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

12 In the Matter of the Accusation Against:

Case No. *21002*

13 HOWARD HOA LUONG
20311 Carlsbad Lane
14 Huntington Beach, CA 92646

ACCUSATION

15 Pharmacist License No. RPH 39330

16 Respondent.

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18 The Complainant, Patricia F. Harris, for cause of accusation against HOWARD
19 HOA LUONG, alleges as follows:

20 PARTIES

21 1. The Complainant, Patricia F. Harris, is the Executive Officer of the
22 California State Board of Pharmacy (hereinafter the "Board") and makes this Accusation solely
23 in her official capacity.

24 2. On or about March 26, 1985, the Board issued Original Pharmacist
25 License Number RPH 39330 to respondent HOWARD HOA LUONG (hereinafter respondent
26 "LUONG"). At all times material herein, respondent LUONG was and currently is licenced by
27 the Board as a registered pharmacist. The license expires on November 30, 2004, unless
28 renewed.

1 substantially related to the qualifications, functions and duties of a licensee under the Pharmacy
2 Act.

3 8. The pharmacist license held by respondent LUONG is subject to discipline
4 under Business and Professions Code section 4300, in that respondent was guilty of
5 unprofessional conduct within the meaning of Business and Professions Code section 4301(l),
6 through the criminal conviction for driving under the influence of a drug, as described in
7 paragraph 5 hereinabove.

8 SECOND CAUSE FOR DISCIPLINE

9 (Self Administration of Controlled Substance)

10 9. Complainant incorporates herein by this reference the preamble and each
11 of the allegations set forth in paragraphs 1 through 5 hereinabove.

12 10. Business and Professions Code section 4301(h) provides that
13 unprofessional conduct for a licensed pharmacist includes the administering to oneself, of any
14 controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or
15 in a manner as to be dangerous or injurious to oneself, or to the extent that the use impairs the
16 ability of the person to conduct with safety to the public the practice authorized by the license.

17 11. The pharmacist license held by respondent LUONG is subject to discipline
18 under Business and Professions Code section 4300, for unprofessional conduct within the
19 meaning of Business and Professions Code section 4301(h), in that, by driving a motor vehicle
20 under the influence of Butalbital, respondent used a controlled substance in a manner that was
21 dangerous to himself and the public.

22 OWNERSHIP PROHIBITION

23 12 Business and Professions Code section 4307(a) provides, in pertinent part,
24 that any person whose license has been revoked or is under suspension shall be prohibited from
25 serving as a manager, administrator, owner, member, officer, director, associate or partner of a
26 licensee.

27 13. Pursuant to Business and Professions Code section 4307(a), in the event
28 the license issued to respondent LUONG is revoked or placed on suspension, respondent

1 LUONG shall be prohibited from serving as a manager, administrator, owner, member, officer,
2 director, associate or partner of any licensee with rights issued by the Board.

3 COST RECOVERY

4 14. Business and Professions Code section 125.3 provides that, in any order
5 issued in resolution of a disciplinary proceeding before any board within the Department of
6 Consumer Affairs, the board may request the Administrative Law Judge to direct a licensee
7 found to have committed a violation or violations of the licensing act to pay a sum not to exceed
8 the reasonable costs of the investigation and enforcement of the case.

9 15. Under Business and Professions Code section 101(d), the California State
10 Board of Pharmacy was and is a board within the Department of Consumer Affairs of the State of
11 California. Pursuant to Business and Professions Code section 125.3, the Board hereby requests
12 the Administrative Law Judge who issues a Proposed Decision in this matter to include an Order
13 which provides for the recovery by the Board of the costs of investigation and enforcement of
14 this case against respondent LUONG, according to proof.

15 WHEREFORE, Complainant prays that a hearing be had and that the Board of
16 Pharmacy make its Order:

17 1. Revoking or suspending Pharmacist License Number RPH 39330 issued to
18 respondent HOWARD HOA LUONG.

19 2. Prohibiting respondent HOWARD HOA LUONG from serving as a
20 manager, administrator, owner, member, officer, director, associate, or partner of a licensee,
21 pursuant to the provisions of Business and Professions Code section 4307(a).

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3. Directing respondent HOWARD HOA LUONG to pay the California State Board of Pharmacy the reasonable costs of the investigation and prosecution of this matter pursuant to Business and Professions Code section 125.3, according to proof.

4. Taking such further action as is deemed necessary and proper.

DATED: 7/3/03.

P. J. Harris
PATRICIA F. HARRIS
Executive Officer
California State Board of Pharmacy
Department of Consumer Affairs

Attorneys for Complainant