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

In the Matter of the Accusation Against:

**JENNIFER THAOUYEN NGUYEN
2 Calavera
Irvine, CA 92606**

Pharmacist License No. RPH 55406,

and

**LINH T. NGUYEN, DBA BRISTOL
PHARMACY
250 E. Yale Loop, Suite C
Irvine, CA 92604**

Pharmacy Permit No. PHY 50659

Respondents.

Case No. 7401

**DEFAULT DECISION AND ORDER AS
TO JENNIFER THAOUYEN NGUYEN
ONLY**

[Gov. Code, § 11520]

FINDINGS OF FACT

1. On or about May 30, 2023, Complainant Anne Sodergren, in her official capacity as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs, filed Accusation No. 7401 against Jennifer Thaouyen Nguyen (Respondent) and Linh T. Nguyen, dba Bristol Pharmacy before the Board. (Accusation attached as Exhibit A.)

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1 2. On or about June 22, 2004, the Board issued Pharmacist License Number RPH 55406
2 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the
3 charges brought in Accusation No. 7401 and will expire on January 31, 2024 unless renewed.

4 3. On or about June 6, 2023, Respondent was served by Certified and First Class Mail
5 copies of the Accusation No. 7401, Statement to Respondent, Notice of Defense, Request for
6 Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at
7 Respondent's address of record which, pursuant to Business and Professions Code section 4100,
8 is required to be reported and maintained with the Board. Respondent's address of record was
9 and is 2 Calavera, Irvine, California 92606.

10 4. Service of the Accusation was effective as a matter of law under the provisions of
11 Government Code section 11505, subdivision (c), and/or Business and Professions Code section
12 124.

13 5. Government Code section 11506, subdivision (c), states, in part:

14 The respondent shall be entitled to a hearing on the merits if the respondent
15 files a notice of defense . . . and the notice shall be deemed a specific denial of all
16 parts of the accusation . . . not expressly admitted. Failure to file a notice of defense
17 . . . shall constitute a waiver of respondent's right to a hearing, but the agency in its
18 discretion may nevertheless grant a hearing.

19 6. The Board takes official notice of its records and the fact that Respondent failed to
20 file a Notice of Defense within 15 days after service upon her of the Accusation, and therefore
21 waived her right to a hearing on the merits of Accusation No. 7401.

22 7. Government Code section 11520, subdivision (a), states, in part:

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

27 8. Pursuant to its authority under Government Code section 11520, the Board finds
28 Respondent is in default. The Board will take action without further hearing and, based on the
relevant evidence contained in the Default Decision Investigatory Evidence Packet in this matter,
finds that the charges and allegations in Accusation No. 7401, are separately and severally, found
to be true and correct by clear and convincing evidence.

1 9. The Board finds that the actual costs for Investigation and Enforcement are \$7,572.50
2 as of July 25, 2023.

3 **DETERMINATION OF ISSUES**

4 1. Based on the foregoing findings of fact, Respondent Jennifer Thaouyen Nguyen has
5 subjected her Pharmacist License Number RPH 55406 to discipline.

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

7 3. The Board of Pharmacy is authorized to revoke Respondent's Pharmacist License
8 based upon the following violations alleged in the Accusation which are supported by the
9 evidence contained in the Default Decision Investigatory Evidence Packet in this case:

10 a. Respondent is subject to disciplinary action under Code sections 490 and 4301,
11 subdivision (l), and Regulations section 1770, in that Respondent was convicted of a crime
12 substantially-related to the practice of pharmacy.

13 b. Respondent is subject to disciplinary action under Code section 4301, subdivision
14 (f), in that she committed acts of moral turpitude, dishonesty, fraud, deceit, or corruption.

15 c. Respondent is subject to disciplinary action under Code section 4301, subdivision
16 (j), in that she violated laws regulating controlled substances, specifically Health and Safety
17 Code sections 11154 and 11171, by aiding a practitioner who unlawfully prescribed
18 controlled substances and by illegally furnishing controlled substances without valid
19 prescriptions.

20 d. Respondent is subject to disciplinary action under Code section 4301, subdivision
21 (o), in that she violated laws and regulations governing the practice of pharmacy.

22 e. Respondent is subject to disciplinary action under Code section 4306.5,
23 subdivision (a), for the inappropriate exercise of her education, training, or experience as a
24 pharmacist when she entered into a criminal conspiracy to fill and dispense illegal
25 prescriptions.

26 f. Respondent is subject to disciplinary action under Code section 4301, subdivision
27 (j), in that she violated laws regulating controlled substances, specifically Regulations
28 section 1714, subdivision (d), by failing to enact effective controls against the diversion of

1 dangerous drugs when she herself diverted drugs from the pharmacy.

2 g. Respondent is subject to disciplinary action under Code section 4301, subdivision
3 (j), in that she violated laws regulating controlled substances, specifically Code section
4 4059, by furnishing dangerous drugs without valid prescriptions.

5 h. Respondent is subject to disciplinary action under Code section 4301, subdivision
6 (b), in that she committed an act or acts of incompetence.

7 i. Respondent is subject to disciplinary action under Code section 4301, subdivision
8 (c), in that she committed an act or acts of gross negligence.

9 j. Respondent is subject to disciplinary action under Code section 4301, subdivision
10 (d), in that she clearly excessively furnished controlled substances, in violation of Health
11 and Safety Code section 11153.

12 k. Respondent is subject to disciplinary action under Code section 4301, subdivisions
13 (j) and (o), in that she eschewed her corresponding responsibility to verify the legitimacy of
14 prescriptions she filled in violation of Health and Safety Code section 11153.

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ORDER


IT IS SO ORDERED that Pharmacist License No. RPH 55406, issued to Respondent Jennifer Thaouyen Nguyen, is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent 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 Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.\

Upon revocation per this Order, under Business and Professions Code section 4307, subdivision (a), Respondent shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, partner, or serving in any other position with management or control of a licensee. This prohibition shall continue until the license is issued or reinstated.

This Decision shall become effective at 5:00 p.m. on November 8, 2023.

It is so ORDERED on October 9, 2023.



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

84083106.DOCX
DOJ Matter ID:SD2022802925

Attachment:
Exhibit A: Accusation

Exhibit A

Accusation

1 ROB BONTA
Attorney General of California
2 ERIN M. SUNSERI
Supervising Deputy Attorney General
3 ALAN MACINA
Deputy Attorney General
4 State Bar No. 233540
600 West Broadway, Suite 1800
5 San Diego, CA 92101
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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 7401

13 **JENNIFER THAOUYEN NGUYEN**
14 **2 Calavera**
Irvine, CA 92606

ACCUSATION

15 **Pharmacist License No. RPH 55406**

16 **and**

17 **LINH T. NGUYEN,**
18 **DBA BRISTOL PHARMACY**
250 E. Yale Loop, Suite C
19 **Irvine, CA 92604**

20 **Pharmacy Permit No. PHY 50659**

21 Respondents.

22 **PARTIES**

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

25 2. On or about June 22, 2004, the Board issued Pharmacist License Number RPH 55406
26 to Jennifer Thaouyen Nguyen (Respondent Nguyen). The Pharmacist License was in full force
27 and effect at all times relevant to the charges brought herein and will expire on January 31, 2024
28 unless renewed.

1 denied, revoked, suspended, or placed on probation, shall be prohibited from serving
2 as a manager, administrator, owner, member, officer, director, associate, partner, or in
any other position with management or control of a licensee as follows:

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

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

7 **STATUTORY PROVISIONS**

8 10. Code section 490 provides, in part, that a board may suspend or revoke a license on
9 the ground that the licensee has been convicted of a crime substantially related to the
10 qualifications, functions, or duties of the business or profession for which the license was issued.

11 11. Code section 4059, subdivision (a), states:

12 (a) A person may not furnish any dangerous drug, except upon the prescription
13 of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor
14 pursuant to Section 3640.7. A person may not furnish any dangerous device, except
upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or
naturopathic doctor pursuant to Section 3640.7.

15 12. Code section 4301 states, in part:

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

18 . . .

19 (b) Incompetence.

20 (c) Gross negligence.

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

23 . . .

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

26 . . .

27 (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.

28 . . .

1 (l) The conviction of a crime substantially related to the qualifications,
2 functions, and duties of a licensee under this chapter. The record of conviction of a
3 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
4 StatesCode regulating controlled substances or of a violation of the statutes of this state
5 regulating controlled substances or dangerous drugs shall be conclusive evidence of
6 unprofessional conduct. In all other cases, the record of conviction shall be conclusive
7 evidence only of the fact that the conviction occurred. The board may inquire into the
8 circumstances surrounding the commission of the crime, in order to fix the degree of
9 discipline or, in the case of a conviction not involving controlled substances or
10 dangerous drugs, to determine if the conviction is of an offense substantially related to
11 the qualifications, functions, and duties of a licensee under this chapter. A plea or
12 verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a
13 conviction within the meaning of this provision. The board may take action when the
14 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
15 or when an order granting probation is made suspending the imposition of sentence,
16 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the
17 person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting
18 aside the verdict of guilty, or dismissing the accusation, information, or indictment.

19 ...

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

25

26 13. Code section 4306.5, subdivision (a), states:

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

28 (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.

14. Health and Safety Code section 11153, subdivisions (a) and (b), states:

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

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1 (b) Any person who knowingly violates this section shall be punished by
2 imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code, or in a
3 county jail not exceeding one year, or by a fine not exceeding twenty thousand dollars
4 (\$20,000), or by both that fine and imprisonment.

5 15. Health and Safety Code section 11154 states:

6 (a) Except in the regular practice of his or her profession, no person shall
7 knowingly prescribe, administer, dispense, or furnish a controlled substance to or for
8 any person or animal which is not under his or her treatment for a pathology or
9 condition other than addiction to a controlled substance, except as provided in this
10 division.

11 (b) No person shall knowingly solicit, direct, induce, aid, or encourage a
12 practitioner authorized to write a prescription to unlawfully prescribe, administer,
13 dispense, or furnish a controlled substance.

14 16. Health and Safety Code section 11171 states that, “[n]o person shall prescribe,
15 administer, or furnish a controlled substance except under the conditions and in the manner
16 provided by [Division 10 of the Code – the Uniform Controlled Substances Act].”

17 **REGULATORY PROVISIONS**

18 17. California Code of Regulations, title 16 (Regulations), section 1714, subdivisions (b)
19 and (d), state:

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

24 . . .

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

18. Regulations section 1770, states, in part:

24 (a) For the purpose of denial, suspension, or revocation of a personal or facility
25 license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the
26 Business and Professions Code, a crime, professional misconduct, or act shall be
27 considered substantially related to the qualifications, functions or duties of the
28 practice, profession, or occupation that may be performed under the license type
sought or held if to a substantial degree it evidences present or potential unfitness of a
licensee or registrant to perform the functions authorized by his license or registration
in a manner consistent with the public health, safety, or welfare.

1 (b) In making the substantial relationship determination required under
2 subdivision (a) for a crime, the board will consider the following criteria:

- 3 (1) The nature and gravity of the offense;
4 (2) The number of years elapsed since the date of the offense; and
5 (3) The nature and duties of the practice, profession, or occupation that may
6 be performed under the license type sought or held.

7 (c) For purposes of subdivision (a), substantially related crimes, professional
8 misconduct, or acts shall include, but are not limited to, those which:

- 9 (1) Violate or attempt to violate, directly or indirectly, or to aid, abet or
10 conspire to violate, any provision of law of this state, or any other
11 jurisdiction, governing the practice of pharmacy.
12 (2) Violate or attempt to violate, directly or indirectly, or to aid, abet or
13 conspire to violate, any provision of Chapter 13 (commencing with Section
14 801) of Title 21 of the United States Code regulating controlled substances
15 or any law of this state, or any other jurisdiction, relating to controlled
16 substances or dangerous drugs.
17 (3) Violate or attempt to violate, directly or indirectly, or to aid, abet or
18 conspire to violate, any provision of law of this state, or any other
19 jurisdiction, relating to government provided or government supported
20 healthcare.
21 (4) Involve dishonesty, fraud, deceit, or corruption related to money, items,
22 documents, or personal information.

23

24 **COST RECOVERY**

25 19. Code section 125.3 provides, in part, that the Board may request the administrative
26 law judge to direct a licensee found to have committed a violation or violations of the licensing
27 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
28 case, with failure of the licensee to comply subjecting the license to not being renewed or
reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a
stipulated settlement.

29 **DEFINITIONS**

30 20. Amphetamine salts, sold as Adderall, is a stimulant and a Schedule-II controlled
31 substance under federal and California law under Health and Safety Code section 11055,
32 subdivision (d), and a dangerous drug under Business and Professions Code section 4022. Its

1 legitimate medical purpose is to treat Attention Deficit Hyperactivity Disorder (ADHD).

2 21. Hydrocodone, sold as Vicodin, Norco, and Lortab, and also produced in a form with
3 acetaminophen, is a narcotic analgesic and a Schedule-II controlled substance under federal and
4 California law under Health and Safety Code section 11055, subdivision (b)(1)(I), and a
5 dangerous drug under Business and Professions Code section 4022. Its legitimate medical
6 purpose is to relieve mild to moderate physical pain.

7 22. Oxycodone, sold as OxyContin, Percocet, and Roxicodone, is a narcotic analgesic
8 and a Schedule-II controlled substance under federal and California law under Health and Safety
9 Code section 11055, subdivision (b)(1)(M), and a dangerous drug under Business and Professions
10 Code section 4022. Its legitimate medical purpose is to relieve moderate to severe physical pain.

11 **FACTUAL ALLEGATIONS**

12 23. Respondent Nguyen served as the PIC of Respondent Pharmacy from date of the
13 pharmacy's receipt of its permit on May 19, 2011 and continuing through October 31, 2022, the
14 date the the pharmacy permit was cancelled. Beginning on an unknown date and continuing at
15 least into 2018, while serving as the PIC for Respondent Pharmacy, Respondent Nguyen
16 conspired with a physician to illegally distribute controlled substances supplied by Respondent
17 Pharmacy. Respondent Nguyen did this by filling illegitimate controlled-substance prescriptions
18 issued by the physician in exchange for cash and insurance payments. The prescriptions did not
19 have any legitimate medical purpose.

20 24. On these facts, Respondent Nguyen was charged and indicted in the criminal case
21 *United States of America v. Dzung Ahn Pham and Jennifer Thaoyen Nguyen* [Respondent
22 Nguyen], U.S. District Court for the Central District of California case number 8:19-CR-00010-
23 JLS-2 filed in 2020. In 2022, Respondent Nguyen entered a guilty plea of guilty to count one of
24 the First Superseding Indictment, conspiracy to distribute controlled substances (21 USC § 846),
25 and admitted that:

26 (1) beginning on a date unknown and continuing to on or about December 17,
27 2018, there was an agreement between two or more persons to distribute controlled
28 substances, including oxycodone, hydrocodone, and amphetamine salts, in violation
of Title 21, United States Code, Sections 841 (a) (1), (b) (1) (C); (2) the distribution
of the controlled substances were outside the usual course of professional practice

1 and without a legitimate medical purpose; and (3) defendant joined in the agreement
2 knowing of its purpose and intending to help accomplish that purpose.

3 Respondent Nguyen also admitted the facts underlying the crime, those being that:

4 [Respondent Nguyen] operated [Respondent Pharmacy] in Irvine, California.
5 Co-defendant Dzung Ahn Pham, a physician licensed to practice medicine in the
6 State of California, operated a medical office in Irvine, California.

7 Beginning on a date unknown, and continuing to at least on or about December
8 17, 2018, [Respondent Nguyen] and co-defendant conspired with each other to
9 knowingly and intentionally distribute Schedule II narcotic drug controlled
10 substances, including oxycodone, hydrocodone, and amphetamine salts, while acting
11 and intending to act outside the usual course of professional practice and without a
12 legitimate medical purpose. [Respondent Nguyen] agreed to fill the prescriptions that
13 the co-defendant Pham issued for oxycodone, hydrocodone, amphetamine salts, and
14 other controlled substances knowing that the prescriptions were issued outside the
15 usual course of professional medical practice and without a legitimate medical
16 purpose. [Respondent Nguyen] knew many other pharmacies would not fill co-
17 defendant Pham's prescriptions because they did not have a legitimate medical
18 purpose. Further, as part of the conspiracy, [Respondent Nguyen] would accept
19 payments from co-defendant Pham's patients and subsequently would give co-
20 defendant Pham these payments from his patients for "office visits," even though
21 [Respondent Nguyen] knew these patients did not have an office visit with co-
22 defendant Pham prior to defendant filling the prescription.

23 As part of the conspiracy, [Respondent Nguyen] filled prescriptions for
24 Schedule II narcotic drug controlled substances issued by co-defendant Pham to the
25 following individuals outside the usual course of professional medical practice and
26 without a legitimate medical purpose: [eight patient initials].

27 Between May 2017 and December 17, 2018, [Respondent Nguyen] filled
28 prescriptions written by co-defendant Pham for a total of approximately 160 pills of
oxycodone, approximately 1,810 pills of hydrocodone, and approximately 450 pills
of amphetamine salts. The prescriptions were filled using the patient names [eight
patient initials listed]. In filling these prescriptions, [Respondent Nguyen] acted with
intent to distribute the drugs and with intent to distribute them outside the course of
professional practice and without a legitimate medical purpose.

As a licensed pharmacist, [Respondent Nguyen] abused her position of trust in a
manner that significantly facilitated the commission of the conspiracy charged in
count one of the first superseding indictment.

25. In exchange for the guilty plea, the court dismissed the remaining ten counts against
Respondent Nguyen. On or about March 17, 2023, the court sentenced Respondent Nguyen to 33
months in prison, to be followed by compliance with supervised release conditions for three
years. It also imposed fines and fees totaling approximately \$10,100.00, as well as forfeiture of
\$379,100.00 in cash seized from Respondent Nguyen's home.

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1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Criminal Conviction)**

3 26. Respondent Jennifer Thaouyen Nguyen is subject to disciplinary action under Code
4 sections 490 and 4301, subdivision (l), and Regulations section 1770, in that Respondent was
5 convicted of a crime substantially-related to the practice of pharmacy. The circumstances are
6 those described in the Factual Allegations paragraphs above and incorporated by reference as if
7 fully set forth here.

8 **SECOND CAUSE FOR DISCIPLINE**

9 **(Moral Turpitude, Dishonesty, Fraud, Deceit, or Corruption)**

10 27. Respondent Jennifer Thaouyen Nguyen is subject to disciplinary action under Code
11 section 4301, subdivision (f), in that she committed acts of moral turpitude, dishonesty, fraud,
12 deceit, or corruption. The circumstances are those described in the Factual Allegations
13 paragraphs above and incorporated by reference as if fully set forth here.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Violation of Laws Regulating Controlled Substances)**

16 28. Respondent Jennifer Thaouyen Nguyen is subject to disciplinary action under Code
17 section 4301, subdivision (j), in that she violated laws regulating controlled substances,
18 specifically Health and Safety Code sections 11154 and 11171, by aiding a practitioner who
19 unlawfully prescribed controlled substances and by illegally furnishing controlled substances
20 without valid prescriptions. The circumstances are those described in the Factual Allegations
21 paragraphs above and incorporated by reference as if fully set forth here.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 **(Violation of Laws Governing the Practice of Pharmacy)**

24 29. Respondent Jennifer Thaouyen Nguyen is subject to disciplinary action under Code
25 section 4301, subdivision (o), in that she violated laws and regulations governing the practice of
26 pharmacy. The circumstances are those described in the Factual Allegations paragraphs above
27 and incorporated by reference as if fully set forth here.

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1 **FIFTH CAUSE FOR DISCIPLINE**

2 **(Inappropriate Exercise of Education, Training, or Experience)**

3 30. Respondent Jennifer Thaouyen Nguyen is subject to disciplinary action under Code
4 section 4306.5, subdivision (a), for the inappropriate exercise of her education, training, or
5 experience as a pharmacist when she entered into a criminal conspiracy to fill and dispense illegal
6 prescriptions. The circumstances are those described in the Factual Allegations paragraphs above
7 and incorporated by reference as if fully set forth here.

8 **SIXTH CAUSE FOR DISCIPLINE**

9 **(Failing to Enact Effective Controls Against the Diversion of Dangerous Drugs)**

10 31. Respondent Jennifer Thaouyen Nguyen is subject to disciplinary action under Code
11 section 4301, subdivision (j), in that she violated laws regulating controlled substances,
12 specifically Regulations section 1714, subdivision (d), by failing to enact effective controls
13 against the diversion of dangerous drugs when she herself diverted drugs from the pharmacy.
14 The circumstances are those described in the Factual Allegations paragraphs above and
15 incorporated by reference as if fully set forth here.

16 **SEVENTH CAUSE FOR DISCIPLINE**

17 **(Furnishing Dangerous Drugs Without Valid Prescriptions)**

18 32. Respondent Jennifer Thaouyen Nguyen is subject to disciplinary action under Code
19 section 4301, subdivision (j), in that she violated laws regulating controlled substances,
20 specifically Code section 4059, by furnishing dangerous drugs without valid prescriptions. The
21 circumstances are those described in the Factual Allegations paragraphs above and incorporated
22 by reference as if fully set forth here.

23 **EIGHTH CAUSE FOR DISCIPLINE**

24 **(Incompetence)**

25 33. Respondent Jennifer Thaouyen Nguyen is subject to disciplinary action under Code
26 section 4301, subdivision (b), in that she committed an act or acts of incompetence. The
27 circumstances are those described in the Factual Allegations paragraphs above and incorporated
28 by reference as if fully set forth here.

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NINTH CAUSE FOR DISCIPLINE

(Gross Negligence)

34. Respondent Jennifer Thaouyen Nguyen is subject to disciplinary action under Code section 4301, subdivision (c), in that she committed an act or acts of gross negligence. The circumstances are those described in the Factual Allegations paragraphs above and incorporated by reference as if fully set forth here.

TENTH CAUSE FOR DISCIPLINE

(Clearly Excessive Furnishing of Controlled Substances)

35. Respondent Jennifer Thaouyen Nguyen is subject to disciplinary action under Code section 4301, subdivision (d), in that she clearly excessively furnished controlled substances, in violation of Health and Safety Code section 11153. The circumstances are those described in the Factual Allegations paragraphs above and incorporated by reference as if fully set forth here.

ELEVENTH CAUSE FOR DISCIPLINE

(Eschewing Corresponding Responsibility)

36. Respondent Jennifer Thaouyen Nguyen is subject to disciplinary action under Code section 4301, subdivisions (j) and (o), in that she eschewed her corresponding responsibility to verify the legitimacy of prescriptions she filled in violation of Health and Safety Code section 11153. The circumstances are those described in the Factual Allegations paragraphs above and incorporated by reference as if fully set forth here.

TWELFTH CAUSE FOR DISCIPLINE

(Pharmacy Failure to Safely Maintain and Secure Drugs)

37. Respondent Linh T. Nguyen, dba Bristol Pharmacy, is subject to disciplinary action under Code section 4301, subdivision (o), and California Code of Regulations, title 16, section 1714, subdivision (b), in that Respondent Pharmacy, directly or indirectly, violated law(s) or regulation(s) governing pharmacy by failing to safely maintain and secure the controlled substances it possessed. The circumstances are those described in the Factual Allegations paragraphs above and incorporated by reference as if fully set forth here.

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DISCIPLINARY CONSIDERATIONS

38. To determine the degree of discipline, if any, to impose on Respondents' licenses, Complainant alleges that, during an inspection on August 31, 2017 that included review of dispensing and prescription data, Respondent Pharmacy dispensed prescriptions for a Schedule-IV controlled substance at least five days before the then-current supply of it had been exhausted and filled it 13 times without any documentation verifying the legitimacy of the prescription, resulting in early fills and excessive controlled substance given to a patient. As a result, the Board issued the following citations to Respondents Nguyen and Respondent Pharmacy individually.

39. On or about January 12, 2018, the Board issued administrative citation number CI 2017 78068 to Respondent Nguyen for violations of state and federal regulations and assessed a fine of \$1,000.00, as follows:

1. **16 CCR § 1761, subd. (a):** No pharmacist shall compound or dispense any prescription which contains any significant error or omission (no fine assessed);
2. **21 CFR § 1304.11, subds. (a)(b), & (c):** General inventory violations (\$500.00); and
3. **16 CCR § 1715, subd. (a):** Required pharmacy self-assessment form by the pharmacist-in-charge to show compliance with federal and state pharmacy law (\$500.00).

Respondent Nguyen did not contest the citation and it became final on or about February 11, 2018.

40. On or about January 12, 2018, the Board issued administrative citation number CI 2016 73759 to Respondent Pharmacy for violations of state and federal regulations, as follows (but did not assess fines):

1. **16 CCR § 1761, subd. (a):** No pharmacist shall compound or dispense any prescription which contains any significant error or omission;
2. **21 CFR § 1304.11, subds. (a)(b), & (c):** General inventory violations; and
3. **16 CCR § 1715, subd. (a):** Required pharmacy self-assessment form by the pharmacist-in-charge to show compliance with federal and state pharmacy law.

Respondent Pharmacy did not contest the citation and it became final on or about February 11, 2018.

OTHER MATTERS

1
2 35. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
3 50659 issued to Linh T. Nguyen, dba Bristol Pharmacy, while Linh T. Nguyen was a manager or
4 owner and had knowledge of or knowingly participated in any conduct for which the licensees
5 were disciplined, Linh T. Nguyen shall be prohibited from serving as a manager, administrator,
6 owner, member, officer, director, associate, or partner of a licensee for five years if the Pharmacy
7 Permit is placed on probation or until the Pharmacy Permit is reinstated if it is revoked.

8 37. Pursuant to Code section 4307, if discipline is imposed on Pharmacy Permit No. PHY
9 50659 issued to Linh T. Nguyen, dba Bristol Pharmacy, while Jennifer Thaouyen Nguyen was a
10 manager and had knowledge of or knowingly participated in any conduct for which the licensees
11 were disciplined, she shall be prohibited from serving as a manager, administrator, owner,
12 member, officer, director, associate, or partner of a licensee for five years if the Pharmacy Permit
13 is placed on probation or until the Pharmacy Permit is reinstated if it is revoked.

14 38. Pursuant to Code section 4307, if discipline is imposed on Pharmacist License No.
15 RPH 55406 issued to Jennifer Thaouyen Nguyen, she shall be prohibited from serving as a
16 manager, administrator, owner, member, officer, director, associate or partner of a licensee for
17 five years if the Pharmacist License is placed on probation or until the Pharmacist License is
18 reinstated, if it is revoked.

PRAYER

19
20 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
21 and that following the hearing, the Board of Pharmacy issue a decision:

22 1. Revoking or suspending Pharmacist License Number RPH 55406, issued to Jennifer
23 Thaouyen Nguyen;

24 2. Revoking or suspending Pharmacy Permit Number PHY 50659, issued to Linh T.
25 Nguyen, dba Bristol Pharmacy;

26 3. Prohibiting Linh T. Nguyen from serving as a manager, administrator, owner,
27 member, officer, director, associate, or partner of a licensee for five years if Pharmacy Permit
28 Number PHY 50659 is placed on probation or until the Pharmacy Permit is reinstated, if it is

1 revoked;

2 5. Prohibiting Jennifer Thaouyen Nguyen from serving as a manager, administrator,
3 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacy
4 Permit Number PHY 50659 is placed on probation or until the Pharmacy Permit is reinstated, if it
5 is revoked;

6 6. Prohibiting Jennifer Thaouyen Nguyen from serving as a manager, administrator,
7 owner, member, officer, director, associate, or partner of a licensee for five years if Pharmacist
8 License Number RPH 55406 is placed on probation or until the Pharmacist License is reinstated,
9 if it is revoked;

10 7. Ordering Jennifer Thaouyen Nguyen and Linh T. Nguyen to pay the Board of
11 Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to
12 Business and Professions Code section 125.3; and

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

14 DATED: 5/30/2023

Sodergren, Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2023.05.30 20:34:34 -07'00'

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

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