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

In the Matter of the Accusation and Petition to
Revoke Probation Against:

**BELLA TERRA PHARMACY INC.,
TRAMANH NU TON, SHAREHOLDER,
DIRECTOR AND OFFICER
16121 Beach Blvd.
Huntington Beach, CA 92647**

Permit Number No. PHY 55479,

**TRAMANH NU TON
2049 N. Chouteau St.
Orange, CA 92865**

**Registered Pharmacist License No. RPH
59598,**

and

**TIFFANI NGOC NGUYEN
15412 Nantucket St.
Westminster, CA 92683**

**Registered Pharmacist License No. RPH
59516**

Respondents.

Case No. 7330

DEFAULT DECISION AND ORDER

[Gov. Code, §11520]

FINDINGS OF FACT

1
2 1. On or about March 24, 2023, Complainant Anne Sodergren, in her official capacity as
3 the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed
4 Accusation and Petition to Revoke Probation No. 7330 against Bella Terra Pharmacy Inc.,
5 Tramanh Nu Ton, and Tiffani Ngoc Nguyen (collectively Respondents) before the Board of
6 Pharmacy. (Accusation and Petition to Revoke Probation attached as Exhibit A.)

7 2. On or about February 1, 2017, the Board of Pharmacy (Board) issued Permit Number
8 No. PHY 55479 to Bella Terra Pharmacy Inc. (Respondent Bella Terra Pharmacy). Tramanh Nu
9 Ton is the sole shareholder, director and officer of Bella Terra Pharmacy, Inc. The Permit
10 Number was in full force and effect at all times relevant to the charges brought in Accusation and
11 Petition to Revoke Probation No. 7330 and expired on February 1, 2023, and has not been
12 renewed. This lapse in licensure, however, pursuant to Business and Professions 4300.1 does not
13 deprive the Board of its authority to institute or continue this disciplinary proceeding.

14 3. On or about June 6, 2007, the Board issued Pharmacist License Number RPH 59598
15 to Tramanh Nu Ton (Respondent Ton). The Pharmacist License was in full force and effect at all
16 times relevant to the charges brought in Accusation and Petition to Revoke Probation No. 7330
17 and will expire on May 31, 2023, unless renewed.

18 4. On or about April 23, 2007, the Board issued Pharmacist License Number RPH
19 59516 to Tiffani Ngoc Nguyen (Respondent Nguyen). The Pharmacist License was in full force
20 and effect at all times relevant to the charges brought in Accusation and Petition to Revoke
21 Probation No. 7330 and will expire on October 31, 2024, unless renewed.

22 5. On or about April 12, 2023, Respondent Bella Terra Pharmacy was served by
23 Certified and First Class Mail copies of the Accusation and Petition to Revoke Probation No.
24 7330, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery
25 Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent Bella Terra
26 Pharmacy's address of record which, pursuant to Business and Professions Code section 4100, is
27 required to be reported and maintained with the Board. Respondent Bella Terra Pharmacy's
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1 address of record was and is: 16121 Beach Blvd., Huntington Beach, CA 92647.

2 6. On or about April 12, 2023, Respondent Ton was served by Certified and First Class
3 Mail copies of the Accusation and Petition to Revoke Probation No. 7330, Statement to
4 Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government
5 Code sections 11507.5, 11507.6, and 11507.7) at Respondent Ton's address of record which,
6 pursuant to Business and Professions Code section 4100, is required to be reported and
7 maintained with the Board. Respondent Ton's address of record was and is: 2049 N. Chouteau
8 St., Orange, CA 92865. The packet sent by Certified Mail to Respondent Ton was returned by
9 the U.S. Postal Service as follows: "Return to Sender, Refused, Unable to Forward, Return to
10 Sender."

11 7. On or about April 12, 2023, Respondent Nguyen was served by Certified and First
12 Class Mail copies of the Accusation and Petition to Revoke Probation No. 7330, Statement to
13 Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government
14 Code sections 11507.5, 11507.6, and 11507.7) at Respondent Nguyen's address of record which,
15 pursuant to Business and Professions Code section 4100, is required to be reported and
16 maintained with the Board. Respondent Nguyen's address of record was and is: 15412 Nantucket
17 St., Westminster, CA 92683.

18 8. Service of the Accusation and Petition to Revoke Probation on Respondents was
19 effective as a matter of law under the provisions of Government Code section 11505(c) and/or
20 Business and Professions Code section 124.

21 9. Government Code section 11506(c) states, in pertinent part:

22 (c) The respondent shall be entitled to a hearing on the merits if the respondent
23 files a notice of defense . . . and the notice shall be deemed a specific denial of all
24 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
25 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
26 discretion may nevertheless grant a hearing.
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1 10. The Board takes official notice of its records and the fact that Respondents failed to
2 file a Notice of Defense within 15 days after service upon them of the Accusation and Petition to
3 Revoke Probation, and therefore waived their right to a hearing on the merits of Accusation and
4 Petition to Revoke Probation No. 7330.

5 11. California Government Code section 11520(a) states, in pertinent part:

6 (a) If the respondent either fails to file a notice of defense . . . or to appear at
7 the hearing, the agency may take action based upon the respondent's express
8 admissions or upon other evidence and affidavits may be used as evidence without
any notice to respondent

9 12. Pursuant to its authority under Government Code section 11520, the Board finds
10 Respondents are in default. The Board will take action without further hearing and, based on the
11 relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
12 finds that the charges and allegations in Accusation and Petition to Revoke Probation No. 7330,
13 are separately and severally, found to be true and correct by clear and convincing evidence.

14 13. The Board finds that the actual costs for Investigation and Enforcement are \$31,818
15 as of May 12, 2023.

16 **DETERMINATION OF ISSUES**

17 1. Based on the foregoing findings of fact, Respondent Bella Terra Pharmacy Inc., has
18 subjected its Permit Number No. PHY 55479 to discipline.

19 2. Based on the foregoing findings of fact, Respondent Tramanh Nu Ton has subjected
20 Pharmacist License No. RPH 59598 to discipline.

21 3. Based on the foregoing findings of fact, Respondent Tiffani Ngoc Nguyen has
22 subjected Pharmacist License No. RPH 59516 to discipline.

23 2. The agency has jurisdiction to adjudicate this case by default.

24 3. The Board of Pharmacy is authorized to revoke Respondent Bella Terra Pharmacy
25 Inc.'s Permit Number No. PHY 55479, Respondent Ton's Pharmacist License No. RPH 59598,
26 and Respondent Nguyen's Pharmacist License No. RPH 59516 based upon the following
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violations alleged in the Accusation and Petition to Revoke Probation which are supported by the evidence contained in the Default Decision Investigatory Evidence Packet in this case:

a. Respondents violated Business and Professions Code (Code) section 4301, subdivision (o), for violating Code section 4059, subdivision (a), in that they furnished drugs without prescriptions from prescribers.

b. Respondents violated Code section 4301, subdivision (o), for violating title 16, California Code of Regulations, section 1761, subdivision (a), because they dispensed dangerous drugs based on prescriptions which contained significant errors, omissions, irregularities, uncertainties, ambiguities or alterations.

c. Respondents Ton and Nguyen violated Code section 4301, subdivision (o), for violating Code section 4306.5, subdivision (a), because they failed to exercise or implement their best professional judgment.

d. Respondents violated Code section 4301, subdivision (o) because they engaged in conduct that constituted unprofessional conduct.

e. Respondents Ton and Bella Terra Pharmacy violated Code section 4301, subdivision (o) for violating Code section 4305, in that Respondent Bella Terra Pharmacy operated for more than 30 days without a Pharmacist-in-Charge.

f. Respondent Ton's probation is subject to revocation because Respondent Ton failed to comply with Probation Condition 1, in that she violated state laws and regulations.

g. Respondent Ton's probation is subject to revocation because Respondent Ton failed to comply with Probation Condition 2, in that she failed to submit reports as required.

h. Respondent Ton's probation is subject to revocation because Respondent Ton failed to comply with Probation Condition 3 for failing to appear at an interview with the Board's designee.

i. Respondent Ton's probation is subject to revocation because Respondent Ton failed to comply with Probation Condition 4, in that Respondent Ton failed to cooperate with Board Staff, including but not limited to, her failure to respond to multiple Board inquiries and

1 communications, failure to appear at interviews, failure to timely complete documentation
2 pertaining to conditions of probation, and failure to comply with directives from Board staff.

3 j. Respondent Ton's probation is subject to revocation because Respondent Ton failed
4 to comply with Probation Condition 8, in that Respondent Ton oversaw the operations at her
5 pharmacy, Bella Terra Pharmacy, following the disassociation of the former Pharmacist-in-
6 Charge.

7 k. Respondent Ton's probation is subject to revocation because Respondent Ton failed
8 to comply with Probation Condition 9 for failing to comply with the payment plan to reimburse
9 the Board of its costs.

10 l. Respondent Ton's probation is subject to revocation because Respondent Ton failed
11 to comply with Probation Condition 10 for failing to pay costs associated with probation
12 monitoring.

13 m. Respondent Ton's probation is subject to revocation because Respondent Ton failed
14 to comply with Probation Condition 16 in that Respondent Ton was required to complete the
15 diversion training program by no later than September 29, 2022, and she did not provide
16 documentation to reflect attendance and completion of the Diversion Training Program.

17 n. Respondent Ton's probation is subject to revocation because Respondent Ton failed
18 to comply with Probation Condition 17, in that Respondent Ton was required to complete ten
19 hours of remedial education by no later than September 29, 2022, and she did not provide
20 documentation to reflect attendance and completion of any remedial education.

21 o. Respondent Ton's probation is subject to revocation because Respondent Ton failed
22 to comply with Probation Condition 18, in that Respondent failed to provide documentation
23 reflecting attendance and completion of the follow-up ethic course.

24 p. Respondent Ton's probation is subject to revocation because Respondent Ton failed
25 to comply with Probation Condition 19, in that Respondent Ton failed to sell or transfer her legal
26 or beneficial interest in Bella Terra Pharmacy within 150 days following the effective date of the
27 decision.

ORDER

IT IS SO ORDERED that Permit Number No. PHY 55479, issued to Respondent Bella Terra Pharmacy Inc., is revoked.

IT IS SO ORDERED that Pharmacist License No. RPH 59598, issued to Respondent Tramanh Nu Ton is revoked.

IT IS SO ORDERED that Pharmacist License No. RPH 59516, issued to Respondent Tiffani Ngoc Nguyen is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondents may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondents. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective at 5:00 p.m. on July 26, 2023.

It is so ORDERED on June 26, 2023.



Seung W. Oh, Pharm.D.
Board President
FOR THE BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 ROB BONTA
Attorney General of California
2 GREGORY J. SALUTE
Supervising Deputy Attorney General
3 NICOLE R. TRAMA
Deputy Attorney General
4 State Bar No. 263607
600 West Broadway, Suite 1800
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 738-9441
7 Facsimile: (619) 645-2061
Attorneys for Complainant
8

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

12 In the Matter of the Accusation and Petition to
13 Revoke Probation Against:

Case No. 7330

14 **BELLA TERRA PHARMACY, INC.,**
15 **TRAMANH NU TON, SHAREHOLDER,**
16 **DIRECTOR AND OFFICER**
16121 Beach Blvd.
Huntington Beach, CA 92647

**ACCUSATION & PETITION TO
REVOKE PROBATION**

17 **Pharmacy Permit Number No. PHY 55479,**

18 **TRAMANH NU TON**
19 **2049 N. Chouteau St.**
Orange, CA 92865

20 **Pharmacist License No. RPH 59598,**

21 **and**

22 **TIFFANI NGOC NGUYEN**
23 **15412 Nantucket St.**
Westminster, CA 92683

24 **Pharmacist License No. RPH 59516**

25 Respondents.
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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 February 1, 2017, the Board issued Pharmacy Permit Number PHY
5 55479 to Bella Terra Pharmacy Inc. (Respondent Bella Terra Pharmacy). Tramanh Nu Ton is the
6 sole shareholder, director and officer of Bella Terra Pharmacy, Inc. The Pharmacy Permit was in
7 full force and effect at all times relevant to the charges brought herein and expired on February 1,
8 2023, and has not been renewed.

9 3. On or about June 6, 2007, the Board issued Pharmacist License Number RPH 59598
10 to Tramanh Nu Ton (Respondent Ton). The Pharmacist License was in full force and effect at all
11 times relevant to the charges brought herein and will expire on May 31, 2023, unless renewed.

12 4. On or about April 23, 2007, the Board issued Pharmacist License Number RPH
13 59516 to Tiffani Ngoc Nguyen (Respondent Nguyen). The Pharmacist License was in full force
14 and effect at all times relevant to the charges brought herein and will expire on October 31, 2024,
15 unless renewed.

16 **ACCUSATION**

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. Section 118, subdivision (b), of the Code provides that the suspension, expiration,
22 surrender, cancellation of a license shall not deprive the Board of jurisdiction to proceed with a
23 disciplinary action during the period within which the license may be renewed, restored, reissued
24 or reinstated.

25 7. Section 4011 of the Code provides that the Board shall administer and enforce both
26 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
27 Act [Health & Safety Code, § 11000 et seq.].

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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 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, 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 any other state or federal regulatory agency....

13. Code section 4305, states:

(a) Failure by any pharmacist to notify the board in writing that he or she has ceased to act as the pharmacist-in-charge of a pharmacy, or by any pharmacy to notify the board in writing that a pharmacist-in-charge is no longer acting in that capacity, within the 30-day period specified in Sections 4101 and 4113 shall constitute grounds for disciplinary action.

(b) Operation of a pharmacy for more than 30 days without supervision or management by a pharmacist-in-charge shall constitute grounds for disciplinary action.

(c) Any person who has obtained a license to conduct a pharmacy, who willfully fails to timely notify the board that the pharmacist-in-charge of the pharmacy has ceased to act in that capacity, and who continues to permit the compounding or dispensing of prescriptions, or the furnishing of drugs or poisons, in his or her pharmacy, except by a pharmacist subject to the supervision and management of a responsible pharmacist-in-charge, shall be subject to summary suspension or revocation of his or her license to conduct a pharmacy.

14. Code section 4306.5, subdivision (a) 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.

15. 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

1 has been placed on probation, and while acting as the manger, administrator, owner,
2 member, officer, director, associate, or partner had knowledge or knowingly
3 participated in any conduct for which the license was denied, revoked, suspended, or
placed on probation, shall be prohibited from serving as a manger, administrator,
owner, member, officer, director, associate, or partner of a licensee as follows:

4 (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
5 years.

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

7 **REGULATORY PROVISION**

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

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

12 **COST RECOVERY**

13 17. Section 125.3 of the Code states, in pertinent part, that the Board may request the
14 administrative law judge to direct a licentiate found to have committed a violation or violations of
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
16 enforcement of the case.

17 **FACTUAL ALLEGATIONS**

18 18. From February 1, 2017 through May 21, 2021, Respondent Ton was the Pharmacist-
19 in-Charge of Respondent Bella Terra Pharmacy located in Huntington Beach, California. From at
20 least December 2019, Respondent Nguyen was a staff pharmacist at Respondent Bella Terra
21 Pharmacy. On May 25, 2021, she became the Pharmacist-in-Charge (PIC), but disassociated on
22 July 11, 2022. Respondent Bella Terra Pharmacy did not designate a new PIC within thirty days
23 of Respondent Nguyen's disassociation, and it operated without a PIC for longer than thirty days.

24 19. On October 18, 2021, the Board received notice that a pharmacy benefits manager
25 was investigating Respondent Bella Terra Pharmacy for fraud, waste and abuse. On January 7,
26 2022, the Board received notice that a second pharmacy benefits manager was investigating
27 Respondent Bella Terra Pharmacy for fraud, waste and abuse. After receiving these notices, the
28 Board initiated its own separate investigation and made the following findings.

1 20. Participants in a healthcare fraud scheme called individuals and asked them a series of
2 questions about their health and inquired if they desired to receive medications. Other individuals
3 completed on-line questionnaires about their health on social media or visited wellness centers.
4 After the initial contact, these individuals began receiving unsolicited, fraudulent prescriptions for
5 dangerous drugs which carried higher medical insurance reimbursement rates than other
6 dangerous drugs. Respondents furnished certain of these prescriptions.

7 21. From December 2019 through January 2020, Respondents furnished dangerous drugs
8 pursuant to **415** prescriptions which were not written or authorized by Dr. B.G. Certain of the
9 prescriptions contained omissions, irregularities, uncertainties, ambiguities or alterations,
10 including the fact that multiple members of the same family were prescribed identical drugs in or
11 about the same time, prescriptions were transmitted via facsimile from "Orange Cost Clinic," the
12 same telephone and facsimile numbers as another doctor (Dr. I.Z.) were printed on the
13 prescriptions, certain prescriptions were signed by Physician Assistant L.A. but dispensed under
14 Dr. B.G.'s prescribing authority and Dr. B.G.'s incorrect address was listed on the prescriptions.

15 22. From December 2019 through January 2020, Respondents furnished dangerous drugs
16 pursuant to **73** prescriptions which were not written or authorized by Dr. I.Z. Certain of the
17 prescriptions contained omissions, irregularities, uncertainties, ambiguities or alterations,
18 including the fact that multiple members of the same family were prescribed identical drugs in or
19 about the same time, the prescriptions were transmitted via facsimile from "Orange Cost Clinic,"
20 the same telephone and facsimile numbers as another doctor (Dr. B.G.) were printed on these
21 prescriptions and they were signed by Physician Assistant L.A but dispensed under Dr. I.Z.'s
22 prescribing authority.

23 23. From February 2020 through April 2020, Respondents furnished dangerous drugs
24 pursuant to **345** prescriptions which were not written or authorized by Dr. H.M. Certain of the
25 prescriptions contained omissions, irregularities, uncertainties, ambiguities or alterations,
26 including the fact that multiple members of the same family were prescribed identical drugs in or
27 about the same time, they were signed by Physician Assistant J.L. but dispensed under Dr. H.M.'s
28 prescribing authority and were transmitted via facsimile from "Orange Cost Clinic."

1 24. From February through April 2020, Respondents furnished dangerous drugs pursuant
2 to **118** prescriptions which were not written or authorized by Dr. J.B. The prescriptions contained
3 omissions, irregularities, uncertainties, ambiguities or alterations, including the fact that the
4 prescriptions listed the incorrect address and telephone number, including the area code for Dr.
5 J.B.'s offices, the telephone number listed on the prescriptions was disconnected, Physician
6 Assistant J.L.'s signature was inconsistently written and appeared to be in different handwriting,
7 the prescriptions were signed by J.L. but dispensed under Dr. J.B.'s prescribing authority,
8 multiple family members were prescribed identical drugs in or about the same time, some
9 prescriptions were transmitted from "Orange Cost Clinic" and some prescriptions were
10 transmitted via facsimile without the required date and time of transmission and identity of
11 sender.

12 25. In February 2020, Respondents furnished dangerous drugs pursuant to **99**
13 prescriptions which were not written or authorized by Physician Assistant J.S. These
14 prescriptions contained omissions, irregularities, uncertainties, ambiguities or alterations,
15 including identifying more prescriptions for dangerous drugs on the prescriptions than the actual
16 total number of prescriptions written, Physician Assistant J.S.'s signature was inconsistently
17 written and appeared to be in different handwriting, multiple family members were prescribed the
18 same identical drugs in or about the same time and prescriptions were transmitted via facsimile
19 without the required date and time of transmission and identity of sender.

20 26. From February 2021 through October 2021, Respondents dispensed at least **232**
21 prescriptions issued by Dr. U.S. which contained omissions, irregularities, uncertainties,
22 ambiguities or alterations, including the fact that prescriptions which were transmitted via
23 facsimile without the required date and time of transmission and identity of sender, some of the
24 prescriptions were written with "as needed" directions for use, but were routinely refilled by
25 Respondents, and prescriptions were written for naproxen liquid suspension, even though
26 naproxen is available in tablet form in multiple strengths and other medications were dispensed to
27 the same patients in tablet form.

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27. From July to October 2020, Respondents furnished over \$900,000 worth of dangerous drugs pursuant to **453** prescriptions which were not written or authorized by Dr. Mesfin S.

28. From April 2021 through October 2021, Respondents dispensed at least **393** prescriptions issued by Dr. Mark S. which contained omissions, irregularities, uncertainties, ambiguities or alterations, including the fact that prescriptions which were transmitted via facsimile did not contain the date and time of transmission and the identity of the sender, “patients” were located far away from Dr. Mark S.’s offices, the prescriptions listed Dr. Mark S.’s incorrect telephone number, and prescriptions were written for naproxen liquid suspension, even though naproxen is available in tablet form in multiple strengths and other medications were dispensed to the same patients in tablet form.

FIRST CAUSE FOR DISCIPLINE

(Furnishing Drugs without Prescriptions)

29. Respondents are subject to disciplinary action under Code section 4301, subdivision (o), for violating Code section 4059, subdivision (a), in that they furnished drugs without prescriptions from prescribers, as set forth above, incorporated herein by reference.

SECOND CAUSE FOR DISCIPLINE

**(Dispensing Prescriptions with Significant Errors, Omissions, Irregularities, Uncertainties,
Ambiguities or Alterations)**

30. Respondents are subject to disciplinary action under Code section 4301, subdivision (o), for violating title 16, California Code of Regulations, section 1761, subdivision (a), because they dispensed dangerous drugs based on prescriptions which contained significant errors, omissions, irregularities, uncertainties, ambiguities or alterations, as set forth above, incorporated herein by reference.

THIRD CAUSE FOR DISCIPLINE

**(Failing to Exercise or Implement Best Professional Judgment
Against Respondents Tramanh Nu Ton and Tiffani Ngoc Nguyen)**

31. Respondents Tramanh Nu Ton and Tiffani Ngoc Nguyen are subject to disciplinary action under Code section 4301, subdivision (o), for violating Business and Professions Code

1 section 4306.5, subdivision (a), because they failed to exercise or implement their best
2 professional judgment, as set forth above, incorporated herein by reference.

3 **FOURTH CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct)**

5 32. Respondents are subject to disciplinary action under Code section 4301, subdivision
6 (o) for unprofessional conduct because they engaged in the activities described above,
7 incorporated herein by reference.

8 **FIFTH CAUSE FOR DISCIPLINE**

9 **(Failure to Designate a PIC)**

10 33. Respondents Tramanh Nu Ton and Bella Terra Pharmacy are subject to disciplinary
11 action under Code section 4301, subdivision (o) for violating Business and Professions Code
12 section 4305, in that Respondent Bella Terra operated for more than 30 days without a PIC, as
13 described above, incorporated here by reference.

14 **DISCIPLINE CONSIDERATIONS**

15 34. To determine the degree of discipline, if any, to be imposed on Respondent Tramanh
16 Nu Ton, Complainant alleges that on or about September 21, 2021, in a prior disciplinary action
17 titled *In the Matter of the Accusation Against: Prestige Pharmacy, Inc., dba St. Pauls Pharmacy*
18 *2, Tramanh Nu Ton* before the Board of Pharmacy, in Case Number 6886. Respondent Tramanh
19 Nu Ton's pharmacist license was revoked, the revocation stayed and her license placed on
20 probation for four years on certain terms and conditions for failing to exercise or implement her
21 corresponding responsibility to properly dispense controlled substances and dispensing improper
22 prescriptions for controlled substances. That decision is now final.

23 **OTHER MATTERS**

24 35. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
25 55479 issued to Bella Terra Pharmacy, Inc. it shall be prohibited from serving as a manager,
26 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
27 Pharmacy Permit Number PHY 55479 is placed on probation or until the Pharmacy Permit is
28 reinstated if it is revoked.

1 36. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
2 55479 issued to Bella Terra Pharmacy, Inc., while Tramanh Nu Ton has been an owner or
3 manager and had knowledge of or knowingly participated in any conduct for which the licensee
4 was disciplined, she shall be prohibited from serving as a manager, administrator, owner,
5 member, officer, director, associate, or partner of a licensee for five years if the Pharmacy Permit
6 is placed on probation or until the Pharmacy Permit is reinstated, if it is revoked.

7 37. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
8 55479 issued to Bella Terra Pharmacy, Inc. while Tiffani Ngoc Nguyen has been an owner or
9 manager and had knowledge of or knowingly participated in any conduct for which the licensee
10 was disciplined, she shall be prohibited from serving as a manager, administrator, owner,
11 member, officer, director, associate, or partner of a licensee for five years if the Pharmacy Permit
12 is placed on probation or until the Pharmacy Permit is reinstated, if it is revoked.

13 38. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No.
14 RPH 59598 issued to Tramanh Nu Ton, then she shall be prohibited from serving as a manager,
15 administrator, owner, member, officer, director, associate, or partner of a licensee for five years if
16 Pharmacist License Number RPH 59598 is placed on probation or until Pharmacist License
17 Number RPH 59598 is reinstated if it is revoked.

18 39. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No.
19 RPH 59516 issued to Tiffani Ngoc Nguyen, then she shall be prohibited from serving as a
20 manager, administrator, owner, member, officer, director, associate, or partner of a licensee for
21 five years if Pharmacist License Number RPH 59516 is placed on probation or until Pharmacist
22 License Number RPH 59516 is reinstated if it is revoked.

PETITION TO REVOKE PROBATION

JURISDICTION

25 40. On or about September 21, 2021, in a prior disciplinary action titled *In the Matter of*
26 *the Accusation Against: Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2, Tramanh Nu Ton*
27 *before the Board of Pharmacy, in Case Number 6886, Respondent Tramanh Nu Ton's pharmacist*
28 *license was revoked, the revocation stayed and her license placed on probation for four years on*

1 certain terms and conditions. A copy of that decision is attached as Exhibit A and is incorporated
2 by reference.

3 41. This Petition to Revoke Probation is brought against Respondent Tramanh Nu Ton,
4 before the Board under Probation term and Condition Number 14 of the Decision and Order in
5 the case entitled, *In the Matter of the Accusation Against: Prestige Pharmacy, Inc., dba St. Pauls*
6 *Pharmacy 2, Tramanh Nu Ton* Case Number 6886. That term and condition states:

7 **Violation of Probation**

8 If Respondent has not complied with any term or condition of probation, the
9 Board shall have continuing jurisdiction over Respondent, and the Board shall
10 provide notice to Respondent that probation shall automatically be extended, until all
11 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.

12 If Respondent violates probation in any respect, the Board, after giving
13 Respondent notice and an opportunity to be heard, may revoke probation and carry
14 out the disciplinary order that was stayed. If a petition to revoke probation or an
15 accusation is filed against Respondent during probation, or the preparation of an
16 accusation or petition to revoke probation is requested from the Office of the
Attorney General, the Board shall have continuing jurisdiction and the period of
probation shall be automatically extended until the petition to revoke probation or
accusation is heard and decided, and the charges and allegations in Accusation No.
6886 shall be deemed true and correct.

17 **FIRST CAUSE TO REVOKE PROBATION**

18 **(Obey All Laws)**

19 42. At all times after the effective date of Respondent Ton's probation, Condition 1 stated
20 in pertinent part:

21 **Obey All Laws**

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

23

24 43. Respondent Ton's probation is subject to revocation because Respondent Ton failed
25 to comply with Probation Condition 1, referenced above, in that she violated state laws and
26 regulations as set forth in paragraphs 18-28 above, which are incorporated herein by reference.

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1 **SECOND CAUSE TO REVOKE PROBATION**

2 **(Report to the Board)**

3 44. At all times after the effective date of Respondent Ton's probation, Condition 2
4 stated:

5 **Report to the Board**

6 Respondent shall report to the Board quarterly, on a schedule as directed by the
7 Board or its designee. The report shall be made either in person or in writing, as
8 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.

9 Failure to submit timely reports in a form as directed shall be considered a
10 violation of probation. Any period(s) of delinquency in submission of reports as
11 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.

12 45. Respondent Ton's probation is subject to revocation because Respondent Ton failed
13 to comply with Probation Condition 2, referenced above. The circumstances are as follows:

14 a. Respondent Ton was required to submit a quarterly report by no later than January
15 10, 2022. Respondent Ton did not submit the quarterly report to the Board by the due date. On
16 March 9, 2022, a non-compliance letter was sent to Respondent Ton regarding her failure to
17 submit a quarterly report. As of February 1, 2023, the Board has not received this quarterly
18 report.

19 b. Respondent Ton was required to submit a quarterly report by no later than April 10,
20 2022. Respondent Ton did not submit the quarterly report to the Board by the due date. On May
21 13, 2022, a non-compliance letter was sent to Respondent Ton regarding her failure to submit a
22 quarterly report. Respondent Ton then submitted the quarterly report on May 13, 2022.

23 c. Respondent Ton was required to submit a quarterly report by no later than July 10,
24 2022. Respondent Ton did not submit the quarterly report to the Board by the due date. On July
25 29, 2022, a non-compliance letter was sent to Respondent Ton regarding her failure to submit a
26 quarterly report. As of February 1, 2023, the Board has not received this quarterly report.

27 d. Respondent Ton was required to submit a quarterly report by no later than October
28 10, 2022. Respondent Ton did not submit the quarterly report to the Board by the due date. On

1 November 1, 2022, a non-compliance letter was sent to Respondent Ton regarding her failure to
2 submit a quarterly report. As of February 1, 2023, the Board has not received this quarterly
3 report.

4 **THIRD CAUSE TO REVOKE PROBATION**

5 **(Interview with the Board)**

6 46. At all times after the effective date of Respondent Ton's probation, Condition 3
7 stated:

8 **Interview with the Board**

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

13 47. Respondent Ton's probation is subject to revocation because Respondent Ton failed
14 to comply with Probation Condition 3, referenced above. The circumstances are as follows:

15 a. On August 24, 2022, a letter scheduling an interview was sent to Respondent Ton via
16 email. No response was received from Respondent Ton. Therefore, a letter was sent to
17 Respondent Ton via USPS Certified Mail to both her address of record and to her pharmacy,
18 Bella Terra Pharmacy. The letter notified Respondent Ton of a scheduled office conference on
19 September 13, 2022 in order to review compliance with the terms and conditions of probation.
20 Board staff also attempted to contact Respondent Ton at the phone number on file, as well as at
21 Bella Terra Pharmacy. Respondent Ton did not attend the compliance office conference.

22 **FOURTH CAUSE TO REVOKE PROBATION**

23 **(Cooperate with Board Staff)**

24 48. At all times after the effective date of Respondent Ton's probation, Condition 4 stated
25 in pertinent part:

26 **Cooperate with Board Staff**

27 Respondent shall timely cooperate with the Board's inspection program and
28 with the Board's monitoring and investigation of Respondent's compliance with the
terms and conditions of Respondent's probation, including but not limited to: timely

1 responses to requests for information by Board staff; timely compliance with
2 directives from Board staff regarding requirements of any term or condition of
3 probation; and timely completion of documentation pertaining to a term or condition
4 of probation. Failure to timely cooperate shall be considered violation of probation.

4 49. Respondent Ton's probation is subject to revocation because Respondent Ton failed
5 to comply with Probation Condition 4, referenced above, in that Respondent Ton failed to
6 cooperate with Board Staff, including but not limited to, her failure to respond to multiple Board
7 inquiries and communications, failure to appear at interviews, failure to timely complete
8 documentation pertaining to conditions of probation, and failure to comply with directives from
9 Board staff, as set forth herein, incorporated by reference.

10 **FIFTH CAUSE TO REVOKE PROBATION**

11 **(Restrictions on Supervision and Oversight of Licensed Facilities)**

12 50. At all times after the effective date of Respondent Ton's probation, Condition 8 stated
13 in pertinent part:

14 **Restrictions on Supervision and Oversight of Licensed Facilities**

15 During the period of probation, respondent shall not supervise any intern
16 pharmacist, be the pharmacist-in-charge, designated representative-in-charge,
17 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.

18 51. Respondent Ton's probation is subject to revocation because Respondent Ton failed
19 to comply with Probation Condition 8, referenced above, in that Respondent Ton oversaw the
20 operations at her pharmacy, Bella Terra Pharmacy, following the disassociation of the former
21 PIC. Specifically, on August 17, 2022, PIC Tiffani Nguyen notified the Board of her
22 disassociation with Respondent Ton's pharmacy, Bella Terra Pharmacy, with a disassociation
23 date of July 11, 2022. Respondent Ton did not designate a new PIC at Bella Terra Pharmacy.
24 Instead, Respondent Ton oversaw, managed, supervised, or otherwise acted as the responsible
25 manager of Bella Terra Pharmacy. On September 1, 2022, Board staff sent a letter to Bella Terra
26 Pharmacy regarding the disassociation of the former PIC. To date, no response has been
27 received.

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1 **SIXTH CAUSE TO REVOKE PROBATION**

2 **(Reimbursement of Board Costs)**

3 52. At all times after the effective date of Respondent Ton's probation, Condition 9 stated
4 in pertinent part:

5 **Reimbursement of Board Costs**

6 As a condition precedent to successful completion of probation, Respondent
7 shall pay to the Board its costs of investigation and prosecution in the total amount of
8 \$15,000.00. Respondent and Prestige Pharmacy, Inc. dba St. Pauls Pharmacy 2 shall
be jointly and severally liable for payment of these costs.

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

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

13 53. Respondent Ton's probation is subject to revocation because Respondent Ton failed
14 to comply with Probation Condition 9, referenced above. The circumstances are as follows: On
15 September 29, 2021, Respondent Ton signed and dated a payment plan agreeing to pay \$420 per
16 month beginning October 10, 2021, with a final payment of \$300 due on October 10, 2024. A
17 letter approving this payment plan was sent to Respondent Ton on September 29, 2021.
18 Respondent Ton as failed to make a payment since July 2022, and owes the balance of \$11,220.

19 **SEVENTH CAUSE TO REVOKE PROBATION**

20 **(Probation Monitoring Costs)**

21 54. At all times after the effective date of Respondent Ton's probation, Condition 10
22 stated in pertinent part:

23 **Probation Monitoring Costs**

24 Respondent shall pay any costs associated with probation monitoring as
25 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
26 pay such costs by the deadline(s) as directed shall be considered a violation of
probation.

27 55. Respondent Ton's probation is subject to revocation because Respondent Ton failed
28 to comply with Probation Condition 10, referenced above. The circumstances are as follows: On

October 26, 2022, the annual monitoring cost bill in the amount of \$484 was sent to Respondent Ton. To date, Respondent Ton has failed to respond or make a payment towards that bill.

EIGHTH CAUSE TO REVOKE PROBATION

(Diversion Training Program)

56. At all times after the effective date of Respondent Ton's probation, Condition 16 stated in pertinent part:

Diversion Training Program

Within the first year of probation, Respondent shall enroll in and successfully complete the Board's diversion training program, "Prescription Drug Abuse and Diversion What a Pharmacist Needs to Know," at Respondent's expense. Respondent shall provide proof of enrollment upon request. Within thirty (30) days of completion, Respondent shall submit a copy of the certificate of completion to the Board or its designee. Failure to timely enroll in the program, to initiate the program during the first year of probation, to successfully complete it before the end of the first year of probation, or to timely submit proof of completion to the Board or its designee, shall be considered a violation of probation.

57. Respondent Ton's probation is subject to revocation because Respondent Ton failed to comply with Probation Condition 16, referenced above. Respondent Ton was required to complete the diversion training program by no later than September 29, 2022. To date, Respondent Ton has not provided the Board with documentation reflecting attendance and completion of the Diversion Training Program.

NINTH CAUSE TO REVOKE PROBATION

(Remedial Education)

58. At all times after the effective date of Respondent Ton's probation, Condition 17 stated in pertinent part:

Remedial Education

Within sixty (60) days of the effective date of this decision, Respondent shall submit to the Board or its designee, for prior approval, an appropriate program of remedial education related the following areas: corresponding responsibility and/or prescription drug abuse. The program of remedial education shall consist of at least ten (10) hours per year, which shall be completed in each year of probation at Respondent's own expense. All remedial education shall be in addition to, and shall not be credited toward, continuing education (CE) courses used for license renewal purposes for pharmacists.

Failure to timely submit for approval or complete the approved remedial education shall be considered a violation of probation. The period of probation will be

1 automatically extended until such remedial education is successfully completed and
2 written proof, in a form acceptable to the Board, is provided to the Board or its
designee.

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

7 59. Respondent Ton's probation is subject to revocation because Respondent Ton failed
8 to comply with Probation Condition 17, referenced above. Respondent Ton was required to
9 complete ten hours of remedial education by no later than September 29, 2022. To date,
10 Respondent Ton has not provided the Board with documentation reflecting attendance and
11 completion of any remedial education.

12 **TENTH CAUSE TO REVOKE PROBATION**

13 **(Ethics Course)**

14 60. At all times after the effective date of Respondent Ton's probation, Condition 18
15 stated in pertinent part:

16 **Ethics Course**

17 Within sixty (60) calendar days of the effective date of this decision,
18 Respondent shall enroll in a course in ethics, at Respondent's expense, approved in
19 advance by the Board or its designee that complies with Title 16 California Code of
20 Regulations section 1773.5. Respondent shall provide proof of enrollment upon
21 request. Within five (5) days of completion, Respondent shall submit a copy of the
22 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.

23 61. Respondent Ton's probation is subject to revocation because Respondent Ton failed
24 to comply with Probation Condition 18, referenced above. The circumstances are as follows: On
25 February 1, 2022, the Board received confirmation that Respondent Ton enrolled and attended the
26 initial part of the required Ethics coursework. However, Respondent Ton was required to
27 complete the 6-month follow-up course by no later than August 1, 2022. To date, Respondent
28 ///

1 Ton has not provided the Board with documentation reflecting attendance and completion of the
2 follow-up course.

3 **ELEVENTH CAUSE TO REVOKE PROBATION**

4 **(No Ownership or Management of Licensed Premises)**

5 62. At all times after the effective date of Respondent Ton's probation, Condition 19
6 stated in pertinent part:

7 **No Ownership or Management of Licensed Premises**

8 Respondent shall not own, have any legal or beneficial interest in, nor serve as
9 a manager, administrator, member, officer, director, trustee, associate, or partner of
10 any business, firm, partnership, or corporation currently or hereinafter licensed by the
11 Board. Respondent shall sell or transfer any legal or beneficial interest in any entity
12 licensed by the Board within one hundred fifty (150) 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.

13 63. Respondent Ton's probation is subject to revocation because Respondent Ton failed
14 to comply with Probation Condition 19, referenced above. The circumstances are as follows:
15 Respondent Ton failed to sell or transfer her legal or beneficial interest in Bella Terra Pharmacy
16 within 150 days following the effective date of the decision. On May 13, 2022, a non-compliance
17 letter was sent to Respondent Ton regarding her failure to divest from ownership of Bella Terra
18 Pharmacy. On May 17, 2022, a non-compliance letter was sent to Bella Terra Pharmacy. On
19 July 29, 2022, another non-compliance letter was sent to Respondent Ton. To date, Respondent
20 Ton has failed to respond to the Board or provide proof that she has divested from ownership of
21 Bella Terra Pharmacy. On September 13, 2022, a Board inspector called Bella Terra Pharmacy
22 and heard a voicemail message indicating that the pharmacy was closed. The inspector drove to
23 the pharmacy on September 25, 2022 and discovered that the pharmacy was permanently closed.
24 To date, Respondent Ton has failed to submit the required Discontinuance of Business form to
25 the Board and has failed to notify the Board of Bella Terra Pharmacy's closure.

26 **PRAYER**

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

- 1 1. Revoking or suspending Permit Number PHY 55479, issued to Bella Terra Pharmacy,
2 Inc.;
- 3 2. Revoking or suspending Pharmacist License Number RPH 59598, issued to Tramanh
4 Nu Ton;
- 5 3. Revoking or suspending Pharmacist License Number RPH 59516, issued to Tiffani
6 Ngoc Nguyen;
- 7 4. Prohibiting Bella Terra Pharmacy, Inc. 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 55479 is placed on probation or until the Pharmacy Permit is reinstated, if it
10 is revoked;
- 11 5. Prohibiting Tramanh Nu Ton 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 55479 is placed on probation or until the Pharmacy Permit is reinstated, if it is
14 revoked;
- 15 6. Prohibiting Tiffani Ngoc 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 55479 is placed on probation or until the Pharmacy Permit is reinstated, if it is
18 revoked;
- 19 7. Prohibiting Tramanh Nu Ton 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 59598 is placed on probation or until Pharmacist License Number RPH 59598 is
22 reinstated if it is revoked;
- 23 8. Prohibiting Tiffani Ngoc 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 59516 is placed on probation or until Pharmacist License Number RPH 59516 is
26 reinstated if it is revoked;

27 ///

28 ///

1 9. Ordering Bella Terra Pharmacy, Inc., Tramanh Nu Ton and Tiffani Ngoc Nguyen to
2 pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,
3 pursuant to Business and Professions Code section 125.3;

4 10. Revoking the probation that was granted by the Board of Pharmacy in Case No. 6886
5 and imposing the disciplinary order that was stayed, thereby revoking Pharmacist License No.
6 RPH 59598 issued to Tramanh Nu Ton, and,

7 11. Taking such other and further action as deemed necessary and proper.

8
9
10 DATED: 3/24/2023

Sodergren,
Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2023.03.24 20:31:52
-07'00'

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

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Exhibit A

Decision and Order

*In the Matter of the Accusation Against: Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2,
Tramanh Nu Ton before the Board of Pharmacy, in Case Number 6886*

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

In the Matter of Accusation Against:

**PRESTIGE PHARMACY, INC., DBA ST. PAULS PHARMACY 2,
TRAMANH NU TON,**

Pharmacy Permit No. PHY 50331,

and

TRAMANH NU TON,

Pharmacist License No. RPH 59598

Respondents

Agency Case No. 6886

OAH Case No. 2021020641

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 September 29, 2021.

It is so ORDERED on August 30, 2021.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By 

Seung W. Oh, Pharm D
Board President

1 ROB BONTA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 STEPHANIE J. LEE
Deputy Attorney General
4 State Bar No. 279733
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 269-6185
6 Facsimile: (916) 731-2126
Attorneys for Complainant
7

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

12 In the Matter of the Accusation Against:

13 **PRESTIGE PHARMACY, INC., DBA ST.**
14 **PAULS PHARMACY 2, TRAMANH NU**
15 **TON**
8809 Whitter Blvd.
Pico Rivera, CA 90660

16 **Pharmacy Permit License No. PHY 50331,**

17 **and**

18 **TRAMANH NU TON**
12235 Beach Blvd. Ste. 104C
19 Stanton, CA 90680

20 **Pharmacist License No. RPH 59598**

21 Respondents.
22

Case No. 6886

OAH No. 2021020641

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

As to Respondent Tramanh Nu Ton only

23 In the interest of a prompt and speedy settlement of this matter, consistent with the public
24 interest and the responsibility of the Board of Pharmacy of the Department of Consumer Affairs,
25 the parties hereby agree to the following Stipulated Settlement and Disciplinary Order which will
26 be submitted to the Board for approval and adoption as the final disposition of the Accusation
27 solely with respect to Tramanh Nu Ton. It does not apply to Prestige Pharmacy, Inc. dba St.
28 Pauls Pharmacy 2.

1 **PARTIES**

2 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
3 (Board). She brought this action solely in her official capacity and is represented in this matter by
4 Rob Bonta, Attorney General of the State of California, by Stephanie J. Lee, Deputy Attorney
5 General.

6 2. Respondent Tramanh Nu Ton (Respondent) is represented in this proceeding by
7 attorney Herbert L. Weinberg, whose address is: Fenton Law Group, LLP, 1990 S. Bundy Drive
8 Suite 777, Los Angeles, CA 90025.

9 3. On or about June 6, 2007, the Board issued Original Pharmacist License Number
10 RPH 59598 to Tramanh Nu Ton (Respondent). The Pharmacist License was in full force and
11 effect at all times relevant to the charges and will expire on May 31, 2023, unless renewed.

12 **JURISDICTION**

13 4. Accusation No. 6886 was filed before the Board, and is currently pending against
14 Respondent. The Accusation and all other statutorily required documents were properly served
15 on Respondent on September 29, 2020. Respondent timely filed a Notice of Defense contesting
16 the Accusation.

17 5. A copy of Accusation No. 6886 is attached as Exhibit A and incorporated herein by
18 reference.

19 **ADVISEMENT AND WAIVERS**

20 6. Respondent has carefully read, fully discussed with counsel, and understands the
21 charges and allegations in Accusation No. 6886. Respondent has also carefully read, fully
22 discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary
23 Order.

24 7. Respondent is fully aware of their legal rights in this matter, including the right to a
25 hearing on the charges and allegations in the Accusation; the right to confront and cross-examine
26 the witnesses against them; the right to present evidence and to testify on their own behalf; the
27 right to the issuance of subpoenas to compel the attendance of witnesses and the production of
28 documents; the right to reconsideration and court review of an adverse decision; and all other

rights accorded by the California Administrative Procedure Act and other applicable laws.

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

CULPABILITY

9. Respondent understands and agrees that the charges and allegations in Accusation No. 6886, if proven at a hearing, constitute cause for imposing discipline upon Respondent's Pharmacist License.

10. For the purpose of resolving the Accusation without the expense and uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual basis for the charges in the Accusation, and that Respondent hereby gives up their right to contest those charges.

11. Respondent agrees that her Pharmacist License is subject to discipline and they agree to be bound by the Board's probationary terms as set forth in the Disciplinary Order below.

CONTINGENCY

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

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

///

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

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

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Pharmacist License Number RPH 59598 issued to Respondent Tramanh Nu Ton is revoked. However, the revocation is stayed and Respondent is placed on probation for four (4) years on the following terms and conditions:

1. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

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

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws
 - a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment
 - a conviction of any crime
- the filing of a disciplinary pleading, issuance of a citation, or initiation of another administrative action filed by any state or federal agency which involves Respondent'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.

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

2 **2. Report to the Board**

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

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

12 **3. Interview with the Board**

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

18 **4. Cooperate with Board Staff**

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

26 **5. Continuing Education**

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

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

2 During the period of probation, Respondent shall notify all present and prospective
3 employers of the decision in case number 6886 and the terms, conditions and restrictions imposed
4 on Respondent by the decision, as follows:

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

17 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
18 Respondent undertaking any new employment, Respondent shall cause (a) Respondent's direct
19 supervisor, (b) Respondent's pharmacist-in-charge, designated representative-in-charge,
20 responsible manager, or other compliance supervisor, and (c) the owner or owner representative
21 of Respondent's employer, to report to the Board in writing acknowledging that the listed
22 individual(s) has/have read the decision in case number 6886, and terms and conditions imposed
23 thereby. If one person serves in more than one role described in (a), (b), or (c), the
24 acknowledgment shall so state. It shall be the Respondent's responsibility to ensure that these
25 acknowledgment(s) are timely submitted to the Board. In the event of a change in the person(s)
26 serving the role(s) described in (a), (b), or (c) during the term of probation, Respondent shall
27 cause the person(s) taking over the role(s) to report to the Board in writing within fifteen (15)
28

1 days of the change acknowledging that he or she has read the decision in case number 6886, and
2 the terms and conditions imposed thereby.

3 If Respondent works for or is employed by or through an employment service, Respondent
4 must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board
5 of the decision in case number 6886, and the terms and conditions imposed thereby in advance of
6 Respondent commencing work at such licensed entity. A record of this notification must be
7 provided to the Board upon request.

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

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

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

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

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

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

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

27 During the period of probation, respondent shall not supervise any intern pharmacist, be the
28 pharmacist-in-charge, designated representative-in-charge, responsible manager or other

1 compliance supervisor of any entity licensed by the board, nor serve as a consultant. Assumption
2 of any such unauthorized supervision responsibilities shall be considered a violation of probation.

3 **9. Reimbursement of Board Costs**

4 As a condition precedent to successful completion of probation, Respondent shall pay to the
5 Board its costs of investigation and prosecution in the total amount of \$15,000.00. Respondent
6 and Prestige Pharmacy, Inc. dba St. Pauls Pharmacy 2 shall be jointly and severally liable for
7 payment of these costs.

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

11 There shall be no deviation from this schedule absent prior written approval by the Board or
12 its designee. Failure to pay costs by the deadline(s) as directed shall be considered a violation of
13 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
17 as directed by the Board or its designee. Failure to pay such costs by the deadline(s) as directed
18 shall 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.

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

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

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

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

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

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

1 practice at the required level. Respondent shall further notify the Board in writing within ten (10)
2 days following the next calendar month during which Respondent practices as a pharmacist in
3 California for the minimum of hours. Any failure to timely provide such notification(s) shall be
4 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, and the charges and allegations in Accusation No. 6886 shall be deemed true
23 and correct.

24 **15. Completion of Probation**

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

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1 **16. Diversion Training Program**

2 Within the first year of probation, Respondent shall enroll in and successfully complete the
3 Board's diversion training program, "Prescription Drug Abuse and Diversion What a Pharmacist
4 Needs to Know," at Respondent's expense. Respondent shall provide proof of enrollment upon
5 request. Within thirty (30) days of completion, Respondent shall submit a copy of the certificate
6 of completion to the Board or its designee. Failure to timely enroll in the program, to initiate the
7 program during the first year of probation, to successfully complete it before the end of the first
8 year of probation, or to timely submit proof of completion to the Board or its designee, shall be
9 considered a violation of probation.

10 **17. Remedial Education**

11 Within sixty (60) days of the effective date of this decision, Respondent shall submit to the
12 Board or its designee, for prior approval, an appropriate program of remedial education related
13 the following areas: corresponding responsibility and/or prescription drug abuse. The program of
14 remedial education shall consist of at least ten (10) hours per year, which shall be completed in
15 each year of probation at Respondent's own expense. All remedial education shall be in addition
16 to, and shall not be credited toward, continuing education (CE) courses used for license renewal
17 purposes for pharmacists.

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

22 Following the completion of each course, the Board or its designee may require the
23 Respondent, at Respondent's own expense, to take an approved examination to test the
24 Respondent's knowledge of the course. If the Respondent does not achieve a passing score on the
25 examination that course shall not count towards satisfaction of this term. Respondent shall take
26 another course approved by the Board in the same subject area.

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1 **18. Ethics Course**

2 Within sixty (60) calendar days of the effective date of this decision, Respondent shall
3 enroll in a course in ethics, at Respondent's expense, approved in advance by the Board or its
4 designee that complies with Title 16 California Code of Regulations section 1773.5. Respondent
5 shall provide proof of enrollment upon request. Within five (5) days of completion, Respondent
6 shall submit a copy of the certificate of completion to the Board or its designee. Failure to timely
7 enroll in an approved ethics course, to initiate the course during the first year of probation, to
8 successfully complete it before the end of the second year of probation, or to timely submit proof
9 of completion to the Board or its designee, shall be considered a violation of probation.

10 **19. No Ownership or Management of Licensed Premises**

11 Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager,
12 administrator, member, officer, director, trustee, associate, or partner of any business, firm,
13 partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell
14 or transfer any legal or beneficial interest in any entity licensed by the Board within one hundred
15 fifty (150) days following the effective date of this decision and shall immediately thereafter
16 provide written proof thereof to the Board. Failure to timely divest any legal or beneficial
17 interest(s) or provide documentation thereof shall be considered a violation of probation.

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DATED: _____

TRAMANH NU TON
Respondent

DATED: _____


HERBERT L. WEINBERG
Attorney for Respondent

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ACCEPTANCE

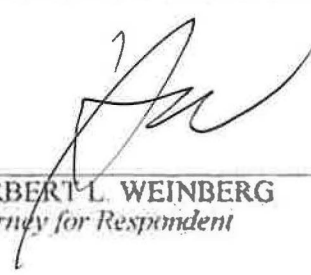
I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Herbert L. Weinberg. I understand the stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated Settlement and Disciplinary Order voluntarily,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

DATED: 7-21-2021


TRAMANH NU TON
Respondent

I have read and fully discussed with Respondent Tramanh Nu Ton the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 7/21/2021


HERBERT L. WEINBERG
Attorney for Respondent

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ENDORSEMENT

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

DATED: 7/21/2021

Respectfully submitted,

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



STEPHANIE J. LEE
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. 6886

1 XAVIER BECERRA
Attorney General of California
2 ARMANDO ZAMBRANO
Supervising Deputy Attorney General
3 STEPHANIE J. LEE
Deputy Attorney General
4 State Bar No. 279733
5 300 So. Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6185
7 Facsimile: (916) 731-2126
Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 6886

13 **PRESTIGE PHARMACY, INC., DBA**
14 **ST. PAULS PHARMACY 2, TRAMANH**
15 **NU TON (PRESIDENT AND 100%**
OWNER)

ACCUSATION

16 8809 Whitter Blvd.
Pico Rivera, CA 90660

17 **Pharmacy Permit License No. PHY 50331,**

18 **and**

19 **TRAMANH NU TON**
20 12235 Beach Blvd. Ste. 104C
21 Stanton, CA 90680

22 **Pharmacist License No. RPH 59598**

23 Respondents.

24
25 **PARTIES**

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

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2. On or about June 14, 2010, the Board of Pharmacy issued Pharmacy Permit License Number PHY 50331 to Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2, President, Tramanh Nu Ton (Respondent St. Paul's Pharmacy). Tramanh Nu Ton was the Pharmacist-in-Charge, President, and 100% owner of Respondent St. Paul's Pharmacy from June 14, 2010 to February 12, 2019. The Pharmacy Permit License expired on February 12, 2019, and has not been renewed.

3. On or about June 6, 2007, the Board of Pharmacy issued Pharmacist License Number RPH 59598 to Tramanh Nu Ton (Respondent Ton). The Pharmacist License was in full force and effect at all times relevant to the charges brought herein and will expire on May 31, 2021, unless renewed.

JURISDICTION

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

5. Section 4011 of the Code provides that the Board shall administer and enforce both the Pharmacy Law [Code sections 4000 *et seq.*] and the Uniform Controlled Substances Act [Health & Safety Code sections 11000 *et seq.*].

6. Section 4300 of the Code states, in pertinent part, that "[e]very license issued may be suspended or revoked."

7. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license 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.

8. Section 4302 states:

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

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1 13. Section 4307 states, in pertinent part:

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

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

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

17 14. Health and Safety Code Section 11153 states, in pertinent part:

18 (a) A prescription for a controlled substance shall only be issued for a legitimate
19 medical purpose by an individual practitioner acting in the usual course of his or her
20 professional practice. The responsibility for the proper prescribing and dispensing of
21 controlled substances is upon the prescribing practitioner, but a corresponding
22 responsibility rests with the pharmacist who fills the prescription. Except as authorized by
23 this division, the following are not legal prescriptions:

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

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

31 15. Health and Safety Code section 11162.1 states:

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

34 ...

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

37 ...

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

16. Health and Safety Code section 11164 states, in pertinent part:

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:

REGULATORY PROVISIONS

17. 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.

18. Federal Code of Regulations, title 21, section 1306.04 states, in pertinent part:

(a) 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.

19. Federal Code of Regulations, title 21, section 1306.05 states, in pertinent part:

(a) All prescriptions for controlled substances shall be dated as of, and signed on, the day when issued and shall bear the full name and address of the patient, the drug name, strength, dosage form, quantity prescribed, directions for use, and the name, address and registration number of the practitioner.

DEFINITIONS

20. 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.

21. Section 4036.5 states:

“Pharmacist-in-charge” means a pharmacist proposed by a pharmacy and approved by the board as the supervisor or manager responsible for ensuring the pharmacy's compliance with all state and federal laws and regulations pertaining to the practice of pharmacy.

22. Alprazolam is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057(d)(1), and a dangerous drug pursuant to Business and Professions Code section 4022. Alprazolam is an anxiety treatment medication.

23. Hydrocodone/acetaminophen (APAP) is a Schedule II controlled substance pursuant to Health and Safety Code section 11055(b)(1)(I), and a dangerous drug pursuant to Business and Professions Code section 4022. Hydrocodone is a pain medication.

24. Promethazine/codeine is a Schedule V controlled substance pursuant to Health and Safety Code section 11058(c)(1), and a dangerous drug pursuant to Business and Professions Code section 4022. Promethazine/codeine is a cough treatment medication.

COST RECOVERY

25. Section 125.3 states, 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.

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FACTUAL ALLEGATIONS

26. The Controlled Substance Utilization Review and Evaluation System (CURES) is California's Prescription Drug Monitoring Program (PDMP). Pharmacies in California are required to report all filled prescriptions for Schedule II, III, and IV controlled substances to the database every week. The data is collected statewide and can be used by licensed prescribers and pharmacists to evaluate and determine whether their patients are utilizing controlled substances correctly and whether a patient has used multiple prescribers and multiple pharmacies to fill controlled substance prescriptions. Law enforcement and regulatory agencies such as the Board have access to the CURES database for official oversight or investigatory purposes.

27. In May 2019, the Board began an investigation into Respondent St. Paul's Pharmacy. The Board inspector reviewed CURES dispensing data reported by Respondent St. Paul's Pharmacy for the period of May 7, 2016 through May 7, 2019. The inspector determined that while Respondent Ton was the pharmacist-in-charge, the pharmacy had filled a number of prescriptions for controlled substances during that period that appeared to exhibit multiple objective factors of irregularity—or red flags—indicating that the prescriptions were not issued for a legitimate medical purpose.

28. On or about June 5, 2019, the Board inspector visited Respondent St. Paul's Pharmacy at the address of record and discovered the business was closed. Signs posted on the premises advised patients that their prescriptions could be obtained at the CVS Pharmacy No. 9769 nearby. The Board inspector visited CVS Pharmacy No. 9769 and spoke with the pharmacist-in-charge, who indicated that Respondent St. Paul's Pharmacy's prescriptions and records had been transferred to CVS Pharmacy No. 9769.

29. On or about September 20, 2019, upon requests to CVS Pharmacy No. 9769, the Board inspector received Respondent St. Paul's Pharmacy's dispensing records and available original prescription records for the time period of May 7, 2016 through May 7, 2019. The dispensing records lacked drug cost and payment information. The Board inspector's review of the records during this time period identified the following dispensing trends and patterns of

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irregularity indicating that numerous prescriptions were not issued for a legitimate medical purpose:

(a) Patterns of irregularities were identifiable because of low percentages of controlled substance prescriptions.

30. In total, the prescriptions dispensed by Respondent St. Paul's Pharmacy were largely for non-controlled substances. Low percentages of controlled substance prescriptions were dispensed by Respondent St. Paul's Pharmacy during this time period, which would cause patterns of irregularities from specific prescribers of controlled substances to stand out, especially if multiple identical or similar prescriptions were presented to the pharmacy on the same date.

DRUG CLASS (SCHEDULE)	NUMBER OF PRESCRIPTION S	PERCENT OF TOTAL DISPENSED
0	81,361	96.1
2	544	0.6
3	254	0.3
4	1,947	2.3
5	554	0.7
TOTAL	84,660	100.00%

(b) Two particular prescribers exhibited multiple and apparent patterns of irregularity in their controlled substance prescriptions overall.

1) *There was minimal variety in the controlled substance prescriptions of Dr. Armen Hovannisyan and Dr. Joseph Park.*

31. Among the most common prescribers of controlled substances dispensed by Respondent St. Paul's Pharmacy, all but two prescribers prescribed a wide variety of controlled substances. The following two prescribers each prescribed only three (3) controlled substances during the three-year period:

PRESCRIBER	CONTROLLED SUBSTANCE	NUMBER OF PRESCRIPTIONS
Armen Hovannisyan	Promethazine/codeine	118
	Alprazolam 2 mg	101
	Hydrocodone/APAP 10/325 mg	39
Joseph Harng Park	Hydrocodone/APAP 10/325 mg	60
	Promethazine/codeine	43
	Alprazolam 2 mg	41
	Total	402

32. This pattern of minimal variety in controlled substance prescriptions is commonly seen with illegitimate prescriptions. It is a pattern of irregularity for these controlled substances, which are commonly abused and have very specific treatment purposes, to be the only ones dispensed through a prescriber's prescriptions.

2) Identical controlled substance prescriptions from multiple patients of the same two prescribers were received and dispensed on the same day.

33. On numerous dates, Respondent St. Paul's Pharmacy received and dispensed identical or similar controlled substance prescriptions on the same day from multiple patients of Dr. Hovannisyan. Often, these prescriptions were assigned consecutive or nearly consecutive prescription numbers by the dispensing computer software, indicating that the pharmacy processed the prescriptions consecutively or nearly consecutively. For example, on December 23, 2016, Respondent St. Paul's Pharmacy was presented with and dispensed the following controlled substance prescriptions from Dr. Hovannisyan's patients:

DATE	RX NO.	PATIENT	CONTROLLED SUBSTANCE	QUANTITY
12/23/16	692355	E.M.	Hydrocodone/APAP	120
12/23/16	692354	J.G.	Alprazolam 2 mg	100
12/23/16	692353		Promethazine/codeine	240
12/23/16	692351	J.F.	Alprazolam 2 mg	100
12/23/16	692350		Promethazine/codeine	240
12/23/16	692356	L.A.	Hydrocodone/APAP	120
12/23/16	692348	Y.I.	Alprazolam 2 mg	100
12/23/16	692347		Promethazine/codeine	240

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34. This pattern of irregularity also occurred with Dr. Park's prescriptions and patients on numerous dates. For example, on November 4, 2016, Respondent St. Paul's Pharmacy was presented with and dispensed the following controlled substance prescriptions from Dr. Park's patients:

DATE	RX NO.	PATIENT	CONTROLLED SUBSTANCE	QUANTITY
11/4/16	689999	W.D.	Hydrocodone/APAP	120
11/4/16	689994	E.P.	Alprazolam 2 mg	100
11/4/16	689993		Promethazine/codeine	240
11/4/16	689997	M.R.	Alprazolam 2 mg	100
11/4/16	689996		Promethazine/codeine	240
11/4/16	689980	Ma.R.	Alprazolam 2 mg	100
11/4/16	689979		Promethazine/codeine	240
11/4/16	689978	R.C.	Hydrocodone/APAP	120

3) Dr. Hovannisyan and Dr. Park's written prescriptions lacked required security features.

35. The Board inspector also reviewed the available original prescription documents from both prescribers that had been dispensed by Respondent St. Paul's Pharmacy during this time period. All of Dr. Hovannisyan's written prescription documents failed to include a "California Security Prescription" watermark and a lot number—all security features that are required by law. Similarly, all of Dr. Park's written prescription documents failed to include a "California Security Prescription" watermark and a lot number. Some of Dr. Hovannisyan and Dr. Park's prescriptions were also not dated—another basic requirement—but nevertheless filled by Respondent St. Paul's Pharmacy. These omitted security features alone invalidated the prescriptions and visibly indicated that the prescriptions were not written legitimately.

4) Dr. Hovannisyan, Dr. Park, and many of their respective patients had addresses excessively far from St. Paul's Pharmacy.

36. Dr. Hovannisyan's prescriptions listed an office address that was over 22 miles from St. Paul's Pharmacy. Similarly, Dr. Park's prescriptions listed an office address that was over 17 miles from St. Paul's Pharmacy. Many patients of both prescribers also had addresses of record that were unusually long distances from either the prescriber's office or St. Paul's Pharmacy.

Long distances traveled by the patient to either the prescriber's office or the pharmacy are a red flag that would necessitate the pharmacy taking additional steps of verification to ensure the legitimacy of the prescriber's prescription.

(c) The same two prescribers issued the majority of Alprazolam 2 mg prescriptions, which also exhibited multiple and apparent patterns of irregularity.

37. Alprazolam 2 mg tablets are a commonly abused prescription medication. The strength of a 2 mg tablet is at least four times the recommended starting strength for patients not accustomed to taking this medication.

38. Dr. Hovannisyan and Dr. Park, the same two prescribers who exhibited multiple patterns of irregularity in their controlled substance prescriptions overall, also issued the vast majority of prescriptions for Alprazolam 2 mg dispensed by Respondent St. Paul's Pharmacy:

PRESCRIBER	QUANTITY PER PRESCRIPTION	NUMBER OF PRESCRIPTIONS
D.B.	30	1
E.M.	60	30
C.A.	90	1
A.A.	100	1
Armen Hovannisyan		101
Joseph Harnng Park		41
	Total	175

1) Dr. Hovannisyan and Dr. Park prescribed Alprazolam 2 mg exclusively in 100 tablet quantities, the highest quantity dispensed by Respondents.

39. These same two prescribers prescribed Alprazolam 2 mg only in 100 tablet quantities, with 100 tablets being the highest recorded quantity during this time period, which was indicative of another pattern of irregularity. In total, these two prescribers were responsible for 98.6% of all Alprazolam 2 mg prescriptions in a quantity over 60 tablets.

2) Dr. Hovannisyan and Dr. Park prescribed Alprazolam exclusively in the highest available strength.

40. These same two prescribers also prescribed Alprazolam exclusively in 2 mg, the highest available strength for this medication, even though other lower strengths of Alprazolam are available. Because inter-patient variability exists in age, weight, diagnosis, drug allergies,

1 medical histories, severity of symptoms being treated, tolerance to drugs, patient preferences
2 regarding drug therapy plans, and other patient-related factors, it is a pattern of irregularity for
3 these prescribers to uniformly prescribe Alprazolam at the highest strength to all their patients.

4 41. Of the total 105 patients who had Dr. Hovannisyan's prescriptions dispensed by
5 Respondent St. Paul's Pharmacy, 55 patients were prescribed Alprazolam 2 mg. According to
6 CURES patient data, which was accessible to Respondents, many of these 55 patients had no
7 prior history of taking Alprazolam in an amount or for a period of time that would justify the
8 prescription issued for the highest available strength.

9 42. Of the total 53 patients who had Dr. Park's prescriptions dispensed by Respondent St.
10 Paul's Pharmacy, 26 patients were prescribed Alprazolam 2 mg. According to CURES patient
11 data, which was accessible to Respondents, many of these 26 patients also had no prior history of
12 taking Alprazolam in an amount or for a period of time that would justify the prescription issued
13 for the highest available strength.

14 **3) Respondents concurrently dispensed Alprazolam 2 mg and**
15 **Promethazine/Codeine to multiple patients of Dr. Hovannisyan and Dr. Park,**
despite the potential for serious drug interaction.

16 43. In at least 67 instances, the 55 patients who were prescribed Alprazolam 2 mg by Dr.
17 Hovannisyan also received concurrent prescriptions for another interacting drug, specifically
18 Promethazine/Codeine, which is another commonly abused controlled substance. In each of these
19 instances, Respondents concurrently dispensed both Alprazolam 2 mg and Promethazine/Codeine
20 to the same patient, despite the potential for serious drug interaction. There was no
21 documentation in Respondents' available dispensing or prescription records to indicate that
22 Respondents inquired about or validated this pattern of irregularity.

23 44. In at least 33 instances, nearly all of the 26 patients who were prescribed Alprazolam
24 2 mg by Dr. Park also received concurrent prescriptions for another interacting drug, specifically
25 Promethazine/Codeine. In each of these instances, Respondents concurrently dispensed both
26 Alprazolam 2 mg and Promethazine/Codeine to the same patient, despite the potential for serious
27 drug interaction. There was no documentation in Respondents' available dispensing or

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1 prescription records to indicate that Respondents inquired about or validated this pattern of
2 irregularity.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Failure to Exercise or Implement Corresponding Responsibility)**

5 45. Respondent St. Paul's Pharmacy and Respondent Ton are subject to disciplinary
6 action under sections 4301, subdivisions (d), (j), and (o); 4306.5, subdivision (b); and 4113,
7 subdivision (c); in conjunction with Health and Safety Code section 11153, subdivision (a);
8 California Code of Regulations, title 16, section 1761; and Federal Code of Regulations, title 21,
9 section 1306.04, in that Respondents failed to exercise or implement their best professional
10 judgment or corresponding responsibility with regard to the dispensing or furnishing of controlled
11 substances or dangerous drugs, or with regard to the provision of services. Complainant refers to,
12 and by this reference incorporates, the allegations set forth in above paragraphs 26 through 44, as
13 though set forth in full herein.

14 **SECOND CAUSE FOR DISCIPLINE**

15 **(Filling or Dispensing Improper Prescriptions for Controlled Substances)**

16 46. Respondent St. Paul's Pharmacy and Respondent Ton are subject to disciplinary
17 action under sections 4301, subdivisions (d), (j), and (o); 4306.5, subdivision (b); and 4113,
18 subdivision (c); in conjunction with Health and Safety Code sections 11162.1, subdivisions (a)
19 and (b), and 11164; California Code of Regulations, title 16, section 1761; and Federal Code of
20 Regulations, title 21, section 1306.05; in that Respondents filled or dispensed controlled
21 substance prescriptions that did not comply with the form requirements of Health and Safety
22 Code section 11162.1, or contained any significant error, omission, irregularity, uncertainty,
23 ambiguity or alteration. Complainant refers to, and by this reference incorporates, the allegations
24 set forth in above paragraphs 26 through 44, as though set forth in full herein.

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1 **DISCIPLINE CONSIDERATIONS**

2 47. To determine the degree of discipline, if any, to be imposed on Respondents,
3 Complainant alleges the following:

4 a. On or about March 10, 2015, the Board issued a final Citation No. CI 2011-49360
5 against Respondent St. Paul's Pharmacy for violating Code section 4067 [dispensing dangerous
6 drugs on the internet without prescription issued pursuant to good faith examination] and
7 California Code of Regulations, title 16, section 1707.5 [mailing prescriptions to patient with
8 non-conforming prescription labels]. A total \$20,000 fine was issued pursuant to the final
9 Citation. The basis for the citation was that on or about January 10, 2011, Respondent St. Paul's
10 Pharmacy engaged in providing dangerous drugs for delivery in partnership with the Alliance
11 Health Group, and had confirmed 5,240 prescriptions, of which 148 were confirmed as being
12 mailed to California residents. The basis for the citation was also that on or about September 27,
13 2012, during a Board inspection at Respondent St. Paul's Pharmacy, the pharmacy engaged in
14 mailing prescriptions within California with prescription labels that did not conform to state
15 labeling requirements.

16 b. On or about March 10, 2015, the Board issued a final Citation No. CI 2013-59714
17 against Respondent Ton for violating Code section 4067 [dispensing dangerous drugs on the
18 internet without prescription issued pursuant to good faith examination] and California Code of
19 Regulations, title 16, section 1707.5 [mailing prescriptions to patient with non-conforming
20 prescription labels]. A total \$20,000 fine was issued pursuant to the final Citation. The bases for
21 the citation were the same as those for Citation No. CI 2011-49360, alleged above in paragraph
22 47(a), and Respondent Ton was the pharmacist-in-charge at the time of these incidents.

23 **OTHER MATTERS**

24 48. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number
25 PHY 50331 issued to Respondent St. Paul's Pharmacy, Respondent St. Paul's Pharmacy shall be
26 prohibited from serving as a manager, administrator, owner, member, officer, director, associate,
27 or partner of a licensee for five years if Pharmacy Permit Number PHY 50331 is placed on
28 probation or until Pharmacy Permit Number PHY 50331 is reinstated if it is revoked.

49. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit Number PHY 50331 issued to Respondent St. Paul's Pharmacy while Respondent Ton has been a manager, administrator, owner, member, officer, director, associate, partner, and had knowledge of or knowingly participated in any conduct for which the licensee was disciplined, Respondent Ton shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50331 is placed on probation or until Pharmacy Permit Number PHY 50331 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 Pharmacy Permit License Number PHY 50331, issued to Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2, Pharmacist-in-Charge Tramanh Nu Ton;
2. Revoking or suspending Pharmacist License Number RPH 59598, issued to Tramanh Nu Ton;
3. Prohibiting Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2 from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50331 is placed on probation or until Pharmacy Permit Number PHY 50331 is reinstated if Pharmacy Permit Number PHY 50331 issued to Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2 is revoked;
4. Prohibiting Tramanh Nu Ton from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit Number PHY 50331 is placed on probation or until Pharmacy Permit Number PHY 50331 is reinstated if Pharmacy Permit Number PHY 50331 issued to Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2 is revoked;

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1 5. Ordering Prestige Pharmacy, Inc., dba St. Pauls Pharmacy 2 and Tramanh Nu Ton to
2 pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case,
3 pursuant to Business and Professions Code section 125.3; and,

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

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6 DATED: 9/19/2020

Anne Sodergren

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

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