pleasant Care Pharmacy is  
5                    placed on probation for two years on the following terms and conditions.

6                    **1.        Definition: Respondent**

7                    For the purposes of these terms and conditions regarding Respondent Pleasant Care  
8                    Pharmacy, "Respondent Pleasant Care Pharmacy" shall refer to Respondent Pleasant Care  
9                    Pharmacy. All terms and conditions stated shall bind and be applicable to the licensed premises  
10                  and to all owners, managers, officers, administrators, members, directors, trustees, associates, or  
11                  partners of Respondent Pleasant Care Pharmacy. For purposes of compliance with any term or  
12                  condition, any report, submission, filing, payment, or appearance required to be made by  
13                  Respondent Pleasant Care Pharmacy to or before the Board or its designee shall be made by an  
14                  owner or executive officer with authority to act on behalf of and legally bind the licensed entity.

15                  **2.        Obey All Laws**

16                  Respondent Pleasant Care Pharmacy shall obey all state and federal laws and regulations.

17                  Respondent Pleasant Care Pharmacy shall report any of the following occurrences to the  
18                  Board in writing within 72 hours of such occurrence:

- 19                  • an arrest or issuance of a criminal complaint for violation of any provision of the  
20                  pharmacy law, state and federal food and drug laws, or state and federal controlled  
21                  substances laws;
- 22                  • a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal  
23                  proceeding to any criminal complaint, information or indictment;
- 24                  • a conviction of any crime; or
- 25                  • discipline, citation, or other administrative action filed by any state or federal agency  
26                  which involves Respondent Pleasant Care Pharmacy's original permit or which is related  
27                  to the practice of pharmacy or the manufacturing, obtaining, handling or distributing,  
28                  billing, or charging for any dangerous drug, and/or dangerous device or controlled

1 substance

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

3 **3. Report to the Board**

4 Respondent Pleasant Care Pharmacy shall report to the Board quarterly, on a schedule as  
5 directed by the Board or its designee. The report shall be made either in person or in writing, as  
6 directed. Among other requirements, Respondent Pleasant Care Pharmacy shall state in each  
7 report under penalty of perjury whether there has been compliance with all the terms and  
8 conditions of probation. Failure to submit timely reports in a form as directed shall be considered  
9 a violation of probation. Any period(s) of delinquency in submission of reports as directed may  
10 be added to the total period of probation. Moreover, if the final probation report is not made as  
11 directed, probation shall be automatically extended until such time as the final report is made and  
12 accepted by the Board.

13 **4. Interview with the Board**

14 Upon receipt of reasonable prior notice, Respondent Pleasant Care Pharmacy shall appear  
15 in person for interviews with the Board or its designee at such intervals and locations as are  
16 determined by the Board or its designee. Failure to appear for any scheduled interview without  
17 prior notification to Board staff, or failure to appear for two or more scheduled interviews with  
18 the Board or its designee during the period of probation, shall be considered a violation of  
19 probation.

20 **5. Cooperate with Board Staff**

21 Respondent Pleasant Care Pharmacy shall timely cooperate with the Board's inspection  
22 program and with the Board's monitoring and investigation of Respondent Pleasant Care  
23 Pharmacy's compliance with the terms and conditions of the probation, including but not limited  
24 to: timely responses to requests for information by Board staff, timely compliance with directives  
25 from Board staff regarding requirements of any term or condition of probation, and timely  
26 completion of documentation pertaining to a term or condition of probation. Failure to timely  
27 cooperate shall be considered a violation of probation.

28 ///

1                   **6.       Reimbursement of Board Costs**

2           As a condition precedent to successful completion of probation, Respondent Pleasant Care  
3 Pharmacy shall pay to the Board its costs of investigation and prosecution in the total amount of  
4 \$20,045.50. Respondent Pleasant Care Pharmacy is jointly and severally liable with Respondent  
5 Phan for these costs. There shall be no deviation from this schedule absent prior written approval  
6 by the Board or its designee. Failure to pay costs by the deadline(s) as directed shall be  
7 considered a violation of probation.

8           Respondent Pleasant Care Pharmacy shall be permitted to pay these costs in a payment  
9 plan approved by the Board or its designee, so long as full payment is completed no later than one  
10 year prior to the end date of probation.

11                   **7.       Probation Monitoring Costs**

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

16                   **8.       Status of License**

17           Respondent Pleasant Care Pharmacy shall, at all times while on probation, maintain a  
18 current original permit with the Board. Failure to maintain current licensure shall be considered a  
19 violation of probation.

20           If Respondent Pleasant Care Pharmacy's original permit expires or is cancelled by  
21 operation of law or otherwise at any time during the period of probation, including any extensions  
22 or otherwise, upon renewal or reapplication Respondent Pleasant Care Pharmacy's original  
23 permit shall be subject to all terms and conditions of this probation not previously satisfied.

24                   **9.       License Surrender While on Probation/Suspension**

25           Following the effective date of this decision, should Respondent Pleasant Care Pharmacy  
26 wish to discontinue business, Respondent Pleasant Care Pharmacy may tender the premise's  
27 original permit to the Board for surrender. The Board or its designee shall have the discretion  
28 whether to grant the request for surrender or take any other action it deems appropriate and



1 reasonable. Upon formal acceptance of the surrender of the original permit, Respondent Pleasant  
2 Care Pharmacy will no longer be subject to the terms and conditions of probation.

3 Respondent Pleasant Care Pharmacy may not apply for any new original permit or license  
4 from the Board for three years from the effective date of the surrender. Respondent Pleasant Care  
5 Pharmacy shall meet all requirements applicable to the original permit or license sought as of the  
6 date the application for that license is submitted to the Board.

7 Respondent Pleasant Care Pharmacy further stipulates that it shall reimburse the Board for  
8 its costs of investigation and prosecution prior to the acceptance of the surrender.

9 **10. Sale or Discontinuance of Business**

10 During the period of probation, should Respondent Pleasant Care Pharmacy sell, trade, or  
11 transfer all or part of the ownership of the licensed entity, discontinue doing business under the  
12 original permit issued to Respondent Pleasant Care Pharmacy, or should practice at that location  
13 be assumed by another full or partial owner, person, firm, business, or entity, under the same or a  
14 different premises license number, the Board or its designee shall have the sole discretion to  
15 determine whether to exercise continuing jurisdiction over the licensed location under the current  
16 or new premises license number and/or carry the remaining period of probation forward to be  
17 applicable to the current or new premises license number of the new owner.

18 **11. Notice to Employees**

19 Respondent Pleasant Care Pharmacy shall, upon or before the effective date of this  
20 decision, ensure that all employees involved in permit operations are made aware of all the terms  
21 and conditions of probation, either by posting a notice of the terms and conditions, circulating  
22 such notice, or both. If the notice required by this provision is posted, it shall be posted in a  
23 prominent place and shall remain posted throughout the probation period. Respondent Pleasant  
24 Care Pharmacy shall ensure that any employees hired or used after the effective date of this  
25 decision are made aware of the terms and conditions of probation by posting a notice, circulating  
26 a notice, or both. Additionally, Respondent Pleasant Care Pharmacy shall submit written  
27 notification to the Board within 15 days of the effective date of this decision that this term has  
28 been satisfied. Failure to timely provide such notification to employees or to timely submit such

notification to the Board shall be considered a violation of probation.

“Employees” as used in this provision includes all full-time, part-time, volunteer, temporary and relief employees, and independent contractors employed or hired at any time during probation.

**12. Owners and Officers: Knowledge of the Law**

Respondent Pleasant Care Pharmacy shall provide, within 30 days after the effective date of this decision, signed and dated statements from its owners, including any owner or holder of ten percent (10%) or more of the interest in Respondent Pleasant Care Pharmacy or Respondent Pleasant Care Pharmacy’s stock, and all of its officers, stating under penalty of perjury that these individuals have read and are familiar with state and federal laws and regulations governing the practice of pharmacy. The failure to timely provide said statements under penalty of perjury shall be considered a violation of probation.

**13. Premises Open for Business**

Respondent Pleasant Care Pharmacy shall remain open and engaged in its ordinary business as a pharmacy in California for a minimum of 110 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 Pleasant Care Pharmacy must nonetheless comply with all terms and conditions of probation unless Respondent Pleasant Care Pharmacy is informed otherwise in writing by the Board or its designee. If Respondent Pleasant Care Pharmacy is not open and engaged in its ordinary business as a pharmacy for a minimum of 110 hours in any calendar month for any reason (including vacation), Respondent Pleasant Care Pharmacy shall notify the Board in writing within 10 days of the conclusion of that calendar month. This notification shall include at minimum all of the following: the date(s) and hours Respondent Pleasant Care Pharmacy was open; the reason(s) for the interruption or why business was not conducted; and the anticipated date(s) on which Respondent Pleasant Care Pharmacy will resume business as required. Respondent Pleasant Care Pharmacy shall further notify the Board in writing within 10 days following the next calendar month during which Respondent Pleasant

Care Pharmacy is open and engaged in its ordinary business as a pharmacy in California for a minimum of 110 hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

#### **14. Posted Notice of Probation**

Respondent Pleasant Care Pharmacy shall prominently post a probation notice provided by the Board or its designee in a place conspicuous to and readable by the public within two days of receipt from the Board or its designee. Failure to timely post such notice or to maintain the posting during the entire period of probation shall be considered a violation of probation.

Respondent Pleasant Care Pharmacy shall not directly or indirectly engage in any conduct or make any statement which is intended to mislead or is likely to have the effect of misleading any patient, customer, member of the public, or other person(s) as to the nature of and reason for the probation of the licensed entity.

#### **15. Violation of Probation**

If Respondent Pleasant Care Pharmacy has not complied with any term or condition of probation, the Board shall have continuing jurisdiction over Respondent Pleasant Care Pharmacy and probation shall be automatically 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 or to terminate probation and to impose the penalty that was stayed.

If Respondent Pleasant Care Pharmacy violates probation in any respect, the Board, after giving Respondent Pleasant Care Pharmacy notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed against Respondent Pleasant Care Pharmacy 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, and the charges and allegations in the accusation shall be deemed true and correct.

#### **16. Completion of Probation**

Upon written notice by the Board or its designee indicating successful completion of probation, Respondent Pleasant Care Pharmacy's original permit will be fully restored.

1                   **17. No Additional Ownership or Management of Licensed Premises**

2                   Respondent Pleasant Care Pharmacy shall not acquire any additional ownership, legal, or  
3                   beneficial interest in, nor serve as a manager, administrator, member, officer, director, associate,  
4                   partner or any business, firm , partnership, or corporation currently or hereinafter licensed by the  
5                   Board except as approved by the Board or its designee. Violations of this restriction shall be  
6                   considered a violation of probation.

7                   **18. Consultant Review of Pharmacy Operations**

8                   During the period of probation, Respondent Pleasant Care Pharmacy shall retain an  
9                   independent consultant at its own expense who shall be responsible for conducting an on-site  
10                  physical inspection to review the operations of Respondent Pleasant Care Pharmacy on a monthly  
11                  basis for compliance by Respondent Pleasant Care Pharmacy with state and federal laws and  
12                  regulations governing the practice of pharmacy, and compliance by respondent. During the  
13                  period of probation, the Board or its designee retains the discretion to reduce the frequency of the  
14                  inspection of the pharmacist consultant's review.

15                The consultant shall be a pharmacist licensed by and not on probation with the Board and  
16                whose name shall be submitted to the Board or its designee for prior approval within 30 days of  
17                the effective date of this decision.

18                Failure to timely retain, seek approval of, or ensure timely reporting by the consultant  
19                shall be considered a violation of probation.

20                  **DISCIPLINARY ORDER REGARDING RESPONDENT CHAU THANH PHAN**

21                IT IS ORDERED that Original Pharmacist License No. RPH 62912 issued to Respondent  
22                Phan revoked. However, the revocation is stayed and Respondent Phan is placed on probation for  
23                two years on the following terms and conditions.

24                  **1. Obey All Laws**

25                Respondent Phan shall obey all state and federal laws and regulations.

26                Respondent Phan shall report any of the following occurrences to the Board, in writing,  
27                within 72 hours of such occurrence:

- 28                • 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

- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
- a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves Respondent Phan's 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 Phan 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 Phan 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 Phan 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 or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

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1                   **4.       Cooperate with Board Staff**

2                   Respondent Phan shall timely cooperate with the Board's inspection program and with the  
3 Board's monitoring and investigation of Respondent Phan's compliance with the terms and  
4 conditions of her probation, including but not limited to timely responses to requests for  
5 information by Board staff, timely compliance with directives from Board staff regarding  
6 requirements of any term or condition of probation, and timely completion of documentation  
7 pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a  
8 violation of probation.

9                   **5.       Continuing Education**

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

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

13                  During the period of probation, Respondent Phan shall notify all present and prospective  
14 employers of the decision in Accusation No. 6905 and the terms, conditions and restrictions  
15 imposed on Respondent Phan by the decision, as follows:

16                  Within 30 days of the effective date of this decision and within 10 days of undertaking  
17 any new employment, Respondent Phan shall report to the Board in writing the name, physical  
18 address, and mailing address of each of her employer(s), and the name(s) and telephone  
19 number(s) of all of her direct supervisor(s), as well as any pharmacist(s)-in- charge, designated  
20 representative(s)-in-charge, responsible manager, or other compliance supervisor(s) and the work  
21 schedule, if known. Respondent Phan shall also include the reason(s) for leaving the prior  
22 employment. Respondent Phan shall sign and return to the Board a written consent authorizing  
23 the Board or its designee to communicate with all of Respondent Phan's employer(s) and  
24 supervisor(s), and authorizing those employer(s) or supervisor(s) to communicate with the Board  
25 or its designee, concerning Respondent Phan's work status, performance, and monitoring. Failure  
26 to comply with the requirements or deadlines of this condition shall be considered a violation of  
27 probation.

28                  Within 30 days of the effective date of this decision and within 15 days of Respondent

Phan undertaking any new employment, Respondent Phan shall cause (a) her direct supervisor; (b) her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor; and (c) the owner or owner representative of her employer, to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in Accusation No. 6905 and terms and conditions imposed by the decision and order. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be Respondent Phan's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, Respondent Phan shall cause the person(s) taking over the role(s) to report to the Board in writing within 15 days of the change acknowledging that he or she has read the decision in Accusation No. 6905 and the terms and conditions imposed by the decision and order.

If Respondent Phan works for or is employed by or through an employment service, Respondent Phan must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board of the decision in Accusation No. 6905 and the terms and conditions imposed by the decision and order in advance of Respondent Phan commencing work at such licensed entity. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this decision and within 15 days of Respondent Phan undertaking any new employment by or through an employment service, Respondent Phan shall cause the person(s) described in (a), (b), and (c) above at the employment service to report to the Board in writing acknowledging that he or she has read the decision in Accusation No. 6905 and the terms and conditions imposed by the decision and order. It shall be Respondent Phan's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board.

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

"Employment" within the meaning of this provision includes any full-time, part-time,

temporary, relief, or employment/management service position as a pharmacist, or any position for which a pharmacist is a requirement or criterion for employment, whether Respondent Phan is an employee, independent contractor or volunteer.

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

Respondent Phan shall further notify the Board in writing within 10 days of any change in name, residence address, mailing address, e-mail address or phone number.

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

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

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

**9. Reimbursement of Board Costs**

As a condition precedent to successful completion of probation, Respondent Phan shall pay to the Board its costs of investigation and prosecution in the total amount of \$20,045.50. Respondent Phan is jointly and severally liable with Respondent Pleasant Care Pharmacy for these costs. Respondent Phan shall be permitted to pay these costs in a payment plan approved by the Board or its designee, so long as full payment is completed no later than one year prior to the end date of probation.

There shall be no deviation from a payment 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.

**10. Probation Monitoring Costs**

Respondent Phan 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.



1                   **11.     Status of License**

2           Respondent Phan shall, at all times while on probation, maintain an active, current  
3 original pharmacist license with the Board, including any period during which suspension or  
4 probation is tolled. Failure to maintain an active, current original pharmacist license shall be  
5 considered a violation of probation.

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

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

11           Following the effective date of this decision, should Respondent Phan cease practice due  
12 to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,  
13 Respondent Phan may relinquish her license, including any indicia of licensure issued by the  
14 Board, along with a request to surrender the license. The Board or its designee shall have the  
15 discretion whether to accept the surrender or take any other action it deems appropriate and  
16 reasonable. Upon formal acceptance of the surrender of the license, Respondent Phan will no  
17 longer be subject to the terms and conditions of probation. This surrender constitutes a record of  
18 discipline and shall become a part of the Respondent Phan's license history with the Board.

19           Upon acceptance of the surrender, Respondent Phan shall relinquish her pocket and/or  
20 wall license, including any indicia of licensure not previously provided to the Board, within 10  
21 days of notification by the Board that the surrender is accepted if not already provided.  
22 Respondent Phan may not reapply for any license from the Board for three years from the  
23 effective date of the surrender. Respondent Phan shall meet all requirements applicable to the  
24 license sought as of the date the application for that license is submitted to the Board, including  
25 any outstanding costs.

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

27           Except during periods of suspension, Respondent Phan shall, at all times while on  
28 probation, be employed as a pharmacist in California for a minimum of 50 hours per calendar

1 month. Any month during which this minimum is not met shall extend the period of probation by  
2 one month. During any such period of insufficient employment, Respondent Phan must  
3 nonetheless comply with all terms and conditions of probation, unless Respondent Phan receives  
4 a waiver in writing from the Board or its designee.

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

14 It is a violation of probation for Respondent Phan's probation to be extended under the  
15 provisions of this condition for a total period, counting consecutive and non-consecutive months,  
16 exceeding 36 months. The Board or its designee may post a notice of the extended probation  
17 period on its website.

#### 18 **14. Violation of Probation**

19 If Respondent Phan has not complied with any term or condition of probation, the Board  
20 shall have continuing jurisdiction over Respondent Phan, and the Board shall provide notice to  
21 Respondent Phan that probation shall automatically be extended until all terms and conditions  
22 have been satisfied or the Board has taken other action as deemed appropriate to treat the failure  
23 to comply as a violation of probation, to terminate probation, and to impose the penalty that was  
24 stayed. The Board or its designee may post a notice of the extended probation period on its  
25 website.

26 If Respondent Phan violates probation in any respect, the Board, after giving Respondent  
27 Phan notice and an opportunity to be heard, may revoke probation and carry out the disciplinary  
28 order that was stayed. If a petition to revoke probation or an accusation is filed against

Respondent Phan during probation, or the preparation of an accusation or petition to revoke probation is requested from the Office of the Attorney General, 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, and the charges and allegations in the accusation shall be deemed true and correct.

**15. Completion of Probation**

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

**16. Ethics Course**

Within 60 calendar days of the effective date of this decision, Respondent Phan shall enroll in a course in ethics, at Respondent Phan's expense, approved in advance by the Board or its designee that complies with California Code of Regulations, title 16, section 1773.5. Respondent Phan shall provide proof of enrollment upon request. Within five days of completion, Respondent Phan shall submit a copy of the certificate of completion to the Board or its designee. Failure to timely enroll in an approved ethics course, to initiate the course during the first year of probation, to successfully complete it before the end of the second year of probation, or to timely submit proof of completion to the Board or its designee, shall be considered a violation of probation.

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

Respondent Phan shall not acquire any new ownership, legal or beneficial interest nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any additional business, firm, partnership, or corporation licensed by the Board. If Respondent Phan currently owns or has any legal or beneficial interest in, or serves as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or afterward licensed by the Board, Respondent Phan may continue to serve in such capacity or hold that interest, but only to the extent of that position or interest as of the effective date of this decision. Violation of this restriction shall be considered a violation of probation.

**ACCEPTANCE**

I am authorized to sign this stipulation on behalf of Respondent Pleasant Care Pharmacy. I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Kevin T. Dunbar. I understand the stipulation and the effect it will have on Original Permit No. PHY 51503. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: \_\_\_\_\_

PLEASANT CARE PHARMACY  
*Respondent*

I have carefully read this Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Kevin T. Dunbar. I understand the stipulation and the effect it will have on my Original Pharmacist License No. RPH 62912. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: \_\_\_\_\_

CHAU THANH PHAN  
*Respondent*

I have read and fully discussed with Respondents Pleasant Care Pharmacy and Chau Thanh Phan the terms and conditions and other matters contained in this Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: \_\_\_\_\_

KEVIN T. DUNBAR  
*Attorney for Respondents Pleasant Care Pharmacy and  
Chau Thanh Phan*

///

ACCEPTANCE

I am authorized to sign this stipulation on behalf of Respondent Pleasant Care Pharmacy. I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Kevin T. Dunbar. I understand the stipulation and the effect it will have on Original Permit No. PHY 51503. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 3/12/21

  
PLEASANT CARE PHARMACY  
Respondent

I have carefully read this Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Kevin T. Dunbar. I understand the stipulation and the effect it will have on my Original Pharmacist License No. RPH 62912. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 3/12/21

  
CHAU THANH PHAN  
Respondent

I have read and fully discussed with Respondents Pleasant Care Pharmacy and Chau Thanh Phan the terms and conditions and other matters contained in this Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 3/12/2021

  
KEVIN T. DUNBAR  
Attorney for Respondents Pleasant Care Pharmacy and  
Chau Thanh Phan

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**ENDORSEMENT**

This Stipulated Settlement and Disciplinary Order is submitted for consideration by the Board of Pharmacy.

DATED: \_\_\_\_\_

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
CHAR SACHSON  
Supervising Deputy Attorney General

GREGORY TUSS  
Deputy Attorney General  
*Attorneys for Complainant*

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**ENDORSEMENT**

This Stipulated Settlement and Disciplinary Order is submitted for consideration by the Board of Pharmacy.

DATED: 3-12-21 \_\_\_\_\_

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
CHAR SACHSON  
Supervising Deputy Attorney General



GREGORY TUSS  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit 1**

**Accusation No. 6905**



1 XAVIER BECERRA  
Attorney General of California  
2 CHAR SACHSON  
Supervising Deputy Attorney General  
3 GREGORY TUSS  
Deputy Attorney General  
4 State Bar No. 200659  
455 Golden Gate Avenue, Suite 11000  
5 San Francisco, CA 94102-7004  
Telephone: (415) 510-3435  
6 Facsimile: (415) 703-5480  
*Attorneys for Complainant*  
7

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. 6905

13 **PLEASANT CARE PHARMACY**  
14 **Chau Thanh Phan, CEO/100**  
15 **Shareholder/Pharmacist-in-Charge**  
16 **1652 B St.**  
17 **Hayward, CA 94541**  
18 **Original Permit No. PHY 51503,**

**ACCUSATION**

19 **CHAU THANH PHAN**  
20 **34972 Newark Blvd., #171**  
21 **Newark, CA 94560**  
22 **Pharmacist License No. RPH 62912,**

23 Respondents.  
24

25 **PARTIES**

26 1. Anne Sodergren (Complainant) brings this accusation solely in her official  
27 capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer  
28 Affairs.

29 2. On July 19, 2013, the Board issued Original Permit No. PHY 51503 to Pleasant  
30 Care Pharmacy, Chau Thanh Phan, Chief Executive Officer/100 Shareholder/Pharmacist-in-  
31 Charge (Respondent Pleasant Care Pharmacy). This permit was in full force and effect at all  
32 times relevant to the charges brought in this accusation and will expire on July 1, 2021, unless

1 renewed.

2 3. On August 13, 2009, the Board of Pharmacy issued Original Pharmacist License  
3 No. RPH 62912 to Chau Thanh Phan (Respondent Phan). This pharmacist license was in full  
4 force and effect at all times relevant to the charges brought in this accusation and will expire on  
5 October 31, 2020, unless renewed.

### 6 **JURISDICTION**

7 4. This accusation is brought before the board under the authority of the following  
8 laws. All section references are to the Business and Professions Code unless otherwise indicated.

9 5. Section 4300 states in part:

10 “(a) Every license issued may be suspended or revoked.

11 “(b) The board shall discipline the holder of any license issued by the board, whose  
12 default has been entered or whose case has been heard by the board and found guilty, by any of  
13 the following methods:

14 “(1) Suspending judgment.

15 “(2) Placing him or her upon probation.

16 “(3) Suspending his or her right to practice for a period not exceeding one year.

17 “(4) Revoking his or her license.

18 “(5) Taking any other action in relation to disciplining him or her as the board in its  
19 discretion may deem proper.”

20 6. Section 4300.1 states:

21 “The expiration, cancellation, forfeiture, or suspension of a board-issued license by  
22 operation of law or by order or decision of the board or a court of law, the placement of a license  
23 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board  
24 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary  
25 proceeding against, the licensee or to render a decision suspending or revoking the license.”

26 7. Section 4304 states:

27 “The board may deny, revoke, or suspend any license issued pursuant to Section 4161 for  
28 any violation of this chapter or for any violation of Part 5 (commencing with Section 109875) of

1 Division 104 of the Health and Safety Code.”

2 8. Section 4307 states:

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

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

16 “(2) Where the license is denied or revoked, the prohibition shall continue until the license  
17 is issued or reinstated.

18 “(b) ‘Manager, administrator, owner, member, officer, director, associate, partner, or any  
19 other person with management or control of a license’ as used in this section and Section 4308,  
20 may refer to a pharmacist or to any other person who serves in such capacity in or for a licensee.

21 “(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to  
22 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.  
23 However, no order may be issued in that case except as to a person who is named in the caption,  
24 as to whom the pleading alleges the applicability of this section, and where the person has been  
25 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part  
26 1 of Division 3 of the Government Code. The authority to proceed as provided by this  
27 subdivision shall be in addition to the board’s authority to proceed under Section 4339 or any  
28 other provision of law.”

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beyond use date on the label.”

12. Health and Safety Code section 111250 states:

“Any drug or device is adulterated if it consists, in whole or in part, of any filthy, putrid, or decomposed substance.”

13. Health and Safety Code section 111295 states:

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

14. Health and Safety Code section 111300 states:

“It is unlawful for any person to adulterate any drug or device.”

### **REGULATORY PROVISIONS**

15. California Code of Regulations, title 16, section 1714, subdivision (b), states:

“Each pharmacy licensed by the board shall maintain its facilities, space, fixtures, and equipment so that drugs are safely and properly prepared, maintained, secured and distributed. The pharmacy shall be of sufficient size and unobstructed area to accommodate the safe practice of pharmacy.”

16. California Code of Regulations, title 16, section 1735.2, subdivision (e), states in part:

“A drug preparation shall not be compounded until the pharmacy has first prepared a written master formula document that includes at least the following elements:

...

“(3) The maximum allowable beyond use date for the preparation, and the rationale or reference source justifying its determination.

...

“(6) Quality reviews required at each step in preparation of the drug.”

17. California Code of Regulations, title 16, section 1735.3, subdivision (a)(2), states in part:

“(a) For each compounded drug preparation, pharmacy records shall include:

...

1 “(2) A compounding log consisting of a single document containing all of the following:

2 . . .

3 “(F) The manufacturer, expiration date and lot number of each component. If the  
4 manufacturer name is demonstrably unavailable, the name of the supplier may be substituted. If  
5 the manufacturer does not supply an expiration date for any component, the records shall include  
6 the date of receipt of the component in the pharmacy, and the limitations of section 1735.2,  
7 subdivision (I) shall apply.

8 “(i) Exempt from the requirements in this paragraph (1735.3(a)(2)(F)) are sterile  
9 preparations compounded in a single lot for administration within seventy-two (72) hours to a  
10 patient in a health care facility licensed under section 1250 of the Health and Safety Code and  
11 stored in accordance with standards for “Redispensed CSPs” found in Chapter 797 of the United  
12 States Pharmacopeia - National Formulary (USP37-NF32) Through 2nd Supplement (37th  
13 Revision, Effective December 1, 2014), hereby incorporated by reference.

14 . . .

15 “(J) Documentation of quality reviews and required post-compounding process and  
16 procedures.”

17 18. California Code of Regulations, title 16, section 1735.4, subdivision (a), states in  
18 part:

19 “(a) Each compounded drug preparation shall be affixed with a container label prior to  
20 dispensing that contains at least:

21 . . .

22 “(3) Instructions for storage, handling, and administration. For admixed IV solutions, the  
23 rate of infusion shall be included;

24 . . .

25 “(5) The date compounded . . . .”

26 19. California Code of Regulations, title 16, section 1735.5, states in part:

27 “(a) Any pharmacy engaged in compounding shall maintain written policies and  
28 procedures for compounding that establishes procurement procedures, methodologies for the

1 formulation and compounding of drugs, facilities and equipment cleaning, maintenance,  
2 operation, and other standard operating procedures related to compounding. Any material failure  
3 to follow the pharmacy's written policies and procedures shall constitute a basis for disciplinary  
4 action.

5 “(b) The policies and procedures shall be reviewed and such review shall be documented  
6 on an annual basis by the pharmacist-in-charge. The policies and procedures shall be updated  
7 whenever changes in policies and procedures are implemented.”

8 20. California Code of Regulations, title 16, section 1735.6, subdivision (a), states:

9 “Any pharmacy engaged in compounding shall maintain written documentation regarding  
10 the facilities and equipment necessary for safe and accurate compounding of compounded drug  
11 preparations. This shall include records of maintenance and cleaning of the facilities and  
12 equipment. Where applicable, this shall also include records of certification(s) of facilities or  
13 equipment.”

14 21. California Code of Regulations, title 16, section 1735.7, states:

15 “(a) A pharmacy engaged in compounding shall maintain documentation demonstrating  
16 that personnel involved in compounding have the skills and training required to properly and  
17 accurately perform their assigned responsibilities and documentation demonstrating that all  
18 personnel involved in compounding are trained in all aspects of policies and procedures. This  
19 training shall include but is not limited to support personnel (e.g. institutional environmental  
20 services, housekeeping), maintenance staff, supervising pharmacist and all others whose jobs are  
21 related to the compounding process.

22 “(b) The pharmacy shall develop and maintain an on-going competency evaluation  
23 process for pharmacy personnel involved in compounding, and shall maintain documentation of  
24 any and all training related to compounding undertaken by pharmacy personnel.

25 “(c) Pharmacy personnel assigned to compounding duties shall demonstrate knowledge  
26 about processes and procedures used in compounding prior to compounding any drug  
27 preparation.”

28 ///

22. California Code of Regulations, title 16, section 1735.8, states in part:

“(a) Any pharmacy engaged in compounding shall maintain, as part of its written policies and procedures, a written quality assurance plan designed to monitor and ensure the integrity, potency, quality, and labeled strength of compounded drug preparations.

• • •

“(c) The quality assurance plan shall include written standards for qualitative and quantitative analysis of compounded drug preparations to ensure integrity, potency, quality, and labeled strength, including the frequency of testing. All qualitative and quantitative analysis reports for compounded drug preparations shall be retained by the pharmacy and maintained along with the compounding log and master formula document. The quality assurance plan shall include a schedule for routine testing and analysis of specified compounded drug preparations to ensure integrity, potency, quality, and labeled strength, on at least an annual basis.”

## OTHER MATTERS

23. Section 4307 states:

“(a) Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control of any partnership, corporation, trust, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manager, administrator, owner, member, officer, director, associate, partner, or any other person with management or control had knowledge of or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control of a licensee as follows:

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

“(2) Where the license is denied or revoked, the prohibition shall continue until the license



1 is issued or reinstated.

2 “(b) ‘Manager, administrator, owner, member, officer, director, associate, partner, or any  
3 other person with management or control of a license’ as used in this section and Section 4308,  
4 may refer to a pharmacist or to any other person who serves in such capacity in or for a licensee.

5 “(c) The provisions of subdivision (a) may be alleged in any pleading filed pursuant to  
6 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code.  
7 However, no order may be issued in that case except as to a person who is named in the caption,  
8 as to whom the pleading alleges the applicability of this section, and where the person has been  
9 given notice of the proceeding as required by Chapter 5 (commencing with Section 11500) of Part  
10 1 of Division 3 of the Government Code. The authority to proceed as provided by this  
11 subdivision shall be in addition to the board’s authority to proceed under Section 4339 or any  
12 other provision of law.”

### 13 **COST RECOVERY**

14 24. Section 125.3, subdivision (a), states:

15 “Except as otherwise provided by law, in any order issued in resolution of a disciplinary  
16 proceeding before any board within the department or before the Osteopathic Medical Board,  
17 upon request of the entity bringing the proceedings, the administrative law judge may direct a  
18 licentiate found to have committed a violation or violations of the licensing act to pay a sum not  
19 to exceed the reasonable costs of the investigation and enforcement of the case.”

### 20 **DRUGS**

21 25. Diazepam, also known by the brand name Valium, is a Schedule IV controlled  
22 substance under Health and Safety Code section 11057, subdivision (d)(9), and a dangerous drug  
23 within the meaning of Business and Professions Code section 4022. It is a benzodiazepine  
24 medication used to treat anxiety disorders, seizures, and alcohol withdrawal.

### 25 **FACTUAL BACKGROUND**

26 26. On July 18, 2019, the Board conducted a routine inspection at Respondent  
27 Pleasant Care Pharmacy. Respondent Phan is the chief executive officer, full shareholder, and  
28 pharmacist-in-charge of Respondent Pleasant Care Pharmacy. The inspection revealed numerous

violations related to compounding medications.

## **CAUSES FOR DISCIPLINE**

### **FIRST CAUSE FOR DISCIPLINE**

#### **Failure to Maintain Facility for Safe Practice**

27. Respondents have subjected their permit and license to discipline for failing to maintain Respondent Pleasant Care Pharmacy for safe preparation, maintenance, security, and distribution of drugs (Bus. & Prof. Code, § 4301, subd. (o); Health & Saf. Code, §§ 111250, 111295; Cal. Code Regs., tit. 16, § 1714, subd. (b)). Diazepam suppositories that contained expired silica gel were compounded and sold at Respondent Pleasant Care Pharmacy.

### **SECOND CAUSE FOR DISCIPLINE**

#### **Selling Dangerous Drugs After Beyond Use Date**

28. Respondents have subjected their permit and license to discipline for failing to maintain Respondent Pleasant Care Pharmacy for safe preparation, maintenance, security, and distribution of drugs (Bus. & Prof. Code, §§ 4301, subd. (o), 4169; Cal. Code Regs., tit. 16, § 1714, subd. (b)). Diazepam suppositories that contained expired silica gel were compounded and sold at Respondent Pleasant Care Pharmacy.

### **THIRD CAUSE FOR DISCIPLINE**

#### **Failure to Provide Justification for Maximum Beyond Use Date on Master Formula**

29. Respondents have subjected their permit and license to discipline for failing to provide a rationale or reference source justifying use after the listed beyond use date (Bus. & Prof. Code, §§ 4301, subd. (o), 4169). The master formula document for compounding diazepam suppositories stated, “NOTE: Beyond Use Dates of preparations are conservative estimates by the formulator using reference books, peer reviewed literature, intended duration of therapy, formulation from commercially available products, organoleptic stability observations and current USP guidelines. Compounders may have stability tests performed by a reputable laboratory if they wish to extend the Beyond Use Date. [¶] NOTE: Beyond Use Date after compounding is estimated to be 180 days.” (Capitalization in original) Respondents provided no specific references to support the statements in the master formula plan that compounded preparations

1 may be sold past their beyond use date, or may be prepared using ingredients that are past their  
2 beyond use date.

#### 3 **FOURTH CAUSE FOR DISCIPLINE**

##### 4 **Failure to Document Quality Reviews**

5 30. Respondents have subjected their permit and license to discipline for failing to  
6 document quality reviews for compounded preparations (Bus. & Prof. Code, §§ 4301, subd. (o);  
7 Cal. Code Regs., tit. 16, § 1735.2, subd. (e)(6)). Diazepam suppositories were compounded  
8 without documenting the quality reviews conducted on the compounded preparations in the  
9 master formula.

#### 10 **FIFTH CAUSE FOR DISCIPLINE**

##### 11 **Failure to Complete Compounding Log**

12 31. Respondents have subjected their permit and license to discipline for failing to  
13 complete the compounding log for compounded preparations (Bus. & Prof. Code, §§ 4301, subd.  
14 (o); Cal. Code Regs., tit. 16, § 1735.3, subd. (a)(2)(F)). Diazepam suppositories were  
15 compounded without documenting the ingredients' lot numbers, expiration dates, or manufacturer  
16 on the compounding record or log.

#### 17 **SIXTH CAUSE FOR DISCIPLINE**

##### 18 **Failure to Document Quality Reviews**

19 32. Respondents have subjected their permit and license to discipline for failing to  
20 document quality reviews for compounded preparations (Bus. & Prof. Code, §§ 4301, subd. (o);  
21 Cal. Code Regs., tit. 16, § 1735.3, subd. (a)(2)(J)). Diazepam suppositories were compounded  
22 without documenting the quality reviews conducted on the compounded preparations in the  
23 compounding record or log.

#### 24 **SEVENTH CAUSE FOR DISCIPLINE**

##### 25 **Failure to Properly Label Compounded Preparations**

26 33. Respondents have subjected their permit and license to discipline for failing to  
27 properly label compounded preparations (Bus. & Prof. Code, §§ 4301, subd. (o); Cal. Code Regs.,  
28 tit. 16, § 1735.4, subd. (a)(3)). The labels on compounded diazepam suppositories did not state

1 the instructions for storage.

## 2 **EIGHTH CAUSE FOR DISCIPLINE**

### 3 **Failure to Properly Label Compounded Preparations**

4 34. Respondents have subjected their permit and license to discipline for failing to  
5 properly label compounded preparations (Bus. & Prof. Code, §§ 4301, subd. (o); Cal. Code Regs.,  
6 tit. 16, § 1735.4, subd. (a)(5)). The labels on compounded diazepam suppositories did not state  
7 the date the suppositories were compounded.

## 8 **NINTH CAUSE FOR DISCIPLINE**

### 9 **Failure to Follow Written Policies and Procedures**

10 35. Respondents have subjected their permit and license to discipline for failing to  
11 comply with Respondent Pleasant Care Pharmacy's written policies and procedures (Bus. & Prof.  
12 Code, §§ 4301, subd. (o); Cal. Code Regs., tit. 16, § 1735.5, subd. (a)). Respondents did not  
13 comply with Respondent Pleasant Care Pharmacy's written policies and procedures regarding  
14 disposal of expired substances at regularly scheduled intervals, cleaning of compounding  
15 equipment, employee training on quality systems, updating employee training records, or  
16 employee training on end-product testing.

## 17 **TENTH CAUSE FOR DISCIPLINE**

### 18 **Failure to Annually Review Policies and Procedures**

19 36. Respondents have subjected their permit and license to discipline for failing to  
20 annually review policies and procedures (Bus. & Prof. Code, §§ 4301, subd. (o), Cal. Code Regs.,  
21 tit. 16, § 1735.5, subd. (b)). Respondents did not annually review Respondent Pleasant Care  
22 Pharmacy's policies and procedures as required by its own policies and procedures.

## 23 **ELEVENTH CAUSE FOR DISCIPLINE**

### 24 **Failure to Follow Written Policies and Procedures**

25 37. Respondents have subjected their permit and license to discipline for failing to  
26 comply with Respondent Pleasant Care Pharmacy's written policies and procedures (Bus. & Prof.  
27 Code, §§ 4301, subd. (o); Cal. Code Regs., tit. 16, § 1735.6, subd. (a)). Respondents did not  
28 comply with Respondent Pleasant Care Pharmacy's written policies and procedures regarding

1 cleaning its ointment mill, electronic mortar and pestle, and heating plate; and regarding cleaning  
2 and maintenance of its containment hood and scale.

### 3 **TWELFTH CAUSE FOR DISCIPLINE**

#### 4 **Failure to Provide Documentation Demonstrating Compounding Skills and Training**

5 38. Respondents have subjected their permit and license to discipline for failing to  
6 maintain documentation demonstrating that personnel involved in compounding have the skills  
7 and training required to properly and accurately perform their assigned responsibilities and  
8 documentation demonstrating that all personnel involved in compounding are trained in all  
9 aspects of policies and procedures jobs are related to the compounding process (Bus. & Prof.  
10 Code, §§ 4301, subd. (o); Cal. Code Regs., tit. 16, § 1735.7, subd. (a)). Respondents did not  
11 maintain documentation demonstrating skills and training of an unlicensed pharmacy technician  
12 student who compounded diazepam suppositories

### 13 **THIRTEENTH CAUSE FOR DISCIPLINE**

#### 14 **Failure to Provide Documentation Demonstrating Compounding Training**

15 39. Respondents have subjected their permit and license to discipline for failing to  
16 maintain documentation of training related to compounding undertaken by pharmacy personnel  
17 (Bus. & Prof. Code, §§ 4301, subd. (o); Cal. Code Regs., tit. 16, § 1735.7, subd. (b)).  
18 Respondents did not maintain documentation demonstrating ongoing training by personnel  
19 involved in compounding that would satisfy an ongoing competency evaluation process.

### 20 **FOURTEENTH CAUSE FOR DISCIPLINE**

#### 21 **Failure to Provide Documentation Demonstrating Knowledge Prior to Compounding**

22 40. Respondents have subjected their permit and license to discipline for failing to  
23 demonstrate that pharmacy personnel assigned to compounding duties had knowledge about  
24 processes and procedures used in compounding prior to compounding any drug preparation (Bus.  
25 & Prof. Code, §§ 4301, subd. (o); Cal. Code Regs., tit. 16, § 1735.7, subd. (c)). Respondent did  
26 not maintain maintain documentation or otherwise demonstrate that an unlicensed pharmacy  
27 technician student had knowledge about the processes and procedures used in compounding  
28 before she compounded diazepam suppositories.

1 **FIFTEENTH CAUSE FOR DISCIPLINE**

2 **Failure to Provide Documentation Demonstrating Quality Assurance**

3 41. Respondents have subjected their permit and license to discipline for failing to  
4 maintain qualitative and quantitative analysis reports for routine testing and analysis of specified  
5 compounded drug preparations to ensure integrity, potency, quality, and labeled strength, on at  
6 least an annual basis (Bus. & Prof. Code, §§ 4301, subd. (o); Cal. Code Regs., tit. 16, § 1735.8,  
7 subd. (c)). Respondents did not maintain documentation demonstrating performance of any  
8 qualitative or quantitative analysis of its compounded preparations to ensure integrity, quality,  
9 and labeled strength on at least an annual basis.

10 **CAUSE FOR DISCIPLINE AS TO RESPONDENT PHAN ONLY**

11 **SIXTEENTH CAUSE FOR DISCIPLINE**

12 **Unprofessional Conduct**

13 42. Respondent Phan has subjected her license to discipline for the unprofessional  
14 conduct of inappropriately exercising her education, training, or experience as a pharmacist (Bus.  
15 & Prof. Code, §§ 4301, 4306.5, subd. (a)).

16 a. Respondent Phan misrepresented her knowledge and awareness of expired  
17 ingredients used in compounding and manufacturing that had been labeled to extend their  
18 expiration date without first testing the ingredients. (Bus. & Prof. Code, §§ 4301, subds. (f) &  
19 (q)).

20 b. Respondent Phan knowingly created labels extending expiration dates of  
21 ingredients used in compounding and manufacturing preparations without first testing the  
22 ingredients for potency.

23 c. Respondent Phan could not produce qualitative and quantitative analysis  
24 reports of compounded documents performed at least annually to ensure integrity, potency,  
25 quality, and labeled strength.

26 d. Respondent Phan allowed the use of all-trans-Retinal<sup>1</sup> as an ingredient in

27 <sup>1</sup> All-trans-Retinal, also known as Retinaldehyde, is derived from vitamin A. The  
28 certificate of analysis of the all-trans-Retinal at Respondent Pleasant Care Pharmacy stated in

1 preparations manufactured and sold at Respondent Pleasant Care Pharmacy.

2 **PRAYER**

3 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this  
4 accusation, and that following the hearing, the Board of Pharmacy issues a decision:

5 1. Revoking or suspending Original Permit No. PHY 51503 issued to Respondent  
6 Pleasant Care Pharmacy;

7 2. Revoking or suspending Pharmacist License No. RPH 62912 issued to Respondent  
8 Chau Thanh Phan;

9 3. Prohibiting Respondent Pleasant Care Pharmacy from serving as a manager,  
10 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if  
11 Original Permit No. PHY 51503 is placed on probation, or until Original Permit No. PHY 51503  
12 is reinstated if Original Permit No. 51503 issued to Respondent Pleasant Care Pharmacy is  
13 revoked;

14 4. Prohibiting Respondent Chau Thanh Phan from serving as a manager,  
15 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if  
16 Original Permit No. PHY 51503 is placed on probation, or until Original Permit No. PHY 51503  
17 is reinstated if Original Permit No. 51503 issued to Respondent Pleasant Care Pharmacy is  
18 revoked;

19 5. Ordering Respondents Pleasant Care Pharmacy and Chau Thanh Phan to pay the  
20 Board of Pharmacy the reasonable costs of the investigation and enforcement of this case under  
21 Business and Professions Code section 125.3; and

22 ///

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27 part, **“WARNING THIS PRODUCT IS FOR RESEARCH ONLY – NOT FOR HUMAN OR**  
28 **VETERINARY DIAGNOSTIC OR THERAPEUTIC USE. [¶] SAFETY DATA** This material  
should be considered hazardous until further information becomes available. Do not ingest,  
inhale, get in eyes, or skin, or on clothing.” (Bolding and capitalization in original.)

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6. Taking such other and further action as deemed necessary and proper.

DATED: 9/4/2020

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ANNE SODERGREN  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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