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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. 7129

14 **LAN THI TRAN NGUYEN**

STATEMENT OF ISSUES

15 **Pharmacist License Applicant**

16 Respondent.
17

18 **PARTIES**

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

22 2. On or about November 13, 2020, the Board received an application for a Pharmacist
23 License from Respondent. On or about November 10, 2020, Respondent certified under penalty
24 of perjury to the truthfulness of all statements, answers, and representations in the application.
25 The Board denied the application on March 9, 2021.

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1 7. Section 475 of the Code states:

2 (a) Notwithstanding any other provisions of this code, the provisions of this
3 division shall govern the denial of licenses on the grounds of:

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5 (2) Conviction of a crime.

6 8. Section 477 of the Code states:

7 As used in this division:

8 (a) “Board” includes “bureau,” “commission,” “committee,” “department,”
9 “division,” “examining committee,” “program,” and “agency.”

10 (b) “License” includes certificate, registration or other means to engage in a business or
11 profession regulated by this code.

12 9. Section 480 of the Code states:

13 (a) Notwithstanding any other provision of this code, a board may deny a
14 license regulated by this code on the grounds that the applicant has been convicted of
15 a crime or has been subject to formal discipline only if either of the following
16 conditions are met:

17 (1) The applicant has been convicted of a crime within the preceding seven
18 years from the date of application that is substantially related to the qualifications,
19 functions, or duties of the business or profession for which the application is made,
20 regardless of whether the applicant was incarcerated for that crime, or the applicant
21 has been convicted of a crime that is substantially related to the qualifications,
22 functions, or duties of the business or profession for which the application is made
23 and for which the applicant is presently incarcerated or for which the applicant was
24 released from incarceration within the preceding seven years from the date of
25 application. However, the preceding seven-year limitation shall not apply in either of
26 the following situations:

27 (A) The applicant was convicted of a serious felony, as defined in Section
28 1192.7 of the Penal Code or a crime for which registration is required pursuant to
paragraph (2) or (3) of subdivision (d) of Section 290 of the Penal Code.

REGULATORY PROVISIONS

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

For the purpose of denial, suspension, or revocation of a personal or facility
license pursuant to Division 1.5 (commencing with Section 475) of the Business and
Professions Code, a crime or act shall be considered substantially related to the
qualifications, functions or duties of a licensee or registrant if to a substantial degree
it evidences present or potential unfitness of a licensee or registrant to perform the

1 functions authorized by his license or registration in a manner consistent with the
2 public health, safety, or welfare.

3 **FIRST CAUSE FOR DENIAL OF APPLICATION**

4 **(Conviction of a Substantially Related Crime)**

5 11. Respondent's application is subject to denial under section 480, subdivision (a)(1), in
6 conjunction with California Code of Regulations, title 16, section 1770, in that Respondent was
7 convicted of a felony crime substantially related to the qualifications, functions, or duties of a
8 pharmacist. Specifically, on or about February 5, 2010, a jury rendered a verdict against
9 Respondent and found her guilty of violating, Title 21, United States Code, section 841,
10 subdivision (c)(2) (distribution of pseudoephedrine) in the criminal proceeding entitled: *United*
11 *States v. Lan Thi Tran Nguyen* (U.S. District Court, Central District of California, 2010, No. 09-
12 115-CJC). The court sentenced Respondent to serve 48-months in prison and placed her on three
13 (3) years of probation with terms and conditions.

14 The circumstances surrounding the conviction are that on or about April 28, 2009, the Drug
15 Enforcement Administration and local police executed a search of a hotel room. Law enforcement
16 officials found 144 "blister packs" of pseudoephedrine and a business card for "Du Pharmacy."
17 On or about May 13, 2009, the Respondent sold nine cardboard cases, each containing 24
18 individually wrapped blister packs of products containing pseudoephedrine to an informant.

19 **PRAYER**

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

- 22 1. Denying the application of Lan Thi Tran Nguyen for a Pharmacist License; and
23 2. Taking such other and further action as deemed necessary and proper.

24 DATED: 6/6/2021

Signature on File

25 ANNE SODERGREN
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

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