

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

In the Matter of the Accusation Against:

OANH NHU NGUYEN, Respondent.

Pharmacist License No. RPH 54585

Agency Case No. 7475

DECISION AND ORDER

The attached Stipulated Surrender of License and 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 June 23, 2023.

It is so ORDERED on May 24, 2023.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

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

Seung W. Oh, Pharm.D.
Board President

1 ROB BONTA
Attorney General of California
2 CHAR SACHSON
Supervising Deputy Attorney General
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Attorneys for Complainant

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

12 In the Matter of the Accusation Against:

Case No. 7475

13 **OANH NHU NGUYEN**
14 **3342 Aramis Dr,**
San Jose, CA 95127

15 **Pharmacist License No. RPH 54585**

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy
22 (Board). She brought this action solely in her official capacity and is represented in this matter by
23 Rob Bonta, Attorney General of the State of California, by Leslie E. Brast, Deputy Attorney
24 General.

25 2. Oanh Nhu Nguyen (Respondent) is representing herself in this proceeding and has
26 chosen not to exercise her right to be represented by counsel.

27 3. On or about August 21, 2003, the Board issued Pharmacist License No. RPH 54585
28 to Respondent. The Pharmacist License was in full force and effect at all times relevant to the

1 charges brought in Accusation No. 7475, and will expire on September 30, 2024, unless renewed.

2 **JURISDICTION**

3 4. Accusation No. 7475 was filed before the Board, and is currently pending against
4 Respondent. The Accusation and all other statutorily required documents were properly served
5 on Respondent on April 5, 2023. Respondent timely filed her Notice of Defense contesting the
6 Accusation. A copy of Accusation No. 7475 is attached as Exhibit A and incorporated by
7 reference.

8 **ADVISEMENT AND WAIVERS**

9 5. Respondent has carefully read and understands the charges and allegations in
10 Accusation No. 7475. Respondent also has carefully read and understands the effects of this
11 Stipulated Surrender of License and Order.

12 6. Respondent is fully aware of her legal rights in this matter, including the right to a
13 hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at
14 her own expense; the right to confront and cross-examine the witnesses against her; the right to
15 present evidence and to testify on her own behalf; the right to the issuance of subpoenas to
16 compel the attendance of witnesses and the production of documents; the right to reconsideration
17 and court review of an adverse decision; and all other rights accorded by the California
18 Administrative Procedure Act and other applicable laws.

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

21 **CULPABILITY**

22 8. Respondent admits the truth of each and every charge and allegation in Accusation
23 No. 7475, agrees that cause exists for discipline, and hereby surrenders her Pharmacist License
24 No. RPH 54585 for the Board's formal acceptance.

25 9. Respondent understands that by signing this stipulation, she enables the Board to
26 issue an order accepting the surrender of her Pharmacist License without further process.

27 ///

28 ///

CONTINGENCY

10. This stipulation shall be subject to approval by the Board. Respondent understands and agrees that counsel for Complainant and Board staff may communicate directly with the Board regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that she may not withdraw her 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 Surrender 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.

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

12. This Stipulated Surrender of License and 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 Surrender of License and 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.

13. 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 Order:

ORDER

IT IS HEREBY ORDERED that Pharmacist License No. RPH 54585, issued to Respondent Oanh Nhu Nguyen, is surrendered and accepted by the Board.

1. The surrender of Respondent's Pharmacist License, and the acceptance of the surrendered license by the Board, shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's

1 license history with the Board. Respondent understands and acknowledges that for purposes of
2 Business and Professions Code section 4307, this stipulated surrender is treated the same as a
3 revocation of licensure.

4 2. Respondent shall lose all rights and privileges as a Licensed Pharmacist in California
5 as of the effective date of the Board's Decision and Order.

6 3. Respondent shall cause to be delivered to the Board her pocket license and, if one was
7 issued, her wall certificate on or before the effective date of the Decision and Order.

8 4. If Respondent ever applies for licensure or petitions for reinstatement in the State of
9 California, the Board shall treat it as a new application for licensure. Respondent must comply
10 with all the laws, regulations and procedures for licensure in effect at the time the application or
11 petition is filed, and all of the charges and allegations contained in Accusation No. 7475 shall be
12 deemed to be true, correct and admitted by Respondent when the Board determines whether to
13 grant or deny the application or petition.

14 5. Respondent shall not apply for licensure or petition for reinstatement for three (3)
15 years from the effective date of this Decision and Order.

16 6. Respondent shall pay the agency its costs of investigation and enforcement in the
17 amount of \$11,403.50 prior to issuance of a new or reinstated license.

18 7. If Respondent should ever apply or reapply for a new license or certification, or
19 petition for reinstatement of a license, by any other health care licensing agency in the State of
20 California, all of the charges and allegations contained in Accusation No. 7475 shall be deemed to
21 be true, correct, and admitted by Respondent for the purpose of any Statement of Issues or any
22 other proceeding seeking to deny or restrict licensure.

23 ACCEPTANCE

24
25
26 I have carefully read the Stipulated Surrender of License and Order. I understand the
27 stipulation and the effect it will have on my Pharmacist License. I enter into this Stipulated
28

1 Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound
2 by the Decision and Order of the Board of Pharmacy.

3
4 DATED: 04/13/23

Oanh Nguyen
OANH NHU NGUYEN
Respondent

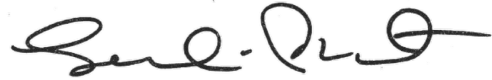
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7 **ENDORSEMENT**

8 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
9 for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

10 DATED: April 17, 2023

Respectfully submitted,

11 ROB BONTA
12 Attorney General of California
13 CHAR SACHSON
14 Supervising Deputy Attorney General



15 LESLIE E. BRAST
16 Deputy Attorney General
17 *Attorneys for Complainant*

18
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Exhibit A

Accusation No. 7475

1 ROB BONTA
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2 CHAR SACHSON
Supervising Deputy Attorney General
3 LESLIE E. BRAST
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Attorneys for Complainant
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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 7475

13 **OANH NHU NGUYEN**
14 **3343 ARAMIS DR**
SAN JOSE, CA 95127-4202

ACCUSATION

15 **Pharmacist License No. RPH 54585**

16 Respondent.

17
18 **PARTIES**

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

21 2. On or about August 21, 2003, the Board issued Pharmacist License Number RPH
22 54585 to Oanh Nhu Nguyen (Respondent). The Pharmacist License was in full force and effect at
23 all times relevant to the charges brought herein and will expire on September 30, 2024, unless
24 renewed.

25 **JURISDICTION**

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

1 4. Code section 4011 provides that the Board shall administer and enforce both the
2 Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act
3 [Health & Safety Code, § 11000 et seq.].

4 5. Code section 4300(a) provides that every license issued by the Board may be
5 suspended or revoked.

6 6. Code section 4300.1 provides that the expiration, cancellation, forfeiture, or
7 suspension of a Board-issued license, the placement of a license on a retired status, or the
8 voluntary surrender of a license by a licensee, shall not deprive the Board of jurisdiction to
9 commence or proceed with any investigation of, or action or disciplinary proceeding against, the
10 licensee or to render a decision suspending or revoking the license.

11 **STATUTORY AND REGULATORY PROVISIONS**

12 7. Code section 4301 states:

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

15 ...

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

18 ...

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

21 ...

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

25 ...

26 8. Code section 4307, subdivision (a), states:

27 Any person who has been denied a license or whose license has been revoked
28 or is under suspension, or who has failed to renew his or her license while it was

1 under suspension, or who has been a manager, administrator, owner member, officer,
2 director, associate, or partner of any partnership, corporation, firm, or association
3 whose application for a license has been denied or revoked, is under suspension or
4 has been placed on probation, and while acting as the manger, administrator, owner,
5 member, officer, director, associate, or partner had knowledge or knowingly
participated in any conduct for which the license was denied, revoked, suspended, or
placed on probation, shall be prohibited from serving as a manager, administrator,
owner, member, officer, director, associate, or partner of a licensee as follows:

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

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

11 9. Code section 4059 (a) prohibits furnishing of any dangerous drug or dangerous device
12 except upon the prescription of an authorized prescriber.

13 10. Code section 4060 provides, in pertinent part, that no person shall possess any
14 controlled substance, except that furnished upon a valid prescription/drug order.

15 11. Health and Safety Code section 11170 provides that no person shall prescribe,
16 administer, or furnish a controlled substance for himself or herself.

17 12. Health and Safety Code section 11173, subdivision (a), provides that no person shall
18 obtain or attempt to obtain controlled substances, or procure or attempt to procure the
administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,
or subterfuge; or (2) by the concealment of a material fact.

19 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess
20 any controlled substance listed in Schedule II (Health and Safety Code section 11055),
21 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

22 **REGULATORY PROVISIONS**

23 14. California Code of Regulations, title 16, section 1770, states:

24 For the purpose of denial, suspension, or revocation of a personal or facility
25 license pursuant to Division 1.5 (commencing with Section 475) of the Business
26 and Professions Code, a crime or act shall be considered substantially related to
27 the qualifications, functions or duties of a licensee or registrant 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.

28 ///

1 **COST RECOVERY**

2 15. Code section 125.3 provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation of the licensing
4 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.

5 **CONTROLLED SUBSTANCES / DANGEROUS DRUGS**

6 16. Code section 4021 states:

7 “Controlled substance” means any substance listed in Chapter 2 (commencing
8 with Section 11053) of Division 10 of the Health and Safety Code.

9 17. Code section 4022 states, in pertinent part:

10 “Dangerous drug” or “dangerous device” means any drug or device unsafe for
11 self use, except veterinary drugs that are labeled as such, and includes the following:

12 (a) Any drug that bears the legend: “Caution: federal law prohibits dispensing
13 without prescription,” “Rx only,” or words of similar import.

14 ...

15 (c) Any other drug or device that by federal or state law can be lawfully
16 dispensed only on prescription or furnished pursuant to Section 4006.

17 18. Hydrocodone/acetaminophen, variously known by the brand names Norco, Vicodin,
18 Lortab, and Lorcet, is a Schedule II controlled substance pursuant to Health and Safety Code
19 section 11055(b)(I), and dangerous drug as designated by Business and Professions Code section
20 4022. Hydrocodone is an opioid pain medication.

21 19. Ultram is a brand name for tramadol, an opioid pain medication and a dangerous drug
22 as designated by Business and Professions Code section 4022.

23 **FACTUAL BACKGROUND**

24 20. On more than 40 occasions between March 2020 and late November 2022, while
25 employed as a staff pharmacist at Rite Aid (#5992) in San Jose, California, Respondent diverted
26 tramadol and hydrocodone/acetaminophen by creating and filling fraudulent prescriptions for her
27 personal use. In total, Respondent diverted approximately 3,000 tablets of tramadol 50mg, and
28 more than 2,000 tablets of hydrocodone/acetaminophen 10/325mg.

21. Respondent was terminated from her position in December 2022.

1 **FIRST CAUSE FOR DISCIPLINE**

2 **(Obtaining a Controlled Substance by Fraud, Deceit or Subterfuge)**

3 22. Respondent is subject to discipline under Code sections 4301 (j), 4301 (o) and/or
4 Health and Safety Code section 11173 (a), in that Respondent obtained, conspired to obtain,
5 and/or assisted in or abetted the obtaining of a controlled substance, by fraud, deceit, subterfuge,
6 or concealment of material fact, as described in paragraph 20, above, and herein incorporated.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Possession of a Controlled Substance)**

9 23. Respondent is subject to discipline under Code sections 4301 (j), 4301 (o), 4060
10 and/or Health and Safety Code section 11350, for possession of a controlled substance or
11 substances without a prescription, as described in paragraph 20, above, and herein incorporated.

12 **THIRD CAUSE FOR DISCIPLINE**

13 **(Furnishing a Dangerous Drug/Controlled Substance)**

14 24. Respondent is subject to discipline under Code sections 4301 (j), 4301 (o), 4059 (a),
15 and/or Health and Safety Code section 11170, in that Respondent furnished to herself or another
16 without a valid prescription, and/or conspired to furnish, and/or assisted or abetted furnishing of,
17 a dangerous drug and/or a controlled substance, as described in paragraph 20, above, and herein
18 incorporated.

19 **FOURTH CAUSE FOR DISCIPLINE**

20 **(Acts Involving Moral Turpitude, Dishonesty or Fraud)**

21 25. Respondent is subject to discipline under Code section 4301 (f) for committing an act
22 or acts involving moral turpitude, dishonesty, fraud, deceit, or corruption, as described in
23 paragraph 20, above, and herein incorporated.

24 **OTHER MATTERS**

25 26. Pursuant to Code section 4307, if discipline is imposed on Respondent's Pharmacist
26 License No. RPH 54585, she shall be prohibited from serving as a manager, administrator, owner,
27 member, officer, director, associate, or partner of a licensee for: five years if the license is placed
28 on probation; or if the license is revoked, until it is reinstated or reissued.

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 Pharmacist License Number RPH 54585, issued to Oanh Nhu Nguyen;
2. Ordering Oanh Nhu Nguyen to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 4/5/2023

Sodergren,
Anne@DCA

Digitally signed by Sodergren,
Anne@DCA
Date: 2023.04.05 07:55:54 -07'00'

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

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