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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. 4173

13 **YOEUN YOEUTH**
P.O. Box 693372
Stockton, CA 95269

A C C U S A T I O N

14 **Pharmacy Technician License No. TCH**
15 **54814**

16 Respondent.

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19 Complainant alleges:

20 **PARTIES**

21 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
22 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

23 2. On or about January 28, 2004, the Board of Pharmacy issued Pharmacy Technician
24 License Number TCH 54814 to Yoeun Yoeuth (Respondent). The Pharmacy Technician License
25 was in full force and effect at all times relevant to the charges brought herein and will expire on
26 October 31, 2013, unless renewed.

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JURISDICTION

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

4. Section 4300 of the Code states in pertinent part:

"(a) Every license issued may be suspended or revoked.

"(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

"(1) Suspending judgment.

"(2) Placing him or her upon probation.

"(3) Suspending his or her right to practice for a period not exceeding one year.

"(4) Revoking his or her license.

"(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

"(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure."

5. 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 procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct shall include, 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.

"(j) The violation of any of the statutes of this state, or any other state, or of the United States regulating controlled substances and dangerous drugs.

"(k) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.

"(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

1 violation of Chapter 13 (commencing with Section 801) of Title 21 of the United
2 States Code regulating controlled substances or of a violation of the statutes of this
3 state regulating controlled substances or dangerous drugs shall be conclusive
4 evidence of unprofessional conduct. In all other cases, the record of conviction shall
5 be conclusive evidence only of the fact that the conviction occurred. The board may
6 inquire into the circumstances surrounding the commission of the crime, in order to
7 fix the degree of discipline or, in the case of a conviction not involving controlled
8 substances or dangerous drugs, to determine if the conviction is of an offense
9 substantially related to the qualifications, functions, and duties of a licensee under this
10 chapter. A plea or verdict of guilty or a conviction following a plea of nolo
11 contendere is deemed to be a conviction within the meaning of this provision. The
12 board may take action when the time for appeal has elapsed, or the judgment of
13 conviction has been affirmed on appeal or when an order granting probation is made
14 suspending the imposition of sentence, irrespective of a subsequent order under
15 Section 1203.4 of the Penal Code allowing the person to withdraw his or her plea of
16 guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or
17 dismissing the accusation, information, or indictment.

18 "(o) Violating or attempting to violate, directly or indirectly, or assisting
19 in or abetting the violation of or conspiring to violate any provision or term of this
20 chapter or of the applicable federal and state laws and regulations governing
21 pharmacy, including regulations established by the board or by any other state or
22 federal regulatory agency.

23 6. Section 125.3 of the Code states, in pertinent part, that the Board may request the
24 administrative law judge to direct a licentiate found to have committed a violation or violations of
25 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
26 enforcement of the case.

27 7. Section 490 of the Code provides, in pertinent part, that a board may suspend or
28 revoke a license on the ground that the licensee has been convicted of a crime substantially
related to the qualifications, functions, or duties of the business or profession for which the
license was issued..

8. "Marijuana" is a Schedule I controlled substance as designated by Health and
Safety Code section 11054(d)(13).

FIRST CAUSE FOR DISCIPLINE
(Conviction of a Crime)

9. Respondent is subject to disciplinary action under section 4300 in conjunction with
4301 (j) (k) and (l) and 490, in that on or about April 23, 2008, *The State of Wyoming v. Youen
Yo euth*, in the District Court, Second Judicial District, State of Wyoming; Case No. 6304,

1 Respondent pled guilty to the felony of Conspiracy to Deliver a Controlled Substance to wit:
2 marijuana, in violation of W.S. 35-7-1042,35-7-1031 (a) (ii), a crime substantially related to the
3 practice of a pharmacy technician. Respondent was sentenced to time served and was placed on
4 three years supervised probation.

5 The circumstances were that on or about November 3, 2007, respondent was a passenger
6 in a car stopped by Wyoming Highway patrol and 39 pounds of marijuana was discovered in the
7 trunk of the car.

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9 **SECOND CAUSE FOR DISCIPLINE**
(Unprofessional Conduct)

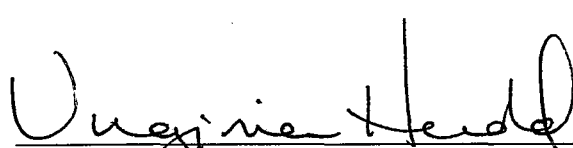
10 10. Respondent is subject to disciplinary action under section 4301 (j) and (o) in that
11 she violated laws pertaining to the regulation of marijuana as set forth more specifically above in
12 paragraph 8.

13 **PRAYER**

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

- 16 1. Revoking or suspending Pharmacy Technician License Number TCH 54814, issued
17 to Yoeun Yoeuth.;
- 18 2. Ordering Yoeun Yoeuth to pay the Board of Pharmacy the reasonable costs of the
19 investigation and enforcement of this case, pursuant to Business and Professions Code section
20 125.3;
- 21 3. Taking such other and further action as deemed necessary and proper.

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23
24 DATED: 3/1/12


25 VIRGINIA HEROLD
26 Executive Officer
27 Board of Pharmacy
28 Department of Consumer Affairs
State of California
Complainant

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