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

In the Matter of the Statement of Issues Against:

CATHY NGUYEN, Respondent

Pharmacy Technician Registration Applicant

Agency Case No. 7440

OAH No. 2023090420

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 January 17, 2024.

It is so ORDERED on December 18, 2023.

BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

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Seung W. Oh, Pharm.D. Board President

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1	ROB BONTA Attorney General of California		
2	GREGORY J. SALUTE Supervising Deputy Attorney General		
3	MOLLY E. SELWAY Deputy Attorney General State Bar No. 234519 600 West Broadway, Suite 1800 San Diego, CA 92101 P.O. Box 85266 San Diego, CA 92186-5266 Telephone: (619) 738-9082		
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7	Facsimile: (619) 645-2031 Attorneys for Complainant		
8	Thorneys for Complainant		
9	BEFORE THE		
10	BOARD OF PHARMACY DEPARTMENT OF CONSUMER AFFAIRS		
11	STATE OF CALIFORNIA		
12			
13	In the Matter of the Statement of Issues	Case No. 7440	
14	Against:		
15	CATHY NGUYEN	OAH No. 2023090420	
16		STIPULATED SETTLEMENT AND DISCIPLINARY ORDER	
17	Pharmacy Technician Registration Applicant		
18	Respondent.		
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21	IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-		
22	entitled proceedings that the following matters are true:		
23	<u>PARTIES</u>		
24	1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy		
25	(Board). She brought this action solely in her official capacity and is represented in this matter by		
26	Rob Bonta, Attorney General of the State of California, by Molly E. Selway, Deputy Attorney		
27	General.		
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- 2. Respondent Cathy Nguyen (Respondent) is representing herself in this proceeding and has chosen not to exercise her right to be represented by counsel.
- 3. On or about July 27, 2022, Respondent filed an application dated July 13, 2022, with the Board to obtain a Pharmacy Technician Registration. The Board denied the application on December 22, 2022.

JURISDICTION

- 4. Statement of Issues No. 7440 was filed before the Board, and is currently pending against Respondent. The Statement of Issues and all other statutorily required documents were properly served on Respondent on May 12, 2023.
- 5. A copy of Statement of Issues No. 7440 is attached as exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

- 6. Respondent has carefully read, and understands the charges and allegations in Statement of Issues No. 7440. Respondent has also carefully read, and understands the effects of this Stipulated Settlement and Disciplinary Order.
- 7. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of 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

 Respondent admits the truth of each and every charge and allegation in Statement of Issues No. 7440.

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10. Respondent agrees that her Pharmacy Technician Registration is subject to denial and she agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

- 11. 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. 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 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.
- 12. 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.
- 13. 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.
- 14. 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:

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1	DISCIPLINARY ORDER		
2	IT IS HEREBY ORDERED that upon satisfaction of statutory and regulatory requirements		
3	for issuance thereof, a Pharmacy Technician Registration shall be issued to Respondent Cathy		
4	Nguyen. Said registration shall be publically reproved by the Board of Pharmacy under Business		
5	and Professions Code section 495 in resolution of Statement of Issues No. 7440, attached as		
6	exhibit A.		
7	<u>ACCEPTANCE</u>		
8	I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the		
9	stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this		
10	Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree		
11	to be bound by the Decision and Order of the Board of Pharmacy.		
12			
13	DATED:		
14	CATHY NGUYEN Respondent		
15	<u>ENDORSEMENT</u>		
16	The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully		
17	submitted for consideration by the Board of Pharmacy.		
18	DATED:		
19	DATED: Respectfully submitted,		
20	ROB BONTA Attorney General of California GREGORY J. SALUTE		
21	Supervising Deputy Attorney General		
22			
23	Molly E. Selway		
24	Deputy Attorney General Attorneys for Complainant		
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DISCIPLINARY ORDER IT IS HEREBY ORDERED that upon satisfaction of statutory and regulatory requirements for issuance thereof, a Pharmacy Technician Registration shall be issued to Respondent Cathy Nguyen. Said registration shall be publically reproved by the Board of Pharmacy under Business 4 and Professions Code section 495 in resolution of Statement of Issues No. 7440, attached as exhibit A. **ACCEPTANCE** I have carefully read the Stipulated Settlement and Disciplinary Order. I understand the stipulation and the effect it will have on my Pharmacy Technician Registration. I enter into this 9 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree 10 to be bound by the Decision and Order of the Board of Pharmacy. 12 DATED: CATHY NGUYEN 14 Respondent **ENDORSEMENT** 16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully 17 submitted for consideration by the Board of Pharmacy. DATED: 11/2/2023 Respectfully submitted, 19 ROB BONTA 20 Attorney General of California GREGORY J. SALUTE Supervising Deputy Attorney General MOLLY E. SELWAY Deputy Attorney General 24 Attorneys for Complainant

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Exhibit A

Statement of Issues No. 7440

1	ROB BONTA			
2	Attorney General of California GREGORY J. SALUTE			
3	Supervising Deputy Attorney General MOLLY E. SELWAY Deputy Attorney General State Bar No. 234519 600 West Broadway, Suite 1800 San Diego, CA 92101			
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6	P.O. Box 85266 San Diego, CA 92186-5266			
7	Telephone: (619) 738-9082 Facsimile: (619) 645-2031			
8	Attorneys for Complainant			
9	BEFORE THE			
10	BOARD OF PHARMACY			
11	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA			
12				
13	In the Matter of the Statement of Issues Against:	Case No. 7440		
1415	CATHY NGUYEN	STATEMENT OF ISSUES		
16	Pharmacy Technician Registration Applicant			
17	Respondent.			
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20	DADT	THE		
21	PARTIES			
22	1. Anne Sodergren (Complainant) brings this Statement of Issues solely in her official			
23	capacity as the Executive Officer of the Board of	Pharmacy (Board), Department of Consumer		
24	Affairs.	· · · · · · · · · · · · · · · · · · ·		
25	2. On or about July 27, 2022, the Board received an application for a Pharmacy			
26	Technician Registration from Cathy Nguyen (Respondent). On or about July 13, 2022, Cathy			
27	Nguyen certified under penalty of perjury to the truthfulness of all statements, answers, and			
28	representations in the application. The Board den	ied the application on December 22, 2022.		
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1 2 3. 3 otherwise indicated. 4 5 Section 480 of the Code states: 4. 6 7 8 conditions are met: 9 10 11 12 13 14 15 5. 16 17 18 19 20 following: 21 22 23 24 25 26

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JURISDICTION

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

STATUTORY PROVISIONS

- (a) Notwithstanding any other provision of this code, a board may deny a license regulated by this code on the grounds that the applicant has been convicted of a crime or has been subject to formal discipline only if either of the following
- (2) The applicant has been subjected to formal discipline by a licensing board in or outside California within the preceding seven years from the date of application based on professional misconduct that would have been cause for discipline before the board for which the present application is made and that is substantially related to the qualifications, functions, or duties of the business or profession for which the present application is made. However, prior disciplinary action by a licensing board within the preceding seven years shall not be the basis for denial of a license if the basis for that disciplinary action was a conviction that has been dismissed pursuant to Section 1203.4, 1203.4a, 1203.41, or 1203.42 of the Penal Code or a comparable dismissal or expungement.
- Section 4300, subdivision (c) of the Code states:
- (c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the
 - (1) Medical or psychiatric evaluation.
 - (2) Continuing medical or psychiatric treatment.
 - (3) Restriction of type or circumstances of practice.
 - (4) Continuing participation in a board-approved rehabilitation program.
 - (5) Abstention from the use of alcohol or drugs.
 - (6) Random fluid testing for alcohol or drugs.
 - (7) Compliance with laws and regulations governing the practice of pharmacy

6. Section 4301 of the Code 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 includes, but is not limited to, any of the following:

. . . .

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

. . . .

FACTUAL ALLEGATIONS

- 7. On May 22, 2018, a deputy with the San Diego County Sheriff's Department (SDCSD) was dispatched to investigate a theft that occurred at a Target retail store in Poway, California. It was reported that on May 20, 2018, at approximately 4:48 p.m., Respondent, who was subsequently identified as the suspect, entered Target and selected several liquor bottles, valued at approximately \$1,807.48, which she placed in her shopping cart and concealed with two pillows. Respondent then exited the store without paying for the merchandise. Target's loss prevention officer provided the SDCSD deputy with video surveillance, photos, and a copy of his report.
- 8. On June 7, 2018, a SDCSD deputy was dispatched to investigate a theft that occurred at the same Target retail store. It was reported that on June 4, 2018, at approximately 2:00 p.m., Respondent entered Target and selected several liquor bottles, valued at approximately \$1,421.67, which she placed in her shopping cart and concealed with two pillows. Respondent then exited the store without paying for the merchandise. Target's loss prevention officer recognized Respondent from a prior theft; however, she was not detained or identified during this occurrence. Target's loss prevention officer provided the SDCSD deputy with video surveillance, photos, and a copy of his report.
- 9. On June 13, 2018, at approximately 5:35 p.m., Respondent entered the same Target retail store and selected several liquor bottles, valued at approximately \$932.73, which she placed in her shopping cart and concealed with pillows. Target's loss prevention officer was alerted when Respondent entered the liquor aisle, immediately recognized her from previous recent

thefts, and contacted the SDCSD while Respondent was still in the store. Prior to exiting the store, Respondent noticed the loss prevention officer waiting at the front door. Respondent returned to the liquor aisle and placed the alcohol back on the shelves. Respondent then proceeded to exit the store where she was contacted by SDCSD deputies. Respondent was arrested for the two previous thefts (Pen. Code, § 459 (burglary)), and her current shoplifting attempt (Pen. Code, § 459.5).

- 10. Subsequently, on June 21, 2018, in a criminal proceeding titled *People of the State of California v. Cathy Nguyen*, in San Diego County Superior Court, case number CD277356, Respondent was charged with three felony counts of violating Penal Code section 487, subdivision (a), grand theft. On or about August 14, 2018, Respondent plead guilty to, and was convicted of, violating Penal Code section 487 (a), Grand Theft. On or about April 20, 2021, the conviction was dismissed pursuant to Penal Code sections 1203.4 and 1203.4a.
- 11. On or about April 24, 2019, in the case titled, *In the Matter of the Accusation Against Cathy Nguyen*, Case No. 6573, Respondent surrendered her Pharmacy Technician Registration based upon the conducted set forth in paragraphs 7-10 above.

FIRST CAUSE FOR DENIAL OF APPLICATION

(Prior Discipline)

12. Respondent's application is subject to denial under Code section 480, subdivision (a)(2) and Code section 4300, subdivision (c), in that Respondent was formally disciplined by the Board based on professional misconduct, as set forth in paragraphs 7-11 above, incorporated herein.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Commission of Acts Involving Moral Turpitude, Dishonesty, Fraud or Deceit)

13. Respondent's application is subject to denial under Code section 4300, subdivision (c) and Code section 4301, subdivision (f), for unprofessional conduct in that she committed acts of moral turpitude, dishonesty and deceit, as described in paragraphs 7-11, above, incorporated herein.

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PRAYER 1 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, 2 and that following the hearing, the Board of Pharmacy issue a decision: 3 Denying the application of Cathy Nguyen for a Pharmacy Technician Registration; 1. 4 5 and Taking such other and further action as deemed necessary and proper. 2. 6 7 Digitally signed by Sodergren, Anne@DCA Sodergren, Date: 2023.05.08 07:41:45 DATED: 5/8/2023 Anne@DCA 8 ANNE SODERGREN 9 **Executive Officer** Board of Pharmacy 10 Department of Consumer Affairs State of California 11 Complainant 12 13 SD2023800172 83818316.docx 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28