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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. 7652

13 **BRANDON AZANA NGUYEN**  
14 **3716 Dundale Dr.**  
**San Jose, CA 95121**

**DEFAULT DECISION AND ORDER**

15 **Pharmacy Technician License No. TCH**  
16 **175967**

[Gov. Code, §11520]

17  
18 Respondent.

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20 **FINDINGS OF FACT**

21 1. On or about October 17, 2023, Complainant Anne Sodergren, in her official capacity  
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs, filed  
23 Accusation No. 7652 against Brandon Azana Nguyen (Respondent) before the Board of  
24 Pharmacy. (Accusation attached as Exhibit A.)

25 1. On or about January 8, 2020, the Board of Pharmacy issued Pharmacy Technician  
26 License Number TCH 175967 to Brandon Azana Nguyen (Respondent). The Pharmacy  
27 Technician License was in full force and effect at all times relevant to the charges brought herein  
28 and will expire on December 31, 2023, unless renewed.

2. On or about October 19, 2023, Respondent was served by Certified and First Class Mail copies of the Accusation No. 7652, Statement to Respondent, Notice of Defense, Request for Discovery, and Discovery Statutes (Government Code sections 11507.5, 11507.6, and 11507.7) at Respondent's address of record which, pursuant to Business and Professions Code section 4100, is required to be reported and maintained with the Board. Respondent's address of record was and is:

3716 Dundale Dr.

San Jose, CA 95121.

3. Service of the Accusation was effective as a matter of law under the provisions of Government Code section 11505(c) and/or Business and Professions Code section 124.

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

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

5. The Board takes official notice of its records and the fact that Respondent failed to file a Notice of Defense within 15 days after service upon him of the Accusation, and therefore waived his right to a hearing on the merits of Accusation No. 7652.

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

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

7. Pursuant to its authority under Government Code section 11520, the Board finds 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. 7652, are separately and severally, found to be true and correct by clear and convincing evidence.

8. The Board finds that the actual costs for Investigation and Enforcement are \$2,287.50 as of November 15, 2023.

**DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondent Brandon Azana Nguyen has subjected his Pharmacy Technician License No. TCH 175967 to discipline.

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

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

a. Respondent is subject to disciplinary action under Code section 4301, subdivision (1), in that Respondent was convicted of a crime that is substantially related to the duties, functions, and/or qualifications of a pharmacy technician.

b. Respondent is subject to disciplinary action under Code section 4301 in that respondent was involved in unprofessional conduct.

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**ORDER**

IT IS SO ORDERED that Pharmacy Technician License No. TCH 175967, issued to Respondent Brandon Azana 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 March 15, 2024.

It is so ORDERED on February 14, 2024.

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

By



Seung W. Oh, Pharm. D.  
Board President

# Exhibit A

Accusation

# Exhibit A

Accusation

1 ROB BONTA  
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2 CHAR SACHSON  
Supervising Deputy Attorney General  
3 JUSTIN R. SURBER  
Deputy Attorney General  
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5 San Francisco, CA 94102-7004  
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8 **BEFORE THE**  
9 **BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 7652

12 **BRANDON AZANA NGUYEN**  
13 **3716 Dundale Dr.**  
**San Jose, CA 95121**

**ACCUSATION**

14 **Pharmacy Technician License No. TCH 175967**

15 Respondent.  
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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, Department of Consumer Affairs.

21 2. On or about January 8, 2020, the Board of Pharmacy issued Pharmacy Technician  
22 License Number TCH 175967 to Brandon Azana Nguyen (Respondent). The Pharmacy  
23 Technician License was in full force and effect at all times relevant to the charges brought herein  
24 and will expire on December 31, 2023, unless renewed.

25 **JURISDICTION**

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

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

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

6. Section 4300, subdivision (a) of the Code provides that every license issued by the Board 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.

## **STATUTORY PROVISIONS**

8. Section 4301 of the Code states:

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:

• • •

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13 (commencing with Section 801) of Title 21 of the United States Code regulating controlled substances or of a violation of the statutes of this state regulating controlled substances or dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the record of conviction shall be conclusive evidence only of the fact that the conviction occurred. The board may inquire into the circumstances surrounding the commission of the crime, in order to fix the degree of discipline or, in the case of a conviction not involving controlled substances or dangerous drugs, to determine if the conviction is of an offense substantially related to the qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this provision. The board may take action when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made



suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment.

...

9. Section 4307 of the Code 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 has been placed on probation, and while acting as the manager, administrator, owner, 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:

(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 years.

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

### **REGULATORY PROVISIONS**

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

(a) For the purpose of denial, suspension, or revocation of a personal or facility license pursuant to Section 141 or Division 1.5 (commencing with Section 475) of the Business and Professions Code, a crime, professional misconduct, or act shall be considered substantially related to the qualifications, functions or duties of the 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 an applicant or licensee to perform the functions authorized by the license in a manner consistent with the public health, safety, or welfare.

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

(1) The nature and gravity of the offense;

(2) The number of years elapsed since the date of the offense; and

(3) The nature and duties of the practice, profession, or occupation that may be performed under the license type sought or held.

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

(1) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of law of this state, or any other jurisdiction,

governing the practice of pharmacy.

(2) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of Chapter 13 (commencing with Section 801 ) of Title 21 of the United States Code regulating controlled substances or any law of this state, or any other jurisdiction, relating to controlled substances or dangerous drugs.

(3) Violate or attempt to violate, directly or indirectly, or to aid, abet or conspire to violate, any provision of law of this state, or any other jurisdiction, relating to government provided or government supported healthcare.

(4) Involve dishonesty, fraud, deceit, or corruption related to money, items, documents, or personal information.

(5) Involve a conviction for driving under the influence of drugs or alcohol.

### **COST RECOVERY**

11. Section 125.3 of the Code 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.

### **FIRST CAUSE FOR DISCIPLINE**

(Conviction)

12. Respondent is subject to disciplinary action under Code section 4301, subdivision (l), in that Respondent was convicted of a crime that is substantially related to the duties, functions, and/or qualifications of a pharmacy technician. On or about January 17, 2023, in a criminal matter titled *The People of the State of California v. Brandon Azana Nguyen*, Santa Clara County Superior Court Case No. C2202370, Respondent was convicted of possessing child pornography, in violation of Penal Code section 311.11, subdivision (a). Respondent possessed child pornography of children as young as five to eight.

### **SECOND CAUSE FOR DISCIPLINE**

(Unprofessional Conduct)

13. Respondent is subject to disciplinary action under Code section 4301 in that respondent was involved in unprofessional conduct. The circumstances are described in paragraph 12, above.

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## PRAYER

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

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