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9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**  
11

12 In the Matter of the Accusation Against:  
13 **TRANSON THEBAO NGUYEN**  
**64 Reunion**  
14 **Irvine, CA 92603**  
15 **Pharmacist License No. RPH 54495**  
16 Respondent.

Case No. 6235  
**ACCUSATION**

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18 Complainant alleges:

19 **PARTIES**

- 20 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
21 as the Executive Officer of the Board of Pharmacy (Board), Department of Consumer Affairs.  
22 2. On or about April 15, 2003, the Board issued Pharmacist License Number RPH  
23 54495 to Transon Thebao Nguyen (Respondent). The Pharmacist License was in full force and  
24 effect at all times relevant to the charges brought herein and will expire on March 31, 2019,  
25 unless renewed.

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## JURISDICTION

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

4. Section 4300(a) of the Code states "Every license issued may be suspended or revoked."

5. Section 4300.1 of the Code states:

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

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## STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or 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. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of

1 discipline or to determine if the conviction is substantially related to the qualifications,  
2 functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority," and  
4 "registration."

5 9. Section 4301 of the Code states:

6 The board shall take action against any holder of a license who is guilty of  
7 unprofessional conduct or whose license has been issued by mistake. Unprofessional  
8 conduct shall include, but is not limited to, any of the following:

9 ...

10 (h) The administering to oneself, of any controlled substance, or the use of any  
11 dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous  
12 or injurious to oneself, to a person holding a license under this chapter, or to any other  
13 person or to the public, or to the extent that the use impairs the ability of the person to  
14 conduct with safety to the public the practice authorized by the license.

15 ...

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

## REGULATORY PROVISIONS

10. California Code of Regulations, title 16, section 1769, subdivision (b) states:

(b) When considering the suspension or revocation of a facility or a personal  
license on the ground that the licensee or the registrant has been convicted of a crime, the  
board, in evaluating the rehabilitation of such person and his present eligibility for a  
license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

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(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) Evidence, if any, of rehabilitation submitted by the licensee.

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

**COSTS**

12. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be included in a stipulated settlement.

**FIRST CAUSE FOR DISCIPLINE**

**(July 19, 2017 Criminal Convictions for DUI on January 15, 2017)**

13. Respondent has subjected his license to discipline under sections 490 and 4301(1) of the Code in that he was convicted of crimes that are substantially related to the qualifications, duties, and functions of a pharmacist. The circumstances are as follows:

a. On July 19, 2017, in a criminal proceeding entitled *People of the State of California v. Transon Thebao Nguyen, aka Tran Son The Bao Nguyen*, in Orange County Superior Court, case number 17HM03212, Respondent was convicted on his plea of guilty to violating Vehicle Code section 23152(a), driving under the influence of alcohol; and Vehicle Code section 23152(b), driving with a blood alcohol concentration (BAC) of .08 or more, a misdemeanor. Respondent admitted, and the court found true, the special allegation that Respondent's BAC was .20 percent or more within the meaning of Vehicle Code section 23578.

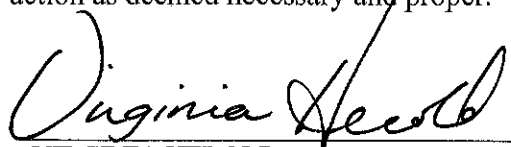


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2. Ordering Transon Thebao Nguyen to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

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

DATED: 10/10/17



VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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