

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

In the Matter of the Accusation Against:

YING JIN, Respondent

Pharmacist License No. RPH 81821

Agency Case No. 7308

OAH No. 2022100508

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on June 23, 2023.

It is so ORDERED on May 24, 2023.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with a large initial "S" and "O".

Seung W. Oh, Pharm.D.
Board President

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PROPOSED DECISION

Marcie Larson, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter by video conference on March 28, 2023, from Sacramento, California.

Stephanie Alamo-Latif, Deputy Attorney General, represented complainant Anne Sodergren, Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.

Paul Chan, Attorney at Law, represented respondent Ying Jin, who appeared at the hearing.

Evidence was received, the record was closed, and the matter was submitted for decision on March 28, 2023.

FACTUAL FINDINGS

Jurisdictional Matters

1. On or about January 8, 2020, the Board issued to respondent Pharmacist License Number RPH 81821 (license). Her license will expire on August 31, 2023, unless renewed or revoked.

2. On August 31, 2022, complainant, acting solely in her official capacity, signed and filed the Accusation.¹ Complainant seeks to discipline respondent's license under Business and Professions Code section 4301, subdivision (f) based upon her theft of \$1,093.54 worth of items from a Costco in Folsom, California. Complainant alleges respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

3. Respondent timely filed a Notice of Defense, pursuant to Government Code section 11506. The matter was set for an evidentiary hearing before an Administrative Law Judge of the OAH, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500 et seq.

¹ Respondent stipulated that "all of the factual allegations alleged in Accusation number 7308 are true and the Accusation itself is admissible evidence sufficient to prove each allegation by clear and convincing evidence."

Conduct on November 29, 2020

4. On or about November 29, 2020², a loss prevention officer (officer) with Costco in Folsom, California, observed respondent place a face cream into her purse, which respondent covered with a black jacket. The officer also observed respondent take a bottle of wine and place it inside of her purse. Respondent paid for the black jacket and left the store without paying for the face cream or the bottle of wine. M.D. detained respondent and searched her purse. The officer found the following items in respondent's purse: four SK-II Moisturizing creams valued at \$799.96 in total, one bottle of Grand Vin De Leoville wine valued at \$264.99, and one bottle of Ocuvite vitamins valued at \$28.59. Officers from the Folsom Police Department were dispatched to the scene. Respondent admitted to the police officers she stole the items.

Duties of a Pharmacist

5. Irina Top, an Investigator with the Board, testified at hearing that good judgement, integrity, and honesty are important characteristics of a pharmacist. Medical professionals and patients rely on pharmacists to protect sensitive confidential financial and medical information. A pharmacist must be trusted to ensure the security of a pharmacy, including oversight over controlled substances. Additionally, a pharmacist-in-charge has additional responsibilities, such as supervising staff and ensuring the pharmacy complies with state and federal law.

² The police report lists the date of the incident as November 28 and November 29, 2020.

Respondent's Evidence

6. Respondent immigrated from China after high school. She attended community college before transferring to California State University, Sacramento. Prior to obtaining her degree, she was accepted to the Massachusetts College of Pharmacy and Health Science University. In 2019, respondent obtained her Doctor of Pharmacy. She was licensed by the Board in January 2020, and immediately began working as a staff pharmacist at a CVS pharmacy in Cameron Park, California.

7. In November 2020, respondent was going through a stressful time. Her father had a stroke. Respondent was responsible for caring for him and providing financial support. Respondent's long-term boyfriend broke up with her after learning that she may carry a gene that pre-disposes her to breast cancer.

8. While at work at CVS on November 29, 2020, respondent began to feel ill. She had a headache and the chills. She stopped at Costco on her way home from work to purchase a jacket. While at Costco, respondent noticed a face cream she uses was on sale. She put four containers of the cream in her purse. She placed vitamins in her purse, as well as a bottle of wine that she intended to drink later than evening. When respondent checked herself out at Costco, she only paid for the jacket. As she approached the exit, she decided she should have paid for the remaining items. However, before she turned back to pay, she was stopped by an officer and later arrested by police officers.

9. Respondent does not know why she stole the items. She knows it is wrong to steal. She had sufficient money to pay for the items. Respondent explained that she had never stolen merchandise before this incident and has not stolen since. Respondent is ashamed and embarrassed by her conduct.

10. Respondent was not convicted of theft. Rather, she was allowed to complete a Sacramento County Diversion program, which consisted of completing online education courses. Respondent did not explain what the courses entailed. Respondent also completed continuing education related to pharmacy ethics.

11. The month after her arrest, respondent was promoted to pharmacy manager at CVS. She did not tell her employer about her arrest. In November 2021, respondent was hired as the pharmacy manager at Safeway in Dixon, California. Respondent submitted a performance appraisal from May 2022, indicating she is meeting all performance expectations. Respondent did not tell her employer about her arrest or the Accusation filed against her by the Board.

12. Respondent assures the Board that she will never steal again. She has never stolen from her employer and would never do so. Respondent explained that her personal life is better, and she is under less stress. Her father's health has improved and he is able to care for himself. He still lives with respondent, and she financially supports him because he is not able to work. Respondent is in a committed relationship and hopes to have a child soon.

13. Respondent is concerned if she is placed on Board probation, she will lose her job because she cannot serve as a manager. Respondent is also not sure she will be able to find another job if she is on probation.

14. Respondent submitted several letters of support from friends, colleagues, and respondent's former pharmacy manager. The authors describe respondent as caring and dedicated. The authors indicate they are aware of the Accusation and respondent's conduct. The authors state that, despite respondent's past conduct, she is honest and trustworthy.

Analysis

15. The Board has developed Disciplinary Guidelines (Rev. 2/2017) (Guidelines), which are incorporated by reference in the Board's regulations at California Code of Regulations, title 16, section 1760. The Guidelines classify categories of violations as Category I, II, III, or IV. The categories are arranged in ascending order from the least serious (Category I) to the most serious (Category IV). Category I includes minor pharmacy-related violations. The recommended discipline is a maximum of revocation and a minimum of two years of probation. Category II includes violations involving dishonesty and moral turpitude. The recommended discipline is a maximum of revocation and a minimum of three years of probation.

16. Respondent argues that her conduct falls within a Category I violation. She cites the precedential decision *In the Matter of the Third Amended Accusation Against IV Solutions, Inc. Alireza Varastehpour, President and Renee Sadow*, (Case No. 3606, OAH No. 2011050988) to argue that her conduct did not arise out of her duties as a licensee and therefore probation is not appropriate. However, the plain language of the Guidelines demonstrates otherwise. Respondent engaged in dishonesty and acts of moral turpitude by stealing over \$1,000 of merchandise from Costco. The imposition of discipline is not limited to conduct which arises solely from pharmacy duties. Licensees are expected to abide by the law and exercise good judgment at all times. Failure to do so can result in license discipline.

17. However, license discipline should consider the licensee's conduct and any factors introduced in justification, mitigation, aggravation, and rehabilitation. The licensee "should be permitted to introduce evidence of extenuating circumstances by way of mitigation or explanation, as well as any evidence of rehabilitation." (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449; *Brandt v. Fox* (1979) 90 Cal.App.3d 737, 747.) When

determining the penalty to be imposed in a given case, the Guidelines provide that the following applicable factors should be considered:

1. Actual or potential harm to the public.
2. Actual or potential harm to any consumer.
3. Prior disciplinary record, including level of compliance with disciplinary order(s).
4. Prior warning(s), including but not limited to citation(s) and fine(s), letter(s) of admonishment, and/or correction notice(s).
5. Number and/or variety of current violations.
6. Nature and severity of the act(s), offense(s) or crime(s) under consideration.
7. Aggravating evidence.
8. Mitigating evidence.
9. Rehabilitation evidence.
10. Time passed since the act(s) or offense(s).
11. Whether the conduct was intentional or negligent, demonstrated incompetence, or, if the respondent is being held to account for conduct committed by another, the respondent had knowledge of or knowingly participated in such conduct.

12. Financial benefit to the respondent from the misconduct.

No single one or combination of the above factors is required to justify the minimum and/or maximum penalty in a given case, as opposed to an intermediate one.

18. Applying the Guideline factors, respondent's conduct was serious. She stole over \$1,000 in merchandise from Costco. She knew her conduct was wrong. While respondent explained at hearing that she was under stress, she did not offer any significant insight into the underlying cause of her conduct. Additionally, respondent did not offer any evidence that she has sought counseling to address the underlying cause of her conduct and any other issues which may be affecting her judgment or causing stress in her life.

19. Respondent is clearly remorseful for her conduct. Fully acknowledging the wrongfulness of past actions is an essential step towards rehabilitation. (*Seide v. Com. of Bar Examiners* (1989) 49 Cal.3d 933, 940.) Although respondent has no history of discipline with the Board and her letters of support attest to her strong work ethic and integrity, as set forth in the Board's Guidelines, respondent must be placed on probation for a period three years, with terms and conditions to protect the public. The terms include psychotherapy to help her address the underlying issues that may have caused her conduct and to ensure that it does not happen again.

Costs

20. Complainant has requested reimbursement for costs incurred by the Board in connection with the enforcement and prosecution of this matter, in the total amount of \$5,708.75. The costs were certified in the manner provided by Business and

Professions Code section 125.3, subdivision (c), as set forth in the Certification of Prosecution Costs and Declaration by Stephanie Alamo-Latif, Deputy Attorney General. As set forth in Legal Conclusion 6, the Board's request for reimbursement of \$5,708.75 for its enforcement and prosecution costs is reasonable.

LEGAL CONCLUSIONS

Burden and Standard of Proof

1. A profession is a vocation or occupation requiring special and advanced education and skill predominately of an intellectual nature. The practice of pharmacy, like the practice of medicine, is a profession. (*Vermont & 110th Medical Arts Pharmacy v. Bd. of Pharmacy* (1981) 125 Cal.App.3d 19.)

2. The standard of proof in an administrative disciplinary action seeking the suspension or revocation of a professional license is "clear and convincing evidence." (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853.) "Clear and convincing evidence" requires a finding of high probability, which must be sufficiently strong to command the unhesitating assent of every reasonable mind. (*In re David C.* (1984) 152 Cal.App.3d 1189.) Complainant must meet this burden of proof for each cause for discipline alleged in the Accusation.

Applicable Law

3. Business and Professions Code section 4300 provides that the Board may suspend or revoke any certificate, license, permit, registration, or exemption, and may suspend the right to practice or place the licensee on probation.

4. Business and Professions Code section 4301 provides, in relevant part, that the Board shall take action against any holder of a license who is guilty of unprofessional conduct, including:

[¶] . . . [¶]

(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.

[¶] . . . [¶]

Cause for Discipline

5. As set forth in Factual Findings 1 through 4, cause to discipline respondent's license exists under Business and Professions Code sections 4301, subdivision (f). Respondent committed acts involving moral turpitude, dishonesty, fraud, deceit, and corruption. On or about November 29, 2020, respondent stole over \$1,000 of merchandise from Costco.

Costs

6. Pursuant to Business and Professions Code section 125.3, a licensee found to have violated a licensing act may be ordered to pay the reasonable costs of investigation and prosecution of a case. In *Zuckerman v. Board of Chiropractic Examiners* (2002) 29 Cal.4th 32, the California Supreme Court set forth factors to be considered in determining the reasonableness of the costs sought pursuant to statutory provisions like Business and Professions Code section 125.3. These factors

include whether the licensee has been successful at hearing in getting charges dismissed or reduced, the licensee's subjective good faith belief in the merits of her position, whether the licensee has raised a colorable challenge to the proposed discipline, the financial ability of the licensee to pay, and whether the scope of the investigation was appropriate in light of the alleged misconduct.

Complainant seeks \$5,708.75 in costs. When all the *Zuckerman* factors are considered, this cost amount is reasonable. Respondent should be allowed to pay these costs pursuant to a payment plan.

Conclusion

7. As set forth in Factual Findings 15 through 19, respondent has made some efforts toward rehabilitation. However, Board oversight of respondent is necessary to protect the public health, safety, and welfare.

ORDER

Pharmacist License Number RPH 81821 issued to respondent is revoked; however, the revocation is stayed and respondent is placed on probation for three years upon the following terms and conditions:

1. **Obey All Laws:** Respondent shall obey all state and federal laws and regulations. Respondent shall report any of the following occurrences to the Board, in writing, within 72 hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal

food and drug laws, or state and federal controlled substances laws;

- a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information or indictment;

- a conviction of any crime;

- discipline, citation, or other administrative action filed by any state or federal agency which involves respondent's license or which is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing, or charging for any drug, device, or controlled substance.

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

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

3. **Interview with the Board:** Upon receipt of reasonable prior notice, respondent shall appear in person for interviews with the Board or its designee, at such intervals and locations as are determined by the Board or its designee. Failure to appear for any scheduled interview without prior notification to Board staff, or failure to appear at two or more scheduled interviews with the Board or its designee during the period of probation, shall be considered a violation of probation.

4. **Cooperate with Board Staff:** Respondent shall cooperate with the Board's inspection program and with the Board's monitoring and investigation of respondent's compliance with the terms and conditions of her probation. Failure to cooperate shall be considered a violation of probation.

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

6. **Reporting of Employment and Notice to Employer:** During the period of probation, respondent shall notify all present and prospective employers of the decision in OAH No. 2022100508 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

Within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment, respondent shall cause her direct supervisor, pharmacist-in-charge (including each new pharmacist-in-charge employed during respondent's tenure of employment) and owner to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in OAH No. 2022100508 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgement(s) to the Board.

If respondent works for or is employed by or through a pharmacy employment service, respondent must notify her direct supervisor, pharmacist-in-charge and owner at every pharmacy of the terms and conditions of the decision in OAH No. 2022100508 in advance of the respondent commencing work at each pharmacy. A record of this notification must be provided to the Board upon request.

Furthermore, within 30 days of the effective date of this decision, and within 15 days of respondent undertaking any new employment by or through a pharmacy employment service, respondent shall cause her direct supervisor with the pharmacy employment service to report to the Board in writing acknowledging that he or she has read the decision in OAH No. 2022100508 and the terms and conditions imposed thereby. It shall be respondent's responsibility to ensure that her employer(s) and/or supervisor(s) submit timely acknowledgment(s) to the Board.

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

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

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

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

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

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

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

9. **Reimbursement of Board Costs:** As a condition precedent to successful completion of probation, respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$5,708.75. Respondent shall be permitted to pay these costs in a payment plan approved by the Board or its designee, so long as full payment is completed no later than one year prior to the end date of probation.

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

11. **Status of License:** Respondent shall, at all times while on probation, maintain an active, current pharmacist license with the Board, including any period during which suspension or probation is tolled. Failure to maintain an active, current license shall be considered a violation of probation.

If respondent's pharmacist license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof

due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

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

Upon acceptance of the surrender, respondent shall relinquish her pharmacist license to the Board within 10 days of notification by the Board that the surrender is accepted. Respondent may not reapply for any license, permit, or registration from the Board for three years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the Board.

13. **Practice Requirement – Extension of Probation:** Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 100 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment, respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the Board or its designee.

If respondent does not practice as a pharmacist in California for the minimum number of hours in any calendar month, for any reason (including vacation), respondent shall notify the Board in writing within 10 days of the conclusion of that calendar month. This 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 resume practice at the required level. Respondent shall further notify the Board in writing within 10 days following the next calendar month during which respondent practices as a pharmacist in California for the minimum of hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

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

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

15. **Psychotherapy:** Within 30 days of the effective date of this decision, respondent shall submit to the Board or its designee, for prior approval, the name and qualifications of a licensed mental health practitioner of respondent's choice. Within 30 days of approval thereof, respondent shall submit documentation to the Board demonstrating the commencement of psychotherapy with the approved licensed mental health practitioner. Should respondent, for any reason, cease treatment with the approved licensed mental health practitioner, respondent shall notify the Board immediately and, within 30 days of ceasing treatment, submit the name of a replacement psychotherapist or licensed mental health practitioner of respondent's choice to the Board for its prior approval. Within 30 days of approval thereof, respondent shall submit documentation to the Board demonstrating the commencement of psychotherapy with the approved replacement. Failure to comply with any requirement or deadline stated by this paragraph shall be considered a violation of probation.

Upon approval of the initial or any subsequent licensed mental health practitioner, respondent shall undergo and continue treatment with that therapist, at respondent's own expense, until the therapist recommends in writing to the Board, and the Board or its designee agrees by way of a written notification to respondent, that no further psychotherapy is necessary. Upon receipt of such recommendation from the treating therapist, and before determining whether to accept or reject said recommendation, the Board or its designee may require respondent to undergo, at respondent's own expense, a mental health evaluation by a Board-appointed or Board-approved psychiatrist or psychologist. If the approved evaluator recommends that respondent continue psychotherapy, the Board or its designee may require respondent to continue psychotherapy.

Psychotherapy shall be at least once a week unless otherwise approved by the Board. Respondent shall provide the therapist with a copy of the Board's Accusation and Decision no later than the first therapy session. Respondent shall take all necessary steps to ensure that the treating therapist submits written quarterly reports to the Board concerning respondent's fitness to practice, progress in treatment, and such other information required by the Board or its designee.

If at any time the treating therapist determines that respondent cannot practice safely or independently, the therapist shall notify the Board immediately by telephone and follow up by written letter within three working days. Upon notification from the Board or its designee of this determination, respondent shall be automatically suspended and shall not resume practice until notified by the Board that practice may be resumed.

During any suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed by the Board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained.

Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices or controlled substances. Respondent shall not resume practice until notified by the Board.

During any suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy, or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs and/or dangerous devices or controlled substances.

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

16. **No Ownership or Management of Licensed Premises:** Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within 90 days following the effective date of this decision and shall immediately thereafter provide written proof thereof to the Board. Failure to timely divest any legal or beneficial interest(s) or provide documentation thereof shall be considered a violation of probation.

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

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

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

DATE: April 12, 2023

Marcie Larson
Marcie Larson (Apr 12, 2023 14:52 PDT)

MARCIE LARSON

Administrative Law Judge

Office of Administrative Hearings

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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. 7308

14 **YING JIN**
15 **1720 Highbridge Way**
Sacramento, CA 95832

ACCUSATION

16 **Pharmacist License No. RPH 81821**

17 Respondent.

18
19
20 **PARTIES**

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

23 2. On or about January 8, 2020, the Board issued Pharmacist License Number RPH
24 81821 to Ying Jin (Respondent). The Pharmacist License was in full force and effect at all times
25 relevant to the charges brought herein and will expire on August 31, 2023, unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board under the authority of the following
3 laws. All section references are to the Business and Professions Code (Code) unless otherwise
4 indicated.

5 4. Code section 4300 states, in pertinent part, that every license issued may be
6 suspended or revoked.

7 5. Code section 4300.1 states:
8 "The expiration, cancellation, forfeiture, or suspension of a board-issued license by
9 operation of law or by order or decision of the board or a court of law, the placement of a license
10 on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board
11 of jurisdiction to commence or proceed with any investigation of, or action or disciplinary
12 proceeding against, the licensee or to render a decision suspending or revoking the license."

13 **STATUTORY PROVISIONS**

14 6. Code section 492 states:

15 Notwithstanding any other provision of law, successful completion of any
16 diversion program under the Penal Code, or successful completion of an alcohol and
17 drug problem assessment program under Article 5 (commencing with section
18 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any
19 agency established under Division 2 ([Healing Arts] commencing with Section 500)
of this code, or any initiative act referred to in that division, from taking disciplinary
action against a licensee or from denying a license for professional misconduct,
notwithstanding that evidence of that misconduct may be recorded in a record
pertaining to an arrest.

20 This section shall not be construed to apply to any drug diversion program
21 operated by any agency established under Division 2 (commencing with Section 500)
of this code, or any initiative act referred to in that division.

22 7. Code section 4301 states, in pertinent part:

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

25 ...

26 (f) The commission of any act involving moral turpitude, dishonesty, fraud,
27 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.

28 ...

1 **COST RECOVERY**

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

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(Acts Involving Moral Turpitude, Dishonesty, Fraud, or Deceit)**

10 9. Respondent's pharmacist license is subject to disciplinary action under Code section
11 4301, subdivision (f) in that on or about November 29, 2020, Respondent committed acts
12 involving moral turpitude, dishonesty, fraud, deceit, or corruption. The circumstances are as
13 follows:

14 10. On or about November 29, 2020, M.D., a loss prevention officer with Costco, located
15 in Folsom, California, observed Respondent place a face cream into her purse, which Respondent
16 covered with a black jacket. M.D. also observed Respondent take a bottle of wine and place it
17 inside of her purse. Respondent paid for the black jacket and left the store without paying for the
18 face cream or the bottle of wine. M.D. detained Respondent and searched her purse. M.D. found
19 the following items in Respondent's purse: four (4) SK-II Moisturizing creams valued at \$799.96
20 in total, one (1) bottle of Grand Vin De Leoville wine valued at \$264.99, and one (1) bottle of
21 Ocuville vitamins valued at \$28.59. Officers from the Folsom Police Department were dispatched
22 to the scene, and Respondent admitted to them that she stole the items.

23 **PRAYER**

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

26 1. Revoking or suspending Pharmacist License Number RPH 81821, issued to Ying Jin;

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28 \\\

1 2. Ordering Ying Jin to pay the Board of Pharmacy the reasonable costs of the
2 investigation and enforcement of this case, pursuant to Business and Professions Code section
3 125.3; and,

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

7 DATED: 8/31/2022
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*

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