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

10 In the Matter of the Accusation Against:

Case No. 5497

11 **TRILBY TRANG NGUYEN**
12 **666 Kirk Glen Drive**
13 **San Jose, CA 95133**

A C C U S A T I O N

14 **Pharmacist License No. RPH 51807**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

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

20 2. On or about August 29, 2000, the Board issued Original Pharmacist License Number
21 RPH 51807 to Trilby Trang Nguyen (Respondent). The Pharmacist License was in full force and
22 effect at all times relevant to the charges brought herein and will expire on October 31, 2015,
23 unless renewed.

24 **JURISDICTION**

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

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1 4. Code section 4011 provides that the Board shall administer and enforce both the
2 Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances Act
3 [Health & Safety Code, § 11000 et seq.].

4 5. Code section 4300 provides that every license issued by the Board may be suspended
5 or revoked.

6 6. Code section 4300.1 provides that the expiration, cancellation, forfeiture, or
7 suspension of a board-issued license by operation of law or by order or decision of the board or a
8 court of law, the placement of a license on a retired status, or the voluntary surrender of a license
9 by a licensee shall not deprive the board of jurisdiction to commence or proceed with any
10 investigation of, or action or disciplinary proceeding against, the licensee or to render a decision
11 suspending or revoking the license.

12 **STATUTORY AND REGULATORY PROVISIONS**

13 7. Code section 490 states, in pertinent part that, in addition to any other action that a
14 board is permitted to take against a licensee, a board may suspend or revoke a license on the
15 ground that the licensee has been convicted of a crime, if the crime is substantially related to the
16 qualifications, functions, or duties of the business or profession for which the license was issued.

17 8. Code section 4301 provides, in pertinent part:

18 The board shall take action against any holder of a license who is guilty of unprofessional
19 conduct or whose license has been procured by fraud or misrepresentation or issued by mistake.
20 Unprofessional conduct shall include, but is not limited to, any of the following:

21 . . .

22 (l) The conviction of a crime substantially related to the qualifications, functions, and duties
23 of a licensee under this chapter. The record of conviction of a violation of Chapter 13
24 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
25 substances or of a violation of the statutes of this state regulating controlled substances or
26 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
27 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
28 The board may inquire into the circumstances surrounding the commission of the crime, in order

1 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
2 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
3 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
4 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
5 of this provision. The board may take action when the time for appeal has elapsed, or the
6 judgment of conviction has been affirmed on appeal or when an order granting probation is made
7 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
8 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
9 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
10 indictment.

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

13 For the purpose of denial, suspension, or revocation of a personal or facility license
14 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
15 crime or act shall be considered substantially related to the qualifications, functions or duties of a
16 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a
17 licensee or registrant to perform the functions authorized by his license or registration in a manner
18 consistent with the public health, safety, or welfare.

19 **COST RECOVERY**

20 10. Code section 125.3 provides, in pertinent part, that a Board may request the
21 administrative law judge to direct a licentiate found to have committed a violation or violations of
22 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
23 enforcement of the case.

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1 **CAUSE FOR DISCIPLINE**

2 (Criminal Conviction)

3 11. Respondent is subject to disciplinary action under Code sections 490 and 4301(I) in
4 that she has been convicted of a crime substantially related to the qualifications, functions, and
5 duties of a pharmacist. The circumstances are as follows:

6 12. On or about January 13, 2015, in Santa Clara Superior Court case number C1245536,
7 Respondent was convicted of having violated California Penal Code section 273a(a) (willful
8 abuse/endangerment of a child). Respondent was placed on a four-year grant of probation.

9 **PRAYER**

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


12 1. Revoking or suspending Pharmacist License Number RPH 51807, issued to Trilby
13 Trang Nguyen;

14 2. Ordering Trilby Trang Nguyen to pay the Board of Pharmacy the reasonable costs of
15 the investigation and enforcement of this case, pursuant to Business and Professions Code section
16 125.3;

17 3. Taking such other and further action as deemed necessary and proper.

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19 DATED: _____

9/20/15



20 VIRGINIA HEROLD
21 Executive Officer
22 Board of Pharmacy
23 Department of Consumer Affairs
24 State of California
25 Complainant
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