

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

In the Matter of the Statement of Issues Against:

NGHI VAN DANG, Respondent

Pharmacist License Applicant

Agency Case No. 7029

OAH No. 2021020361

DECISION AND ORDER

The attached Proposed Decision of the Administrative Law Judge 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

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PROPOSED DECISION

Erin R. Koch-Goodman, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter on May 19, 2021, by videoconference and telephone, from Sacramento, California.

Jeffrey M. Phillips, Deputy Attorney General, Department of Justice, State of California, represented Anne Sodergren (complainant), Executive Officer, Board of Pharmacy (Board), Department of Consumer Affairs, State of California.

Nghi Van Dang (respondent) appeared and represented himself.

Oral and documentary evidence was received, the record closed, and the matter submitted for decision on May 19, 2021.

FACTUAL FINDINGS

License History

1. On March 26, 2003, the Board issued Pharmacist License Number RPH 54244 to respondent. On October 3, 2005, the Board issued Permit Number PHY 47301 to Dang Pharmacy Corporation, doing business as (dba) Friant Pharmacy, with respondent listed as president and pharmacist in charge (PIC). Friant Pharmacy was located at 17122 North Friant Road, Friant, California. The Board issued a citation to both respondent and Friant Pharmacy in 2013, for failing to verify erroneous or uncertain prescriptions in violation of California Code of Regulations, title 16, section 1761, and fined respondent \$1,500. Both citations were satisfied in full.

ACCUSATION

2. On July 30, 2016, complainant made and filed an Accusation against respondent and Friant Pharmacy, in Case No. 5097, seeking to revoke respondent's license and Friant Pharmacy's permit for unprofessional conduct, including furnishing excessive amounts of controlled substances, in violation of Business and Professions Code¹ sections 4075, 4113, 4301, and Health and Safety Code section 11153, Title 21, Code of Federal Regulations, section 1306.04. More specifically, from January 1, 2011 through December 15, 2012, respondent, while working at Friant Pharmacy, excessively furnished controlled substances, including oxycodone 30 milligrams (mg), carisoprodol 350mg, hydrocodone/apap 10/325 and hydrocodone/apap 10/500, for prescriptions

¹ All further statutory references will be to the Business and Professions Code unless otherwise indicated.

written by Jose Flores, MD, and failed to verify a legitimate medical purpose when dispensing the same. In addition, respondent did not exercise his best professional judgment when he repeatedly failed to question Dr. Flores about his prescribing habits, the large distance between the patients' home addresses and his medical office as well as the Friant Pharmacy, the fact that all of his prescriptions were being paid for in cash, and the prescriptions were being dropped off and picked up by someone other than the patient, with no written authorization from the patients. The Accusation alleged 11 causes for discipline. As a disciplinary consideration, the Accusation also alleged the August 10, 2013 citations.

BOARD INVESTIGATION

3. On February 13, 2012, the Board received an email complaint from a Fresno pharmacist, expressing concern over the legitimacy of prescriptions written by Dr. Flores. The complaint alleged: Dr. Flores wrote multiple prescriptions that contained the same medications (e.g., oxycodone, Norco, Xanax, and Soma); they were being presented to her at the Fresno Von's pharmacy (5638 E. Kings Canyon Road) almost daily; the patients presenting the prescriptions were young and did not appear to be in pain; and the customers were using Medi-Cal or paying cash. On February 17, 2012, a Board analyst reviewed the CURES (Controlled Substance Utilization Review and Evaluation System) data for Dr. Flores and identified Friant Pharmacy as a top filling pharmacy for his prescriptions. On December 6, 2012 the investigation was assigned to Board Investigator Karla Retherford-Parreira. However, the investigation was put on hold at the request of the Fresno Drug Enforcement Administration (DEA). Once the DEA investigation concluded, Investigator Retherford-Parreira began her inquiry.

4. On August 21, 2013, Investigator Retherford-Parreira conducted a site inspection of Friant Pharmacy. During the review, Investigator Retherford-Parreira learned that respondent stopped filling prescriptions for Dr. Flores in November 2012, after receiving a warning from his wholesaler, Cardinal, regarding his sizeable oxycodone purchases. Nonetheless, she obtained Friant Pharmacy's dispensing report for Dr. Flores, drug usage reports for oxycodone 30mg, hydrocodone/apap 10/325mg, and carisoprodol 350mg, and multiple patient profiles associated with Dr. Flores.

5. Investigator Retherford-Parreira reviewed the materials and spoke to respondent. She found several areas of concern. First, she discovered Dr. Flores had a pattern of prescribing the combination of hydrocodone/apap, carisoprodol, and oxycodone, as well as hydrocodone/apap 10/500. Second, respondent allowed two "liaisons" to pick up prescriptions for 120 patients. Tiawanga Mckneely, who allegedly owned a group home and had presented respondent with a note from Dr. Flores that authorized her to pick up prescriptions for multiple patients, had routinely picked-up controlled substances prescriptions for 37 patients, paying in cash. The same 37 patients listed addresses in Rancho Cordova, Elk Grove, Sacramento, Granite Bay, Citrus Heights, Richmond, Roseville, Baton Rouge, Louisiana and Newark. In total, between January 1, 2011 and December 15, 2012, Ms. Mckneely picked up 412 controlled substances prescriptions for her 37 patients, herself, and three family members, including more than 20,500 units of oxycodone 30 mg and 24,600 units of hydrocodone/apap. When Investigator Retherford-Parreira conducted independent research on Ms. Mckneely, she discovered Ms. Mckneely, her brother, and her sister-in-law, were arrested in Louisiana and federally charged with illegal possession with intent to distribute drugs; at the time of arrest, they were in possession of a substantial amount of controlled substances, some of which were prescribed by Dr. Flores. According to the Louisiana authorities, the three were convicted and were serving

three years in prison. The second liaison, Doug Bess, who was also allegedly authorized by Dr. Flores to pick up prescriptions for multiple patients, had routinely picked-up controlled substances prescriptions for 83 patients, paying in cash. In total, between January 1, 2011 and December 15, 2012, Mr. Bess picked up 862 controlled substances prescriptions for his 83 patients and himself, including 36,720 units of oxycodone 30 mg, 56,760 units of hydrocodone/apap, and 4590 units of carisoprodol 350 mg.

6. Next, Investigator Retherford-Parreira conducted a controlled substances review and found:

- Friant Pharmacy dispensed 9,776 controlled substances prescriptions between January 1, 2011 and December 15, 2012;
- 5,287 of the 9,776 controlled substance prescriptions dispensed by Friant Pharmacy were written by Dr. Flores or 54 percent of the total controlled substances prescriptions filled by Friant Pharmacy were for Dr. Flores, with the next closest prescriber writing 980 controlled substance prescriptions or 10 percent of the total controlled substances prescriptions filled by Friant Pharmacy;
- For the 5,287 prescriptions written by Dr. Flores, 5,276 prescriptions were paid for in cash;
- Friant Pharmacy dispensed 2,420 prescriptions for oxycodone 30mg. Dr. Flores wrote 2,334 of those prescriptions or 96 percent of the total oxycodone prescriptions filled at Friant Pharmacy;

- Friant Pharmacy dispensed 1,566 prescriptions for carisoprodol 350mg. Dr. Flores wrote 935 of those prescriptions or 58 percent of the total carisoprodol prescriptions filled at Friant Pharmacy;
- Friant Pharmacy dispensed 2,521 prescriptions for hydrocodone/apap 10/325. Dr. Flores wrote 2,054 of those prescriptions or 81 percent of the total hydrocodone/apap 10/325 prescriptions filled at Friant Pharmacy;
- Friant Pharmacy dispensed 315 prescriptions for hydrocodone/apap 10/500. Dr. Flores wrote 298 of those prescriptions or 94 percent of the total hydrocodone/apap 10/500 prescriptions filled at Friant Pharmacy.

Finally, Investigator Retherford-Parreira performed a review of 15 patient profiles and found: 14 patients lived 160 miles or greater from Friant Pharmacy and Dr. Flores; all 15 patients paid cash for their prescriptions; 14 patients' prescriptions were picked up by Ms. Mckneely; eight patients were diagnosed with osteoarthritis, six with back pain, one with a cough, seven with lumbar radiculopathy, one with a gunshot, one with lupus, one with a history of fracture, and one with headaches; respondent had met only two of the patients; the 15 patients comprised total cash sales, between January 1, 2011 and December 15, 2012, of over \$26,000; a total of 113 hard copy prescriptions were written for the 15 patients; a total of 113 prescriptions for controlled substances were filled comprising 5,550 units of oxycodone 30mg and 6,450 units of hydrocodone/apap (combined total for strengths 10/325 and 10/500). Ultimately, in a report dated November 8, 2013, Investigator Retherford-Parreira concluded: respondent and Friant Pharmacy knowingly violated the responsibility to confirm the legitimacy of prescriptions and the corresponding responsibility of a pharmacist.

STIPULATED SURRENDER

7. On November 20, 2016, respondent signed a Stipulated Surrender, relinquishing his license and the Friant Pharmacy permit. On January 23, 2017, the Board adopted the Stipulated Surrender as its own order, effective February 22, 2017. The Stipulated Surrender permits respondent to reapply for a license three years from the effective date, or on or after February 22, 2020. By signing the Stipulated Surrender, respondent acknowledged: (1) "[t]he surrender of respondent's license and the acceptance of the surrendered license by the [B]oard shall constitute the imposition of discipline against respondent"; (2) "all allegations set forth in Accusation No. 5097 shall be deemed to be true, correct and admitted by respondent when the [B]oard determines whether to grant or deny the application"; (3) "[r]espondent shall pay the agency its costs of investigation and enforcement in the amount of \$18,054.50 prior to issuance of a new or reinstated license."

State of Washington License Discipline

8. On October 23, 2017, the State of Washington, Department of Health, Pharmacy Quality Assurance Commission (Commission) filed a Statement of Charges and ExParte Motion for Summary Action seeking to immediately suspend respondent's Washington Pharmacist Credential PHRM.PH.00051620 (Credential), based on the discipline by another State. The ExParte Motion was granted and respondent's Credential was immediately suspended. On Nov. 16, 2017, respondent filed an Answer to the Statement of Charges and affirmatively waived his right to a hearing. On December 13, 2017, the Commission indefinitely suspended respondent's Credential; barred a petition for reinstatement of his Credential until his Pharmacist License in California was fully reinstated; and ordered him to pay a fine of \$2,500 prior to petitioning for reinstatement.

Application

9. On March 6, 2020, respondent submitted a Pharmacist Examination for Licensure Application to the Board. With the Application, respondent provided a letter of explanation, in part, writing:

In 2012, I dispensed too many prescriptions for controlled substances. I violated pharmacist's responsibility [s/c]. As a result of my action[s], I took full responsibility and surrendered Pharmacist [s/c] license through a stipulation (Case 5097) that became effective on February 22, 2017. As part of the stipulation, I am permitted to reapply for my license after 3 years or after Feb 22, 2020. I understand that I must take and pass California Pharmacist License Examination, and I must pay \$18,054.50 prior to issuance of a new license.

Because of this disciplinary action, my Pharmacist License in Washington State (first issued on 06/04/2003) was suspended indefinitely on 10/27/2017.

For that last 3 years I have had time to reflect [on] my past actions with the monthly help and support of my therapist (Dr. Raymond Greer, PhD, 559. 269.4852)

For the last 3 years, I have maintained the continuing education credits hours as required 30 credits every 2 years (32 credits for period of 05/31/2016 to 05/31/2018, and 30 credits for period of 05/31/2018 to 05/31/2020).

I also took one MBA course "Regulatory and Ethical Environment of Business" (3 units) to help me make better business decisions.

I made a big mistake, and I have a lot of regrets. I was scared and [a] coward to run away from it. I think about what I did every day. I love being a pharmacist, and I would love a second chance to repair the damage.

The Board assigned Investigator Jenna Weddle to vet respondent's Application. On April 30, 2020, Investigator Weddle issued a report documenting all available history and discipline for respondent's licenses. In addition to the Board and Commission discipline, Investigator Weddle noted a \$50,000 malpractice insurance payment made on behalf of respondent in 2012 for failing to recognize a complication²; and as a result of his license and Credential discipline, an exclusion from Medicare, Medicaid and all other federal health care programs, on November 20, 2017, by the United States Department of Health and Human Services (HHS), Office of Inspector General.

10. On August 7, 2020, the Board denied respondent's Application. On August 23, 2020, the Board received respondent's timely request for an administrative

² Inspector Weddle found the malpractice insurance payment on the National Practitioner Data Bank (NPDB). In her report, she notes: "On October 16, 2012, respondent (via his insurance) paid \$50,000 for a malpractice settlement from an incident that occurred on Oct. 26, 2009. Specifically, [respondent] failed to recognize a complication when a patient was prescribed a Naltrexone Rx dosage in error, causing the patient major temporary injury."

hearing. On January 17, 2021, complainant made and filed a Statement of Issues, alleging unprofessional conduct in violation of sections 4301, 4300, and 480, in that respondent's license to practice and operate a pharmacy had previously been disciplined by the Board, and he had an out-of-state Credential disciplined as well.

Aggravation, Mitigation, and Rehabilitation

11. Respondent testified at hearing. He was initially licensed in California in 2003 and practiced for nine years before having any concerns about license discipline. Respondent admits he dispensed and/or furnished controlled substances to patients without a valid prescription, dispensed and/or furnished controlled substances to unauthorized persons, and repeatedly failed to employ his corresponding responsibility to ensure the proper prescribing and dispensing of controlled substances. Looking back, respondent believes he was scared to question Dr. Flores about his prescriptions; Dr. Flores was a physician, respondent was not. However, notwithstanding Dr. Flores, respondent believes he was a good pharmacist, reviewing each prescription submitted, focusing on drug interactions, making sure the right dose, quantity, and appropriate medication were included.

12. In addition, respondent believes he has always been amenable to correcting his errors. In or about November 2012, a Cardinal (wholesale drug distributor) representative informed respondent that Friant Pharmacy was purchasing a large amount of oxycodone. Respondent connected the large purchase orders to the prescriptions written by Dr. Flores. He reached out to a few local pharmacists and learned they too were receiving prescriptions written by Dr. Flores for large amounts of controlled substances; he learned how other pharmacists were dealing with the situation and immediately developed strict procedures for controlled substance prescriptions filled at Friant Pharmacy. For example, respondent stopped filling any

prescriptions written by Dr. Flores; he insisted each patient come into the pharmacy to discuss their medical history and prescription medication and show identification; he refused to accept cash payments for controlled substances; or permit a liaison to pick up multiple prescriptions, even with a note from the prescribing physician. However, in August 2013, when Investigator Retherford-Parreira came into Friant Pharmacy to conduct her investigation for the Board, she only considered the policies and procedures in place before November 2012, and failed to give him any credit for making considerable changes after he was alerted to a problem.

13. Notwithstanding, respondent regrets what he did, but he knows he cannot change the past. He also knows he has disappointed a lot of people who love him and trust him: friends and family. Nonetheless, he believes he accepted responsibility for his errors by surrendering his license for three years. At the same time, respondent regrets not fighting for his license (i.e., accepting responsibility for his errors, but continuing to practice, no matter how many restrictions the Board placed on him).

14. For respondent, his pharmacy license and Friant Pharmacy were everything to him; they were his identity. His license surrender became effective February 2017, and without his license, respondent became depressed. He was too embarrassed to reach out to friends. He felt very alone; he was suffering financially, emotionally, and professionally. In May 2017, respondent began seeing a therapist. His therapist, in a letter dated February 11, 2021, writes:

[Respondent] has . . . worked speci[fic]ally on self-reflection and acceptance. During this time, he has become aware of the consequences of behaviors as well as his own motivations for behaviors.

[Respondent] has demonstrated a sincere desire to work on his rehabilitation during his time in therapy. He continues to attend therapy in order [to work] on self-reflection. It is my belief that he is prepared to take the next steps in his professional career. I believe his experiences and what he ha[s] learned from them will enable him to be successful in the pharmacy practice.

15. In addition, respondent has spent the last three years trying to personally improve himself. On August 10, 2018, after five semesters, respondent earned a Master of Business Administration (MBA) from the California State University, Fresno. On March 21, 2019, respondent completed a 40-week Culinary Arts Diploma from the Institute of Technology. In 2020, respondent took college coursework in accounting at Foothill College in Los Altos Hills and on November 19, 2020, respondent received his teaching credential from the Commission on Teacher Credentialing (CTC). In addition, respondent has continued taking classes related to the practice of pharmacy, maintaining his annual continuing education requirements for licensure, as well as completing an ethics course. Finally, he has volunteered his time at a local drug rehabilitation facility.

16. Respondent would like to once again practice pharmacy. In May, he turned 50. He believes he has made good changes in his life since he surrendered his license. He knows he is a better decision-maker and he continues to improve himself by participating in individual counseling. As a pharmacist, he believes he can once again be an asset to the community and the healthcare system as a whole. He would also like to offer diabetes education to his community.

17. To date, respondent has not yet paid costs to the Board. If the Board is willing to issue him a license, he is ready, willing, and able to pay the entire amount immediately.

CHARACTER TESTIMONY AND LETTERS OF SUPPORT

18. Respondent offered letters of support and testimony from: Nikki Nguyen, Pharm D., and Khoa Huynh, Pharm. D., friends and colleagues of 18 years; Richard Howard, employee and friend; and Gary Roush, customer. Dr. Nguyen described respondent as "a mentor, a colleague, a good friend, and an inspiration for me as well as many pharmacists in Fresno to become independent pharmacy owners." Dr. Nguyen has offered respondent employment at her pharmacy in Sanger and is willing to help him comply with Board requirements in whatever way she can. Dr. Huynh worked with respondent from 2004 to 2008 at Walgreens pharmacy and they have remained friends ever since. He described respondent as "a person of great character and compassion." Dr. Huynh freely admitted being the subject of discipline by the Board in connection with filling prescriptions written by Dr. Flores too. Dr. Huynh accepted Board discipline in the form of a probationary license and has completed all terms and conditions of the same. Dr. Huynh and respondent have talked "about correction[s] in life and finding faith in our education and knowledge. Questioning how we can use the wisdom from our experiences to a make a positive impact on others and our profession." Dr. Huynh believes that "[respondent] is ready for that change." Dr. Huynh feels grateful to the Board for giving him "a second chance." He believes respondent is a good candidate for the same.

19. Mr. Howard has known respondent for 20 years, as a customer, and then as a cashier at Friant Pharmacy for 10 years. Mr. Howard has watched respondent treat his customers with the utmost care; for example, staying late to help customers or

contacting a physician in order in order to find a medication with less side effects. In addition, Mr. Howard was working at Friant Pharmacy in or about November 2012, when respondent made significant changes to policies and procedures. Respondent stopped taking prescriptions from certain doctors, and patients were required to come into the pharmacy to fill a prescription and show their identification. Admittedly, Mr. Howard does not know all the reasons respondent chose to surrender his pharmacist license, but as a customer and friend, Mr. Howard believes “[respondent] is not only the best pharmacist I have ever known but also the finest man I have ever met.” Mr. Roush met respondent 20 years ago at Walgreens pharmacy. Impressed with his attention to detail, Mr. Roush followed respondent whenever he started working at a new pharmacy, up to and including Friant Pharmacy. Mr. Roush described respondent as kind and patient focused, someone with integrity and compassion. In 2009, Mr. Roush became ill after taking a prescription medication filled by respondent, because it was contraindicated for his routine medications. While the prescribing physician failed to respond to Mr. Roush’s calls for help, respondent expressed empathy and “with urgency and immediacy” tried to help in any way he could. When Mr. Roush sued the physician, his attorney suggested adding respondent and Friant Pharmacy to the list of defendants; Mr. Roush was the customer that received the \$50,000 insurance settlement from respondent. Nonetheless, Mr. Roush would still fill his prescriptions with respondent, if he could. Mr. Roush is aware the Board was investigating Friant Pharmacy, but he does not know the circumstances for its closure.

20. Respondent also offered seven letters of support from friends, including Jeffrey W. Eisinger, Pinky Alegarbes, MD, Severino Lozano, BSN, RN, and Victor Santos, MBA, BSN, RN, PHN; customers Sean Marjala, JD, and Gerald Avila; and a student in his Professional Development class, Laura Sholes. The letters describe respondent as a good pharmacist and someone who helps everyone. Collectively, his friends laud

respondent as a person who deserves a second chance: “[h]e had a lapse in judgment which was highly uncharacteristic of him”, but is “now fully prepared and ready to take on the challenges of practicing his profession again”; “[h]e saw an opportunity to do better and be better”; “[respondent’s] challenges only prove that he learns from his experiences and continues to strive to become better for himself and the community he serves.” His customers have watched respondent provide individualized care and show concern for each and every customer. Mr. Marjala credits respondent with helping him step-down his opioid doses following an injury. Mr. Avila credits respondent for catching a prescription error. Finally, his student notes: “[respondent] is a good person and an incredible human being.” “He will be a great asset to the pharmacy community once again if given this opportunity.”

Analysis

21. Complainant seeks to deny respondent’s Application. When considering the denial of a license, the Board will evaluate the rehabilitation of the applicant and his present eligibility for licensure, using the following criteria:

- (1) The nature and severity of the act(s) or offense(s) under consideration as grounds for denial.
- (2) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial
- (3) The time that has elapsed since commission of the act(s) or crime(s)
- (4) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.
- (5) Evidence, if any, of rehabilitation submitted by the applicant.

(Cal. Code Regs., tit. 16, § 1769.)

22. From January 1, 2011 through December 15, 2012, respondent, while working at Friant Pharmacy, excessively furnished controlled substances, including oxycodone 30 milligrams (mg), carisoprodol 350mg, hydrocodone/apap 10/325 and hydrocodone/apap 10/500, for prescriptions written by Dr. Flores, and failed to verify a legitimate medical purpose when dispensing the same. In addition, respondent did not exercise his best professional judgment when he repeatedly failed to question Dr. Flores about his prescribing habits, the large distance between the patients' home addresses and his medical office as well as the Friant Pharmacy, the fact that all of his prescriptions were being paid for in cash, and the prescriptions were being dropped off and picked up by someone other than the patient, with no written authorization from the patients. In December 2016, respondent signed a stipulation surrendering his license, with the Board adopting the same effective February 22, 2017. In October 2017, respondent's out-of-state Credential was suspended by the Commission, based on his license surrender in California.

23. On March 6, 2020, respondent reapplied for licensure with the Board; the Board denied the same on August 7, 2020, based upon respondent's license discipline and out-of-state Credential discipline. Since 2017, respondent has completed a two-year MBA; a 40-week Culinary Arts Diploma; and was granted a teaching credential by the CTC, another State licensing body. He has maintained gainful employment; has had no contact with law enforcement; and he has remained current with continuing education, in addition to taking an ethics course. Moreover, respondent voluntarily sought out individual counseling and continues to invest his time with the therapist to date. At this time, the therapist believes respondent is capable of being a pharmacist

again. Finally, respondent has engaged a strong support network of colleagues and friends, with one colleague offering to employ and supervise him as a pharmacist.

24. In sum, respondent has spent four years focused on self-improvement, absorbed in further learning and professional therapeutic care. He has taught young people and volunteered his time in the community. He acknowledged his professional failures and the seriousness of the conduct underlying the Stipulated Surrender of his license. He has completed his continuing education in pharmacy with the hope of returning to the profession. Given all of the above, respondent has demonstrated sufficient rehabilitation to reinstate his license.

25. However, the Board remains concerned with respondent's judgment and decision-making. Respondent wanted credit from the Board for having made changes to his policies and practices in 2012; but respondent acknowledged making those changes only after a Cardinal representative warned him about his excessive purchases of oxycodone. The Board believes respondent should have known not to fill Dr. Flores's prescriptions long before November 2012, when the Cardinal representative spoke to him. As such, respondent will be issued a probationary license for seven years, subject to terms and conditions, in order to ensure public safety.

LEGAL CONCLUSIONS

1. To discipline respondent's license, complainant must establish the allegations and violations set forth in the Accusation by clear and convincing evidence to a reasonable certainty. (*Ettinger v. Bd. of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.) The requirement to produce clear and convincing evidence is a heavy burden, far in excess of the preponderance of evidence standard that is

sufficient in most civil litigation. Clear and convincing evidence requires a finding of high probability. The evidence must be so clear as to leave no substantial doubt. It must be sufficiently strong to command the unhesitating assent of every reasonable mind. (*Christian Research Institute v. Alnor* (2007) 148 Cal.App.4th 71, 84.)

2. Pursuant to section 4300, subdivision (c),

[t]he [B]oard may refuse a license to any applicant guilty of unprofessional conduct. The [B]oard 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 [B]oard may issue the license subject to any terms or conditions not contrary to public policy

3. Unprofessional conduct includes:

The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter that would be grounds for revocation, suspension, or other discipline under this chapter. Any disciplinary action taken by the [B]oard pursuant to this section shall be coterminous with action taken by another state, except that the term of any discipline taken by the [B]oard may exceed that of another state, consistent with the [B]oard's enforcement guidelines. The evidence of discipline by another state is conclusive proof of unprofessional conduct.

(§ 4301, subd. (n).)

4. The Board may deny a license on the grounds that the applicant has been subject to formal discipline only if:

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.

(§ 480, subd. (a)(2).)

5. Cause to deny respondent's Application exists. In 2017, respondent's license was disciplined by the Board (surrendered) and his out-of-state Credential was disciplined by the Commission (revocation) in violation of sections 4300, 4301, and 480. However, respondent has provided rehabilitation sufficient to demonstrate he is capable of practicing as a pharmacist, subject to seven years of probation and certain terms and conditions.

ORDER

Upon satisfaction of all statutory and regulatory requirements for issuance of a pharmacist license, a pharmacist license shall be issued to respondent and

immediately REVOKED; the order of revocation is STAYED and respondent is placed on probation for seven years upon 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.

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

2. **Report to the Board**

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

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

3. **Interview with the Board**

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

4. **Cooperate with Board Staff**

Respondent shall timely cooperate with the Board's inspection program and with the Board's monitoring and investigation of respondent's compliance with the terms and conditions of his probation, including but not limited to: timely responses to requests for information by Board staff; timely compliance with directives from

Board staff regarding requirements of any term or condition of probation; and timely completion of documentation pertaining to a term or condition of probation. Failure to timely cooperate shall be considered a violation of probation.

5. Continuing Education

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

6. Reporting of Employment and Notice to Employers

During the period of probation, respondent shall notify all present and prospective employers of the decision in case number 7029 and the terms, conditions and restrictions imposed on respondent by the decision, as follows:

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

Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment, respondent shall cause (a) his direct supervisor, (b) his pharmacist-in-charge, designated representative-in-charge, responsible manager, or other compliance supervisor, and (c) the owner or owner representative of his employer, to report to the Board in writing acknowledging that the listed individual(s) has/have read the decision in case number 7029, and terms and conditions imposed thereby. If one person serves in more than one role described in (a), (b), or (c), the acknowledgment shall so state. It shall be the respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board. In the event of a change in the person(s) serving the role(s) described in (a), (b), or (c) during the term of probation, respondent shall cause the person(s) taking over the role(s) to report to the Board in writing within fifteen (15) days of the change acknowledging that he or she has read the decision in case number 7029, and the terms and conditions imposed thereby.

If respondent works for or is employed by or through an employment service, respondent must notify the person(s) described in (a), (b), and (c) above at every entity licensed by the Board of the decision in case number 7029, and the terms and conditions imposed thereby in advance of respondent commencing work at such licensed entity. A record of this notification must be provided to the board upon request.

Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen (15) days of respondent undertaking any new employment by or through an employment service, respondent shall cause the person(s) described in (a), (b), and (c) above at the employment service to report to the Board in writing acknowledging that he or she has read the decision in case number 7029, and the terms and

conditions imposed thereby. It shall be respondent's responsibility to ensure that these acknowledgment(s) are timely submitted to the Board.

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

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

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

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

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

8. Restrictions on Supervision and Oversight of Licensed Facilities

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

During the period of probation, respondent shall not supervise any ancillary personnel, including, but not limited to, pharmacy technicians, designated representatives, designated representative-3PL (Third-Party Logistics Provider) in any entity licensed by the Board. Assumption of any such unauthorized ancillary personnel supervision responsibilities shall be considered a violation of probation.

9. Reimbursement of Board Costs

As a condition precedent to licensure, respondent shall pay to the Board its costs of investigation and prosecution in the amount of \$18,054.50 for case number 5097.

10. Probation Monitoring Costs

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

11. Status of License

Respondent shall, at all times while on probation, maintain an active, current pharmacist license with the Board, including any period during which suspension or probation is tolled. Failure to maintain an active, current pharmacist license shall be considered a violation of probation.

If respondent's pharmacist license expires or is cancelled by operation of law or otherwise at any time during the period of probation, including any extensions thereof

due to tolling or otherwise, upon renewal or reapplication respondent's license shall be subject to all terms and conditions of this probation not previously satisfied.

12. License Surrender While on Probation/Suspension

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

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

13. Practice Requirement – Extension of Probation

Except during periods of suspension, respondent shall, at all times while on probation, be employed as a pharmacist in California for a minimum of 80 hours per calendar month. Any month during which this minimum is not met shall extend the period of probation by one month. During any such period of insufficient employment,

respondent must nonetheless comply with all terms and conditions of probation, unless respondent receives a waiver in writing from the Board or its designee.

If respondent does not practice as a pharmacist in California for the minimum number of hours in any calendar month, for any reason (including vacation), respondent shall notify the board in writing within ten (10) days of the conclusion of that calendar month. This notification shall include at least: the date(s), location(s), and hours of last practice; the reason(s) for the interruption or reduction in practice; and the anticipated date(s) on which respondent will resume practice at the required level. Respondent shall further notify the Board in writing within ten (10) days following the next calendar month during which respondent practices as a pharmacist in California for the minimum of hours. Any failure to timely provide such notification(s) shall be considered a violation of probation.

It is a violation of probation for respondent's probation to be extended pursuant to the provisions of this condition for a total period, counting consecutive and non-consecutive months, exceeding thirty-six (36) months. The Board or its designee may post a notice of the extended probation period on its website.

14. Violation of Probation

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

If respondent violates probation in any respect, the Board, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a Petition to Revoke Probation or an Accusation is filed against respondent during probation, or the preparation of an 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.

15. Completion of Probation

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

16. Pharmacist Examination

Respondent shall take and pass the California Pharmacist Jurisprudence Examination (CPJE) and/or the North American Pharmacist Licensure Examination (NAPLEX) within six (6) months of the effective date of this decision. If respondent fails to take and pass the examination(s) within six (6) months of the effective date of this decision, respondent shall be automatically suspended from practice. Respondent shall not resume the practice of pharmacy until he takes and passes the CPJE and/or NAPLEX and is notified, in writing, that he has passed the examination(s) and may resume practice. Respondent shall bear all costs of the examination(s) required by the Board.

During any suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug retailer, or any other distributor of drugs which is licensed

by the Board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices and controlled substances.

During any suspension, respondent shall not engage in any activity that requires the professional judgment of and/or licensure as a pharmacist. Respondent shall not direct or control any aspect of the practice of pharmacy or of the manufacturing, distributing, wholesaling, or retailing of dangerous drugs and/or dangerous devices and controlled substances.

Failure to comply with any suspension shall be considered a violation of probation.

Failure to take and pass the examination(s) within six (6) months of the effective date of this decision shall be considered a violation of probation.

If respondent fails to take and pass the CPJE and/or NAPLEX after four attempts, respondent shall successfully complete, at a minimum, sixteen (16) additional semester units of pharmacy education as approved by the Board. Respondent shall complete the coursework, and submit proof of completion satisfactory to the Board or its designee, within three (3) months of the fourth failure of the examination. Failure to complete coursework or provide proof of such completion as required shall be considered a violation of probation.

17. Community Services Program

Within sixty (60) days of the effective date of this decision, respondent shall submit to the Board or its designee, for prior approval, a community service program in which respondent shall provide free health-care related services on a regular basis to a community or charitable facility or agency for at least six hours per month for the first three years of probation. Within thirty (30) days of Board approval thereof, respondent shall submit documentation to the Board or its designee demonstrating commencement of the community service program. Respondent shall report on progress with the community service program in the quarterly reports and provide satisfactory documentary evidence of such progress to the Board or its designee upon request. Failure to timely submit, commence, or comply with the program shall be considered a violation of probation.

18. 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 to legitimacy of a prescription and red flags, as well as corresponding responsibility of a pharmacist. The program of remedial education shall consist of at least 40 hours, which shall be completed within 12 months 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 automatically extended until such remedial education is successfully completed and

written proof, in a form acceptable to the Board, is provided to the Board or its designee.

Following the completion of each course, the Board or its designee may require the respondent, at his own expense, to take an approved examination to test the respondent's knowledge of the course. If the respondent does not achieve a 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.

19. Ethics Course

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

20. Supervised Practice

Within thirty (30) days of the effective date of this decision, respondent shall submit to the Board or its designee, for prior approval, the name of a pharmacist licensed by and not on probation with the Board, to serve as respondent's practice supervisor. As part of the documentation submitted, respondent shall cause the proposed practice supervisor to report to the Board in writing acknowledging that he

or she has read the decision in case number 7029, and is familiar with the terms and conditions imposed thereby, including the level of supervision required by the Board or its designee. This level will be determined by the Board or its designee, will be communicated to the respondent on or before the effective date of this decision and shall be one of the following:

Continuous – At least 75% of a work week;

Substantial - At least 50% of a work week;

Partial - At least 25% of a work week;

Daily Review - Supervisor's review of probationer's daily activities within 24 hours.

Respondent may practice only under the required level of supervision by an approved practice supervisor. If, for any reason, including change of employment, respondent is no longer supervised at the required level by an approved practice supervisor, within ten (10) days of this change in supervision, respondent shall submit to the Board or its designee, for prior approval, the name of a pharmacist licensed by and not on probation with the Board, to serve as respondent's replacement practice supervisor. As part of the documentation submitted, respondent shall cause the proposed replacement practice supervisor to report to the Board in writing acknowledging that he or she has read the decision in case number 7029, and is familiar with the terms and conditions imposed thereby, including the level of supervision required.

Any of the following shall result in the automatic suspension of practice by respondent and shall be considered a violation of probation:

- Failure to nominate an initial practice supervisor, and to have that practice supervisor report to the Board in writing acknowledging the decision, terms and conditions, and supervision level, within thirty (30) days;
- Failure to nominate a replacement practice supervisor, and to have that practice supervisor report to the Board in writing acknowledging the decision, terms and conditions, and supervision level, within ten (10) days;
- Practicing in the absence of an approved practice supervisor beyond the initial or replacement nomination period; or
- Any failure to adhere to the required level of supervision.

Respondent shall not resume practice until notified in writing by the Board or its designee.

During any suspension, respondent shall not enter any pharmacy area or any portion of the licensed premises of a wholesaler, third-party logistics provider, veterinary food-animal drug retailer or any other distributor of drugs which is licensed by the Board, or any manufacturer, or any area where dangerous drugs and/or dangerous devices or controlled substances are maintained. Respondent shall not practice pharmacy nor do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing or patient consultation; nor shall respondent manage, administer, or be a consultant to any licensee of the Board, or have access to or control the ordering, distributing, manufacturing or dispensing of dangerous drugs and/or dangerous devices or controlled substances.

During any suspension, respondent shall not engage in any activity that requires the professional judgment and/or licensure as a pharmacist. Respondent shall not

direct or control any aspect of the practice of pharmacy or of the manufacture, distribution, wholesaling, or retailing of dangerous drugs and/or dangerous devices or controlled substances.

Failure to comply with any suspension shall be considered a violation of probation.

21. No Ownership or Management of Licensed Premises

Respondent shall not own, have any legal or beneficial interest in, nor serve as a manager, administrator, member, officer, director, trustee, associate, or partner of any business, firm, partnership, or corporation currently or hereinafter licensed by the Board. Respondent shall sell or transfer any legal or beneficial interest in any entity licensed by the Board within ninety (90) 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.

DATE: July 21, 2021



ERIN R. KOCH-GOODMAN

Administrative Law Judge

Office of Administrative Hearings

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7 *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 Statement of Issues
13 Against:

Case No. 7029

STATEMENT OF ISSUES

14 **Nghi Van Dang**
6070 Millerton Road
15 Friant, CA 93626

16 **Pharmacist Applicant**

17 Respondent.

18
19 **PARTIES**

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

22 2. On or about March 6, 2020, the Board of Pharmacy, Department of Consumer Affairs
23 received an application for a pharmacist examination for licensure from Nghi Van Dang
24 (Respondent). On or about February 23, 2020, Respondent certified under penalty of perjury to
25 the truthfulness of all statements, answers, and representations in the application. The Board
26 denied the application on August 7, 2020.

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1 **LICENSE HISTORY AND PRIOR DISCIPLINE**

2 3. On or about March 26, 2003, the Board issued Original Pharmacist License Number
3 RPH 54244 to Nghi Van Dang to practice pharmacy in California. On or about February 22,
4 2017, Respondent’s pharmacist license was surrendered pursuant to Decision and Order, in Board
5 of Pharmacy Case No. 5097. The surrender of Respondent’s pharmacist license constituted the
6 imposition of discipline against Respondent. The Order in Case No. 5097 required Respondent to
7 pay the Board its costs of investigation and enforcement in the amount of \$18,054.50, prior to the
8 issuance of a new or reinstated license. The Order in Case No. 5097 subjected Respondent to
9 disciplinary action based on the clearly excessive furnishing of controlled substances without
10 verifying a legitimate medical purpose, as follows:

11 4. From January 1, 2011, to approximately December 15, 2012, while working at Friant
12 Pharmacy as owner and pharmacist-in-charge Respondent failed to verify a legitimate medical
13 purpose in spite of red flags on thousands of occasions when dispensing schedule II narcotics,
14 including Oxycodone, Hydrocodone/APAP, and Carisprodol.

15 5. On or about June 4, 2003, the State of Washington, Department of Health, issued
16 pharmacist credential PHRM.PH.0051620 to Respondent, which was indefinitely suspended
17 effective December 13, 2017.

18 **JURISDICTION**

19 6. This Statement of Issues is brought before the Board of Pharmacy (“Board”),
20 Department of Consumer Affairs, under the authority of the following laws. All section
21 references are to the Business and Professions Code (“Code”) unless otherwise indicated.

22 7. Section 4300.1 of the Code states:

23 The expiration, cancellation, forfeiture, or suspension of a board-issued license
24 by operation of law or by order or decision of the board or a court of law, the
25 placement of a license on a retired status, or the voluntary surrender of a license by a
26 licensee shall not deprive the board of jurisdiction to commence or proceed with any
27 investigation of, or action or disciplinary proceeding against, the licensee or to render
28 a decision suspending or revoking the license.

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STATUTORY AND REGULATORY PROVISIONS

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8. Section 141 of the Code states:

(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

9. Code section 480 states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one 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.

10. Code section 4300, subdivision (c) states that the board may refuse to issue a license to any applicant guilty of unprofessional conduct.

11. Code section 4301, states, in pertinent part:

Unprofessional conduct includes, but is not limited to, any of the following:

...

(n) The revocation, suspension, or other discipline by another state of a license to practice pharmacy, operate a pharmacy, or do any other act for which a license is required by this chapter that would be grounds for revocation, suspension, or other discipline under this chapter. Any disciplinary action taken by the board pursuant to this section shall be coterminous with action taken by another state, except that the term of any discipline taken by the board may exceed that of another state, consistent with the board's enforcement guidelines. The evidence of discipline by another state is conclusive proof of unprofessional conduct.

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FIRST CAUSE FOR DENIAL OF APPLICATION

(Prior Discipline)

12. Respondent's application is subject to denial for unprofessional conduct under Code sections 4301, subdivision (n), by and through section 4300, subdivision (c), and 480, subdivision (a), paragraph (2) in that Respondent's license to practice or operate a pharmacy has been disciplined by the California Board of Pharmacy, as alleged in paragraphs 3 to 4, above.

SECOND CAUSE FOR DENIAL OF APPLICATION

(Out of State Discipline)

13. Respondent's application is subject to denial for unprofessional conduct under Code sections 4301, subdivision (n), by and through section 4300, subdivision (c), and 141, subdivision (a), and 480, subdivision (a), paragraph (2) in that Respondent's license to practice or operate a pharmacy has been disciplined by the state of Washington, as alleged in paragraph 5.

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. Denying the application of Respondent Nghi Van Dang for a pharmacist license;
2. Taking such other and further action as deemed necessary and proper.

DATED: 1/17/2021

Signature on File

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

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