

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

In the Matter of the Accusation Against:

**MKR VIEW, INC. dba
PACIFIC VIEW PHARMACY,
AUDREY DIEMQUYNH NGUYEN,
Pharmacy Permit No. PHY 51976;**

**AUDREY DIEMQUYNH NGUYEN,
Pharmacist License No. RPH 55124;**

and

**RICHARD QUOC NGUYEN,
Pharmacist License No. RPH 56415,**

Respondents.

Agency Case No. 7065

OAH No. 2021080757

In the Matter of the Accusation Against:

**CRA VIEW, INC. dba
CATINAT PHARMACY;
AUDREY DIEMQUYNH NGUYEN; OFFICER, DIRECTOR AND
SHAREHOLDER,
Pharmacy Permit No. PHY 56180;**

**RICHARD QUOC NGUYEN,
Pharmacist License No. RPH 56415;**

and

**BRENDON CUONG NGUYEN,
Pharmacist License No. RPH 59939,**

Respondents.

Agency Case No. 7125

OAH No. 2021090503

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 11, 2022.

It is so ORDERED on April 11, 2022.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" being clearly legible, and "W." in the middle.

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 GREGORY J. SALUTE
Supervising Deputy Attorney General
4 DESIREE I. KELLOGG
Deputy Attorney General
5 State Bar No. 126461
WILLIAM D. GARDNER
6 Deputy Attorney General
State Bar No. 244817
7 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
8 Telephone: (213) 269-6292
Facsimile: (916) 731-2126
9 *Attorneys for Complainant*

10
11 **BEFORE THE**
12 **BOARD OF PHARMACY**
13 **DEPARTMENT OF CONSUMER AFFAIRS**
14 **STATE OF CALIFORNIA**

15 In the Matter of the Accusation Against:

16 **MKR VIEW, INC. DBA PACIFIC VIEW**
17 **PHARMACY, AUDREY DIEMQUYNH**
18 **NGUYEN**
19 **2491 Pacific Avenue, Suite 1**
20 **Long Beach, CA 90806**

21 **Pharmacy Permit No. PHY 51976,**

22 **AUDREY DIEMQUYNH NGUYEN**
23 **571 Pierpont Drive**
24 **Costa Mesa, CA 92626**

25 **Pharmacist License No. RPH 55124,**

26 **and**

27 **RICHARD QUOC NGUYEN**
28 **571 Pierpont Drive**
Costa Mesa, CA 92626

Pharmacist License No. RPH 56415

Respondents.

Case No. 7065

OAH No. 2021080757

**STIPULATED SETTLEMENT AND
ORDER**

In the Matter of the Accusation Against:

**CRA VIEW, INC., DBA CATINAT
PHARMACY; AUDREY DIEMQUYNH
NGUYEN; OFFICER, DIRECTOR AND
SHAREHOLDER
2619 W. Edinger Avenue, #D2
Santa Ana, CA 92704**

Pharmacy Permit No. PHY 56180,

**RICHARD QUOC NGUYEN
571 Pierpont Drive
Costa Mesa, CA 92626**

Pharmacist License No. RPH 56415,

and

**BRENDON CUONG NGUYEN
571 Pierpont Drive
Costa Mesa, CA 92626**

Pharmacist License No. RPH 59939

Respondents.

Case No. 7125

OAH No. 2021090503

**STIPULATED SETTLEMENT AND
ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-entitled proceedings that the following matters are true:

PARTIES

1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy (Board). She brought the above-captioned actions solely in her official capacity and is represented in these matters by Rob Bonta, Attorney General of the State of California, by Desiree I. Kellogg, Deputy Attorney General, and William D. Gardner, Deputy Attorney General.

2. Respondent MKR View, Inc. dba Pacific View Pharmacy, Audrey Diemquynh Nguyen and Richard Quoc Nguyen are represented in Case No. 7065 by attorney Robert K. Weinberg, Esq., whose address is: 19200 Von Karman Avenue, Suite 380, Irvine, CA 92612-8508.

3. Respondent CRA View, Inc. dba Catinat Pharmacy and Respondent Richard Quoc Nguyen are also represented by attorney Robert K. Weinberg with respect to Case No. 7125.

4. On or about October 15, 2014, the Board of Pharmacy issued Pharmacy Permit Number PHY 51976 to MKR View, Inc. dba Pacific View Pharmacy; (Respondent MKR View, Inc.); Audrey Diemquynh Nguyen, chief executive officer and owner. The Permit was in full force and effect at all times relevant to the charges brought in Case No. 7065 and will expire on October 1, 2022, unless renewed.

5. On or about September 8, 2003, the Board of Pharmacy issued Pharmacist License Number RPH 55124 to Audrey Diemquynh Nguyen (Respondent Audrey Nguyen). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Case No. 7065 and will expire on November 30, 2022, unless renewed.

6. On or about October 5, 2004, the Board of Pharmacy issued Pharmacist License Number RPH 56415 to Richard Quoc Nguyen (Respondent Richard Nguyen). The Pharmacist License was in full force and effect at all times relevant to the charges brought in Case Nos. 7065 and 7125 and will expire on August 31, 2022, unless renewed. Respondent Richard Nguyen was the designated pharmacist-in-charge (PIC) of Respondent MKR View, Inc. at all times relevant to the charges brought in Case No. 7065.

7. On or about June 5, 2018, the Board issued Pharmacy Permit Number PHY 56180 to CRA View, Inc., dba Catinat Pharmacy (Respondent CRA View, Inc.). Audrey Diemquynh Nguyen is the sole officer, director and shareholder of CRA View, Inc. The Pharmacy Permit was in full force and effect at all times relevant to the charges brought in Case No. 7125 and will expire on June 1, 2022, unless renewed. At all times relevant to the charges brought in Case No. 7125, Respondent Brendon Cuong Nguyen was the designated PIC of CRA View, Inc.

JURISDICTION

8. Accusation No. 7065 was filed before the Board, and is currently pending against Respondent MKR View, Respondent Audrey Nguyen and Respondent Richard Nguyen. The Accusation and all other statutorily required documents were properly served on Respondents on

///

1 June 16, 2021. Respondent timely filed its Notice of Defense contesting the Accusation. A copy
2 of Accusation No. 7065 is attached as Exhibit A and incorporated by reference.

3 9. Accusation No. 7125 was filed before the Board, and is currently pending against
4 Respondent CRA View, Inc., Respondent Richard Nguyen and Respondent Brendon Cuong
5 Nguyen. The Accusation and all other statutorily required documents were properly served on
6 Respondents on June 8, 2021. Respondents timely filed their Notice of Defense contesting the
7 Accusation. A copy of Accusation No. 7125 is attached as Exhibit B and incorporated by
8 reference.

9 **ADVISEMENT AND WAIVERS**

10 10. Respondent MKR View, Respondent Audrey Nguyen, Respondent Richard Nguyen
11 and Respondent CRA View, Inc. (collectively, "Respondents") have carefully read, fully
12 discussed with counsel, and understand the charges and allegations in Accusation No. 7065 and
13 Accusation No. 7125. Respondents also have carefully read, fully discussed with counsel, and
14 understand the effects of this Stipulated Settlement and Order.

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

21 12. Respondents voluntarily, knowingly, and intelligently waive and give up each and
22 every right set forth above.

23 **CULPABILITY**

24 13. Respondents understand that the charges and allegations in Accusation No. 7065 and
25 Accusation No. 7125, if proven at a hearing, constitute cause for imposing discipline upon their
26 respective licenses.

27 14. For the purpose of resolving the Accusations without the expense and uncertainty of
28 further proceedings, Respondents agree that, at a hearing, Complainant could establish a factual

1 basis for the charges in the Accusations and that those charges constitute cause for discipline.
2 Respondents hereby give up their right to contest that cause for discipline exists based on those
3 charges.

4 15. Respondents understand that by signing this stipulation they enable the Board to issue
5 an imposing the discipline set forth herein without further process.

6 **CONTINGENCY**

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

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

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

25 19. In consideration of the foregoing admissions and stipulations, the parties agree that
26 the Board may, without further notice or formal proceeding, issue and enter the following Order:

27 ///

28 ///

ORDER

IT IS HEREBY ORDERED that Pharmacy Permit No. PHY 51976, issued to Respondent MKR View, Inc. dba Pacific View Pharmacy, is surrendered and accepted by the Board.

However, the surrender will be stayed for a period of 180 days from the effective date, at which time the pharmacies shall be sold or closed. In addition, upon signature of the stipulated settlement Respondent shall designate a new Pharmacist-in-Charge prior to the effective date.

1. The surrender of Respondent MKR View Inc's Pharmacy Permit and the acceptance of the surrendered license by the Board shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the Board. Respondent understands and agrees that for purposes of Business and Professions Code section 4307, the surrender shall be construed the same as revocation.

2. Respondent MKR View Inc. shall lose all rights and privileges as a pharmacy in California at the end of the 180-day stay of the surrender set forth herein.

3. Respondent MKR View Inc. shall cause to be delivered to the Board its renewal license and, if one was issued, its wall certificate on or before the end of the 180-day stay of the surrender set forth herein.

4. If Respondent MKR View Inc. ever applies for licensure or petitions for reinstatement in the State of California, the Board shall treat it as a new application for licensure. Respondent must comply with all the laws, regulations and procedures for licensure in effect at the time the application or petition is filed, and all of the charges and allegations contained in Accusation No. 7065 shall be deemed to be true, correct and admitted by Respondent when the Board determines whether to grant or deny the application or petition.

5. In the event that Respondent MKR View Inc.'s pharmacy is not sold before the end of the 180-day stay of the surrender set forth herein, Respondent MKR View Inc. shall, within ten (10) days thereafter, arrange for the destruction of, the transfer to, sale of or storage in a facility licensed by the Board of all controlled substances and dangerous drugs and devices. Respondent

1 MKR View Inc. shall further provide written proof of such disposition and submit a completed
2 Discontinuance of Business form according to Board guidelines.

3 Respondent MKR View Inc. shall also, by the end of the 180-day stay of the surrender set
4 forth herein, arrange for the continuation of care for ongoing patients of the pharmacy by, at
5 minimum, providing a written notice to ongoing patients that specifies the anticipated closing
6 date of the pharmacy and that identifies one or more area pharmacies capable of taking up the
7 patients' care, and by cooperating as may be necessary in the transfer of records or prescriptions
8 for ongoing patients. Within five (5) days of its provision to the pharmacy's ongoing patients,
9 Respondent MKR View Inc. shall provide a copy of the written notice to the Board. For the
10 purposes of this provision, "ongoing patients" means those patients for whom the pharmacy has
11 on file a prescription with one or more refills outstanding, or for whom the pharmacy has filled a
12 prescription within the preceding sixty (60) days.

13 6. Respondent MKR View, Inc. shall be jointly and severally responsible with
14 Respondents CRA View, Inc. and Audrey Diemquynh Nguyen to pay the Board its costs of
15 investigation and enforcement of the above-captioned matters in the amount of \$54,070.25 prior
16 to issuance of a new or reinstated license. Payment of said costs shall be made in accordance
17 with the terms of probation for Pharmacist License Number RPH 55124, issued to Audrey
18 Diemquynh Nguyen, as set forth below.

19 7. Respondent MKR View Inc. may not apply, reapply, or petition for any Board-issued
20 licensure or registration for three (3) years from the effective date of the Decision and Order.

21 **IT IS HEREBY FURTHER ORDERED** that Pharmacy Permit Number PHY 56180,
22 issued to CRA View, Inc., dba Catinat Pharmacy, is surrendered and accepted by the Board.
23 However, the surrender will be stayed for a period of 180 days from the effective date, at which
24 time the pharmacies shall be sold or closed. In addition, upon signature of the stipulated
25 settlement Respondent shall designate a new Pharmacist-in-Charge prior to the effective date.

26 1. The surrender of Respondent CRA View, Inc.'s Pharmacy Permit and the acceptance
27 of the surrendered license by the Board shall constitute the imposition of discipline against
28 Respondent. This stipulation constitutes a record of the discipline and shall become a part of

1 Respondent's license history with the Board. Respondent understands and agrees that for
2 purposes of Business and Professions Code section 4307, the surrender shall be construed the
3 same as revocation.

4 2. Respondent CRA View, Inc. shall lose all rights and privileges as a pharmacy in
5 California at the end of the 180-day stay of the surrender set forth herein.

6 3. Respondent CRA View, Inc. shall cause to be delivered to the Board its pocket
7 license and, if one was issued, its wall certificate on or before the end of the 180-day stay of the
8 surrender set forth herein.

9 4. If Respondent CRA View, Inc. ever applies for licensure or petitions for
10 reinstatement in the State of California, the Board shall treat it as a new application for licensure.
11 Respondent must comply with all the laws, regulations and procedures for licensure in effect at
12 the time the application or petition is filed, and all of the charges and allegations contained in
13 Accusation No. 7125 shall be deemed to be true, correct and admitted by Respondent when the
14 Board determines whether to grant or deny the application or petition.

15 5. In the event that Respondent CRA View, Inc.'s pharmacy is not sold before the end
16 of the 180-day stay of the surrender set forth herein, Respondent CRA View, Inc. shall, within ten
17 (10) thereafter, arrange for the destruction of, the transfer to, sale of or storage in a facility
18 licensed by the Board of all controlled substances and dangerous drugs and devices. Respondent
19 CRA View, Inc. shall further provide written proof of such disposition and submit a completed
20 Discontinuance of Business form according to Board guidelines.

21 Respondent CRA View, Inc. shall also, by the end of the 180-day stay of the surrender set
22 forth herein, arrange for the continuation of care for ongoing patients of the pharmacy by, at
23 minimum, providing a written notice to ongoing patients that specifies the anticipated closing
24 date of the pharmacy and that identifies one or more area pharmacies capable of taking up the
25 patients' care, and by cooperating as may be necessary in the transfer of records or prescriptions
26 for ongoing patients. Within five (5) days of its provision to the pharmacy's ongoing patients,
27 Respondent CRA View, Inc. shall provide a copy of the written notice to the Board. For the
28 purposes of this provision, "ongoing patients" means those patients for whom the pharmacy has

1 on file a prescription with one or more refills outstanding, or for whom the pharmacy has filled a
2 prescription within the preceding sixty (60) days.

3 6. Respondent CRA View, Inc. shall be jointly and severally responsible with
4 Respondents MKR View, Inc. and Audrey Diemquynh Nguyen to pay the Board its costs of
5 investigation and enforcement of the above-captioned matters in the amount of \$54,070.25 prior
6 to issuance of a new or reinstated license. Payment of said costs shall be made in accordance
7 with the terms of probation for Pharmacist License Number RPH 55124 issued to Audrey
8 Diemquynh Nguyen, as set forth below.

9 7. Respondent CRA View, Inc. may not apply, reapply, or petition for any Board-issued
10 licensure or registration for three (3) years from the effective date of the Decision and Order.

11 **IT IS HEREBY FURTHER ORDERED** that Pharmacist License Number RPH 56415,
12 issued to Respondent Richard Quoc Nguyen is surrendered and accepted by the Board. The
13 surrender of Respondent's Pharmacist License shall be immediate upon the effective date of the
14 Decision and Order and shall not be stayed.

15 1. The surrender of Respondent Richard Quoc Nguyen's Pharmacist License and the
16 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
17 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
18 of Respondent Richard Quoc Nguyen's license history with the Board. Respondent understands
19 and agrees that for purposes of Business and Professions Code section 4307, the surrender shall
20 be construed the same as revocation.

21 2. Respondent Richard Quoc Nguyen shall lose all rights and privileges as a Pharmacist
22 in California as of the effective date of the Board's Decision and Order.

23 3. Respondent Richard Quoc Nguyen shall cause to be delivered to the Board his pocket
24 license and, if one was issued, his wall certificate on or before the effective date of the Decision
25 and Order.

26 4. If Respondent Richard Quoc Nguyen ever applies for licensure or petitions for
27 reinstatement in the State of California, the Board shall treat it as a new application for licensure.
28 Respondent Richard Quoc Nguyen must comply with all the laws, regulations and procedures for

1 licensure in effect at the time the application or petition is filed, and all of the charges and
2 allegations contained in Accusation No. 7065 and Accusation No. 7125 shall be deemed to be
3 true, correct and admitted by Respondent Richard Quoc Nguyen when the Board determines
4 whether to grant or deny the application or petition.

5 5. Respondent Richard Quoc Nguyen may not apply, reapply, or petition for any Board-
6 issued licensure or registration for three (3) years from the effective date of the Decision and
7 Order.

8 6. Respondent Richard Quoc Nguyen shall not own, have any legal or beneficial interest
9 in, nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner
10 of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board.

11 **IT IS HEREBY FURTHER ORDERED** that that Pharmacist License Number RPH
12 55124 issued to Audrey Diemquynh Nguyen is revoked. However, the revocation is stayed and
13 Respondent is placed on probation for three (3) years on the following terms and conditions. The
14 probationary period shall be immediate upon the effective date of the Decision and Order and
15 shall not be stayed.

16 1. **Obey All Laws**

17 Respondent shall obey all state and federal laws and regulations.

18 Respondent shall report any of the following occurrences to the board, in writing, within
19 seventy- two (72) hours of such occurrence:

- 20 • an arrest or issuance of a criminal complaint for violation of any provision of the
21 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
22 substances laws
- 23 • a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal
24 criminal proceeding to any criminal complaint, information or indictment
- 25 • a conviction of any crime
- 26 • the filing of a disciplinary pleading, issuance of a citation, or initiation of another
27 administrative action filed by any state or federal agency which involves
28 respondent's license or which is related to the practice of pharmacy or the

1 manufacturing, obtaining, handling, distributing, billing, or charging for any drug,
2 device or controlled substance.

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

4 **2. Report to the Board**

5 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
6 designee. The report shall be made either in person or in writing, as directed. Among other
7 requirements, respondent shall state in each report under penalty of perjury whether there has
8 been compliance with all the terms and conditions of probation.

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

14 **3. Interview with the Board**

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

20 **4. Cooperate with Board Staff**

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

27 ///

28 ///

1 **5. Continuing Education**

2 Respondent shall provide evidence of efforts to maintain skill and knowledge as a
3 pharmacist as directed by the board or its designee.
4

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

6 During the period of probation, respondent shall notify all present and prospective
7 employers of the decision in case number 7065 and the terms, conditions and restrictions imposed
8 on respondent by the decision, as follows:

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

20 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
21 respondent undertaking any new employment, respondent shall cause (a) her direct supervisor, (b)
22 her pharmacist-in-charge, designated representative-in-charge, responsible manager, or other
23 compliance supervisor, and (c) the owner or owner representative of her employer, to report to the
24 board in writing acknowledging that the listed individual(s) has/have read the decision in case
25 number 7065, and terms and conditions imposed thereby. If one person serves in more than one
26 role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's
27 responsibility to ensure that these acknowledgment(s) are timely submitted to the board. In the
28 event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term

1 of probation, respondent shall cause the person(s) taking over the role(s) to report to the board in
2 writing within fifteen (15) days of the change acknowledging that he or she has read the decision
3 in case number 7065, and the terms and conditions imposed thereby.

4 If respondent works for or is employed by or through an employment service, respondent
5 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the board
6 of the decision in case number 7065, and the terms and conditions imposed thereby in advance of
7 respondent commencing work at such licensed entity. A record of this notification must be
8 provided to the board upon request.

9 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
10 (15) days of respondent undertaking any new employment by or through an employment service,
11 respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service
12 to report to the board in writing acknowledging that he or she has read the decision in case
13 number, and the terms and conditions imposed thereby. It shall be respondent's responsibility to
14 ensure that these acknowledgment(s) are timely submitted to the board.

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

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

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

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

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

27 ///

28 ///

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

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

6 **9. Reimbursement of Board Costs**

7 As a condition precedent to successful completion of probation, respondent shall be jointly
8 and severally liable with Respondent MKR View, Inc. and Respondent CRA View, Inc. to pay to
9 the board its costs of investigation and prosecution in the amount of \$54,070.25. Respondent
10 shall be permitted to pay these costs in a payment plan approved by the board or its designee, so
11 long as full payment is completed prior to the end date of probation. There shall be no deviation
12 from any such approved payment plan absent prior written approval by the board or its designee.
13 Failure to pay costs by the deadline(s) as directed shall be considered a violation of probation.

14 **10. Probation Monitoring Costs**

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

19 **11. Status of License**

20 Respondent shall, at all times while on probation, maintain an active, current pharmacist
21 license with the board, including any period during which suspension or probation is tolled.
22 Failure to maintain an active, current pharmacist license shall be considered a violation of
23 probation.

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

28 ///

1
2 **12. License Surrender While on Probation/Suspension**

3 Following the effective date of this decision, should respondent cease practice due to
4 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
5 respondent may relinquish her license, including any indicia of licensure issued by the board,
6 along with a request to surrender the license. The board or its designee shall have the discretion
7 whether to accept the surrender or take any other action it deems appropriate and reasonable.
8 Upon formal acceptance of the surrender of the license, respondent will no longer be subject to
9 the terms and conditions of probation. This surrender constitutes a record of discipline and shall
10 become a part of the respondent's license history with the board.

11 Upon acceptance of the surrender, respondent shall relinquish her pocket and/or wall
12 license, including any indicia of licensure not previously provided to the board within ten (10)
13 days of notification by the board that the surrender is accepted if not already provided.
14 Respondent may not reapply for any license from the board for three (3) years from the effective
15 date of the surrender. Respondent shall meet all requirements applicable to the license sought as
16 of the date the application for that license is submitted to the board, including any outstanding
17 costs.

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

19 Except during periods of suspension, respondent shall, at all times while on probation, be
20 employed as a licensed pharmacist in California for a minimum of 120 hours per calendar month.
21 Any month during which this minimum is not met shall extend the period of probation by one
22 month. During any such period of insufficient employment, respondent must nonetheless comply
23 with all terms and conditions of probation, unless respondent receives a waiver in writing from
24 the board or its designee.

25 If respondent does not practice as a licensed pharmacist in California for the minimum
26 number of hours in any calendar month, for any reason (including vacation), respondent shall
27 notify the board in writing within ten (10) days of the conclusion of that calendar month. This
28 notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s)
for the interruption or reduction in practice; and the anticipated date(s) on which respondent will

1 resume practice at the required level. Respondent shall further notify the board in writing within
2 ten (10) days following the next calendar month during which respondent practices as a licensed
3 pharmacist in California for the minimum of hours. Any failure to timely provide such
4 notification(s) shall be considered a violation of probation.

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

9 **14. Violation of Probation**

10 If respondent has not complied with any term or condition of probation, the board shall
11 have continuing jurisdiction over respondent, and the board shall provide notice to respondent
12 that probation shall automatically be extended, until all terms and conditions have been satisfied
13 or the board has taken other action as deemed appropriate to treat the failure to comply as a
14 violation of probation, to terminate probation, and to impose the penalty that was stayed. The
15 board or its designee may post a notice of the extended probation period on its website.

16 If respondent violates probation in any respect, the board, after giving respondent notice
17 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
18 was stayed. If a petition to revoke probation or an accusation is filed against respondent during
19 probation, or the preparation of an accusation or petition to revoke probation is requested from
20 the Office of the Attorney General, the board shall have continuing jurisdiction and the period of
21 probation shall be automatically extended until the petition to revoke probation or accusation is
22 heard and decided.

23 **15. Completion of Probation**

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

26 **16. Remedial Education**

27 Within the first year of probation, respondent shall enroll in the board's one-day, six (6)
28 hour, training program, "Preventing Prescription Drug Abuse and Drug Diversion." Respondent

1 shall provide proof of enrollment within five (5) days of enrollment. Within five (5) days of
2 completion, Respondent shall submit a copy of the certificate of completion to the board. Failure
3 to timely enroll in the training program, to initiate the training program during the first year of
4 probation, to successfully complete it before the end of the second year of probation, or to timely
5 submit proof of completion to the board, shall be considered a violation of probation.

6 In addition, before the end of each full year of the probation period, Respondent shall
7 submit to the board, for prior approval, an appropriate program of remedial education related to
8 the causes for discipline. The program of remedial education shall consist of at least six (6)
9 participatory (live or remote) hours, which shall be completed prior to the conclusion of each
10 probation year (beginning from the effective date of decision) and at Respondent's own expense.
11 All remedial education shall be in addition to, and shall not be credited toward, continuing
12 education (CE) courses used for license renewal purposes.

13 Failure to submit for approval or complete the approved remedial education before the
14 expiration of the probation period shall be considered a violation of probation. The period of
15 probation will be automatically extended until such remedial education is successfully completed
16 and written proof, in a form acceptable to the board, is provided to the board.

17 Following the completion of each course, the board may require Respondent, at her own
18 expense, to take an approved examination to test Respondent's knowledge of the course. If
19 Respondent does not achieve a passing score on the examination that course shall not count
20 towards satisfaction of this term. Respondent shall take another course approved by the board in
21 the same subject area.

22 17. **Ethics Course**

23 Within sixty (60) calendar days of the effective date of this decision, respondent shall enroll
24 in a course in ethics, at respondent's expense, approved in advance by the board or its designee
25 that complies with Title 16 California Code of Regulations section 1773.5. Respondent shall
26 provide proof of enrollment upon request. Within five (5) days of completion, respondent shall
27 submit a copy of the certificate of completion to the board or its designee. Failure to timely enroll
28 in an approved ethics course, to initiate the course during the first year of probation, to

1 successfully complete it before the end of the second year of probation, or to timely submit proof
2 of completion to the board or its designee, shall be considered a violation of probation.

3 **18. No Ownership or Management of Licensed Premises**

4 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
5 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
6 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or
7 transfer any legal or beneficial interest in any entity licensed by the board within 180 days
8 following the effective date of this decision and shall immediately thereafter provide written
9 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
10 documentation thereof shall be considered a violation of probation.

11 **ACCEPTANCE**

12 I have carefully read the above Stipulated Settlement and Order and have fully discussed it
13 with my attorney Robert K. Weinberg. I understand the stipulation and the effect it will have on
14 MKR View, Inc.'s Permit, CRA View, Inc.'s Permit and on my personal Pharmacist License. I
15 enter into this Stipulated Settlement and Order voluntarily, knowingly, and intelligently, and
16 agree to be bound by the Decision and Order of the Board of Pharmacy.

17
18 DATED: _____

AUDREY DIEMQUYNH NGUYEN,
individually and on behalf of
MKR VIEW, INC. DBA PACIFIC VIEW and
CRA VIEW PHARMACY, INC. DBA
CATINAT PHARMACY, *Respondents*

23 ///

24 ///

25 ///

26 ///

27 ///

1 successfully complete it before the end of the second year of probation, or to timely submit proof
2 of completion to the board or its designee, shall be considered a violation of probation.

3 **18. No Ownership or Management of Licensed Premises**

4 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
5 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
6 partnership, or corporation currently or hereinafter licensed by the board. Respondent shall sell or
7 transfer any legal or beneficial interest in any entity licensed by the board within 180 days
8 following the effective date of this decision and shall immediately thereafter provide written
9 proof thereof to the board. Failure to timely divest any legal or beneficial interest(s) or provide
10 documentation thereof shall be considered a violation of probation.

11 **ACCEPTANCE**

12 I have carefully read the above Stipulated Settlement and Order and have fully discussed it
13 with my attorney Robert K. Weinberg. I understand the stipulation and the effect it will have on
14 MKR View, Inc.'s Permit, CRA View, Inc.'s Permit and on my personal Pharmacist License. I
15 enter into this Stipulated Settlement and Order voluntarily, knowingly, and intelligently, and
16 agree to be bound by the Decision and Order of the Board of Pharmacy.

17
18 DATED: 2/11/22

Audrey Diemquynh Nguyen
AUDREY DIEMQUYNH NGUYEN,
individually and on behalf of
MKR VIEW, INC. DBA PACIFIC VIEW and
CRA VIEW PHARMACY, INC. DBA
CATINAT PHARMACY, *Respondents*

23
24 ///

25 ///

26 ///

27 ///

28 ///

1 I have carefully read the above Stipulated Settlement and Order and have fully discussed it
2 with my attorney Robert K. Weinberg. I understand the stipulation and the effect it will have on
3 my Pharmacist License. I enter into this Stipulated Settlement and Order voluntarily, knowingly,
4 and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

5
6 DATED: _____

RICHARD QUOC NGUYEN
Respondent

8
9
10 I have read and fully discussed with Respondents Audrey Diemquynh Nguyen and Richard
11 Quoc Nguyen the terms and conditions and other matters contained in this Stipulated Settlement
12 and Order. I approve its form and content.

13 DATED: _____

ROBERT K. WEINBERG
Attorney for Respondents

15 **ENDORSEMENT**

16 The foregoing Stipulated Settlement and Order is hereby respectfully submitted for
17 consideration by the Board of Pharmacy of the Department of Consumer Affairs.

18
19 DATED: _____

Respectfully submitted,

20 ROB BONTA
Attorney General of California
21 ARMANDO ZAMBRANO
Supervising Deputy Attorney General


22
23 DESIREE I. KELLOG
Deputy Attorney General
Attorneys for Complainant

24
25 WILLIAM D. GARDNER
Deputy Attorney General
Attorneys for Complainant

26
27
28 LA2020604068
Global stip.docx

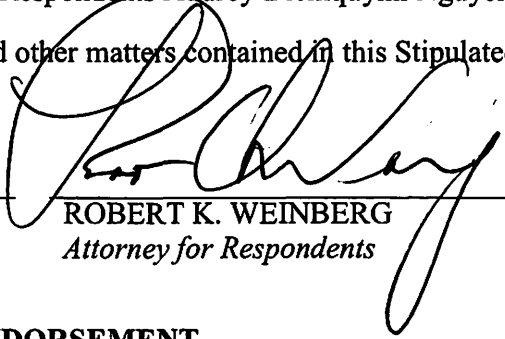
1 I have carefully read the above Stipulated Settlement and Order and have fully discussed it
2 with my attorney Robert K. Weinberg. I understand the stipulation and the effect it will have on
3 my Pharmacist License. I enter into this Stipulated Settlement and Order voluntarily, knowingly,
4 and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

5
6 DATED: 2/16/22


7 RICHARD QUOC NGUYEN
8 Respondent

9
10 I have read and fully discussed with Respondents Audrey Diemquynh Nguyen and Richard
11 Quoc Nguyen the terms and conditions and other matters contained in this Stipulated Settlement
12 and Order. I approve its form and content.

13 DATED: 2/16/22


14 ROBERT K. WEINBERG
15 Attorney for Respondents

16 **ENDORSEMENT**

17 The foregoing Stipulated Settlement and Order is hereby respectfully submitted for
18 consideration by the Board of Pharmacy of the Department of Consumer Affairs.

19 DATED: _____

Respectfully submitted,

20 ROB BONTA
21 Attorney General of California
22 ARMANDO ZAMBRANO
23 Supervising Deputy Attorney General

24 DESIREE I. KELLOG
25 Deputy Attorney General
26 Attorneys for Complainant

27 WILLIAM D. GARDNER
28 Deputy Attorney General
Attorneys for Complainant

LA2020604068
Global stip.docx

1 I have carefully read the above Stipulated Settlement and Order and have fully discussed it
2 with my attorney Robert K. Weinberg. I understand the stipulation and the effect it will have on
3 my Pharmacist License. I enter into this Stipulated Settlement and Order voluntarily, knowingly,
4 and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

5
6 DATED: _____

7 RICHARD QUOC NGUYEN
8 Respondent

9
10 I have read and fully discussed with Respondents Audrey Diemquynh Nguyen and Richard
11 Quoc Nguyen the terms and conditions and other matters contained in this Stipulated Settlement
12 and Order. I approve its form and content.

13 DATED: _____

14 ROBERT K. WEINBERG
15 Attorney for Respondents

16 **ENDORSEMENT**

17 The foregoing Stipulated Settlement and Order is hereby respectfully submitted for
18 consideration by the Board of Pharmacy of the Department of Consumer Affairs.

19 DATED: 2/16/2022

Respectfully submitted,

20 ROB BONTA
21 Attorney General of California
22 ARMANDO ZAMBRANO
23 Supervising Deputy Attorney General

24 DESIREE J. KELLOG
25 Deputy Attorney General
26 Attorneys for Complainant

27 WILLIAM D. GARDNER
28 Deputy Attorney General
Attorneys for Complainant

LA2020604068
Global stip.docx

Exhibit A

Accusation No. 7065

1 ROB BONTA
Attorney General of California
2 JAMES M. LEDAKIS
Supervising Deputy Attorney General
3 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
4 WILLIAM D. GARDNER
Deputy Attorney General
5 State Bar No. 244817
300 So. Spring Street, Suite 1702
6 Los Angeles, CA 90013
Telephone: (213) 269-6292
7 Facsimile: (916) 731-2126
Attorneys for Complainant
8

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

13 In the Matter of the Accusation Against:

Case No. 7065

14 **MKR VIEW, INC. DBA PACIFIC VIEW**
15 **PHARMACY, AUDREY DIEMQUYNH**
16 **NGUYEN**
2491 Pacific Avenue, Suite 1
Long Beach, CA 90806

ACCUSATION

17 **Permit No. PHY 51976,**

18 **AUDREY DIEMQUYNH NGUYEN**
19 **571 Pierpont Dr.**
Costa Mesa, CA 92626

20 **Pharmacist License No. RPH 55124,**

21 **and**

22 **RICHARD QUOC NGUYEN**
23 **571 Pierpont Dr.**
Costa Mesa, CA 92626

24 **Pharmacist License No. RPH 56415**

25 Respondents.
26

27 ///

28 ///

1 **PARTIES**

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

4 2. On or about October 15, 2014, the Board of Pharmacy issued Permit Number PHY
5 51976 to MKR View, Inc. dba Pacific View Pharmacy; (Respondent Pharmacy); Audrey
6 Diemquynh Nguyen, chief executive officer and owner. The Permit was in full force and effect at
7 all times relevant to the charges brought herein and will expire on October 1, 2021, unless
8 renewed.

9 3. On or about September 8, 2003, the Board of Pharmacy issued Pharmacist License
10 Number RPH 55124 to Audrey Diemquynh Nguyen (Respondent Owner Nguyen). The
11 Pharmacist License was in full force and effect at all times relevant to the charges brought herein
12 and will expire on November 30, 2022, unless renewed.

13 4. On or about October 5, 2004, the Board of Pharmacy issued Pharmacist License
14 Number RPH 56415 to Richard Quoc Nguyen (Respondent PIC Nguyen). The Pharmacist
15 License was in full force and effect at all times relevant to the charges brought herein and will
16 expire on August 31, 2022, unless renewed. Respondent PIC Nguyen was the designated
17 pharmacist-in-charge (PIC) of Respondent Pharmacy at all times relevant to the charges brought
18 herein.

19 **JURISDICTION**

20 5. This Accusation is brought before the Board of Pharmacy, Department of Consumer
21 Affairs, under the authority of the following laws.

22 6. Business and Professions Code section 22 states:

23 Board as used in any provisions of this code, refers to the board in which the
24 administration of the provision is vested, and unless otherwise expressly provided,
25 shall include bureau, commission, committee, department, division, examining
committee, program, and agency.

26 7. Business and Professions Code section 118, subdivision (b), provides that the
27 suspension, expiration, surrender, cancellation of a license shall not deprive the Board, Registrar,
28

1 or Director of jurisdiction to proceed with a disciplinary action during the period within which
2 the license may be renewed, restored, reissued or reinstated.

3 8. Business and Professions Code section 4300 states:

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

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

8 (1) Suspending judgment.

9 (2) Placing him or her upon probation.

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

12 (4) Revoking his or her license.

13 (5) Taking any other action in relation to disciplining him or her as the
14 board in its discretion may deem proper. . . .

15 9. Business and Professions Code section 4300.1 states:

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

22 **STATUTORY PROVISIONS: BUSINESS AND PROFESSIONS CODE**

23 10. Business and Professions Code section 4113, subdivision (c), states, “The
24 pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all state and federal
25 laws and regulations pertaining to the practice of pharmacy.”

26 11. Business and Professions Code section 4301 states:

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

...

(c) Gross negligence.

...

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

...

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

(g) Knowingly making or signing any certificate or other document that falsely represents the existence or nonexistence of a state of facts.

...

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

...

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

...

12. Business and Professions Code section 4302 states:

The board may deny, suspend, or revoke any license where conditions exist in relation to any person holding 10 percent or more of the ownership interest or where conditions exist in relation to any officer, director, or other person with management or control of the license that would constitute grounds for disciplinary action against a licensee.

13. Business and Professions Code section 4306.5 states:

Unprofessional conduct for a pharmacist may include any of the following:

(a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.

(b) Acts or omissions that involve, in whole or in part, the failure to exercise or implement his or her best professional judgment or corresponding responsibility with regard to the dispensing or furnishing

of controlled substances, dangerous drugs, or dangerous devices, or with regard to the provision of services.

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

14. Business and Professions Code section 4307 states, in pertinent part:

(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 is issued or reinstated.

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

STATUTORY PROVISIONS: HEALTH AND SAFETY CODE

15. Health and Safety Code section 11152:

No person shall write, issue, fill, compound, or dispense a prescription that does not conform to this division.

16. Health and Safety Code section 11153 states, in pertinent part:

(a) A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a

1 corresponding responsibility rests with the pharmacist who fills the prescription.
2 Except as authorized by this division, the following are not legal prescriptions:

3 (1) an order purporting to be a prescription which is issued not in the
4 usual course of professional treatment or in legitimate and authorized
5 research; or

6 (2) an order for an addict or habitual user of controlled substances, which
7 is issued not in the course of professional treatment or as part of an
8 authorized narcotic treatment program, for the purpose of providing the
9 user with controlled substances, sufficient to keep him or her comfortable
10 by maintaining customary use. . . .

11 17. Health and Safety Code section 11162.1 states, in pertinent part:

12 (a) The prescription forms for controlled substances shall be printed with the
13 following features:

14 . . .

15 (2) A watermark shall be printed on the backside of the prescription
16 blank; the watermark shall consist of the words "California Security
17 Prescription."

18

19 18. Health and Safety Code Section 11164 states, in pertinent part:

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

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

26 . . .

27 **STATE REGULATORY PROVISIONS**

28 19. California Code of Regulations, title 16, section 1716, states:

Pharmacists shall not deviate from the requirements of a prescription except
upon the prior consent of the prescriber or to select the drug product in accordance
with Section 4073 of the Business and Professions Code.

Nothing in this regulation is intended to prohibit a pharmacist from exercising
commonly-accepted pharmaceutical practice in the compounding or dispensing of a
prescription.

20. California Code of Regulations, title 16, section 1717, subdivision (b), states, in pertinent part:

(b) In addition to the requirements of Business and Professions Code section 4040, the following information shall be maintained for each prescription on file and shall be readily retrievable:

(4) A new prescription must be created if there is a change in the drug, strength, prescriber or directions for use, unless a complete record of all such changes is otherwise maintained.

(c) Promptly upon receipt of an orally transmitted prescription, the pharmacist shall reduce it to writing, and initial it, and identify it as an orally transmitted prescription. If the prescription is then dispensed by another pharmacist, the dispensing pharmacist shall also initial the prescription to identify him or herself. All orally transmitted prescriptions shall be received and transcribed by a pharmacist prior to compounding, filling, dispensing, or furnishing. Chart orders as defined in section 4019 of the Business and Professions Code are not subject to the provisions of this subsection.

21. California Code of Regulations, title 16, section 1761, states:

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

(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense a controlled substance prescription where the pharmacist knows or has objective reason to know that said prescription was not issued for a legitimate medical purpose.

FEDERAL REGULATORY PROVISIONS

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

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

1 be subject to the penalties provided for violations of the provisions of law relating to
2 controlled substances.

3 **COST RECOVERY**

4 23. Business and Professions Code section 125.3 states, in pertinent part, that the Board
5 may request the administrative law judge to direct a licentiate found to have committed a
6 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
7 investigation and enforcement of the case.

8 **DRUG CLASSIFICATIONS**

9 24. Alprazolam, the generic name for Xanax, is a Schedule IV controlled substance
10 pursuant to Health and Safety Code section 11057, subdivision (d)(1), and a dangerous drug
11 pursuant to Business and Professions Code section 4022. Alprazolam is a benzodiazepine central
12 nervous system depressant, commonly prescribed for anxiety and panic disorder.

13 25. Carisoprodol, the generic name for Soma, is a Schedule IV controlled substance
14 pursuant to Code of Federal Regulations, title 21, section 1308.14, and is a dangerous drug
15 pursuant to Business and Professions Code section 4022. Carisoprodol is commonly prescribed
16 as a muscle relaxant.

17 26. Hydrocodone/acetaminophen (also known as “hydrocodone/apap”), the generic
18 name for Norco, is a Schedule III controlled substance pursuant to Health and Safety Code
19 section 11056, subdivision (e)(5), a Schedule II controlled substance pursuant to Code of Federal
20 Regulations, title 21, section 1308.12, subdivision (b)(1)(vi), and a dangerous drug pursuant to
21 Business and Professions Code section 4022. Hydrocodone is an opioid. Hydrocodone/apap is
22 commonly prescribed for pain.

23 27. Oxycodone is a Schedule II controlled substance pursuant to Health and Safety Code
24 section 11055, subdivision (b)(1)(M), and a dangerous drug pursuant to Business and Professions
25 Code section 4022. Oxycodone is an opioid that is commonly prescribed for pain.

26 28. Oxycodone/acetaminophen (also known as “oxycodone/apap”) is the generic name for
27 Percocet, which is a Schedule II controlled substance pursuant to Health and Safety Code section

28 ///

1 11055, subdivision (b)(1)(M), and a dangerous drug pursuant to Business and Professions Code
2 section 4022. Oxycodone/apap is an opioid that is commonly prescribed for pain.

3 29. Promethazine/codeine, the generic name for Phenergan/Codeine, is a Schedule V
4 controlled substance pursuant to Health and Safety Code section 11058, subdivision (c)(1), and a
5 dangerous drug pursuant to Business and Professions Code section 4022. Promethazine is an
6 antihistamine. Codeine is an opiate. Promethazine/codeine is commonly prescribed for cough.

7 **FACTUAL ALLEGATIONS**

8 30. In 2020, the Board conducted an investigation to examine Respondent Pharmacy's
9 dispensing of certain widely-abused controlled substances, such as oxycodone, alprazolam,
10 promethazine/codeine syrup, hydrocodone/apap, oxycodone/apap and Carisoprodol. The
11 Board's investigation revealed that, in dispensing these controlled substances, Respondent
12 Pharmacy, Respondent Owner Nguyen and Respondent PIC Nguyen (collectively, Respondents)
13 had engaged in unprofessional conduct by violating a number of laws that govern pharmacy and
14 regulate controlled substances. Specifically, the Board's investigation revealed a pattern by
15 Respondents of filling controlled substance prescriptions that contained irregularities and red
16 flags of abuse, falsifying prescription documents and committing medication errors. As such,
17 Respondents failed to fulfill their corresponding responsibility to ensure that the prescriptions for
18 these widely-abused and highly-addictive controlled substances were issued only for legitimate
19 medical purposes by medical practitioners acting in the usual course of their professional
20 practice.

21 **Corresponding Responsibility**

22 31. Under both state and federal law, pharmacists are charged with a "corresponding
23 responsibility" (with the prescriber) to protect against abuse and misuse of controlled substances
24 by taking measures to ensure that a prescription for a controlled substance is not filled unless it
25 was issued for a legitimate medical purpose. In order to become licensed in California,
26 Pharmacists must receive education and training regarding corresponding responsibility and must
27 also demonstrate their understanding of this critical legal obligation on the licensing exam. In
28 addition, the Board provides detailed information to licensees regarding corresponding

responsibility and abuse of controlled substances through its periodical newsletter *The Script* and other publications.

32. Pharmacists are trained to recognize various red flags associated with illegitimate controlled substance prescriptions and to follow certain protocols for reasonable inquiry about controlled substance prescriptions in order to protect against the filling of prescriptions not issued for legitimate medical purposes. Common red flags associated with illegitimate prescriptions include, but are not limited to, the following: irregularities on the face of written prescription; cash payments instead of insurance; long distances between prescriber's office and pharmacy; long distances between patient's residence and pharmacy; prescriptions written outside of a prescriber's specialty; initial prescriptions for high dosage levels; providers treating multiple patients with the same combination of controlled substances; dangerous combinations of drugs prescribed to the same patient; prescriptions for medications with no logical connection to diagnosis or treatment; and patient appearance and presentation at pharmacy.

33. In filling prescriptions for some of the most commonly abused controlled substances, Respondents repeatedly ignored or failed to recognize multiple red flags associated with prescriptions that had not been issued for legitimate medical purposes. In addition, Respondent PIC Nguyen falsified prescription records in an attempt to validate forged prescriptions and deviated from prescribers' orders in filling certain prescriptions. The details of Respondents' misconduct is set forth in more detail below.

Overview of Board Investigation

34. The Board's investigation revealed that 87% of all prescriptions filled by Respondent Pharmacy between 2017 and 2020 were for *non*-controlled substance medications. Yet, despite the fact that the vast majority of Respondent Pharmacy's business did not involve controlled substances, two of the top five medications dispensed by Respondent Pharmacy overall were the highly abused controlled substances promethazine with codeine and alprazolam (i.e. Xanax). With respect only to controlled substances dispensed by Respondent Pharmacy during the relevant time period, the top three drugs dispensed were promethazine with codeine, alprazolam and oxycodone. Promethazine with codeine, alprazolam and oxycodone are the three of the most

1 commonly sought prescription drugs for abuse. Almost every prescription that was filled by
2 Respondent Pharmacy for each of these highly abused drugs during the relevant time period was
3 paid for with cash. Further, only a handful of patients who filled these prescriptions were from
4 Long Beach, with the vast majority of patients traveling more than 20 miles to have their
5 prescriptions filled by Respondent Pharmacy.

6 35. The Board, as well as public health agencies such as the U.S. Food and Drug
7 Administration (FDA), the Center for Disease Control and Prevention (CDC) and the National
8 Institute on Drug Abuse (NIDA) have long warned licensees of the dangers associated with
9 prescriptions for high-strength doses of opioids and the use of opioids in conjunction with
10 benzodiazepines (such as alprazolam) or other central nervous system (CNS) depressants.
11 Because the risks of addiction and overdose are magnified when a patient is prescribed a higher
12 strength dose of an opioid, the CDC recommends prescribing the lowest effective opioid dose
13 possible and the FDA warns against starting patients who are new to opioids on high doses. The
14 FDA also requires product labels on controlled substances such oxycodone, alprazolam and
15 promethazine with codeine to explicitly warn against concomitant use of opioids and
16 benzodiazepines and other CNS depressants. The Board's investigation revealed that in majority
17 of cases, Respondent filled prescriptions that called for the dangerous concomitant use by
18 patients of opioids, benzodiazepines and other CNS depressants.

19 36. Oxycodone immediate-release tablets are available in 5 dosage levels (5 mg, 10 mg,
20 15, mg, 20 mg and 30 mg). Every one of the oxycodone prescriptions filled by Respondent
21 Pharmacy during the relevant time period was for the highest strength immediate-release tablet
22 available (30 mg).

23 37. Alprazolam is available in 4 dosage levels (.25 mg, .5 mg, 1 mg and 2 mg). Lower
24 doses are recommended for patients just starting on the drug and lower doses are recommended
25 for treatment of anxiety versus panic disorder. All alprazolam prescriptions filled by Respondent
26 Pharmacy were purportedly for patients with anxiety, not panic disorder, and many prescriptions
27 were for patients purportedly just starting on the drug. Nonetheless, 85% of the alprazolam
28 prescriptions filled by Respondent Pharmacy were for the highest strength 2 mg tablet, while

1 14% were for the second highest strength tablet. Less than one percent of the alprazolam
2 prescriptions filled were for the lower dose tablets. In addition, a review pertinent records
3 indicated that Respondents deviated from the prescriber's orders in at least 10 instances when
4 filling prescriptions for alprazolam.

5 38. Importantly, the Board's investigation also revealed that 95% of all prescriptions for
6 promethazine with codeine, alprazolam and oxycodone were issued by a total of only five
7 medical providers, none of whom were located in Long Beach and four of whom were located at
8 least 20 miles from Respondent Pharmacy. Moreover, 65% of all prescriptions for promethazine
9 with codeine, alprazolam and oxycodone were issued by a *single* provider, Y.B., a neurologist
10 whose office is at least 20 miles from Respondent Pharmacy. One of the providers, J.K., is under
11 federal indictment for selling opioid prescriptions for money, and one of the other five providers,
12 D.W., is currently on probation with the Medical Board of California for violations related to his
13 care and treatment of patients with controlled substances.

14 *Controlled Substance Prescriptions from Dr. Y.B.*

15 39. Prescriptions from Dr. Y.B. accounted for 65% of all prescriptions for oxycodone,
16 alprazolam and promethazine with codeine that were filled by Respondent Pharmacy during the
17 subject period. Those prescriptions amounted to 2,430 oxycodone 30 mg tablets, 15,810 2 mg
18 alprazolam tablets and 46,320 ml of promethazine with codeine. In addition, Respondent
19 Pharmacy filled prescriptions from Dr. Y.B. amounting to 4,390 tablets of hydrocodone/apap 10-
20 325 mg and 2,570 tablets of oxycodone/apap 10-325 mg.

21 40. In filling the prescriptions for controlled substances from Dr. Y.B., Respondents
22 ignored or failed to recognize multiple, significant irregularities and red flags, including but not
23 limited to the following:

- 24 • Dr. Y.B. is a neurosurgeon with an office located in Glendale, California, which is at
25 least 20 miles from Respondent Pharmacy.
- 26 • Dozens of prescriptions (all received after April 15, 2019) were missing the legally
27 required watermark stating "California Security Prescription" on the backside of the
28 prescription.

- 1 • All controlled substance prescriptions were paid for in cash by the patients.
- 2 • All 79 patients with prescriptions from Dr. Y.B. were treated with controlled
- 3 substances.
- 4 • 48 of the 79 patients were treated were prescribed the same combination of alprazolam
- 5 2 mg and promethazine/codeine.
- 6 • Patients were repeatedly prescribed promethazine/codeine and a dangerous interacting
- 7 drug such as alprazolam or hydrocodone in contradiction of FDA-mandated warning
- 8 labels.
- 9 • All prescriptions for alprazolam were for the highest strength available (2 mg).
- 10 • All prescriptions for oxycodone were for the highest strength available (30 mg).
- 11 • Many patients received initial doses of controlled substances at the highest strengths in
- 12 contradiction of FDA and CDC guidelines.
- 13 • The numerous prescriptions for promethazine/codeine and for alprazolam were not
- 14 normal for a neurosurgeon.
- 15 • Most of the 79 patients were from areas 15 to 60 miles from Respondent Pharmacy.
- 16 • Accompanying prescriptions for non-controlled substance medications appeared to have
- 17 no logical connection to diagnosis of treatment.

18 41. During the Board's investigation, Respondent PIC Nguyen represented that
19 Respondent Pharmacy always contacts a prescriber's office to validate a prescription before
20 dispensing a controlled substance. Respondent PIC Nguyen represented that he personally
21 contacted "Victoria" at Dr. Y.B.'s office to validate controlled substance prescriptions, and
22 numerous prescriptions from Y.B. contain a handwritten notation by Respondent PIC Nguyen
23 indicating that the prescription had been validated by Victoria. However, when the Board
24 inspector contacted Dr. Y.B.'s office he learned that Victoria had not worked at the office since
25 December 6, 2019, and the office had no record of Respondent Pharmacy ever contacting it to
26 verify prescriptions. Nonetheless, more than 50 prescriptions dated after December 6, 2019,
27 contain a handwritten notation by Respondent PIC Nguyen indicating that he verified the
28 prescription with Victoria.

42. Dr. Y.B.'s office also informed the investigator that Victoria had stolen a prescription pad and that none of 79 patients who had prescriptions filled by Respondent Pharmacy had been treated by Dr. Y.B. In addition, Dr. Y.B.'s office indicated that the forged prescriptions for controlled substances had only been filled at two pharmacies, Respondent Pharmacy and Catinat Pharmacy. Respondent PIC Nguyen and Respondent Owner Nguyen both worked at Catinat Pharmacy during the relevant time period.

Controlled Substance Prescriptions from Dr. J.C.

43. Over a 12-month period in 2017 and 2018, Respondent Pharmacy filled 101 promethazine/codeine prescriptions for from Dr. J.C., which amounts to more than 24,000 ml of the widely abused opiate syrup. In filling the prescriptions for promethazine/codeine from J.C., Respondents ignored or failed to recognize multiple, significant irregularities and red flags, including but not limited to the following:

- Dr. J.C. is a pediatrician whose office was at least 25 miles from Respondent Pharmacy.
- All controlled substance prescriptions were paid for in cash by the patients.
- The only controlled substance prescribed by Dr. J.C. was promethazine/codeine.
- The maximum daily dose of promethazine/codeine is 30 ml/day. All patients whose prescriptions were filled by Respondent Pharmacy were directed 40 ml/day.
- The recommended single dose of promethazine/codeine is 1 teaspoonful. All patients whose prescriptions were filled by Respondent Pharmacy were directed to take twice the amount of the recommended single dose (i.e., 2 teaspoons, four times daily).
- All but one of the 83 patients who were prescribed promethazine/codeine by Dr. J.C. were from out of the area, with the majority being from more than 20 miles away from Respondent Pharmacy.
- The patients who were prescribed promethazine/codeine by Dr. J.C. were not children.

44. The Board investigator contacted Dr. J.C.'s office during his investigation and was informed that several prescription pads had been stolen from his office around 2017. The office manager stated that she personally spoke to pharmacies to verify controlled substance prescriptions and that she had no recollection of receiving and calls from Respondent Pharmacy.

1 In addition, Dr. J.C. indicated that he had written only one prescription for promethazine/codeine
2 in the past five years.

3 Controlled Substance Prescriptions from Dr. J.K.

4 45. Dr. J.K. is a physician specializing in pain management. Dr. J.C. is currently under
5 federal indictment for the alleged illegal sale opioid prescriptions. Respondent pharmacy filled
6 34 controlled substance prescriptions from Dr. J.K.'s office over a brief three-month period in
7 late 2018 and early 2019. In filling those prescriptions for oxycodone, hydrocodone/apap,
8 Carisoprodol and promethazine/codeine, Respondents ignored or failed to recognize multiple,
9 significant irregularities and red flags, including but not limited to the following:

- 10 • Dr. J.K. is a physician specializing in pain management whose closest office was 12
11 miles away from Respondent Pharmacy.
- 12 • All controlled substance prescriptions were paid for in cash by the patients.
- 13 • Only one patient was from Long Beach. Most patients were from at least 20 miles
14 away.
- 15 • Many patients used identified themselves with ID cards instead of drivers' licenses
16 despite the fact that they had traveled to Respondent Pharmacy from outside the area.
- 17 • On multiple occasions, multiple patients with prescriptions from Dr. J.K.'s office
18 presented at Respondent Pharmacy to have identical controlled prescriptions filled. For
19 example, seven patients presented at Respondent Pharmacy on January 17, 2019, all
20 seeking to have promethazine/codeine prescriptions filled.
- 21 • Respondent Pharmacy filled 24 prescriptions from Dr. J.K.'s office for
22 promethazine/codeine over a three-month period. Promethazine/codeine is a cough
23 suppressant that is not typically prescribed for practitioners of pain management.
- 24 • Promethazine/codeine is used for an acute cough for a short amount of time. Many
25 patients did not seek to have their prescriptions filled by Respondent Pharmacy until to
26 more than a week after it had been written.
- 27 • Several patients were started on the highest strength of oxycodone (30 mg) in
28 contradiction to public health guidelines.

Controlled Substance Prescriptions from Dr. D.W.

46. Over a 9-month period in 2017 and early 2018, Respondent Pharmacy filled 48 prescriptions for from Dr. D.W. for oxycodone 30 mg and Carisoprodol 325 mg. Dr. D.W.'s medical license is currently on probation with the Medical Board of California for violations related to his treatment of patients with controlled substances. In filling the prescriptions for these widely abused controlled substances Respondents ignored or failed to recognize multiple, significant irregularities and red flags, including but not limited to the following:

- Dr. D.W. is a physician whose office was at least 22 miles from Respondent Pharmacy.
- All controlled substance prescriptions were paid for in cash by the patients.
- All prescriptions for oxycodone were for the highest strength available (30 mg).
- All prescriptions for Carisoprodol were for the highest strength available (325 mg).
- Many patients filled prescriptions for the dangerous concomitant use of both oxycodone 30 mg and Carisoprodol 325 mg.
- Many patients were started in the highest dose of oxycodone (30 mg).
- Almost all patients were from out of the area and most were from more than 20 miles away.
- Many patients identified themselves with ID card instead of drivers' licenses despite having traveled to Respondent Pharmacy from out of the area.

Controlled Substance Prescriptions from Dr. C.S..

47. In 2017 and 2018, Respondent Pharmacy filled 11 prescriptions from Dr. C.S. for promethazine/codeine prescriptions. Dr. C.S. was a licensed physician who is now deceased. In filling the prescriptions for promethazine/codeine from Dr. C.S., Respondents ignored or failed to recognize multiple, significant irregularities and red flags, including but not limited to the following:

- Dr. C.S. is a physician whose office was at least 23 miles from Respondent Pharmacy.
- All controlled substance prescriptions were paid for in cash by the patients.
- The only controlled substance prescribed by Dr. C.S. was promethazine/codeine.

- In every instance, a verbal order/prescription for the antibiotic amoxicillin was later added to the patients' prescriptions for promethazine/codeine by Respondent PIC Nguyen. Non-controlled substances are often added to patients' prescriptions for controlled substances in an attempt to add legitimacy to the prescription.
- Patients presented at Respondent Pharmacy on the same day to have identical prescriptions filled.
- Almost all patients were from out of town and most were from more than 20 miles away from Respondent Pharmacy.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Failure to Assume Corresponding Responsibility - Respondent Pharmacy and Respondent PIC Nguyen)

48. Respondent Pharmacy and Respondent PIC Nguyen are subject to discipline pursuant to Business and Professions Code section 4301, subdivisions (j) and (o), in conjunction with section 4113, subdivision (c), on the grounds that Respondents failed to exercise their corresponding responsibility to ensure that controlled substances were dispensed for a legitimate medical purpose, in violation of Health and Safety Code section 11153, and Code of Federal Regulations, title 21, section 1306.04. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 30 through 47, inclusive, as though set forth fully herein.

SECOND CAUSE FOR DISCIPLINE

(Unprofessional Conduct: Gross Negligence – Respondent Pharmacy and Respondent PIC Nguyen)

49. Respondent Pharmacy and Respondent PIC Nguyen are subject to discipline pursuant to Business and Professions Code section 4301, subdivision (c), in that Respondents deviated from the standard of care to an extreme degree with respect to their filling of controlled substance prescriptions from 2017 to 2020. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 30 through 47, inclusive, as though set forth fully herein.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Unprofessional Conduct: False Statement of Facts –**
3 **Respondent Pharmacy and Respondent Nguyen)**

4 50. Respondent Pharmacy and Respondent PIC Nguyen are subject to discipline
5 pursuant to Business and Professions Code section 4301, subdivision (g), in that Respondents
6 knowingly made or signed a document that falsely represented facts with respect to
7 Respondents' verification of certain controlled substance prescriptions and Respondents' policies
8 and procedures for filling controlled substance prescriptions. Complainant refers to, and by this
9 reference incorporates, the allegations set forth above in paragraphs 30 through 47, inclusive, as
10 though set forth fully herein.

11 **FOURTH CAUSE FOR DISCIPLINE**

12 **(Unprofessional Conduct: Acts of Dishonesty/Deceit/Moral Turpitude –**
13 **Respondent Pharmacy and Respondent Nguyen)**

14 51. Respondent Pharmacy and Respondent PIC Nguyen are subject to discipline
15 pursuant to Business and Professions Code section 4301, subdivision (f), in that Respondents
16 engaged in acts involving dishonesty, deceit, corruption and/or moral turpitude with regard to
17 representations made about Respondents' verification of certain controlled substance
18 prescriptions and Respondents' policies and procedures for filling controlled substance
19 prescriptions. Complainant refers to, and by this reference incorporates, the allegations set forth
20 above in paragraphs 30 through 47, inclusive, as though set forth fully herein.

21 **FIFTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct: Excessive Furnishing of Controlled Substances –**
23 **Respondent Pharmacy and Respondent Nguyen)**

24 52. Respondent Pharmacy and Respondent PIC Nguyen are subject to discipline
25 pursuant to Business and Professions Code section 4301, subdivision (d), in that Respondents
26 excessively furnished controlled substances to consumers in violation of Health and Safety Code
27 section 11153, subdivision (a). Complainant refers to, and by this reference incorporates, the
28

1 allegations set forth above in paragraphs 30 through 47, inclusive, as though set forth fully
2 herein.

3 **SIXTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct: Inappropriate Exercise of Education, Training or Experience –**
5 **Respondent PIC Nguyen)**

6 53. Respondent PIC Nguyen is subject to discipline pursuant to Business and
7 Professions Code section 4306.5, subdivision (a), in that Respondents engaged in acts or
8 omissions that involve the inappropriate exercise of their education, training and/or experience in
9 the practice of pharmacy and/or the ownership, operation, management, and/or administration of
10 a pharmacy. Complainant refers to, and by this reference incorporates, the allegations set forth
11 above in paragraphs 30 through 47, inclusive, as though set forth fully herein.

12 **SEVENTH CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct: Failure to Exercise Best Professional Judgment in Dispensing**
14 **Controlled Substances – Respondent PIC Nguyen)**

15 54. Respondent PIC Nguyen is subject to discipline pursuant to Business and
16 Professions Code section 4306.5, subdivision (b), in that Respondent failed to exercise or
17 implement his best professional judgment and/or his corresponding responsibility with regard to
18 dispensing controlled substances from 2017 to 2020. Complainant refers to, and by this
19 reference incorporates, the allegations set forth above in paragraphs 30 through 47, inclusive, as
20 though set forth fully herein.

21 **EIGHTH CAUSE FOR DISCIPLINE**

22 **(Unprofessional Conduct: Acts or Omissions Involving Failure to Consult Appropriate**
23 **Records – Respondent Pharmacy and Respondent PIC Nguyen)**

24 55. Respondent Pharmacy and Respondent PIC Nguyen are subject to discipline
25 pursuant to Business and Professions Code section 4306.5, subdivision (c), in that Respondents
26 failed to consult appropriate patient, prescription and/or other records in filling controlled
27 substance prescriptions from 2017 to 2020. Complainant refers to, and by this reference
28

incorporates, the allegations set forth above in paragraphs 30 through 47, inclusive, as though set forth fully herein.

NINTH CAUSE FOR DISCIPLINE

**(Unprofessional Conduct: Dispensing Prescriptions with Irregularities –
Respondent Pharmacy and Respondent PIC Nguyen)**

56. Respondent Pharmacy and Respondent PIC Nguyen are subject to discipline pursuant to Business and Professions Code section 4301, subdivisions (j) and (o), in conjunction with California Code of Regulations, title 16, section 1761, in that Respondents dispensed prescriptions for controlled substances that contained significant irregularities. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 30 through 47, inclusive, as though set forth fully herein.

TENTH CAUSE FOR DISCIPLINE

**(Unprofessional Conduct: Improper Controlled Substance Prescription Forms –
Respondent Pharmacy and Respondent PIC Nguyen)**

57. Respondent Pharmacy and Respondent PIC Nguyen are subject to discipline pursuant to Business and Professions Code section 4301, subdivisions (j) and (o), in conjunction with Health and Safety Code section 11162.1, subdivision (a)(2), and section 11164, subdivision (a), in that Respondents filled dozens of prescriptions for controlled substances despite the fact that the prescription drug forms presented did not contain the legally required watermark stating “California Security Prescription” on their backside. Complainant refers to, and by this reference incorporates, the allegations set forth above in paragraphs 30 through 47, inclusive, as though set forth fully herein.

ELEVENTH CAUSE FOR DISCIPLINE

**(Unprofessional Conduct: Deviation from Prescriber Directions for Use –
Respondent Pharmacy and Respondent PIC Nguyen)**

58. Respondent Pharmacy and Respondent PIC Nguyen are subject to discipline pursuant to Business and Professions Code section 4301, subdivisions (j) and (o), in conjunction with California Code of Regulations, title 16, sections 1716 and 1717, in that with respect to

1 certain prescriptions for alprazolam, Respondents deviated from the prescribers' directions for
2 use. Complainant refers to, and by this reference incorporates, the allegations set forth above in
3 paragraphs 30 through 47, inclusive, as though set forth fully herein.

4 **TWELFTH CAUSE FOR DISCIPLINE**

5 **(Unprofessional Conduct: Nonconforming Prescriptions –**
6 **Respondent Pharmacy and Respondent PIC Nguyen)**

7 59. Respondent Pharmacy and Respondent PIC Nguyen are subject to discipline
8 pursuant to Business and Professions Code section 4301, subdivisions (j) and (o), in conjunction
9 with Health and Safety Code section 11152, in that that Respondents filled and/or dispensed
10 prescriptions that did not conform with the Uniform Controlled Substances Act (Division 10 of
11 the Health and Safety Code). Complainant refers to, and by this reference incorporates, the
12 allegations set forth above in paragraphs 30 through 47, inclusive, as though set forth fully
13 herein.

14 **OTHER MATTERS**

15 60. Pursuant to Code section 4307, if discipline is imposed on Permit Number PHY
16 51976, issued to MKR View Inc., then MKR View Inc. shall be prohibited from serving as a
17 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
18 five years if Pharmacy Permit Number PHY 51976 is placed on probation or until Pharmacy
19 Permit Number PHY 51976 is reinstated if it is revoked.

20 61. Pursuant to Code section 4307, if discipline is imposed on Permit Number PHY
21 51976, issued to MKR View, Inc., then Audrey Diemquynh Nguyen shall be prohibited from
22 serving as a manager, administrator, owner, member, officer, director, associate, or partner of a
23 licensee for five years if Pharmacy Permit Number PHY 51976 is placed on probation or until
24 Pharmacy Permit Number PHY 51976 is reinstated if it is revoked.

25 62. Pursuant to Code section 4307, if discipline is imposed on Permit Number PHY
26 51976, issued to MKR View, Inc., then Richard Quoc Nguyen shall be prohibited from serving
27 as a manager, administrator, owner, member, officer, director, associate, or partner of a
28

licensee for five years if Pharmacy Permit Number PHY 51976 is placed on probation or until Pharmacy Permit Number PHY 51976 is reinstated if it is revoked.

63. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License Number RPH 55124, issued to Audrey Diemquynh Nguyen, then Audrey Diemquynh Nguyen shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 55124 is placed on probation or until Pharmacist License Number RPH 55124 is reinstated if it is revoked.

64. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License Number RPH 56415, issued to Richard Quoc Nguyen, then Richard Quoc Nguyen shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist License Number RPH 56415 is placed on probation or until Pharmacist License Number RPH 56415 is reinstated if it is revoked.

PRAYER

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

1. Revoking or suspending Permit Number PHY 51976, issued to MKR View, Inc. dba Pacific View Pharmacy; Audrey Diemquynh Nguyen, chief executive officer and owner;

2. Pursuant to Business and Professions Code section 4307, prohibiting MKR View, Inc. from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 51976 is placed on probation or until Pharmacy Permit Number PHY 51976 is reinstated if Pharmacy Permit Number PHY 51976 is revoked.

3. Revoking or suspending Pharmacist License Number RPH 55124, issued to Audrey Diemquynh Nguyen;

4. Pursuant to Business and Professions Code section 4307, prohibiting Audrey Diemquynh Nguyen from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 51976 or Pharmacist License Number RPH 55124 are placed on probation or until Pharmacy Permit

Number PHY 51976 and/or Pharmacist License Number RPH 55124 are reinstated if Pharmacy Permit Number PHY 51976 and/or Pharmacist License Number RPH 55124 are revoked.

5. Revoking or suspending Pharmacist License Number RPH 56415, issued to Richard Quoc Nguyen;

6. Pursuant to Business and Professions Code section 4307, prohibiting Richard Quoc Nguyen from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 51976 or Pharmacist License Number RPH 56415 are placed on probation or until Pharmacy Permit Number PHY 51976 and/or Pharmacist License Number RPH 56415 are reinstated if Pharmacy Permit Number PHY 51976 and/or Pharmacist License Number RPH 56415 are revoked.

7. Ordering Pacific View Pharmacy Inc., Audrey Diemquynh Nguyen and Richard Quoc Nguyen to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 6/6/2021

Signature on File

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

LA2020604068
64135359.docx

Exhibit B

Accusation No. 7125

1 ROB BONTA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 DESIREE I. KELLOGG
Deputy Attorney General
4 State Bar No. 126461
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9429
7 Facsimile: (619) 645-2061
Attorneys for Complainant

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

13 In the Matter of the Accusation Against:

Case No. 7125

14 **CRA VIEW, INC.,**
15 **DBA CATINAT PHARMACY**
16 **AUDREY DIEMQUYNH NGUYEN,**
17 **OFFICER, DIRECTOR AND**
18 **SHAREHOLDER**
2619 W. Edinger Avenue, #D2
Santa Ana, CA 92704

ACCUSATION

19 **Pharmacy Permit No. PHY 56180,**

20 **BRENDON CUONG NGUYEN**
571 Pierpont Drive
Costa Mesa, CA 92626

21 **Pharmacist License No. RPH 59939,**

22 **and**

23 **RICHARD QUOC NGUYEN**
571 Pierpont Drive
Costa Mesa, CA 92626

24 **Pharmacist License No. RPH 56415,**

25 Respondents.
26
27
28

1 **PARTIES**

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

4 2. On or about June 5, 2018, the Board issued Pharmacy Permit Number PHY 56180 to
5 CRA View, Inc., dba Catinat Pharmacy (Catinat Pharmacy). Audrey Diemquynh Nguyen is the
6 sole officer, director and shareholder of CRA View, Inc. The Pharmacy Permit was in full force
7 and effect at all times relevant to the charges brought herein and will expire on June 1, 2022,
8 unless renewed.

9 3. On or about September 10, 2007, the Board issued Pharmacist License Number RPH
10 59939 to Brendon Cuong Nguyen (Brendon Nguyen). The Pharmacist License was in full force
11 and effect at all times relevant to the charges brought herein and will expire on June 30, 2021,
12 unless renewed.

13 4. On or about October 5, 2004, the Board of Pharmacy issued Pharmacist License
14 Number RPH 56415 to Richard Quoc Nguyen (Richard Nguyen). The Pharmacist License was in
15 full force and effect at all times relevant to the charges brought herein and will expire on August
16 31, 2022, unless renewed.

17 **JURISDICTION**

18 5. This Accusation is brought before the Board under the authority of the following
19 laws. All section references are to the Business and Professions Code (Code) unless otherwise
20 indicated.

21 6. Code section 4011 provides that the Board shall administer and enforce both the
22 Pharmacy Law (Code, § 4000 *et seq.*) and the Uniform Controlled Substances Act (Health &
23 Safety Code, § 11000 *et seq.*).

24 7. Code section 4300, subdivision (a) provides that every license issued by the Board
25 may be suspended or revoked.

26 8. Code section 4300.1 states:

27 The expiration, cancellation, forfeiture, or suspension of a board-issued license
28 by operation of law or by order or decision of the board or a court of law, 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.

STATUTORY PROVISIONS

9. Code section 4022 states:

“Dangerous drug” or “dangerous device” means any drug or device unsafe for self-use in humans or animals, 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.

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

(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.

10. Code section 4113, subdivision (c) states:

The pharmacist-in-charge shall be responsible for a pharmacy’s compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

11. Code section 4169, subdivisions (a)(2) and (4) states:

(a) A person or entity shall not do any of the following:

(2) Purchase, trade, sell, or transfer dangerous drugs that the person knew or reasonably should have known were adulterated, as set forth in Article 2 (commencing with Section 111250) of Chapter 6 of Part 5 of Division 104 of the Health and Safety Code.

(4) Purchase, trade, sell, or transfer dangerous drugs or dangerous devices after the beyond use date on the label.

12. Code section 4301 states in pertinent part:

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

...

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

...

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

...

13. Code section 4306.5, subdivisions (a) and (b) states:

Unprofessional conduct for a pharmacist may include any of the following:

(a) Acts or omissions that involve, in whole or in part, the inappropriate exercise of his or her education, training, or experience as a pharmacist, whether or not the act or omission arises in the course of the practice of pharmacy or the ownership, management, administration, or operation of a pharmacy or other entity licensed by the board.

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

14. Code section 4307, subdivision (a) states:

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, or partner of any partnership, corporation, 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, or partner had knowledge 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, or partner 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 is issued or reinstated.

15. Health and Safety Code section 11153, subdivision (a), states:

A prescription for a controlled substance shall only be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his or her professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. Except as authorized by this division, the following are not legal prescriptions: (1) an order purporting to be a prescription which is issued not in the usual course of professional treatment or in legitimate and authorized research; or (2) an order for an addict or habitual user of controlled substances, which is issued not in the course of professional treatment or as part of an authorized narcotic treatment program, for the

purpose of providing the user with controlled substances, sufficient to keep him or her comfortable by maintaining customary use.

16. Health and Safety Code section 11162.1, subdivisions (a) and (b) states:

(a) The prescription forms for controlled substances shall be printed with the following features:

(1) A latent, repetitive 'void' pattern shall be printed across the entire front of the prescription blank; if a prescription is scanned or photocopied, the word "void" shall appear in a pattern across the entire front of the prescription.

(2) A watermark shall be printed on the backside of the prescription blank; the watermark shall consist of the words "California Security Prescription."

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

(4) A feature printed in thermochromic ink.

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

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

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

1-24

25-49

50-74

75-100

101-150

151 and over.

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

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

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

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

(11) The date of origin of the prescription.

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

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

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

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

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

17. Health and Safety Code section 11164, subdivision (a) states:

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

(a) Each prescription for a controlled substance classified in Schedule II, III, IV, or V, except as authorized by subdivision (b), shall be made on a controlled substance prescription form as specified in Section 11162.1 and shall meet the following requirements:

(1) The prescription shall be signed and dated by the prescriber in ink and shall contain the prescriber's address and telephone number; the name of the ultimate user or research subject, or contact information as determined by the Secretary of the United States Department of Health and Human Services; refill information, such as the number of refills ordered and whether the prescription is a first-time request or a refill; and the name, quantity, strength, and directions for use of the controlled substance prescribed.

(2) The prescription shall also contain the address of the person for whom the controlled substance is prescribed. If the prescriber does not specify this address on the prescription, the pharmacist filling the prescription or an employee acting under the direction of the pharmacist shall write or type the address on the prescription or maintain this information in a readily retrievable form in the pharmacy.

....

18. Health and Safety Code section 111255 states:

Any drug or device is adulterated if it has been produced, prepared, packed, or held under conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health.

19. 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.

REGULATORY PROVISIONS

20. Code of Federal Regulations, Title 21, section 1306.04, subdivision (a), states:

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

21. California Code of Regulations, title 16, section 1761 states:

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

(b) Even after conferring with the prescriber, a pharmacist shall not compound or dispense a controlled substance prescription where the pharmacist knows or has objective reason to know that said prescription was not issued for a legitimate medical purpose.

COST RECOVERY

22. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

23. Adderall is the brand name of mixed amphetamine salts, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (d)(1), and a dangerous drug as defined by Code section 4022.

24. Norco is the brand name for hydrocodone/acetaminophen 10mg/325mg, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(I)(ii), and a dangerous drug as defined by Code section 4022.

25. Percocet 10/325mg is the brand name for oxycodone/acetaminophen 10mg/325mg, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b), and a dangerous drug as defined by Code section 4022.

26. Roxicodone is the brand name for oxycodone, a Schedule II controlled substance pursuant to Health and Safety Code section 11055, subdivision (b)(1)(M) and a dangerous drug as defined by Code section 4022. OxyContin is a tablet that provides extended release of oxycodone throughout the day, whereas Roxicodone or oxycodone release the medication immediately.

FACTUAL ALLEGATIONS

27. At all relevant times, Catinat Pharmacy was an independent community pharmacy located in Santa Ana. At all relevant times, Respondent Brendon Nguyen was the Pharmacist-in-Charge, Respondent Richard Nguyen was a staff pharmacist (collectively Respondents) and Audrey Diemquynh Nguyen was the owner.

28. Board of Pharmacy inspectors conducted an inspection of Catinat Pharmacy on September 23, 2020. Staff pharmacist Richard Nguyen was present during the inspection.

29. The Board inspectors found **50** bottles of expired dangerous drugs, including controlled substances in Catinat Pharmacy's active drug inventory. From the inventory of expired drugs, Brendon Nguyen verified the dispensing of Norco, an expired controlled substance on May 29, 2019 (Rx No. 96623) and Richard Nguyen verified the dispensing of Norco, an expired controlled substance on October 9, 2019 (Rx No. 98718).

30. Based on the facts set forth below, their educational and professional background and knowledge of pharmacy and drug laws, the Board's inspectors also determined that on numerous occasions, Respondents failed to exercise their corresponding responsibility and best professional judgment when dispensing controlled substances.

Red Flags in Prescriptions Filled for Drs. Y.G. and J.C. in 2019 and 2020

31. The inspectors focused on two prescribers, Dr. Y.B. and Dr. J.C. The inspectors found those prescribers' prescriptions contained significant irregularities and "red flags," suggesting that their prescriptions were not written or filled for a legitimate medical purpose. Respondents' prescribing profiles for these physicians indicated that oxycodone immediate-

1 release 30mg, Percocet 10/325mg and/or Norco 10/325mg, all of which are associated with high
2 rates of abuse and diversion, were the most commonly prescribed drugs for these prescribers.
3 Most, if not all, of the prescriptions from these prescribers exhibited obvious red flags of drug
4 abuse that Respondents ignored when filling them, in spite of the Respondents' corresponding
5 responsibility to ensure that all prescriptions dispensed were for a legitimate medical purpose.

6 Those red flags included:

- 7 • Irregularities on the face of the prescriptions;
- 8 • Cash payments;
- 9 • The same combinations of drugs prescribed for multiple patients;
- 10 • Initial prescriptions written for strong opiates;
- 11 • Prescribers writing prescriptions only for or primarily for controlled substances in the
12 highest available strength;
- 13 • Filling prescriptions for groups of patients on the same or consecutive days;
- 14 • Prescriptions written on non-compliant controlled substance prescription forms; and
- 15 • Long distances traveled from the customer's home to the prescriber's office or
16 pharmacy.

17 32. From April 9, 2019 through May 15, 2020, Respondents dispensed **171** prescriptions
18 for four controlled substances, Oxycodone, Percocet, Norco and Adderall under the prescribing
19 authority of Dr. Y.B., 169 of those prescriptions were dispensed based on prescription forms that
20 were not compliant with the requirements of the Health and Safety Code. From June 5, through
21 August 27, 2020, Respondents dispensed **50** prescriptions for controlled substances, Oxycodone,
22 Percocet and Norco under the prescribing authority of Dr. J.C.

23 33. Respondents dispensed controlled substances to customers without ensuring they
24 were for a legitimate medical use when obvious, objective, and systemic signs of irregularities
25 and red flags of illegitimacy existed as described below.

26 34. Respondents dispensed controlled substances to customers even though those
27 customers paid for most of the medications in cash despite pharmacists' knowledge that almost
28

1 all patients have prescription coverage from insurance companies or government agencies and
2 that case payment is a red flag for drug abuse.

3 35. Respondents filled prescriptions written by Dr. Y.B. for oxycodone, Percocet and
4 Adderall and Norco even though it is uncommon for a neurologist to prescribe those controlled
5 substances exclusively. Respondents could have reviewed the Medical Board website and
6 concluded that Dr. Y.B. reported his primary area of practice as neurosurgery on the Medical
7 Board website.

8 36. An unusually high percentage of the prescriptions supposedly issued by Dr. Y.B. and
9 Dr. J.C. and dispensed by Respondents were for drugs with a high potential for diversion and
10 drug abuse- oxycodone, Norco and Percocet. Moreover, an unusually high proportion of those
11 prescriptions were for the highest strength available of those drugs, when the lower-strength
12 doses are safer. Many of Respondents' customers with prescriptions from these doctors were
13 dispensed the highest strength of oxycodone as a starting dose (30mg) even though it is not
14 recommended to prescribe the highest strength to opioid naïve patients.

15 37. Respondents filled prescriptions even though certain customers' addresses on
16 prescriptions or identification cards were located many miles from Catinat Pharmacy. Dr. Y.B.'s
17 customers' addresses were on average 41 miles away from Catinat Pharmacy and Dr. J.C.'s
18 customers' addresses were on average 49 miles away. Likewise, offices of those doctors were far
19 from Catinat Pharmacy. Dr. Y.B.'s office was 34 miles away from Catinat Pharmacy and Dr.
20 J.C.'s offices were 37.9 miles.

21 38. Respondents changed the name of the drug on the original of Prescription Numbers
22 96580 and 96581 from Oxycontin (extended release) to oxycodone (immediate release) without
23 documenting that those change were made at the request of Dr. Y.B.

24 39. Respondents filled prescriptions for controlled substances to groups of customers
25 and/or processed controlled substance prescriptions in batches on the same or consecutive days,
26 assigned them sequential prescription numbers and entered them consecutively into Catinat
27 Pharmacy's dispensing software.
28

40. Staff at Catinat Pharmacy requested that Dr. J.C. write prescriptions for dangerous drugs along with his prescriptions for controlled substances.

41. Richard Nguyen admitted that customers presented controlled substance prescriptions from Dr. Y.B. to his other employer, Pacific View Pharmacy. Since he could not purchase enough controlled substances from Pacific View Pharmacy's wholesalers to fill the prescriptions, he referred those customers to Catinat Pharmacy for the filling of their prescriptions.

42. Respondents dispensed controlled substances even though 169 of the prescription forms used by Dr. Y.B. lacked a "California Security Prescription" watermark and a feature in thermochromic ink.

43. Respondents did not resolve any of these red flags of illegitimacy.

FIRST CAUSE FOR DISCIPLINE

(Failing to Comply with Corresponding Responsibility

for Controlled Substance Prescriptions Against All Respondents)

44. Respondents are subject to disciplinary action under Code sections 4301, subdivisions (j) and (o), for violating Health and Safety Code section 11153, subdivision (a), and Code of Federal Regulations, Title 21, section 1306.04, subdivision (a), because they failed to comply with their corresponding responsibility to ensure that controlled substances were dispensed for a legitimate medical purpose. As described above, Respondents repeatedly furnished prescriptions for controlled substances even though obvious and systemic "red flags" were present to indicate those prescriptions were not issued for a legitimate medical purpose.

SECOND CAUSE FOR DISCIPLINE

(Dispensing Controlled Substance Prescriptions with Significant Errors, Omissions, Irregularities, Uncertainties, Ambiguities or Alterations Against All Respondents)

45. Respondents are subject to disciplinary action under Code section 4301, subdivision (o), for violating title 16, California Code of Regulations, sections 1761, subdivisions (a) and (b), because they dispensed controlled substances based on prescriptions which contained significant errors, omissions, irregularities, uncertainties, ambiguities or alterations, as described above.

///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

THIRD CAUSE FOR DISCIPLINE

**(Failing to Exercise or Implement Best Professional Judgment or Corresponding
Responsibility when Dispensing Controlled Substances
Against Respondents Richard Nguyen and Brendon Nguyen)**

46. Respondents Richard Nguyen and Brendon Nguyen are subject to disciplinary action under Code section 4301, subdivision (o), for violating Business and Professions Code section 4306.5, subdivisions (a) and (b), because they failed to exercise or implement their best professional judgment or corresponding responsibility when dispensing controlled substances, as described above.

FOURTH CAUSE FOR DISCIPLINE

**(Dispensing Controlled Substance Prescriptions Written
on Unauthorized Forms Against All Respondents)**

47. Respondents are subject to disciplinary action under Code sections 4301, subdivisions (j) and (o), for violating Health and Safety Code section 11164, subdivision (a), because they filled and dispensed controlled substances from prescription forms that did not comply with the requirements of Health and Safety Code section 11162.1, as described above.

FIFTH CAUSE FOR DISCIPLINE

(Held or Offered for Sale Adulterated Drugs Against All Respondents)

48. Respondents are subject to disciplinary action under Code section 4301, subdivisions (j) and (o), for violating Health and Safety Code section 111295 and Code section 4169, subdivision (a)(2), in that they held or offered for sale dangerous drugs (i.e., the expired medications in the drug inventory) that were adulterated within the meaning of Health and Safety Code section 111255, as described above.

SIXTH CAUSE FOR DISCIPLINE

(Sold or Delivered Adulterated Drugs Against All Respondents)

49. Respondents are subject to disciplinary action under Code section 4301, subdivisions (j) and (o), for violating Health and Safety Code section 111295 and Code section 4169, subdivisions (a)(2) and (a)(4), in that they sold or delivered dangerous drugs (i.e., prescription

1 numbers 96623 and 98718 for Norco) that were adulterated within the meaning of Health and
2 Safety Code section 111255 and sold them after the beyond use date, as described above.

3 **SEVENTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct against All Respondents)**

5 50. Respondents are subject to disciplinary action under Code section 4301 for
6 unprofessional conduct because they engaged in the activities described above.

7 **OTHER MATTERS**

8 51. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
9 56180 issued to CRA View, Inc., dba Catinat Pharmacy, it shall be prohibited from serving as a
10 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
11 five years if Pharmacy Permit Number PHY 56180 is placed on probation or until the Pharmacy
12 Permit is reinstated if it is revoked.

13 52. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
14 56180 issued to CRA View, Inc., dba Catinat Pharmacy, while Audrey Diemquynh Nguyen has
15 been an owner or manager and had knowledge of or knowingly participated in any conduct for
16 which the licensee was disciplined, she shall be prohibited from serving as a manager,
17 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
18 the Pharmacy Permit is placed on probation or until the Pharmacy Permit is reinstated, if it is
19 revoked.

20 53. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
21 56180 issued to CRA View, Inc., dba Catinat Pharmacy while Brendon Cuong Nguyen has been
22 an owner or manager and had knowledge of or knowingly participated in any conduct for which
23 the licensee was disciplined, he shall be prohibited from serving as a manager, administrator,
24 owner, member, officer, director, associate, or partner of a licensee for five years if the Pharmacy
25 Permit is placed on probation or until the Pharmacy Permit is reinstated, if it is revoked.

26 54. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
27 56180 issued to CRA View, Inc., dba Catinat Pharmacy while Richard Quoc Nguyen has been an
28 owner or manager and had knowledge of or knowingly participated in any conduct for which the

licensee was disciplined, he shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if the Pharmacy Permit is placed on probation or until the Pharmacy Permit is reinstated, if it is revoked.

55. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No. RPH 59939 issued to Brendon Cuong Nguyen, he shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if the Pharmacist License is placed on probation or until the Pharmacist License is reinstated, if it is revoked.

56. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No. RPH 56415 issued to Richard Quoc Nguyen, he shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if the Pharmacist License is placed on probation or until the Pharmacist License is reinstated, if it is revoked.

DISCIPLINE CONSIDERATIONS

57. To determine the degree of discipline, if any, to be imposed on Richard Quoc Nguyen, Complainant alleges that on or about April 6, 2016, the Board issued Citation No. CI 2015 69835 against Richard Quoc Nguyen, for violating Business and Professions Code section 4115, subdivisions (a) and (e), for supervising and allowing a pharmacy clerk to perform the duties of a licensed pharmacy technician, including medication pouring, counting and prescription labeling. Respondent paid the fine.

PRAYER

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

1. Revoking or suspending Pharmacy Permit Number PHY 56180, issued to CRA View, Inc., dba Catinat Pharmacy;

2. Revoking or suspending Pharmacist License Number RPH 59939, issued to Brendon Cuong Nguyen;

1 3. Revoking or suspending Pharmacist License Number RPH 56415, issued to Richard
2 Quoc Nguyen;

3 4. Prohibiting CRA View, Inc., dba Catinat Pharmacy from serving as a manager,
4 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
5 Pharmacy Permit Number PHY 56180 is placed on probation or until the Pharmacy Permit is
6 reinstated, if it is revoked;

7 5. Prohibiting Audrey Diemquynh Nguyen from serving as a manager, administrator,
8 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
9 Permit Number PHY 56180 is placed on probation or until the Pharmacy Permit is reinstated, if it
10 is revoked;

11 6. Prohibiting Brendon Cuong Nguyen from serving as a manager, administrator, owner,
12 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
13 Number PHY 56180 is placed on probation or until the Pharmacy Permit is reinstated, if it is
14 revoked;

15 7. Prohibiting Richard Quoc Nguyen from serving as a manager, administrator, owner,
16 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
17 Number PHY 56180 is placed on probation or until the Pharmacy Permit is reinstated, if it is
18 revoked;

19 8. Prohibiting Brendon Cuong Nguyen from serving as a manager, administrator, owner,
20 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
21 Number RPH 59939 is placed on probation or until the Pharmacist License is reinstated, if it is
22 revoked;

23 9. Prohibiting Richard Quoc Nguyen from serving as a manager, administrator, owner,
24 member, officer, director, associate, or partner of a licensee for five years if Pharmacist License
25 Number RPH 56415 is placed on probation or until the Pharmacist License is reinstated, if it is
26 revoked;

1 10. Ordering CRA View, Inc., dba Catinat Pharmacy, Brendon Cuong Nguyen and
2 Richard Quoc Nguyen to pay the Board of Pharmacy the reasonable costs of the investigation and
3 enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

4 11. Taking such other and further action as deemed necessary and proper.
5
6

7 DATED: 5/25/2021
8

Signature on File

9 _____
10 ANNE SODERGREN
11 Executive Officer
12 Board of Pharmacy
13 Department of Consumer Affairs
14 State of California
15 *Complainant*

16
17
18
19
20
21
22
23
24
25
26
27
28
SD2021800650
82808863.docx