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

11 In the Matter of the Statement of Issues
12 Against:
13 **CHAU VU**
14 **Applicant for Pharmacy Technician License**
15 Respondent.

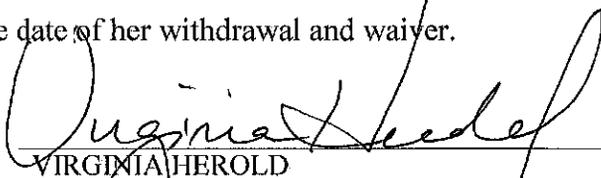
Case No. 4841

**WITHDRAWAL OF STATEMENT
OF ISSUES**

16 On or about April 18, 2014, Chau Vu ("Respondent") withdrew her appeal and request for a
17 hearing on the denial of her application for registration as a pharmacy technician by the Board of
18 Pharmacy (withdrawal and waiver.) Accordingly, Statement of Issues No. 4841 filed against
19 Respondent is withdrawn without prejudice and the denial of her application is hereby affirmed.

20 The earliest date on which Respondent may reapply for a pharmacy technician registration is
21 April 18, 2015, which is one year after the date of her withdrawal and waiver.

22 DATED: 5/5/14


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

SF2013405545

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Case No. 4841

STATEMENT OF ISSUES

16 Complainant alleges:

17 PARTIES

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

20 2. On or about June 20, 2012, the Board of Pharmacy, Department of Consumer Affairs
21 received an Application for Registration as a Pharmacy Technician from Chau Vu
22 ("Respondent"). On or about June 11, 2012, Chau Vu certified under penalty of perjury to the
23 truthfulness of all statements, answers, and representations in the application. The Board denied
24 the application on May 6, 2013.

25 JURISDICTION

26 3. This Statement of Issues is brought before the Board of Pharmacy ("Board"),
27 Department of Consumer Affairs, under the authority of the following laws. All section
28

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 4300 of the Code states:

3 ...

4 "(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The
5 board may, in its sole discretion, issue a probationary license to any applicant for a license who is
6 guilty of unprofessional conduct and who has met all other requirements for licensure. The board
7 may issue the license subject to any terms or conditions not contrary to public policy, including,
8 but not limited to, the following:

9 "(1) Medical or psychiatric evaluation.

10 "(2) Continuing medical or psychiatric treatment.

11 "(3) Restriction of type or circumstances of practice.

12 "(4) Continuing participation in a board-approved rehabilitation program.

13 ...

14 5. Section 4301 of the Code states:

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

18 ...

19 "(l) The conviction of a crime substantially related to the qualifications, functions, and
20 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
21 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
22 substances or of a violation of the statutes of this state regulating controlled substances or
23 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
24 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
25 The board may inquire into the circumstances surrounding the commission of the crime, in order
26 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
27 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
28 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or

1 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
2 of this provision. The board may take action when the time for appeal has elapsed, or the
3 judgment of conviction has been affirmed on appeal or when an order granting probation is made
4 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
5 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
6 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
7 indictment.

8 . . .
9 "(p) Actions or conduct that would have warranted denial of a license.

10 . . .
11 6. Section 480 of the Code states:

12 "(a) A board may deny a license regulated by this code on the grounds that the applicant has
13 one of the following:

14 "(1) Been convicted of a crime. A conviction within the meaning of this section means a
15 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
16 board is permitted to take following the establishment of a conviction may be taken when the
17 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
18 an order granting probation is made suspending the imposition of sentence, irrespective of a
19 subsequent order under the provisions of Section 1203.4 of the Penal Code.

20 . . .
21 "(3) (A) Done any act that if done by a licentiate of the business or profession in question,
22 would be grounds for suspension or revocation of license.

23 "(B) The board may deny a license pursuant to this subdivision only if the crime or act is
24 substantially related to the qualifications, functions, or duties of the business or profession for
25 which application is made.

26 . . .
27 7. Section 4313 of the Code states:

28 "In determining whether to grant an application for licensure . . . the board shall give

1 consideration to evidence of rehabilitation. However, public protection shall take priority over
2 rehabilitation and, where evidence of rehabilitation and public protection are in conflict, public
3 protection shall take precedence.”

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

5 “For the purpose of denial, suspension, or revocation of a personal or facility license
6 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
7 crime or act shall be considered substantially related to the qualifications, functions or duties of a
8 licensee or registrant to perform the functions authorized by his license or registration in a manner
9 consistent with the public health, safety, or welfare.

10 FIRST CAUSE FOR DENIAL OF LICENSE

11 (Conviction of Substantially Related Crimes)

12 9. Respondent’s application is subject to denial under the following Code sections:
13 480(a)(1); 480(a)(3), by reference to 4301(l), and/or 4300(c), and California Code of Regulations,
14 title 16, section 1770, for conviction of substantially related crimes, in that between 2006 to 2012,
15 Respondent had seven (7) criminal convictions as follows:

16 **A. September 6, 2006:**

17 1. On or about September 6, 2006, in *The People of the State of California v. Chau Vu*,
18 Santa Clara County Superior Court Case No. CC637131, Respondent was convicted by her plea
19 of no contest to a violation of Penal Code section 626.6 [Nonstudent Failing to Leave College or
20 University Campus], a misdemeanor. Respondent was sentenced to four (4) days in jail, three (3)
21 years probation, ordered to pay fines and stay 300 yards from Mission College and victim D.N.,
22 and ordered to not have contact with D.N.

23 2. The facts and circumstances of the conviction are as follows: On July 18, 2006,
24 Respondent went to Mission College in Santa Clara to contact D.N. In 2005, Respondent had
25 been terminated from the Pharmacy Technician Program at Mission College, due to her
26 harassment and stalking of her former instructor D.N. On July 18, Respondent contacted D.N.
27 and proceeded to follow, harass and without consent repeatedly grab D.N.’s arm. Respondent
28 told the arresting office that D.N. had “hypnotized” her to fall in love with him. Her purpose in

1 returning to Mission College on July 18, 2006, was to give D.N. gifts in expression of her love.
2 D.N. denied ever having a personal relationship with Respondent.

3 **B. September 20, 2006**

4 1. On or about September 20, 2006, in *The People of the State of California v. Chau Vu*,
5 Santa Clara County Superior Court Case No. CC641621, Respondent was convicted by her plea
6 of no contest to a violation of Penal Code section 166(a)(4) [Contempt of Court-Willfully
7 Disobedience of the a Court Order], a misdemeanor and by her plea of no contest to a violation of
8 Penal Code section 653m(c) [Repeated Telephone Calls to Work When Restraining Order in
9 Effect], a misdemeanor. Respondent was sentenced to ten (10) day in jail, placed on three (3)
10 years probation, ordered to pay fines, stay 300 yards from Victim D.N, and to have no written or
11 telephone contact with D.N.

12 2. The facts and circumstances of the convictions are as follows: Between August 4
13 and August 7, 2006, Respondent repeatedly left phone messages for D.N. These messages were
14 left despite D.N. having obtained a restraining order against Respondent.

15 **C. October 4, 2007**

16 1. On or about October 4, 2007, in *The People of the State of California v. Chau Vu*,
17 Santa Clara County Superior Court Case No. CC780691, Respondent was convicted by her guilty
18 plea to a violation of Penal Code section 422 [Threats to Commit a Crime Resulting in Death or
19 Great Bodily Injury], a misdemeanor. Respondent was sentenced to thirty (30) days in jail,
20 placed on three (3) years probation, ordered to pay fines and attend Domestic Violence classes.

21 2. The facts and circumstances of the conviction are as follows: On September 17, 2007,
22 San Jose police officers responded to a domestic violence call from Respondent's home in San
23 Jose, California. Respondent had been arguing with her former husband and stated that "I'll get
24 a knife and kill you." Respondent admitted that she recently been a patient at Valley Medical
25 Center, Emergency Psychiatric Unit, in San Jose, California.

26 **D. November 29, 2007**

27 1. On or about November 29, 2007, in *The People of the State of California v. Chau Vu*,
28 Santa Clara County Superior Court Case No. CC783026, Respondent pled no contest to a

1 violation of Penal Code section 594(a)/(b)(2)(A) [Vandalism –Less than Four Hundred Dollars],
2 a misdemeanor and pled no contest to a violation of Penal Code 242-243(a) [Battery], a
3 misdemeanor. Respondent was sentenced to thirty (30) days in jail, three (3) years probation,
4 ordered to pay fines and to stay 300 yards away from the Buddhist Temple in San Jose.
5 Respondent complied with all terms of probation and her convictions were set aside on May 22,
6 2012, pursuant to Penal Code section 1203.4.

7 2. The facts and circumstances of the conviction are as follows: On October 9, 2007,
8 police were dispatched to the Buddhist Temple on McKee Road, in San Jose, California.
9 Respondent had been in an agitated state when she arrived at the Buddhist Temple and began
10 throwing plates of food and destroying property inside the main Temple. When confronted by
11 staff, Respondent threatened to burn down the Temple and kill the workers inside. She then used a
12 pen to inflict an injury on a Temple employee. At the jail, Respondent told the arresting officer
13 that she had schizophrenia and had been off her medications.

14 **E. April 11, 2013**

15 1. On or about April 11, 2013, in *The People of the State of California v. Chau Vu*,
16 Santa Clara County Superior Court, Case No. C1246691, Respondent pled no contest to a
17 violation of Penal Code 166(a)(4) [Contempt of Court- Willfully Disobedience of the Terms of
18 Any Process and Lawful Court Order], a misdemeanor. Respondent was sentenced to one (1) year
19 probation, ordered to have no contact with D.N., to stay away from Mission College in Santa
20 Clara, and to participate in a mental health treatment program.

21 2. The facts and circumstances of the conviction are as follows: On October 31, 2012,
22 Respondent went to D.N.'s workplace at Mission College. D.N. had obtained a Civil Harassment
23 Restraining Order against Respondent. Upon her arrest by campus police, Respondent
24 acknowledged that she knew of the restraining order but stated "I will return to the College if I
25 need to."

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SECOND CAUSE FOR DENIAL OF LICENSE

(Unprofessional Conduct)

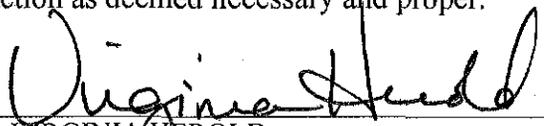
10. Respondent's application is subject to denial under the following Code sections:
480(a)(3) by reference to 4300(c) and 4301(p), in that, as set forth in paragraph 9 above,
Respondent has engaged in unprofessional conduct.

PRAAYER

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

1. Denying the application of Chau Vu to be a Pharmacy Technician;
2. Taking such other and further action as deemed necessary and proper.

DATED: 2/19/14



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

SF2013405545