

BEFORE THE
BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

Case No. 3369

VANNAPHA PHOUIPHANITH
8725 Morning Glory Way
Elk Grove, CA 95624

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This decision shall become effective on April 19, 2010.

It is so ORDERED on April 6, 2010.

BOARD OF PHARMACY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

By

Benneth H. Schell

KENNETH H. SCHELL
Board President

1 EDMUND G. BROWN JR.
Attorney General of California
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7 *Attorneys for Complainant*

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
Against:

Case No. 3369

12 **VANNAPHA PHOUIPHANITH A.K.A.**
13 **MIMI NGUYEN**
14 **8725 Morning Glory Way**
Elk Grove, Ca 95624

OAH No. 2009090133

15 **Intern Pharmacist Registration**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16 Respondent.

17
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Virginia Herold (Complainant) is the Executive Officer of the Board of Pharmacy.
22 She brought this action solely in her official capacity and is represented in this matter by Edmund
23 G. Brown Jr., Attorney General of the State of California, by Anahita S. Crawford, Deputy
24 Attorney General.

25 2. Respondent Vannapha Phouiphanith a.k.a. Mimi Nguyen (Respondent) is represented
26 in this proceeding by attorney Gregory Matzen, Esq., whose address is 2850 Gateway Oaks
27 Drive, Suite 450, Sacramento, Ca 95833.
28

1 9. Respondent agrees that her Intern Pharmacist Registration is subject to denial and she
2 agrees to be bound by the Board of Pharmacy (Board)'s imposition of discipline as set forth in the
3 Disciplinary Order below.

4 **CIRCUMSTANCES IN MITIGATION**

5 10. Respondent Vannapha Phouiphanith a.k.a. Mimi Nguyen has never been the subject
6 of any disciplinary action. She is admitting responsibility at an early stage in the proceedings.

7 **CONTINGENCY**

8 11. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent
9 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may
10 communicate directly with the Board regarding this stipulation and settlement, without notice to
11 or participation by Respondent or her counsel. By signing the stipulation, Respondent
12 understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation
13 prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation
14 as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or
15 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,
16 and the Board shall not be disqualified from further action by having considered this matter.

17 12. The parties understand and agree that facsimile copies of this Stipulated Settlement
18 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
19 effect as the originals.

20 13. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
21 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
22 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
23 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
24 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
25 writing executed by an authorized representative of each of the parties.

26 14. In consideration of the foregoing admissions and stipulations, the parties agree that
27 the Board may, without further notice or formal proceeding, issue and enter the following
28 Disciplinary Order:

1 **DISCIPLINARY ORDER**

2 IT IS HEREBY ORDERED that Respondent Vannapha Phouiphanith a.k.a. Mimi Nguyen
3 will be granted an Intern Pharmacist Registration which will be issued and automatically revoked.
4 The revocation will be stayed and the Respondent placed on probation for five (5) years or for the
5 duration Respondent is a Registered Intern Pharmacist, whichever terminates first, on the
6 following terms and conditions.

7 **1. Obey All Laws**

8 Respondent shall obey all state and federal laws and regulations.

9 Respondent shall report any of the following occurrences to the board, in writing, within
10 seventy-two (72) hours of such occurrence:

- 11 • an arrest or issuance of a criminal complaint for violation of any provision of the
12 Pharmacy Law, state and federal food and drug laws, or state and federal controlled
13 substances laws
- 14 • a plea of guilty or nolo contendere in any state or federal criminal proceeding to any
15 criminal complaint, information or indictment
- 16 • a conviction of any crime
- 17 • discipline, citation, or other administrative action filed by any state or federal agency
18 which involves Respondent's Intern Pharmacist Registration or which is related to the
19 practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing,
20 or charging for any drug, device or controlled substance.

21 Failure to timely report such occurrence shall be considered a violation of probation.

22 **2. Report to the Board**

23 Respondent shall report to the board quarterly, on a schedule as directed by the board or its
24 designee. The report shall be made either in person or in writing, as directed. Among other
25 requirements, Respondent shall state in each report under penalty of perjury whether there has
26 been compliance with all the terms and conditions of probation. Failure to submit timely reports
27 in a form as directed shall be considered a violation of probation. Any period(s) of delinquency
28 in submission of reports as directed may be added to the total period of probation. Moreover, if

1 the final probation report is not made as directed, probation shall be automatically extended until
2 such time as the final report is made and accepted by the board.

3 **3. Interview with the Board**

4 Upon receipt of reasonable prior notice, Respondent shall appear in person for interviews
5 with the board or its designee, at such intervals and locations as are determined by the board or its
6 designee. Failure to appear for any scheduled interview without prior notification to board staff,
7 or failure to appear for two (2) or more scheduled interviews with the board or its designee during
8 the period of probation, shall be considered a violation of probation.

9 **4. Cooperate with Board Staff**

10 Respondent shall cooperate with the board's inspection program and with the board's
11 monitoring and investigation of Respondent's compliance with the terms and conditions of her
12 probation. Failure to cooperate shall be considered a violation of probation.

13 **5. Notice to Employers/Preceptors**

14 During the period of probation, Respondent shall notify all present and prospective
15 employers/preceptors of the decision in case number 3369 and the terms, conditions and
16 restrictions imposed on Respondent by the decision, as follows:

17 Within thirty (30) days of the effective date of this decision, and within fifteen (15) days of
18 Respondent undertaking any new employment, Respondent shall cause her direct
19 supervisor/preceptor, pharmacist-in-charge (including each new pharmacist-in-charge employed
20 during Respondent's tenure of employment) and owner to report to the board in writing
21 acknowledging that the listed individual(s) has/have read the decision in case number 3369, and
22 terms and conditions imposed thereby. It shall be Respondent's responsibility to ensure that her
23 employer(s)/preceptor(s) and/or supervisor(s) submit timely acknowledgment(s) to the board.

24 If Respondent works for or is employed by or through a pharmacy employment service,
25 Respondent must notify her direct supervisor, pharmacist-in-charge, and owner at every entity
26 licensed by the board of the terms and conditions of the decision in case number 3369 in advance
27 of the Respondent commencing work at each licensed entity. A record of this notification must
28 be provided to the board upon request.

1 Furthermore, within thirty (30) days of the effective date of this decision, and within fifteen
2 (15) days of Respondent undertaking any new employment by or through a pharmacy
3 employment service, Respondent shall cause her direct supervisor/preceptor with the pharmacy
4 employment service to report to the board in writing acknowledging that she has read the decision
5 in case number 3369 and the terms and conditions imposed thereby. It shall be Respondent's
6 responsibility to ensure that her employer(s) and/or supervisor(s)/preceptor(s) submit timely
7 acknowledgment(s) to the board.

8 Failure to timely notify present or prospective employer(s)/preceptor(s) or to cause
9 that/those employer(s)/preceptor(s) to submit timely acknowledgments to the board shall be
10 considered a violation of probation.

11 "Employment" within the meaning of this provision shall include any full-time,
12 part-time, temporary, relief or pharmacy management service as an intern pharmacist
13 or any position for which an intern pharmacist registration is a requirement or
14 criterion for employment, whether the Respondent is an employee, independent
15 contractor, volunteer, or intern.

16 **6. Probation Monitoring Costs**

17 Respondent shall pay any costs associated with probation monitoring as determined by the
18 board each and every year of probation. Such costs shall be payable to the board on a schedule as
19 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall
20 be considered a violation of probation.

21 **7. Status of License**

22 Respondent shall, at all times while on probation, maintain an active, current license with
23 the board, including any period during which suspension or probation is tolled. Failure to
24 maintain an active, current license shall be considered a violation of probation.

25 If Respondent's license expires or is cancelled by operation of law or otherwise at any time
26 during the period of probation, including any extensions thereof due to tolling or otherwise, upon
27 renewal or reapplication Respondent's license shall be subject to all terms and conditions of this
28 probation not previously satisfied.

1 **8. License Surrender While on Probation/Suspension**

2 Following the effective date of this decision, should Respondent cease practice due to
3 retirement or health, or be otherwise unable to satisfy the terms and conditions of probation,
4 Respondent may tender her Intern Pharmacist Registration to the board for surrender. The board
5 or its designee shall have the discretion whether to grant the request for surrender or take any
6 other action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the
7 Intern Pharmacist Registration, Respondent will no longer be subject to the terms and conditions
8 of probation. This surrender constitutes a record of discipline and shall become a part of the
9 Respondent's license history with the board.

10 Upon acceptance of the surrender, Respondent shall relinquish her pocket and wall license,
11 if issued, to the board within ten (10) days of notification by the board that the surrender is
12 accepted. Respondent may not reapply for any license from the board for three (3) years from the
13 effective date of the surrender. Respondent shall meet all requirements applicable to the license
14 sought as of the date the application for that license is submitted to the board, including any
15 outstanding costs.

16 **9. Notification of a Change in Name, Residence Address, Mailing Address or**
17 **Employment**

18 Respondent shall notify the board in writing within ten (10) days of any change of
19 employment. Said notification shall include the reasons for leaving, the address of the new
20 employer, the name of the supervisor and owner, and the work schedule if known. Respondent
21 shall further notify the board in writing within ten (10) days of a change in name, residence
22 address, mailing address, or phone number.

23 Failure to timely notify the board of any change in employer(s), name(s), address(es), or
24 phone number(s) shall be considered a violation of probation.

25 **10. Tolling of Probation**

26 Except during periods of suspension, Respondent shall, at all times while on probation, be
27 employed as an intern pharmacist in California for a minimum of 40 hours per calendar month.
28 Any month during which this minimum is not met shall toll the period of probation, i.e., the

1 period of probation shall be extended by one month for each month during which this minimum is
2 not met. During any such period of tolling of probation, Respondent must nonetheless comply
3 with all terms and conditions of probation.

4 Should Respondent, regardless of residency, for any reason (including vacation) cease
5 practicing as an intern pharmacist for a minimum of 40 hours per calendar month in California,
6 Respondent must notify the board in writing within ten (10) days of the cessation of practice, and
7 must further notify the board in writing within ten (10) days of the resumption of practice. Any
8 failure to provide such notification(s) shall be considered a violation of probation.

9 It is a violation of probation for Respondent's probation to remain tolled pursuant to the
10 provisions of this condition for a total period, counting consecutive and non-consecutive months,
11 exceeding thirty-six (36) months.

12 "Cessation of practice" means any calendar month during which Respondent is
13 not practicing as an intern pharmacist for at least 40 hours, as defined by Business
14 and Professions Code section 4000 et seq. "Resumption of practice" means any
15 calendar month during which Respondent is practicing as an intern pharmacist for at
16 least 40 hours as a pharmacist as defined by Business and Professions Code section
17 4000 et seq.

18 **11. Violation of Probation**

19 If a Respondent has not complied with any term or condition of probation, the board shall
20 have continuing jurisdiction over Respondent, and probation shall automatically be extended,
21 until all terms and conditions have been satisfied or the board has taken other action as deemed
22 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and
23 to impose the penalty that was stayed.

24 If Respondent violates probation in any respect, the board, after giving Respondent notice
25 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that
26 was stayed. Notice and opportunity to be heard are not required for those provisions stating that a
27 violation thereof may lead to automatic termination of the stay and/or revocation of the license. If
28 a petition to revoke probation or an accusation is filed against Respondent during probation, the

1 board shall have continuing jurisdiction and the period of probation shall be automatically
2 extended until the petition to revoke probation or accusation is heard and decided.

3 **12. Completion of Probation**

4 Upon written notice by the board or its designee indicating successful completion of
5 probation, Respondent's Intern Pharmacist Registration will be fully restored.

6 **13. Random Drug Screening**

7 Respondent, at her own expense, shall participate in random testing, including but not
8 limited to biological fluid testing (urine, blood), breathalyzer, hair follicle testing, or other drug
9 screening program as directed by the board or its designee. Respondent may be required to
10 participate in testing for the entire probation period and the frequency of testing will be
11 determined by the board or its designee. At all times, Respondent shall fully cooperate with the
12 board or its designee, and shall, when directed, submit to such tests and samples for the detection
13 of narcotics, hypnotics, dangerous drugs or other controlled substances as the board or its
14 designee may direct. Failure to timely submit to testing as directed shall be considered a violation
15 of probation. Upon request of the board or its designee, Respondent shall provide documentation
16 from a licensed practitioner that the prescription for a detected drug was legitimately issued and is
17 a necessary part of the treatment of the Respondent. Failure to timely provide such
18 documentation shall be considered a violation of probation. Any confirmed positive test for any
19 drug not lawfully prescribed by a licensed practitioner as part of a documented medical treatment
20 shall be considered a violation of probation and shall result in the automatic suspension of
21 practice as an intern pharmacist by Respondent. Respondent may not resume practice as an intern
22 pharmacist until notified by the board in writing.

23 During suspension, Respondent shall not enter any pharmacy area or any portion of the
24 licensed premises of a wholesaler, veterinary food-animal drug retailer or any other distributor of
25 drugs which is licensed by the board, or any manufacturer, or where dangerous drugs and devices
26 or controlled substances are maintained. Respondent shall not practice as an intern pharmacist
27 nor do any act involving drug selection, selection of stock, manufacturing, compounding,
28 dispensing or patient consultation; nor shall Respondent manage, administer, or be a consultant to

1 any licensee of the board, or have access to or control the ordering, manufacturing or dispensing
2 of dangerous drugs and controlled substances. Respondent shall not resume practice until
3 notified by the board.

4 During suspension, Respondent shall not engage in any activity that requires the
5 professional judgment of an intern pharmacist. Respondent shall not direct or control any aspect
6 of the practice of intern pharmacist. Respondent shall not perform the duties of an intern
7 pharmacist or a designated representative for any entity licensed by the board.

8 Subject to the above restrictions, Respondent may continue to own or hold an interest in
9 any licensed premises in which she holds an interest at the time this decision becomes effective
10 unless otherwise specified in this order.

11 Failure to comply with this suspension shall be considered a violation of probation.

12 **14. Abstain from Drugs Use**

13 Respondent shall completely abstain from the possession or use of, controlled substances,
14 dangerous drugs and their associated paraphernalia except when the drugs are lawfully prescribed
15 by a licensed practitioner as part of a documented medical treatment. Upon request of the board
16 or its designee, Respondent shall provide documentation from the licensed practitioner that the
17 prescription for the drug was legitimately issued and is a necessary part of the treatment of the
18 Respondent. Failure to timely provide such documentation shall be considered a violation of
19 probation. Respondent shall ensure that she is not in the same physical location as individuals
20 who are using illicit substances even if Respondent is not personally ingesting the drugs. Any
21 possession or use of alcohol, controlled substances, or their associated paraphernalia not
22 supported by the documentation timely provided, and/or any physical proximity to persons using
23 illicit substances, shall be considered a violation of probation.

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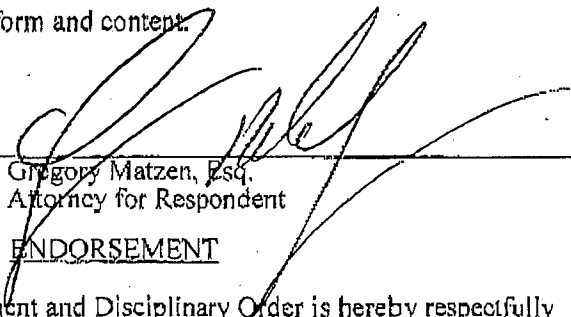
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ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, Gregory Matzen, Esq. I understand the stipulation and the effect it will have on my Intern Pharmacist Registration. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Pharmacy.

DATED: 1/4/2010 
VANNAPHA PHOUIPHANITH A.K.A. MIMI
NGUYEN
Respondent

I have read and fully discussed with Respondent Vannapha Phouiphanith a.k.a. Mimi Nguyen the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its form and content.

DATED: 1/4/2010 
Gregory Matzen, Esq.
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

Dated: 1/5/2010 Respectfully Submitted,
EDMUND G. BROWN JR.
Attorney General of California
JANICE K. LACHMAN
Supervising Deputy Attorney General

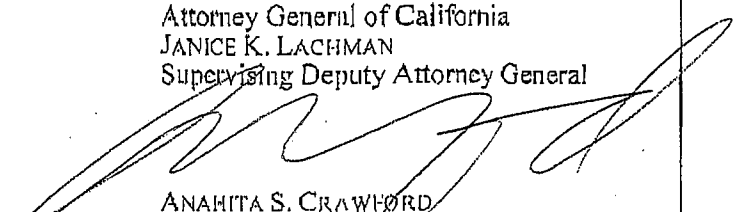

ANAHITA S. CRAWFORD
Deputy Attorney General
Attorneys for Complainant

Exhibit A

Statement of Issues No. 3369

ORIGINAL

1 EDMUND G. BROWN JR.
Attorney General of California
2 JANICE K. LACHMAN
Supervising Deputy Attorney General
3 ANAHITA S. CRAWFORD
Deputy Attorney General
4 State Bar No. 209545
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5 P.O. Box 944255
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6 Telephone: (916) 322-8311
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8 BEFORE THE
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11 In the Matter of the Statement of Issues
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13 VANNAPHA PHOUIPHANITH
14 A.K.A. MIMI NGUYEN
8725 Morning Glory Way
15 Elk Grove, Ca 95624

STATEMENT OF ISSUES

Respondent.

17 Complainant alleges:

18 PARTIES

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

22 2. On or about May 19, 2008, the Board of Pharmacy, Department of Consumer
23 Affairs (Board) received an application for Registration as a Pharmacy Technician from
24 Vannapha Phouiphanith, also known as Mimi Nguyen (Respondent). On or about September 10,
25 2008, the Board received a second application from Respondent for Registration as an Intern
26 Pharmacist. On or about May 15, 2008, and August 25, 2008, respectively, Vannapha
27 Phouiphanith, also known as Mimi Nguyen certified under penalty of perjury to the truthfulness
28

1 of all statements, answers, and representations in the application. The Board denied both
2 applications on January 14, 2009.

3 JURISDICTION

4 3. This Statement of Issues is brought before the Board of Pharmacy,
5 Department of Consumer Affairs, under the authority of the following laws. All section
6 references are to the Business and Professions Code unless otherwise indicated.

7 STATUTORY PROVISIONS

8 4. Section 477 of the Code states:

9 As used in this division:

10 (a) "Board" includes "bureau," "commission," "committee," "department,"
11 "division," "examining committee," "program," and "agency."

12 (b) "License" includes certificate, registration or other means to engage in a
business or profession regulated by this code.

13 5. Section 480 states, in pertinent part:

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

16 (1) Been convicted of a crime. A conviction within the meaning of this
17 section means a plea or verdict of guilty or a conviction following a plea of nolo
18 contendere. Any action that a board is permitted to take following the establishment
19 of a conviction may be taken 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
the provisions of Section 1203.4 of the Penal Code.

20 (2) Done any act involving dishonesty, fraud or deceit with the intent to
substantially benefit himself or herself or another, or substantially injure another;

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

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

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26 (c) A board may deny a license regulated by this code on the ground that the
27 applicant knowingly made a false statement of fact required to be revealed in the
application for the license."

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

As used in this section, 'license' includes 'certificate,' 'permit,' 'authority,' and 'registration.'

7. Section 4301 states in relevant part, that:

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.

....

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

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1 FIRST CAUSE FOR DENIAL OF APPLICATION

2 (Conviction of Crime)

3 8. Respondent's applications are subject to denial under section 480, subdivisions
4 (a)(1) and (a)(3)(A) as well as section 4301, subdivisions (f) and (l) in that on or about December
5 11, 2001, in a criminal proceeding entitled *People vs. Vannapha Phouiphanith* in Sacramento
6 County Superior Court, Case Number 01F08399, Respondent was convicted by her plea of nolo
7 contendere to Penal Code section 32 (accessory to a crime), a misdemeanor. The circumstances
8 are as follows:

9 a. On or about October 17, 2001, Respondent was arrested for her
10 involvement in the transportation and sale of 4000 ecstasy pills. On October 16, 2001, an
11 undercover agent from the Department of Justice, Bureau of Narcotic Enforcement, made contact
12 with a known drug dealer to set up the purchase and exchange of 4000 ecstasy pills for the
13 purchase price of \$15,500, to be delivered on October 17, 2001.

14 On October 17, 2001, special agents set up surveillance at 3:30 p.m. outside a
15 home known to agents for possible drug activity. At 6:40 p.m, agents observed Respondent leave
16 the home with the dealer and another individual. Respondent and the dealer arrived in two
17 separate cars at a previously determined McDonald's restaurant location. When the undercover
18 agent approached the dealer for the purchase, the dealer indicated the drugs were with his
19 "homey" and pointed to Respondent's car. Undercover agents walked to Respondent's car and
20 identified the driver as Respondent and the passenger as Nguyen Tran. Tran was holding the pills
21 in his lap wrapped in a grocery bag.

22 Further investigation revealed that Tran lived at the apartment under surveillance,
23 and during a search, agents located over a thousand pills on the entertainment center shelf and in
24 night stands in Tran's bedroom. Tran was Respondent's boyfriend, and Respondent had keys to
25 his home.

26 b. On or about December 11, 2001, Respondent was sentenced to 3 years
27 informal probation, 90 days jail and \$100 restitution fine.

28 //

1 SECOND CAUSE FOR DENIAL OF APPLICATION

2 (False Statement on Application)

3 9. Respondent's application for Registration as a Pharmacy Technician is subject
4 to denial under section 480, subdivision (a)(3)(B) and subdivision (c) in that in Respondent's
5 Application for Registration as a Pharmacy Technician, Respondent denied that she had ever been
6 convicted of a crime. Respondent signed the Application under penalty of perjury on May 15,
7 2008. In fact, Respondent has been convicted of a crime, as more fully set forth in paragraph 7
8 above.

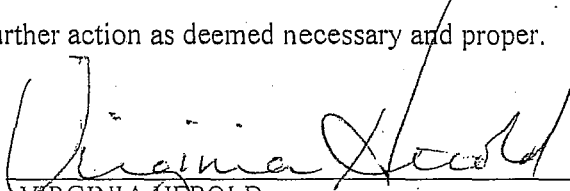
9 PRAYER

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

12 1. Denying the application of Vannapha Phouiphanith, also known as
13 Mimi Nguyen for Registration as a Pharmacy Technician and Registration as an Intern
14 Pharmacist; and

15 2. Taking such other and further action as deemed necessary and proper.

16
17 DATED: 8/20/09


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

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