

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK COUNTY

BOARD OF REGISTRATION
IN PHARMACY

In the Matter of)
Kiet Ngo)
PH19274)

PHA-2016-0131

CONSENT AGREEMENT FOR PROBATION

The Massachusetts Board of Registration in Pharmacy ("Board") and Kiet Ngo ("Licensee"), PH19274, do hereby stipulate and agree that the following information shall be entered into and become a permanent part of the Licensee's record maintained by the Board:

1. Licensee acknowledges that the Board opened a complaint against his Massachusetts pharmacist license related to the conduct set forth in Paragraph 2, identified as Docket No. PHA-2016-0131.¹
2. The Board and Licensee acknowledge and agree to the following facts:
 - a. Licensee was the manager of record of Saigon Pharmacy ("Pharmacy"), DS2696, located in Dorchester, Massachusetts at all times relevant to the conduct described in Paragraphs 3 of this Agreement.
 - b. As described in 247 CMR 6.07, Licensee, as manager of record, was responsible for the operation of the Pharmacy in compliance with 247 CMR 2.00 et seq. and applicable state and federal laws and regulations.
 - c. On or about August 24, 2016 and August 25, 2016, Board investigators inspected the Pharmacy and observed the following deficiencies:

¹ The term "license" applies to both a current license and the right to renew an expired license.

- i. Pharmacy failed to maintain a complete and accurate record of disposal or destruction of each controlled substance, in violation of 105 CMR 700.006 and 21 CFR 1304.21(a);
 - ii. Expired products were stored in active inventory, in violation of 247 CMR 9.01(10);
 - iii. The Pharmacy was not maintained in a clean and sanitary manner, in violation of 247 CMR 6.02(1);
 - iv. Multiple prescriptions in the will-call area were packaged in repurposed manufacturer stock bottles instead of new, clean prescription vials, in violation of 247 CMR 9.01(5); and
 - v. Multiple bags in the will-call area had prescription receipts billed to third party insurance for multiple dates filled, but did not contain any corresponding medication.
 - d. Board investigators also observed violations of 105 CMR 700.006, 21 CFR 1304.21(a), and 247 CMR 6.02(1) at the Pharmacy on or about June 1, 2015.
3. The Licensee acknowledges and agrees the facts described Paragraph 3 warrant disciplinary action by the Board under M.G.L. c. 112, §§ 42A & 61 and 247 CMR 10.03(1)(a), (b), (d), (j), (v), and (x).
4. Licensee agrees that his pharmacist license shall be placed on PROBATION for one year ("Probationary Period"), commencing with the date on which the Board signs this Agreement ("Effective Date").
5. During the Probationary Period, the Licensee further agrees that:
 - a. He will comply in all material respects with all laws and regulations governing the practice of pharmacy and the United States Pharmacopeia; and
 - b. He will not serve as manager of record of any pharmacy.
6. The Board agrees that in return for Licensee's execution and successful compliance with the requirements of this Agreement it will not prosecute the Complaint.

7. If the Licensee has complied to the Board's satisfaction with all the requirements contained in this Agreement, the Probationary Period will terminate **one year** after the Effective Date upon written notice to the Licensee from the Board².

8. If the Licensee does not materially comply with each requirement of this Agreement, or if the Board opens a Subsequent Complaint³ during the Probationary Period, the Licensee agrees to the following:
 - a. The Board may upon written notice to the Licensee, as warranted to protect the public health, safety, or welfare:
 - i. EXTEND the Probationary Period; and/or
 - ii. MODIFY the Probation Agreement requirements; and/or
 - iii. IMMEDIATELY SUSPEND the Licensee's pharmacist license.

 - b. If the Board suspends the Licensee's pharmacy license pursuant to Paragraph 8(a)(iii), the suspension shall remain in effect until:
 - i. the Board provides Licensee written notice that the Probationary Period is to be resumed and under what terms; or
 - ii. the Board and Licensee sign a subsequent agreement; or
 - iii. the Board issues a written final decision and order following adjudication of the allegations (1) of noncompliance with this Agreement, and/ or (2) contained in the Subsequent Complaint.

² In all instances where this Agreement specifies written notice to the Licensee from the Board, such notice shall be sent to the Licensee's address of record.

³ The term "Subsequent Complaint" applies to a complaint opened after the Effective Date concerning acts, omissions, or events occurring after the Effective Date, which (1) alleges that the Licensee engaged in conduct that violates Board statutes or regulations, and (2) is substantiated by evidence, as determined following the complaint investigation during which the Licensee shall have an opportunity to respond.

9. Licensee agrees that if the Board suspends his pharmacist license in accordance with Paragraph 8, he will immediately return his current Massachusetts pharmacist license to the Board, by hand or certified mail. Licensee further agrees that upon said suspension, he will no longer be authorized to practice as a pharmacist in the Commonwealth of Massachusetts and shall not in any way represent himself as a pharmacist until such time as the Board reinstates his pharmacist license or right to renew such license.
10. Licensee understands that he has a right to formal adjudicatory hearing concerning the Complaint and that during said adjudication he would possess the right to confront and cross-examine witnesses, to call witnesses, to present evidence, to testify on his own behalf, to contest the allegations, to present oral argument, to appeal to the courts, and all other rights as set forth in the Massachusetts Administrative Procedures Act, M.G.L. c. 30A, and the Standard Adjudicatory Rules of Practice and Procedure, 801 CMR 1.01 et seq. The Licensee further understands that by executing this Agreement he is knowingly and voluntarily waiving his right to a formal adjudication of the Complaints.
11. The Licensee acknowledges that he has been at all times free to seek and use legal counsel in connection with the Complaint and this Agreement.
12. The Licensee acknowledges that after the Effective Date, the Agreement constitutes a public record of disciplinary action by the Board. The Board may forward a copy of this Agreement to other licensing boards, law enforcement entities, and other individuals or entities as required or permitted by law.

13. The Licensee certifies that he has read this Agreement. The Licensee understands and agrees that entering into this Agreement is a voluntary and final act and not subject to reconsideration, appeal or judicial review.

Kiet Ngo
June 26, 2017
Witness (sign and date)

Kiet Ngo
June 26, 2017
Kiet Ngo
(sign and date)

David Sencabaugh
David Sencabaugh, R. Ph.
Executive Director
Board of Registration in Pharmacy

7-11-17
Effective Date of Probation Agreement

Fully Signed Agreement Sent to Licensee on 7/12/17 by
Certified
Mail No. 7015 3010 0001 7080 3141